

City of Bloomington Common Council

Legislative Packet

Wednesday, 12 November 2014

Regular Session

All legislation and background material contained herein.

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Packet Related Material

**Memo
Agenda
Calendar
Notices and Agendas:**

None

Council Schedule

- **2015 Annual Schedule**
 - **Memo to Council** from Dan Sherman Administrator/Attorney
Contact: Dan Sherman at 349-3409, shermand@bloomington.in.gov

Legislation for Second Reading:

None

Legislation and Background Material for First Reading:

- **Ord 14-24** 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*)
 - Memo to the Council from Jason Carnes, Assistant Director for Small Business, Economic and Sustainable Development Department;
 - Summary of Changes for Chapters 4.16 (Solicitors), 4.28 (Mobile Food Vendors), and 4.30 (Pushcarts)
 - Map of Available Areas for Mobile Food Vendors and Pushcarts Operating the Downtown Area

Contact:

 - *Patty Mulvihill at 349-3426, mulvihill@bloomington.in.gov*
 - *Jason Carnes at 349-3419, carnesj@bloomington.in.gov*

- **Ord 14-25** To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)
 - Certification of Plan Commission Action (7-0-0), dated 10-13-14
 - Memo from Tom Micuda, Director, Planning and Transportation Department;
 - Strikeout Version of Affected Provisions of the BMC

Contact:

- Tom Micuda at 349-3423 or micudat@bloomington.in.gov
- Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov

Minutes from Regular Session:

None

Meeting Reminders

Friday

Staff/Council

Internal Work Session

Council Library at Noon

Memo

Consideration of Annual Schedule, No Items for Second Readings, and Introduction of Two Ordinances at Regular Session on Wednesday, November 12th

The agenda for the Regular Session next Wednesday includes consideration of the Annual Schedule for 2015, no items for Second Reading, and Two Ordinances for Introduction. The Annual Schedule, two ordinances, and related information are included in this packet and summarized below.

Annual Schedule for 2015

This packet contains the proposed Council Schedule for 2015 and a memo explaining it. Please review the material and offer your comments and be ready to vote on it on November 12th - unless you need another few weeks to consider the matter. Acting on it in November makes it likely that the Council Intern (rather than full-time staff) will complete and distribute the Annual City Calendar (which includes Council meeting dates) before she leaves for Winter Recess.

As you know, the Council generally meets on the first four Wednesdays of the month for Regular Sessions and Committees of the Whole. It also meets on Fridays about twice a month for Staff-Council Internal Work Sessions to informally hear about upcoming legislation and other pending matters. Here are some of the meetings that would *not* follow the usual rule (please see the proposed Schedule and Memo for more detailed information):

- **January** – This schedule proposes holding:
 - an Organizational Meeting and Committee of the Whole on Wednesday, January 14th (which is the second Wednesday of the month and the last day to hold this meeting without a special vote of the Council);

- **February** – *Nothing unusual*

- **March** - This schedule proposes holding the second Regular Session and Committee of the Whole on the fourth Wednesday of the month to avoid meeting during Spring Break (which falls on the third Wednesday of that month).

- **April** - *No irregularities; no use of a fifth Wednesday*

Budget Meetings (May, August, September, and October) - This schedule proposes largely following last year's example by holding the:

- Budget Advance on the second Wednesday in May (May 13th) at 5:30 p.m.;
- Four evenings of Departmental Budget Hearings at 6:00 p.m. commencing on the third Monday of August (running from August 17th to 20th) and *including a due date for Budget Books on Monday, August 10th*, and
- Final Budget hearings:
 - starting with a Special Session and Committee of the Whole on the fourth Thursday in September (because the fourth Wednesday falls on Yom Kippur – the Jewish Day of Atonement);
 - skipping a meeting on the fifth Wednesday of September; and

