Passed 8-1 (Cliff)

ORDINANCE 15-05

TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "BUSINESS LICENSES AND REGULATIONS"
- Re: Chapter 4.16 (Itinerant Merchants, Solicitors and Peddlers – *deleted and replaced)*; Chapter 4.28 (Mobile Vendors - *added*); and Chapter 4.30 (Pushcarts - *added*)

Whereas, the Mayor and Common Council are concerned for the health, safety, peace and welfare of the citizens of the City of Bloomington; and

Whereas, the Supreme Court of the United States and other federal courts have determined that door-to-door solicitation is commercial speech, protected under the First Amendment to the Constitution of the United States; and

Whereas, the Mayor and Common Council recognize the First Amendment protection door-to-door solicitors have; however, both the Mayor and Common Council further recognize the need to protect the health, safety, peace and welfare of the citizens of the City of Bloomington; and

Whereas, the proposed ordinance balances the First Amendment protection of the commercial solicitors and the health, safety, pace and welfare of the citizens of the City of Bloomington; and

Whereas, the purpose of the regulations contained in this Ordinance is to regulate activities which are commercial in nature and are not intended to prohibit free speech or any other constitutional right; and

Whereas, the primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic; and

Whereas, the number of persons using the public streets and sidewalks in the City of Bloomington in recent years has increased dramatically due to an expanded commercial use and a growing tourism industry and has resulted in an increase in congestion on these streets and sidewalks; and

Whereas, in order to protect the unique character of the City of Bloomington, the City finds it necessary to regulate solicitors, pushcarts, and mobile vendor units inside of the City's jurisdictional limits; and

Whereas, licensing and regulating door-to-door sales seeks to protect the residents of the City of Bloomington from possible fraud, misrepresentation, and nuisance; and

Whereas, in an effort to defray the costs of regulating the businesses identified in this Ordinance reasonable fees are being proposed; and

Whereas, one of the primary purposes of this Ordinance is to promote the public interest by enhancing the attractiveness of the City and by providing opportunities for creative, colorful and pedestrian-focused commercial activities.

Whereas, while the ordinance opens the opportunity for food trucks and pushcarts to *operate* in areas within the public right-of-way and on private property as well as on off-street public property during special events, the Council foresees benefits in having them *congregate* in certain of those areas; and

Whereas, for this reason, the Council requests that the Administration explore the opportunities for food trucks and pushcarts to congregate on public and private property, evaluate the costs, benefits, and feasibility of that kind of initiative, and report its findings and recommendations to the Council in a reasonable period of time;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Provision regarding existing Chapter 4.16 Itinerant Merchants, Solicitors and Peddlers

SECTION 1. Chapter 4.16, entitled Itinerant Merchants, Solicitors and Peddlers, shall be deleted in its entirety and replaced with a new Chapter 4.16, entitled Solicitors, which shall be listed as such in the Table of Contents for that title and shall read as follows:

Sections:

4.16.010	**Definitions**
4.16.020	**Operations generally.**
4.16.030	**Business License—Required.**
4.16.040	**Business License—Application.**
4.16.050	**Business License—Prerequisites**
4.16.060	**Business License—Duration and Fees.**
4.16.070	**Application Fee—Refund on Denial.**
4.16.080	**Effect of Cessation of Business.**
4.16.090	**Business License—Insurance and Indemnity**
4.16.100	**Business License—Issuance.**
4.16.110	**Business License—Transferability.**
4.16.120	**Business License—Identification.**
4.16.130	**Location Restrictions.**
4.16.140	**Prohibited Hours.**
4.16.150	**Standards of Conduct.**
4.16.160	**Penalties—Revocation of License.**

4.16.010 Definitions.

The following terms shall have the following meanings:

"Political" means on behalf of a political party or candidate or for the purpose of influencing legislation or personal belief.

"Religious" means on behalf of an established religion which means a particular system of faith and worship recognized and practiced by a particular church, sect or denomination.

"Solicitation"

(a) Means the act of any person traveling by foot, vehicle or any other type of conveyance who goes on private or public property to:

(1) Request, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;

(2) Take or attempt to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets;

(3) Sell and make immediate delivery of any goods, wares, merchandise or services of any kind or description; or

(4) Communicate or otherwise convey ideas, views or beliefs or otherwise disseminate oral or written information to a person willing to directly receive such information, provided that such information is of a commercial nature.

(b) Does not mean the following:

(1) A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;

(2) A person seeking to influence the personal belief of the occupant of any residence regarding any political or religious matter;

(3) A person seeking to obtain, from any occupant of any residence, an indication of the occupant's belief in regard to any political or religious matter;

(4) A person conducting a poll, survey or petition drive in regard to any political matter;

(5) A person carrying, conveying, delivering or transporting food or beverage products, newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same;

(6) A person whose business is to solicit dealers or permanent merchants in the usual course of business; or

(7) Any person exempted from this Chapter's requirement under Ind. Code 8-1-34-30.

"Solicitor" means a person, whether a resident of the City or not, engaged in solicitation.

"Special Event" is any event so designated by the City of Bloomington Board of Public Works.

4.16.020 Operations generally.

It is unlawful to locate as a solicitor in the City except in accordance with the provisions of this Chapter.

4.16.030 Business License—Required.

(a) It is unlawful to locate as a solicitor in the City without first having secured a license to do so as provided by this Chapter.

(b) This Chapter does not apply to any recognized participant of a Special Event.

(c) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license to locate as a solicitor under this Chapter.

