ORDINANCE 16-16

TO AMEND TITLE 4 (BUSINESS LICENSES AND REGULATIONS) OF THE BLOOMINGTON MUNICIPAL CODE -
Re: Amending 4.16.010 (Solicitors - Definitions), 4.28.160 (Mobile Vendors - Standards of Conduct), and 4.30.150 (Pushcarts - Standards of Conduct)

WHEREAS, On June 15, 2015, the United States Supreme Court issued a ruling in the case of *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015) wherein the Court found the Town of Gilbert's sign regulations unconstitutional because the ordinance at issue regulated different types of speech; and

WHEREAS, Bloomington Municipal Code § 4.16.010 regulates whether or not someone constitutes a "solicitor" based, in part, on whether or not the person speaks on a commercial or noncommercial matter; and

WHEREAS, As a result of the Supreme Court's decision in *Reed*, the City's Plan Commission proposed substantial changes to the City's sign regulations in Title 20 of the Bloomington Municipal Code, which were forwarded to the Common Council in the form of Ordinance 16-01; and

WHEREAS, After further amendments adopted by the Council and Mayor and return to the Plan Commission, Ordinance 16-01 went into effect with the filing of the report of the Plan Commission's approval of the amendments on June 10, 2016 in accordance with IC 36-7-607-4(e)(4); and

WHEREAS, Bloomington Municipal Code §§ 4.28.160 and 4.30.150 reference Bloomington Municipal Code provisions that were modified by Ordinance 16-01, making the references in said Sections incorrect;

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

SECTION 1. Bloomington Municipal Code Chapter 4.16, entitled "Solicitors," Section 010, entitled "Definitions", shall be amended by revising the definition of "Solicitation" in two ways:

a) First, by deleting the "; or" at the end of part (a)(3) and replacing it with a period and deleting part (a)(4); and
b) Second, by deleting part (b) (1) and renumbering subsequent parts accordingly.

SECTION 2. Bloomington Municipal Code Chapter 4.28, entitled "Mobile Vendors," Section 160, entitled "Standards of conduct," shall be amended by deleting part (e) and replacing it with the following provision:

(e) Each mobile food vendor unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.082(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.

SECTION 3. Bloomington Municipal Code Chapter 4.30, entitled "Pushcarts," Section 150, entitled "Standards of conduct," shall be amended by deleting part (e) and replacing with the following provision:

(e) Each pushcart unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.082(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.

SECTION 4. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application of this ordinance which can be given effect without the invalid provision or application, and to the 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, with approval of the Mayor, and after any required notice, waiting periods, and/or publication under Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 12th day of July, 2016.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 13th day of July, 2016.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 13th day of July, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance makes two changes to Title 4 of the Bloomington Municipal Code, entitled "Business Licenses and Regulations." First, it removes the distinction between commercial and non-commercial speech in the definition of "solicitor' in order to be consistent with the City's approach to U.S. Supreme Court's holding in *Reed v. Town of Gilbert.* Second, it corrects citation references in the Mobile Food Vendor and Pushcart Chapters as they relate to sandwich board signs. With the recent overhaul of sign regulations in the Unified Development Ordinance the sandwich board sections referenced in Title 4 are no longer correct; this amendment corrects this error.