- wrapping them up with a Special Budget Session on October 7th (the first Wednesday in October).
- **June** – This schedule continues the practice of holding:
 - A Special Session on the fourth Wednesday in order to act on the Annual Tax Abatement Report
- **July** – This schedule follows last year’s example by commencing the Council Summer Recess after the second Regular Session that month.
- **August** – As noted above (under Budget Meetings), this schedule follows last year’s example by holding:
 - the Department Budget Hearings starting on the third Monday in August (but adds a due-date for the Budget Books on the second Monday of the month); and
 - a Regular Session and Committee of the Whole on the last Wednesday of the month.
- **September** – As noted above, this schedule largely follows last year’s example by starting the first legislative cycle in September with an evening of meetings on the last Wednesday in August and holding a special Budget Cycle starting at the end of September, but ending this year on the first (rather than second) Wednesday in October. However, in order to avoid meeting on Yom Kippur (Jewish Day of Atonement), it holds the initial budget evening on the fourth *Thursday* rather than the fourth Wednesday in September.
- **October** – the holding of the Special Budget Session on the first Wednesday in October in essence replaces the First Regular Session that month. The rest of the Wednesdays follow the usual four-Wednesday schedule.
- **November** – In order to account for holidays on the second (Veterans’ Day) and fourth Wednesday (Eve of Thanksgiving), this schedule holds a Committee of the Whole on the second Tuesday and both a Regular Session and Committee of the Whole on the third Wednesday of the month.

- **Other Exceptions and Irregularities**
 - **Fifth Wednesdays** - note that there are four fifth Wednesdays next year - in April, July, September, and December - *which may affect deadlines for filing legislation and provide opportunities to shift your meetings.*)
 - **Staff/Council Internal Work Sessions and Legislative Deadlines Overlap on:**
 - Friday, May 22nd
 - Wednesday, August 12th
 - Friday, September 4th
 - Friday, November 6th
 - **Deadlines for Ordinances and Resolutions Overlap on:**
 - Monday, December 22nd (2014)
 - Wednesday, August 12th
 - Wednesday, September 9th (Budget Legislation)
 - Friday, November 6th
 - Monday, December 21st
 - **New Deadline – Budget Books**
 - Monday, August 10th
 - **Unusual Dates for Staff/Council Internal Work Sessions:**
 - Friday, March 27th – a week earlier than usual because of holiday on the following Friday
 - Wednesday, August 12th

First Reading

Item One – Ord 14-24 – Amending Title 4 of the BMC (Business Licenses and Regulations) to Replace Chapter 4.16 (Itinerant Merchants, Solicitors, and Peddlers) and Add Chapter 4.28 (Mobile Food Vendors) and Chapter 4.30 (Pushcarts)

The two ordinances included in this packet and summarized in this memo are the result of City efforts (driven the Economic and Sustainable Development Department) to address the growth and innovation occurring in three business activities licensed by Title 4 (Business Licenses and Regulations). Once lumped together in one chapter, these business activities will have a chapter unto themselves: Solicitors, Mobile Food Vendors, and Pushcarts. After over a year of research and months of outreach,¹ the legislation is being forwarded for consideration by the Council.

According to the memo from Jason Carnes, Assistant Director for Small Business, the goal of this legislation is to:

- Facilitate opportunities for these businesses (while balancing the needs of traditional brick-and-mortar restaurants);
- Streamline the permitting process and better regulating their activities; and
- Provide more flexibility in using and encouraging mobile food vendors and pushcarts for special events.

The memo highlights, and the attached summaries of each chapter, detail the changes and reasons for them. In broad overview, the ordinance:

- Separates these three activities into three chapters rather than covering them in one because of their differences,;
- Clarifies and prohibits location of operations based upon traffic regulations, zoning districts, consent of property owner, and (for Mobile Food Vendors and Pushcarts) distance from façade of ground level food and beverage establishment (*see attached map for available locations in the downtown*);
- Imposes a limit on the number of Mobile Food Vendor (25) and Pushcart (50) licenses that can be issued at one time;
- Restricts hours of operation;
- Prohibits “abusive” solicitation and soliciting in the street or on the median;

¹ The memo states that staff identified “mobile food vendors and other stakeholders through Downtown Bloomington, Inc., the Greater Bloomington Chamber of Commerce, the Bloomington Independent Restaurant Associate and Local First Bloomington.”