4.16.040 Business License—Application.

Any person desiring a license under this Chapter shall submit a fully completed application to the City Controller at least fourteen days prior to the proposed date of operating as a solicitor. The application must set forth or have attached the following information as specified:

(a) The applicant's name, current physical address, telephone number, email address and date of birth;

(b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;

(c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;

(d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

(e) The type of products or services to be sold and the hours of the day the applicant plans to conduct business;

(f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;

(g) The duration of the license being sought;

(h) A statement as to whether or not a license, under the provisions of this Chapter, or any other similar ordinance of the City of Bloomington or any other county, town or municipality, or the State of Indiana has been revoked, together with the details thereof; and

(i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington

4.16.050 Business License—Prerequisites.

An application for a license under this Chapter shall not be considered unless proof of the following are provided with the application:

(a) All applicable permits required by the Monroe County Health Department, including but not limited to a Food Service Establishment License or a Certified Food Handler Certificate;

(b) Proof of registration as a business with the Indiana Secretary of State;

(c) Proof of an Employer Identification Number;

(d) If business is to be conducted on City property, a resolution from the City's Board of Public Works;

(e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, including those portions of the B-Line Trail not specifically permitted by this Chapter, a letter of approval from said Department;

(f) Proof of insurance in accordance with the amounts established by this Chapter; and

(g) Proof of payment for, or exemption from, the applicable fee.

4.16.060 Business License—Duration and Fee.

(a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):

(1) One Day License: $25.00;
(2) Three Day License: $30.00;
(3) Seven Day License: $50.00;
(4) Thirty Day License: $75.00;
(5) Three Month License: $150.00;
(6) Six Month License: $200.00; and
(7) One Year License: $350.00.

(b) The following listed organizations and/or entities while required to obtain a license under this Chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:

(1) Churches;
(2) Schools;
(3) Benevolent organizations;
(4) Fraternal organizations; and
(5) Other similarly situated organizations.

(c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this Chapter they are exempt from having to pay any fees.

4.16.070 Application Fee—Refund on Denial.

An applicant shall pay an application fee in the minimum amount of $25.00, unless exempted under Section 4.16.060. In the event the license is granted, the application fee shall be retained by the City and applied toward the license fee. In the event the license is denied, $20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

4.16.080 Effect of Cessation of Business.

No deductions shall be allowed from the fee for a license issued pursuant to this Chapter for any part of the term of which the licensee does not engage in such business.

4.16.090 Business License—Insurance and Indemnity.

(a) Each applicant for a license shall provide a certificate of liability insurance to the City Controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:

(1) Personal injury: $100,000.00 per occurrence and $300,000.00 in the aggregate; and

(2) Property damage: $25,000.00 per occurrence and $50,000.00 in the aggregate.

(b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

4.16.100 Business License—Issuance.

(a) The Controller shall within fourteen days of receipt of the completed application issue the business license to the applicant if the Controller finds the following:

(1) Compliance with all provisions of this Chapter;

(2) The applicant has not had a prior license issued under this Chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and

(3) The applicant has not been previously found to be in violation of this Chapter, or any other similar law promulgated by a different governmental entity.

(b) The Controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.16.100(a) (1)-(2).

(c) Failure of the Controller to issue a license within fourteen days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the City's Board of Public Works within ten days after passage of those fourteen days. The Board of Public Works shall, within the next thirty days, determine whether the applicant has complied with all provisions of Section 4.16.100(a), and if so, shall authorize the Controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

4.16.110 Business License—Transferability.

A license issued pursuant to this Chapter shall not be transferable to another licensee.

4.16.120 Business License—Identification.

(a) All licenses issued by the Controller under this Chapter shall be shown to any person who requests to see the license.

(b) Failure to display or exhibit a license in accordance with this Section may be grounds for suspension or revocation of said license.

4.16.130 Location Restrictions.

(a) No solicitor shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the City's Board of Public Works.

(b) No solicitor shall locate in a street, street median strip or alleyway.

(c) No solicitor shall locate within a one block radius of a Special Event unless prior approval has been granted by either the operator of the Special Event or the City's Board of Public Works.

(d) No solicitor shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.

(e) No solicitor shall locate in a neighborhood or on property wherein a sign reading "No Solicitation", or something of a similar nature, has been duly erected and displayed.

(f) No solicitor shall locate on the B-Line Trail except in the following permitted areas:

(1) Between the north side of Dodds Street and the south side of 2nd Street;
(2) Between the north side of 3rd Street and the south side of 4th Street; and
(3) Between the north side of 6th Street and the south side of Fairview Street.

4.16.140 Prohibited Hours.

No solicitor shall locate in any residential neighborhood or building between the hours of dusk and 8:00 a.m., unless a resident in the neighborhood or building has requested or invited the solicitor onto the premises.

4.16.150 Standards of Conduct.

All solicitors shall conform to the following standards of conduct:

(a) Solicitors shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;

(b) A device may not be used which would amplify sounds nor may attention be drawn to the solicitor by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);

(c) No solicitor shall expose any person to any undue safety or health hazards nor create a public nuisance;

(d) Solicitors shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out inside of the City's jurisdiction;

(e) No person shall engage in abusive solicitation. Such abusive activity shall mean to do one or more of the following while soliciting or immediately thereafter:

(1) Coming closer than three feet to the person solicited unless and until the person solicited indicates that the person wishes to make a purchase or otherwise receive the solicitation;
(2) Blocking or impeding the passage of the person solicited;
(3) Repeating the solicitation after the person solicited has indicated an objection to the solicitation;
(4) Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated an objection to the solicitation;
(5) Threatening the person solicited with physical harm by word or gesture;
(6) Abusing the person solicited with words which are offensive and inherently likely to provide an immediate violent reaction; or
(7) Touching the solicited person without the solicited person's consent.

(f) No solicitor shall approach any vehicle driving upon, stopped upon, or parked upon any public or private street or alley; and

(g) No solicitor shall conduct his/her business from a street, alley, traffic island, or median.

4.16.160 Penalties—Revocation of License.

(a) Any person, partnership, limited liability company or corporation which violates any provision of this Chapter, shall be subject to the following penalties:

(1) Soliciting without a license:

First offense	$2,500.00
Second offense within any 12-month period	$5,000.00
Third offense, or each thereafter, within any 12-month period	$7,500.00

(2) Failure to comply with any other provision of this Chapter:

First offense	$250.00
Second offense within any 12-month period	$500.00
Third offense, or each thereafter, within any 12-month period	$1,000.00

(b) In addition, the Controller's Office shall, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:

(1) The licensee has violated any provision of this Chapter or any rule or regulation lawfully made under and within the authority of this Chapter;

(2) The licensee is operating the solicitor license under this Chapter in a manner contrary to State or local code; or

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

(c) Any person charged with violating the provisions of this Chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this Chapter's provisions.

Provision regarding new Chapter 4.28 Mobile Vendors

SECTION 2. A new chapter shall be added to Title 4 entitled "Chapter 4.28 Mobile Vendors" which shall be listed as such in the Table of Contents for that title and shall read as follows:

Chapter 4.28 – Mobile Vendors

Sections:

4.28.010 Definitions
4.28.020 Operations generally.
4.28.030 Business License—Required.
4.28.040 Business License—Application.
4.28.050 Business License—Prerequisites
4.28.060 Business License—Duration and Fees.
4.28.070 Application Fee—Refund on Denial.
4.28.080 Effect of Cessation of Business.
4.28.090 Business License—Insurance and Indemnity
4.28.100 Business License—Issuance.
4.28.110 Business License—Transferability.
4.28.120 Business License—Identification.
4.28.130 Business License—Safety Inspection Required.
4.28.140 Location Restrictions.
4.28.150 Prohibited Hours.
4.28.160 Standards of Conduct.
4.28.170 Safety Requirements.
4.28.180 Penalties—Revocation of License.
4.28.190 Restriction on Use and Licenses.

4.28.010 Definitions.

The following terms shall have the following meanings:

"Beverage" means any nonalcoholic liquid, hot or cold, intended for use in whole or in part for human consumption.

"City property" means all outdoor areas which are owned, or leased as lessee, by the City or one of the City's departments, or upon which the City or one of its departments has an easement or right-of-way including, but not limited to, streets, sidewalks, plazas or other areas adjacent to buildings owned by the City or one of its departments.

"Food" means any raw, cooked, frozen or processed edible substance or beverage intended for use in whole or in part for human consumption.

"Mobile food vendor unit" means a person who sells, serves, offers for sale, or gives away food or beverages from any self-contained mobile unit, independent with respect to water, sewer and power utilities, capable of moving or being moved, is meant to be portable and is not permanently attached to the ground, consisting of an enclosed truck, trailer, bus, or similar vehicle that contains equipment used for the sale and/or preparation of food or beverages merchandise and is closed up when not in operation. An ice cream truck that does not park or locate in any one place for longer than ten minutes is not considered a mobile food vendor unit for purposes of this Chapter.

"Private property" means all outdoor areas which are not owned or leased by any governmental agency or entity, including, but not limited to, streets, sidewalks, plazas, parking lots, or other areas adjacent to buildings not owned by a governmental agency or entity.

"Special Event" is any event so designated by the City of Bloomington Board of Public Works.

4.28.020 Operations generally.

It is unlawful to locate a mobile food vendor unit in the City except in accordance with the provisions of this Chapter.

4.28.030 Business License—Required.

(a) It is unlawful to locate a mobile food vendor unit in the City without first having secured a license to do so as provided by this Chapter.

(b) A separate license shall be required for each mobile food vendor unit.

(c) This Chapter does not apply to any recognized participant of a Special Event.

(d) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license for a mobile food vendor unit under this Chapter.

4.28.040 Business License—Application.

Any person desiring a license under this Chapter shall submit a fully completed application to the City Controller at least fourteen days prior to the proposed date of utilizing the mobile food vendor unit. The application must set forth or have attached the following information as specified:

(a) The applicant's name, current physical address, telephone number, email address and date of birth;

(b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;

(c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;

(d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or

limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

(e) The type of products to be sold and the hours of the day the applicant plans to conduct business;

(f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;

(g) The duration of the license being sought;

(h) A statement as to whether or not a license, under the provisions of this Chapter, or any other similar ordinance of the City of Bloomington or any other county, town, municipality, or State has been revoked, together with the details thereof; and

(i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington.

4.28.050 Business License—Prerequisites.

An application for a license under this Chapter shall not be considered unless proof of the following are provided with the application:

(a) All applicable permits required by the Monroe County Health Department, including but not limited to a Food Service Establishment License or a Certified Food Handler Certificate;

(b) Proof of registration as a business with the Indiana Secretary of State;

(c) Proof of an Employer Identification Number;

(d) If business is to be conducted on City property, a resolution from the City's Board of Public Works;

(e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, a letter of approval from said Department;

(f) If any type of spark, flame or fire will be produced, proof of an Open Burn Permit issued by the City of Bloomington Fire Department;

(g) Proof of insurance in accordance with the amounts established by this Chapter;

(h) A copy of the Indiana registration for the vehicle;

(i) Copy of a valid driver's license;

(j) Copy of an Indiana Driver's Record and/or equivalent of whatever State has issued the applicant his/her driver's license;

(k) Proof of an independent safety inspection of all vehicles to be used in the business in accordance with the provisions of this Chapter;

(l) A scaled site plan showing the location of the proposed mobile food vendor unit and the properties: drives, parking access aisles, fire lanes, sidewalks and accessible routes; and

(m) Proof of payment for, or exemption from, the applicable fee.

4.28.060 Business License—Duration and Fee.

(a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):

(1) One Day License: $25.00;
(2) Three Day License: $30.00;
(3) Seven Day License: $50.00;
(4) Thirty Day License: $75.00;
(5) Three Month License: $150.00;
(6) Six Month License: $200.00; and
(7) One Year License: $350.00.

(b) The following listed organizations and/or entities while required to obtain a license under this Chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:

(1) Churches;
(2) Schools;
(3) Benevolent organizations;
(4) Fraternal organizations; and
(5) Other similarly situated organizations.