- Imposes noise limitations on generators;
- Adds other requirements that address matters of safety, order, sanitation, revenue, and appearance; and
- Adjusts fines.

Summary of the Ordinance

The remainder of this memo presents and summarizes the ordinance in the following order:

- Key Definitions,
- Restrictions on Location and Hours of Operation,
- Standards of Conduct,
- Safety Requirements,
- Additional Authority to Restrict Number and Use of Licenses, and
- Provisions that Apply to All Licenses Alike

Key Definitions – Solicitors (4.16.010), Mobile Food Vending Units (Food Trucks) (4.28.010), and Pushcarts (4.30.010)

The subject of each of these three chapters are defined below:

Solicitors The definition of Solicitor hinges on the act of solicitation which means (in abbreviated and paraphrased form) any person:

- traveling by any means onto public or private property to:
 - Request either directly or indirectly anything of value;
 - Take or attempt to sell things or services to be delivered immediately or, via orders, for delivery in the future; or
 - Communicate or disseminate ideas, views, or beliefs of a commercial value to a person willing to directly receive such information;
- Except persons:²
 - Communicating or disseminating ideas, views or beliefs of a political, religious, or charitable nature to a person willing to directly receive such information;
 - Seeking to influence or determine the personal belief of an occupant of a residence in regard to a political or religious matter;
 - Conducting a poll, survey, or petition drive regarding any political matter;

² Adam Wason, Communications Director, has clarified that this definition is not intended to apply to “panhandlers.”

- Transporting goods or products to regular customers on established routes or to the premises of any person who had previously ordered and is entitled to receive the same;
- Soliciting dealers or permanent merchants in the usual course of business; or
- Exempted from this Chapter’s requirement under Ind. Code 8-1-34-30 (Video Service Franchises).

“Mobile food vendor unit” means (in an abbreviated and paraphrased form):

- any self-contained mobile unit, which is:
 - designed to be, and capable of being, moved under its own power or by a motorized vehicle;
 - independent with respect to water, sewer and power utilities and not permanently attached to the ground;
 - an enclosed truck, trailer, bus, or similar vehicle (and the equipment therein);
 - used for the sale, offering for sale, serving, or giving away of food or beverages; and
 - closed up when not in operation; but
 - not an ice cream truck that does not park or locate in any one place for longer than ten minutes.

Pushcarts The term “Pushcart” means:

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

Restrictions on Location (Sections 4.16.030, 4.28.030, and 4.30.030) .and Hours of Operation (Sections 4.16.140, 4.28.150, and 4.30.140)

The ordinance imposes restrictions on the location and hours of operations for these three regulated activities. The location restrictions are divided into General Restrictions, Restrictions on Private Property, and Restrictions Solely Affecting Mobile Food Vendors and Pushcarts. The restrictions on the last category are further divided into safety issues, allowable zoning districts, limitations on the number in certain downtown areas, and a distance from ground level food and beverage establishments. The restrictions on the hours of operation apply to, but vary with, each activity and appear last in this part of the summary.

In General. All businesses regulated by this ordinance are prohibited from operating in:

- Any parking space, lot, facility owned, leased, or operated by the City without approval by the Board of Public Works;
- Alleyways (with Solicitors and Pushcarts also prohibited from operating in the street or on street median strips);
- An area within a one-block radius of a Special Event without prior approval of the operator of the event or the Board of Public Works;
- A manner which significantly impedes or prevents use of City property or would endanger the safety or property of the public;
- Anyplace along the B-Line Trail except between (but not including):
 - Dodds and 2nd Street;
 - 3rd Street and 4th Street; and
 - 6th Street and Fairview Street.