(c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this Chapter they are exempt from having to pay any fees.

4.28.070 Application Fee—Refund on Denial.

An applicant shall pay an application fee in the minimum amount of $25.00, unless exempted under Section 4.28.060. In the event the license is granted, the application fee shall be retained by the City and applied toward the license fee. In the event the license is denied, $20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

4.28.080 Effect of Cessation of Business.

No deductions shall be allowed from the fee for a license issued pursuant to this Chapter for any part of the term of which the licensee does not engage in such business.

4.28.090 Business License—Insurance and Indemnity.

(a) Each applicant for a license shall provide a certificate of liability insurance to the City Controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:

(1) Personal injury: $100,000.00 per occurrence and $300,000.00 in the aggregate;

(2) Property damage: $25,000.00 per occurrence and $50,000.00 in the aggregate; and

(3) Indiana minimum, at least, for motor vehicle insurance coverage.

(b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

4.28.100 Business License—Issuance.

(a) The Controller shall within fourteen days of receipt of the completed application issue the business license to the applicant if the Controller finds the following:

(1) Compliance with all provisions of this Chapter;

(2) The applicant has not had a prior license issued under this Chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and

(3) The applicant has not been previously found to be in violation of this Chapter, or any other similar law promulgated by a different governmental entity.

(b) The Controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.28.100(a) (1)-(2).

(c) Failure of the Controller to issue a license within fourteen days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the City's Board of Public Works within ten days after passage of those fourteen days. The Board of Public Works shall, within the next thirty days, determine whether the applicant has complied with all provisions of Section 4.28.100(a), and if so, shall authorize the Controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

4.28.110 Business License—Transferability.

A license issued pursuant to this Chapter shall not be transferable to another licensee.

4.28.120 Business License—Identification.

(a) All licenses issued by the Controller under this Chapter shall be prominently displayed on the mobile food vendor unit and shall be shown to any person who requests to see the license.

(b) Failure to display or exhibit a license in accordance with this Section may be grounds for suspension or revocation of said license.

4.28.130 Business License—Safety Inspection Required.

(a) No license shall be issued to locate a mobile food vendor unit unless each vehicle to be used by the business has undergone an independent safety inspection within the last two years; a copy of the safety inspection report shall be included with the application.

(b) It is unlawful to locate a mobile food vendor unit which has not undergone and passed an independent safety inspection in accordance with this Section.

(c) If, at any time, the City of Bloomington has probable cause to believe that a mobile food vendor unit is unsafe or in a mechanically unsound condition, the Chief of Police or his/her designee may order a mobile food vendor unit licensed under this Chapter to undergo an immediate safety inspection. The immediate safety inspection must occur within five business days and a copy of the safety inspection report shall be promptly submitted to the Chief of Police or his/her designee. If the safety inspection reveals deficiencies with the mobile food vendor unit, the mobile food vendor unit can not be used until such time as the deficiencies have been remedied.

4.28.140 Location Restrictions. Except as provided for in Section 4.28.030(d) of this Title, the following location restrictions apply:

(a) No mobile food vendor unit shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the City's Board of Public Works.

(b) No mobile food vendor unit shall locate within fifty feet of any facade of a ground level establishment that also sells food or beverages, or locate within fifty feet of the perimeter of such an establishment's outdoor seating area, regardless of whether or not the mobile food vendor unit is currently conducting business. The distance restriction only applies from an hour before the opening time to an hour after the closing time posted by a ground level establishment on the façade of its building;

(c) No mobile food vendor unit shall locate in an alleyway.

(d) Mobile food vendor units shall be located a reasonable distance from all posted bus stops, crosswalks, driveways, alleyways, right-of-way lines of two or more intersecting streets and building entrances or walk-up windows.

(e) Mobile food vendor units shall only be located on private property if the private property owner has provided both the business operator and the City written permission for the mobile food vendor unit to locate on said property.

(f) No mobile food vendor unit shall locate within a one block radius of a Special Event unless prior approval has been granted by either the operator of the Special Event or the City's Board of Public Works.

(g) No mobile food vendor unit shall park on City property in violation of any City parking regulation, restriction, or ordinance. For example, if parking at one, or multiple, parking meters, the operator of the mobile food vendor unit shall feed all relevant parking meters with the required monetary amount.

(h) No mobile food vendor unit shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.

(i) No mobile food vendor unit shall be located within fifteen feet of any fire hydrant.

(j) No mobile food vendor shall locate within any zoning district except the following: Commercial General; Commercial Arterial; Commercial Downtown; Industrial General; Business Park; and Institutional.

(k) No mobile food vendor operating on private property shall displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes required for the private parking by the City's zoning code.

(l) No mobile food vendor unit shall be located more than one foot away from the curb of the street on which it is parked.

(m) No mobile food vendor unit shall park near an intersection and in a manner that blocks the line-of-sight of drivers using adjacent roadways.

4.28.150 Prohibited Hours.

No mobile food vendor unit shall be located on any public property between the hours of 4:30 a.m. and 6:30 a.m.

4.28.160 Standards of Conduct.

All mobile food vendor unit operators shall conform to the following standards of conduct:

(a) Mobile food vendor unit operators shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;

(b) A device may not be used which would amplify sounds nor may attention be drawn to the mobile food vendor unit by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);

(c) No mobile food vendor unit may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone phones, streetlight poles, traffic signal poles or fire hydrants;

(d) No mobile food vendor unit may be used to advertise any product which is not authorized to be sold from that unit;

(e) Each mobile food vendor unit shall be limited to one sandwich board sign that meets the provisions of Section 20.05.086 of the Bloomington Municipal Code regardless of the zoning district in which it locates, provided a sign permit is obtained from the City's Planning and Transportation Department;

(f) No mobile food vendor unit may make use of any public or private electrical outlet while in operation;

(g) Each mobile food vendor unit shall protect against littering and shall have both an adequate trash receptacle and a separate receptacle for recyclable materials:

(1) The trash and recyclable receptacles shall be emptied sufficiently often to allow disposal of litter and waste by the public at any time;

(2) The trash and recyclable receptacles on the mobile food vendor unit shall not be emptied into trash or recyclable receptacles owned by the City of Bloomington;

(3) Liquid from the mobile food vendor unit shall not be discharged on or in a City sewer or drain or elsewhere on City property, nor on private property without the express written consent of the owner thereof;

(h) Before leaving any location each mobile food vendor unit shall first pick up, remove and dispose of all trash, refuse and/or recyclable materials, including products spilled on the ground within twenty feet of the mobile food vendor unit.