Private Property. All three regulated businesses may not operate on private property without consent of the property owner. In particular:

- **Solicitors** may not operate in a neighborhood or on property which displays a sign indicating that solicitation is unwanted; and
- **Mobile Food Vendors** may not “locate” **and Pushcarts** may not “operate:”
 - on private property unless the owner of the property has provided both the vendor and City written permission; and
 - when doing so, must comply with the parking, access, and landscaping requirements of Title 20 (Unified Development Ordinance).

Additional Location - Safety Considerations – Mobile Food Vendors and Pushcarts Perhaps in recognition of activities that may obstruct the public or create hazards, both Mobile Food Vendors and Pushcarts have further restrictions that prohibit their location:

- close to ³ all posted bus stops, crosswalks, driveways, right-of-way lines of intersecting streets, building entrances, and walk-up windows;
- in the case of Mobile Food Vendors, in violation of the parking regulations or more than 1’ away from the curb;
- in a manner that blocks the line-of-sight of drivers using adjacent roadways; or
- within 10’ of a fire hydrant.

³ The relevant provisions, in particular, require the vehicle to be “a reasonable distance” from these features.

Mobile Food Vending Units and Pushcarts are Limited to Operating in Five Zoning Districts and at a Maximum Number in Three Downtown Areas The ordinance limits the operation of Mobile Food Vending Units and Pushcarts to five zoning districts:

- Commercial General;
- Commercial Downtown;
- Industrial General;
- Business Park; and
- Institutional.

In addition, it creates three downtown districts and limits the number of Mobile Food Vending Units and Pushcarts that may operate within them at one time. Those areas and limitations are as follows:

	Maximum Number of:	
	Mobile Food Vending Units	Pushcarts
Courthouse Square District (the street segments surrounding the Square)	4	12
Kirkwood District (Kirkwood Avenue between Walnut Street and Indiana Avenue)	5	10
Restaurant Row (4 th Street between Lincoln Street and Indiana Avenue)	5	10

Deference to Ground Level Food and Beverage Establishment In deference to existing “bricks and mortar” food and beverage establishments, both Mobile Food Vendors and Pushcarts may not locate within 50’ of any of these establishments whether or not actually conducting business.

Hours of Operation

All of the regulated businesses in this ordinance have restricted hours of operation:

- Solicitors may not operate from dusk to 8:00 a.m. unless invited by a resident of the premises;
- Mobile Food Vehicles and Pushcarts may not operate at all and may not be located in the public right-of-way during the hours of 4:00 a.m. and 7:30 a.m.

- Mobile Food Vendors are not prohibited by Title 4 from storing their vehicles on private property.

Standards of Conduct (BMC Sections 4.16.150, 4.28.160, and 4.30.160)

The ordinance establishes Standards of Conduct that can be divided into those in General, those applying to Solicitors, and those applying to both Mobile Food Vendors and Pushcarts.

Standards of Conduct - in General – All three regulated business activities must:

- Conduct themselves in an orderly and lawful manner at all times and not make or cause an unreasonable noise in violation of the noise ordinance;
- Not use a device to amplify sounds and not use noise or a light producing device to draw attention to it business;
- Not expose pedestrians to any undue safety or health hazard and not create a public nuisance; and
- Obey the commands of a law enforcement or fire official with respect to the regulated activity (within the City’s jurisdiction [for Solicitors and Mobile Food Vendors] and on City property [for Pushcarts]).

Standards of Conduct – Solicitors Solicitors, in particular, must not:

- Engage in abusive solicitation;⁴ or
- Approach any vehicle driving, stopped, or parked upon any public or private street or alley.

Standards of Conduct – Mobile Food Vendors and Pushcarts Mobile Food Vendors and Pushcarts are subject to the most standards of conduct. These address the effects on surrounding uses and cover such matters as safety, order, sanitation, revenue, and appearance. In that regard, licensees must:

- Comply with the lighting, sign (no more than one sandwich board sign after obtaining a permit), and vision clearance requirements found in BMC 20.05 and not provide any drive-through service;
- Not use their vehicle to advertize items or services outside those offered under the license;
- Not provide customer seating without approval of the Board of Public Works and Planning and Transportation Department;

⁴ The term “abusive solicitation” is elaborated to include: touching or coming closer than 3’ to a person without their consent; impeding or blocking their passage; continuing or repeating an unwanted solicitation; and, using threats or retaliatory language against a person.

- Not use an electrical outlet for any vehicle while it is operating under the license;
- Protect against littering by having an adequate trash can that is emptied frequently enough to allow use by the public at any time and by picking up all such litter and materials within a 20' radius of the vehicle before departing any site;
- Not place solid waste in a City receptacle or dispose of liquid waste on City property (and not dispose of either on private property without express written consent of the owner);
- If a Food Service Establishment as defined by BMC 10.17, install an approved grease interceptor or trap;
- Only sell food that is likely to spill onto the street or sidewalk in containers that will prevent such spillage;
- Maintain each vehicle free and clear of dirt and assure that their finish is not chipped, faded, or unduly marred;
- If using a grill or device that may result in a spark, flame, or fire,
 - Stay at least 20' from a building or structure and have a fire extinguisher within reach at all times;
 - Keep the flame, spark, or fire below 12 inches in height, and provide a barrier between the device and the general public.
- Not leave the vehicle unattended while in operation; not affix it any fixed object; and not store, park or leave it overnight on City property; and
- Assure that the noise of the generators associated with the vehicle do not exceed 60dBA; and
- Collect and pay all applicable sales taxes.

Safety Requirements – Mobile Food Vendors and Pushcarts
(BMC Sections 4.28.130 and 170, and 4.30.160)

The fact that Mobile Food Vendor Units and Pushcarts are used to prepare and serve food and move along the City's right-of-ways calls for additional safety requirements. In that regard, licensees must also:

- Install and secure all equipment to prevent movement during transit and detachment in the event of a mishap;
- Store all utensils (particularly knives and other sharp or bladed objects) to prevent them being hurled in the event of a sudden stop, collision, or overturn;
- Assure that all food and beverages are acquired and handled so as to be clean, wholesome, free from spoilage, alteration, contamination, or

- misbranding, and safe for human consumption (in compliance with standards promulgated by various governmental agencies);
- Assure that sections of the vehicle designed to contain food are sufficiently covered to avoid contact with dust or dirt and at least 18” above the surface of the public way when transporting food; and
 - Keep all food storage areas in the vehicle free from:
 - rats, mice, flies and other insects and vermin,
 - other living animals (e.g. pets); and
 - hazardous non-food items that are poisonous and toxic in nature.

Safety Inspection Required – Mobile Food Vendor Units

Along with other safety requirements, Mobile Food Vendor Units must also be determined safe for operation on the road. In that regard:

- each vehicle to be used by the business must have undergone an independent safety inspection within two years of the application (and a copy of the report must be included with the application);
- No Mobile Food Vending Unit may operate without compliance with the aforementioned requirement; and
- In the event the City has probable cause to believe a Mobile Food Vending Unit is unsafe or mechanically unsound, the Chief of Police or his/her designee may order an immediate inspection:
 - That inspection must occur within five business days;
 - If the report, which must be promptly filed with the Chief of Police, reveals deficiencies, the vehicle may not be used until the deficiencies are remedied.

Additional Authority to Restrict Use and Licenses – Mobile Food Vendors (BMC 4.28.190) and Pushcarts (BMC 4.30.190)

Mobile Food Vendors and Pushcarts are subject to additional restrictions on use and licenses in the following circumstances:

- In the event of an emergency called by designated officials, the City may restrict use of the vehicle to certain areas of the City;
- The same restrictions may also be imposed by the City in the absence of an emergency, but only after it has given written notice to the licensees at least 72 hours in advance of the action; and
- In the event the granting of a license would permit the operation of more than 25 Mobile Food Vendor Units or 50 Pushcarts within the jurisdiction, then the City may refuse the issuance of additional licenses over those limits. Upon refusal, the applicant may appeal to the Board of Public Works which will have discretion to issue additional licenses provided the

requirements of the applicable chapter are met and it serves the best interests of the community.