(i) No mobile food vendor unit shall expose any pedestrian to any undue safety or health hazards nor shall it be maintained so as to create a public nuisance;

(j) Each mobile food vendor unit shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;

(k) Foods or beverages which present a substantial likelihood that liquid matter or particles will drop to the street or sidewalk during the process of carrying or consuming the food or beverage shall be sold in proper containers so as to avoid falling to the street or sidewalk;

(l) Mobile food vendor units which utilize a grill or device that may result in a spark, flame or fire shall adhere to the following additional standards:

(1) Be placed approximately 20 feet from a building or structure;

(2) Provide a barrier between the grill or device and the general public;

(3) The spark, flame or fire shall not exceed 12 inches in height;

(4) A fire extinguisher shall be within reaching distance of the mobile food vendor unit operator at all times;

(m) Mobile food vendor unit operators shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out inside of the City's jurisdictional limits, including, where possible, the removal of the mobile food vendor unit and cessation of such sales;

(n) No mobile food vendor unit shall ever be left unattended;

(o) Mobile food vendor units shall not be stored, parked or left overnight on any City property;

(p) All mobile food vendor units which are food service establishments as defined by Title 10.17 of the Bloomington Municipal Code shall install an approved grease interceptor or grease trap. Foods, oils and greases shall never be discharged into the City's sewer or storm drains;

(q) All mobile food vendor unit operators are required to collect and pay all applicable and appropriate sales taxes;

(r) No mobile food vendor shall provide customer seating unless approval has been provided by the City's Board of Public Works and the City's Planning and Transportation Department;

(s) All mobile food vendors shall comply with the lighting standards found in Chapter 20.05 of the Bloomington Municipal Code;

(t) All mobile food vendors shall comply with the vision clearance standards found in Chapter 20.05 of the Bloomington Municipal Code;

(u) No mobile food vendor shall have a drive-thru; and

(v) The decibels of any generator(s) associated with a mobile food vendor unit shall not exceed "70dBA".

(1) Such noise measurement shall be made at a height of at least four (4) feet above the ground and at a point approximately twenty-five (25) feet away from where the noise is being emitted on a sound level meter operated on the "A" weighting network (scale).

(2) No person other than the operators shall be within twenty-five (25) feet of the sound level meter during the sample period.

(3) Sound measurements shall be conducted at that time of day or night when the relevant noise source is emitting sound.

(4) The sound level measurement shall be determined as follows:

(A) Calibrate the sound level meter within one (1) hour before use.

(B) Set the sound level meter on the "A" weighted network at slow response.

(C) Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (1) and (2) herein. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response.

(D) Recalibrate the sound level meter after use.

(5) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurement.

4.28.170 Safety Requirements.

All mobile food vendor units shall comply with the following safety requirements:

(a) All equipment installed shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

(b) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided by the vendor to avoid loose storage of knives and other sharp or bladed instruments.

(c) All foods and beverages to be used, prepared, cooked, displayed, sold, served, offered for sale or stored in a mobile food vendor unit, or during transportation to or between locations shall be from sources approved by the health authorities of the point of origin and must be clean, wholesome, free from spoilage, adulteration, contamination or misbranding and safe for

human consumption. The standards for judging wholesomeness for human food shall be those promulgated and amended from time to time by the United States Food and Drug Administration, United States Department of Agriculture, the State Department of Health, the State Department of Agriculture, and the Monroe County Health Department and published in the United States Code of Federal Regulations, the Indiana Code Annotated or the Indiana Administrative Code, and the Monroe County Code.

(d) Each mobile food vendor unit shall be constructed so that the portions of the unit containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the unit which are designed to contain food shall be at least eighteen inches above the surface of the public way while the unit is being used for the conveyance of food.

(e) The food storage areas of each mobile food vendor unit shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles or amphibians shall be permitted in any area where food is stored.

(f) Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint and paint products that are poisonous or toxic in nature shall not be stored in the food area of the mobile food vendor unit.

4.28.180 Penalties—Revocation of License.

(a) Any person, partnership, limited liability company or corporation which violates any provision of this Chapter, shall be subject to the following penalties:

(1) Operating a mobile food vendor unit without a license:

First offense	$2,500.00
Second offense within any 12-month period	$5,000.00
Third offense, or each thereafter, within any 12-month period	$7,500.00

(3) Failure to comply with any other provision of this Chapter:

First offense	$250.00
Second offense within any 12-month period	$500.00
Third offense, or each thereafter, within any 12-month period	$1,000.00

(b) In addition, the Controller's Office shall, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:

(1) The licensee has violated any provision of this Chapter or any rule or regulation lawfully made under and within the authority of this Chapter;

(2) The licensee is operating the mobile food vendor unit licensed under this Chapter in a manner contrary to State or local code; or

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

(c) Any person charged with violating the provisions of this Chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this Chapter's provisions.

4.28.190 Restriction on Use and Licenses.

The City of Bloomington has exclusive authority to restrict the use of mobile food vendor units and the issuance of business licenses for mobile food vendor units under the following conditions:

(a) The City may restrict the use of mobile food vendor units in certain designated areas of the City in the event of an emergency declared by the Mayor, the Chief of Police, the

Fire Chief, the Director Public Works, the Director of Utilities, and/or any of the aforementioned duly appointed designees.