Provisions that Apply to All Three Chapters/Licenses

Operations Generally (Section 020 of BMC 4.16, 4.28, and 4.30)

All the regulated businesses must operate in accordance with Title 4.

License Required (Section 030 of BMC 4.16, 4.28 and 4.30)

All the regulated businesses must obtain a license from the City Controller before conducting business within the City, but do not need obtain a temporary use permit under Title 20. (See Ord 14-25) Such businesses, however, need no license when participating in Special Events, but when doing so, may not operate within 50' of ground level establishments that sell food and beverages, unless the business provides the City's Economic and Sustainable Development Department with written permission from all those establishments at least 72 hours in advance of the event.

License Application (Section 040 of BMC 4.16, 4.28 and 4.30)

Applicants for all of the regulated businesses must submit a completed application at least 14 days before conducting business and must provide the following information in, or attached to, the application:

- the name, current physical address, phone number and email address and birth date of the applicant;
- if the applicant is employed by or represents another entity, then:
 - the name, current physical address and phone number of that entity,
 - the length of time the person has/will represent(ed) them,
 - the name, current physical address, and phone number of members or officers of that entity; and
 - the date the entity came into being and the state in which it was formed, and if that state is not Indiana, the date the entity was qualified to do business in Indiana;
- the type of products and services to be sold and the hours of the day the applicant plans to conduct business;
- the place(s) where the business will operate and, if applicable, a statement from the property owner(s) giving permission for use of that location;
- the duration of the license;

- whether a previous license here, or a similar license granted here or elsewhere, has ever been revoked and, if so, the circumstances of the revocation; and
- the resident of the State designated to receive notice from the City as well as from others as a result of doing business here.

Business License – Prerequisites (Section 050 of BMC 4.16, 4.28 and 4.30)

Before being considered, an application for one of the regulated activities must include proof of:

- all applicable permits required by the Monroe County Health Department (e.g. Food Service Establishment and Certified Food Handler Certificate);
- registration as a business with the Indiana Secretary of State;
- Employee Identification Number;
- A resolution from the Board of Public Works if the applicant will conduct business on City property;
- A letter of approval from the Parks and Recreation Department if the applicant will conduct business on property owned or managed by that Board (including those portions of the B-Line not specifically permitted by the relevant Chapter of Title 4); and
- proof of insurance in amounts required under the applicable chapter of Title 4.
 - Additional Prerequisites for:
 - Mobile Food Vendors and Pushcarts:
 - A scaled site plan showing location of the relevant vehicle and the property’s drives, parking access aisles, fire lanes, sidewalks, and accessible routes; and
 - The manufacture’s specifications on the decibels produced by any generators associated with the relevant vehicle.
 - For pushcarts:
 - An open burn permit from the Fire Department if any spark, flame, or fire will be produced.
 - For Mobile Food Vendors:
 - A copy of the Indiana registration for the vehicle;
 - Copy of a valid driver’s license;
 - Copy of an Indiana Driver’s Record and/or an equivalent of whatever state has issued the applicant his/her driver’s license; and

- Proof of an independent safety inspection of all vehicles to be used in the business in accordance with the provisions of that chapter.

Business License – Duration and Fee (Section 060 of BMC 4.16, 4.28 and 4.30)

Here is a break down of current and proposed fees at the various durations set forth in this ordinance:

Duration (<i>days are consecutive</i>)	Existing Fees	Proposed Fees
One Day License:	\$15.00	\$25.00
Three Day (<i>formerly a Seventy-two [72] Hour</i>) License:	\$40.00	\$30.00
Seven Day (<i>formerly a One [1] Week</i>) License:	\$75.00	\$50.00
Thirty Day License:	\$120.00	\$75.00
Three Month License:	N/A	\$150.00
Six Month License:	\$175.00	\$200.00
One Year License:	\$240.00	\$350.00