(b) Absent an emergency as described above, the City may restrict the use of mobile food vendor units in certain designated areas of the City provided the City has given each mobile food vendor unit licensee written notice of the restriction at least seventy-two hours in advance of the restriction going into effect.

Provision regarding new Chapter 4.30 Pushcarts

SECTION 3. A new chapter shall be added to Title 4 entitled "Chapter 4.30 Pushcarts" which shall be listed as such in the Table of Contents for that title and shall read as follows:

Chapter 4.30 – Pushcarts

Sections:

4.30.010	**Definitions**
4.30.020	**Operations generally.**
4.30.030	**Business License—Required.**
4.30.040	**Business License—Application.**
4.30.050	**Business License—Prerequisites**
4.30.060	**Business License—Duration and Fees.**
4.30.070	**Application Fee—Refund on Denial.**
4.30.080	**Effect of Cessation of Business.**
4.30.090	**Business License—Insurance and Indemnity**
4.30.100	**Business License—Issuance.**
4.30.110	**Business License—Transferability.**
4.30.120	**Business License—Identification.**
4.30.130	**Location Restrictions.**
4.30.140	**Prohibited Hours.**
4.30.150	**Standards of Conduct.**
4.30.160	**Safety Requirements.**
4.30.170	**Penalties—Revocation of License.**
4.30.180	**Restriction on Use and Licenses.**

4.30.010 Definitions.

The following terms shall have the following meanings:

"Beverage" means any nonalcoholic liquid, hot or cold, intended for use in whole or in part for human consumption.

"City property" means all outdoor areas which are owned, or leased as lessee, by the City or one of the City's departments, or upon which the City or one of its departments has an easement or right-of-way including, but not limited to, streets, sidewalks, plazas or other areas adjacent to buildings owned by the City or one of its departments.

"Food" means any raw, cooked, frozen or processed edible substance or beverage intended for use in whole or in part for human consumption.

"Private property" means all outdoor areas which are not owned or leased by any governmental agency or entity, including, but not limited to, streets, sidewalks, plazas, parking lots, or other areas adjacent to buildings not owned by a governmental agency or entity.

"Pushcart" means a non-motorized wheeled cart which may be moved by one person and which is designed and used for displaying, keeping or storing any food or beverage for sale by a vendor.

"Special Event" is any event so designated by the City of Bloomington Board of Public Works.

4.30.020 Operations generally.

It is unlawful to locate a pushcart in the City except in accordance with the provisions of this Chapter.

4.30.030 Business License—Required.

(a) It is unlawful to locate a pushcart in the City without first having secured a license to do so as provided by this Chapter.

(b) A separate license shall be required for each pushcart.

(c) This Chapter does not apply to any recognized participant of a Special Event.

(d) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license for a pushcart under this Chapter.

4.30.040 Business License—Application.

Any person desiring a license under this Chapter shall submit a fully completed application to the City Controller at least fourteen days prior to the proposed date of utilizing the pushcart. The application must set forth or have attached the following information as specified:

(a) The applicant's name, current physical address, telephone number, email address and date of birth;

(b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;

(c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;

(d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

(e) The type of products to be sold and the hours of the day the applicant plans to conduct business;

(f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;

(g) The duration of the license being sought;

(h) A statement as to whether or not a license, under the provisions of this Chapter, or any other similar ordinance of the City of Bloomington or any other county, town, municipality, or State has been revoked, together with the details thereof; and

(i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington

4.30.050 Business License—Prerequisites.

An application for a license under this Chapter shall not be considered unless proof of the following are provided with the application:

(a) All applicable permits required by the Monroe County Health Department, including but not limited to a Food Service Establishment License or a Certified Food Handler Certificate;

(b) Proof of registration as a business with the Indiana Secretary of State;

(c) Proof of an Employer Identification Number;

(d) If business is to be conducted on City property, a resolution from the City's Board of Public Works;

(e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, including those portions of the B-Line Trail not specifically permitted by this Chapter, a letter of approval from said Department;

(f) If any type of spark, flame or fire will be produced, proof of an Open Burn Permit issued by the City of Bloomington Fire Department;

(g) Proof of insurance in accordance with the amounts established by this Chapter;

(h) A scaled site plan showing the location of the proposed pushcart and the property's: drives, parking access aisles, fire lanes, sidewalks and accessible routes; and

(i) Proof of payment for, or exemption from, the applicable fee.

4.30.060 Business License—Duration and Fee.

(a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):

(1) One Day License: $25.00;
(2) Three Day License: $30.00;
(3) Seven Day License: $50.00;
(4) Thirty Day License: $75.00;
(5) Three Month License: $150.00;
(6) Six Month License: $200.00; and
(7) One Year License: $350.00.

(b) The following listed organizations and/or entities while required to obtain a license under this Chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:

(1) Churches;
(2) Schools;
(3) Benevolent organizations;
(4) Fraternal organizations; and
(5) Other similarly situated organizations.

(c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this Chapter they are exempt from having to pay any fees.

4.30.070 Application Fee—Refund on Denial.

An applicant shall pay an application fee in the minimum amount of $25.00, unless exempted under Section 4.30.060. In the event the license is granted, the application fee shall be retained by the City and applied toward the license fee. In the event the license is denied, $20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

4.30.080 Effect of Cessation of Business.

No deductions shall be allowed from the fee for a license issued pursuant to this Chapter for any part of the term of which the licensee does not engage in such business.

4.30.090 Business License—Insurance and Indemnity.

(a) Each applicant for a license shall provide a certificate of liability insurance to the City Controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:

(1) Personal injury: $100,000.00 per occurrence and $300,000.00 in the aggregate; and
(2) Property damage: $25,000.00 per occurrence and $50,000.00 in the aggregate.

(b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

4.30.100 Business License—Issuance.

(a) The Controller shall within fourteen days of receipt of the completed application issue the business license to the applicant if the Controller finds the following:

(1) Compliance with all provisions of this Chapter;

(2) The applicant has not had a prior license issued under this Chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and

(3) The applicant has not been previously found to be in violation of this Chapter, or any other similar law promulgated by a different governmental entity.

(b) The Controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.30.100(a) (1)-(2).

(c) Failure of the Controller to issue a license within fourteen days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the City's Board of Public Works within ten days after passage of those fourteen days. The Board of Public Works shall, within the next thirty days, determine whether the applicant has complied with all provisions of Section 4.30.100(a), and if so, shall authorize the Controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

4.30.110 Business License—Transferability.

A license issued pursuant to this Chapter shall not be transferable to another licensee.

4.30.120 Business License—Identification.

(a) All licenses issued by the Controller under this Chapter shall be prominently displayed on the pushcart and shall be shown to any person who requests to see the license.

(b) Failure to display or exhibit a license in accordance with this Section may be grounds for suspension or revocation of said license.

4.30.130 Location Restrictions.

(a) No pushcart shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the City's Board of Public Works.

(b) No pushcart serving food or beverages shall locate within fifty feet of any facade of a ground level establishment that also sells food or beverages, or located within fifty feet of the perimeter of such an establishment's outdoor seating area, regardless of whether or not the pushcart is currently conducting business. The distance restriction only applies from an hour before the opening time to an hour after the closing time posted by a ground level establishment on the façade of its building;

(c) No pushcart shall locate in a street, street median strip or alleyway.

(d) Pushcarts shall be located a reasonable distance from all posted bus stops, crosswalks, driveways, alleyways, right-of-way lines of two or more intersecting streets and building entrances or walk-up windows.

(e) No pushcart shall locate within a one block radius of a Special Event unless prior approval has been granted by either the operator of the Special Event or the City's Board of Public Works.

(f) No pushcart shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.

(g) No pushcart shall be located within fifteen feet of any fire hydrant.

(h) No pushcart shall locate within any zoning district except the following: Commercial General; Commercial Arterial; Commercial Downtown; Industrial General; Business Park; and Institutional.

(i) Pushcarts shall only be located on private property if the private property owner has provided both the business operator and the City written permission for the pushcart to locate on said property.

(j) No pushcart operating on private property shall displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes required for the private parking by the City's zoning code.

(k) No pushcart shall park near an intersection and in a manner that blocks the line-of-sight of drivers using adjacent roadways.

(l) No pushcart shall locate on the B-Line Trail except in the following permitted areas:

(1) Between the north side of Dodds Street and the south side of 2nd Street;
(2) Between the north side of 3rd Street and the south side of 4th Street; and
(3) Between the north side of 6th Street and the south side of Fairview Street.

4.30.140 Prohibited Hours.

No pushcart shall be located on any public property between the hours of 4:30 a.m. and 6:30 a.m.

4.30.150 Standards of Conduct.

All pushcart operators shall conform to the following standards of conduct:

(a) Pushcart operators shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;

(b) A device may not be used which would amplify sounds nor may attention be drawn to the pushcart by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);

(c) No pushcart may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone phones, streetlight poles, traffic signal poles or fire hydrants;

(d) No pushcart may be used to advertise any product or service which is not authorized to be sold from that pushcart;

(e) Each pushcart unit shall be limited to one sandwich board sign that meets the provisions of Section 20.05.086 of the Bloomington Municipal Code regardless of the zoning district in which it locates, provided a sign permit is obtained from the City's Planning and Transportation Department;

(f) No pushcart may make use of any public or private electrical outlet while in operation;

(g) Each pushcart shall protect against littering and shall have both an adequate trash receptacle and a separate receptacle for recyclable materials:

(1) The trash and recyclable receptacles shall be emptied sufficiently often to allow disposal of litter and waste by the public at any time;
(2) The trash and recyclable receptacles on the pushcart shall not be emptied into trash or recyclable receptacles owned by the City of Bloomington;
(3) Liquid from the pushcart shall not be discharged on or in a City sewer or drain or elsewhere on City property, nor on private property without the express written consent of the owner thereof;

(h) Before leaving any location each pushcart shall first pick up, remove and dispose of all trash, refuse and/or recyclable materials, including products spilled on the ground within twenty feet of the pushcart;

(i) No pushcart shall expose any pedestrian to any undue safety or health hazards nor shall it be maintained so as to create a public nuisance;

(j) Each pushcart shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;

(k) Foods or beverages which present a substantial likelihood that liquid matter or particles will drop to the street or sidewalk during the process of carrying or consuming the food or beverage shall be sold in proper containers so as to avoid falling to the street or sidewalk;

(l) Pushcarts which utilize a grill or device that may result in a spark, flame or fire shall adhere to the following additional standards:

(1) Be placed approximately 20 feet from a building or structure;

(2) Provide a barrier between the grill or device and the general public;

(3) The spark, flame or fire shall not exceed 12 inches in height;

(4) A fire extinguisher shall be within reaching distance of the pushcart operator at all times;

(m) Pushcart operators shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out on City property, including, where possible, the removal of the pushcart and cessation of such sales;

(n) No pushcart shall ever be left unattended;

(o) Pushcarts shall not be stored, parked or left overnight on any City property;

(p) All pushcarts which are food service establishments as defined by Title 10.17 of the Bloomington Municipal Code shall install an approved grease interceptor or grease trap. Foods, oils and greases shall never be discharged into the City's sewer or storm drains;

(q) All pushcart operators are required to collect and pay all applicable and appropriate sales taxes;

(r) No pushcart shall provide customer seating unless approval has been given by the City's Board of Public Works and the City's Planning and Transportation Department;

(s) All pushcarts shall comply with the lighting standards found in Chapter 20.05 of the Bloomington Municipal Code;

(t) All pushcarts shall comply with the vision clearance standards found in Chapter 20.05 of the Bloomington Municipal Code;

(u) No pushcarts shall have a drive-thru; and

(v) The decibels of any generator(s) associated with a pushcart shall not exceed "70dBA".

(1) Such noise measurement shall be made at a height of at least four (4) feet above the ground and at a point approximately twenty-five (25) feet away from where the noise is being emitted on a sound level meter operated on the "A" weighting network (scale).

(2) No person other than the operators shall be within twenty-five (25) feet of the sound level meter during the sample period.

(3) Sound measurements shall be conducted at that time of day or night when the relevant noise source is emitting sound.

(4) The sound level measurement shall be determined as follows:

(A) Calibrate the sound level meter within one (1) hour before use.

(B) Set the sound level meter on the "A" weighted network at slow response.

(C) Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (1) and (2) herein. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response.

(D) Recalibrate the sound level meter after use.

(5) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurement.

4.30.160 Safety Requirements.

All pushcarts shall comply with the following safety requirements:

(a) All equipment installed shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

(b) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided by the vendor to avoid loose storage of knives and other sharp or bladed instruments.

(c) All foods and beverages to be used, prepared, cooked, displayed, sold, served, offered for sale or stored in a pushcart, or during transportation to or between locations shall be from sources approved by the health authorities of the point of origin and must be clean, wholesome, free from spoilage, adulteration, contamination or misbranding and safe for human

consumption. The standards for judging wholesomeness for human food shall be those promulgated and amended from time to time by the United States Food and Drug Administration, United States Department of Agriculture, the State Department of Health, the State Department of Agriculture, and the Monroe County Health Department and published in the United States Code of Federal Regulations, the Indiana Code Annotated or the Indiana Administrative Code, and the Monroe County Code.

(d) Each pushcart shall be constructed so that the portions of the pushcart containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the pushcart which are designed to contain food shall be at least eighteen inches above the surface of the public way while the pushcart is being used for the conveyance of food.

(e) The food storage areas of each pushcart shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles or amphibians shall be permitted in any area where food is stored.

(f) Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint and paint products that are poisonous or toxic in nature shall not be stored in the food area of the pushcart.

4.30.170 Penalties—Revocation of License.

(a) Any person, partnership, limited liability company or corporation which violates any provision of this Chapter, shall be subject to the following penalties:

(1) Operating a pushcart without a license:

First offense	$2,500.00
Second offense within any 12-month period	$5,000.00
Third offense, or each thereafter, within any 12-month period	$7,500.00

(4) Failure to comply with any other provision of this Chapter:

First offense	$250.00
Second offense within any 12-month period	$500.00
Third offense, or each thereafter, within any 12-month period	$1,000.00

(b) In addition, the Controller's Office shall, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:

(1) The licensee has violated any provision of this Chapter or any rule or regulation lawfully made under and within the authority of this Chapter;

(2) The licensee is operating the pushcart licensed under this Chapter in a manner contrary to State or local code; or

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

(c) Any person charged with violating the provisions of this Chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this Chapter's provisions.

4.30.180 Restriction on Use and Licenses.

The City of Bloomington has exclusive authority to restrict the use of pushcarts and the issuance of business licenses for pushcarts under the following conditions:

(a) The City may restrict the use of pushcarts in certain designated areas of the City in the event of an emergency declared by the Mayor, the Chief of Police, the Fire Chief, the

Director Public Works, the Director of Utilities, and/or any of the aforementioned duly appointed designees.

(b) Absent an emergency as described above, the City may restrict the use of pushcarts in certain designated areas of the City provided the City has given each pushcart licensee written notice of the restriction at least seventy-two hours in advance of the restriction going into effect.

SECTION 4. If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 25th day of MARCH, 2015.
1:45 Am

DAVE ROLLO, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 26th day of MARCH, 2015.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 26th day of MARCH, 2015.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance does three things. First, it repeals the chapter regulating itinerant merchants, solicitors and peddlers and replaces it with a chapter regulating only solicitors. Solicitors have been defined to mean a person who requests anything of value for the taking of orders of goods or the immediate delivery of goods. Second, it adds a new chapter to the Title which regulates the licensing of mobile food vendors. Third, it adds a new chapter to the Title which regulates the licensing of pushcart operators. The purposes of these changes are twofold: (1) to streamline the current licensing and permitting process for these types of activities; and (2) to encourage, within necessary perimeters, the development of smaller businesses that enhance the community.

Please note that the ordinance comes forward as a result of Council consideration of Ord 14-24 over a course of meetings held in late fall of 2014. After adoption of some amendments and discussion of others, the Council adopted a motion to table the ordinance and consider another ordinance in the first quarter of 2015 that reflected the discussions in 2014. This ordinance incorporates additional changes to Title 4 as a result of those deliberations.

Note: At its Regular Session on March 25, 2015, the Council passed this ordinance after consideration of three amendments. Two amendments passed: Am 01, which was sponsored by Cm. Neher, and added two Whereas clauses requesting that the Administration explore opportunities for food trucks and pushcarts to congregate on public or private property and report their findings and recommendations to the Council; and, Am 03, which was sponsored by Cm. Ruff, and changed BMC Sections 4.28.140(b) and 4.30.130 (b) to narrow the application of the 50-foot minimum distance requirement between food trucks/pushcarts and ground level establishments selling food or beverages from all hours to one hour before the opening time and one hour after the closing time posted by the establishment on the façade of its business. One amendment failed: Am 02, which was sponsored by Cm. Rollo and would have changed the aforementioned sections of the code to extend the minimum distance requirement from 50 feet to 75 feet.

Signed copies to:
controller (1)
legal (5)
plan/tran
ESD
PEO (1)
Public Works (1)
Utilities Director (1)
Fire Chief (1)
Police Dept (1)
Clerk (1)
BMC (1)
HT publication