Exemptions - certain non-profit organizations which use the proceeds from this business activity exclusively for religious, charitable, educational or scientific purposes⁵ are exempted from paying the fee, but still must obtain a permit and comply with all of the other requirements of the applicable chapter of this Title. This exemption also applies to honorably discharged veterans in accordance with IC 25-25-2-1.⁶

Application Fee – Refund on Denial (Section 070 of BMC 4.16, 4.28 and 4.30)

The applicant must pay an application fee in the minimum amount of \$25.00 unless exempted under the previous section. This amount will be applied toward the license fee if granted and \$20 will be applied toward the processing cost if the license is denied (with any remainder being refunded to the applicant).

Effect of Cessation of Business (Section 080 of BMC 4.16, 4.28 and 4.30)

The fee will not be reduced in the event the licensee fails to conduct business for any part of the license term.

⁵ The ordinance specifies: “churches, schools, benevolent organizations, fraternal organizations, and other similarly situated organizations.”

⁶ This statute provides that veterans are “subject to all (applicable) county, city, or town regulations and ordinances” but “entitle(s) (them) to a license to vend, hawk, and peddle goods, wares, fruits, and merchandise in any county, city, or town in Indiana without the payment of any fee for the license.”

Insurance and Indemnity (Section 090 of BMC 4.16, 4.28 and 4.30)

Applicants must provide the Controller with a certificate of liability insurance on a form approved by the Corporation Counsel. The certificate must indicate that the applicant is insured and the City is named as a co-insured for this activity against personal injury and property damage in the following amounts:

- Personal injury: \$100,000 per occurrence; \$300,000 in aggregate; and
- Property damage: \$25,000 pr occurrence; \$50,000 in aggregate.

The applicant must also indemnify and hold the City harmless for losses and expenses arising out of the operation of this business and do so on a form approved by the Corporation Counsel.

- Additional Requirement for Mobile Food Vendors:
 - Applicant must also provide for Indiana State minimum for motor vehicles.

Business License – Issuance (Section 100 of BMC 4.16, 4.28 and 4.30)

This section provides for mandatory and discretionary issuance of a license and the appeal of denial of such issuance. The Controller must issue a license within 14 days of receiving a completed application if he/she finds that the applicant:

- has complied with all of the provisions of the applicable chapter of Title 4;
- has not had a prior license issued under the relevant chapter or a similar license authorized by another governmental entity, suspended or revoked;
- has not been previously found in violation of the relevant chapter(s) of Title 4 or any similar law promulgated by another governmental entity.

If the Controller finds all but the third bullet-point (regarding violation of provisions of the chapter or a similar law promulgated elsewhere) have been satisfied, the Controller may, upon a finding of appropriateness, issue the license.

An applicant may appeal to the Board of Public Works if the Controller denies the application by not issuing a license within 14 days of receipt of the completed application. The appeal must be in writing and filed within 10 days of the denial. The Board must then act within 30 days of the appeal to determine whether the applicant has complied with all the foregoing requirements and, if it does so, the Controller must issue a license. Prior to that determination, which is final and conclusive, the applicant will have an opportunity to be heard.

License Transferability (Section 110 of BMC 4.16, 4.28, and 4.30)

This provision states that “license(s) issued under the relevant chapter of Title 4 shall not be transferable to another licensee.”

Business License – Identification (Section 110 of BMC 4.16, 4.28, and 4.30)

Operators must prominently display the license and show it to anyone who asks to see it and failure to do so is grounds for suspension or revocation of the license.

Penalties—Revocation of License (Section 120 of BMC 4.16, 4.28, and 4.30)

Persons ⁷ violating the following provisions of the applicable chapter of Title 4 are subject to these penalties:

- Operating without a license:
 - First Offense - \$2,500
 - Second Offense (within a 12-month period) - \$5,000
 - Third and subsequent offense (within a 12-month period) - \$7,500

- Any other applicable provision:
 - First Offense - \$250
 - Second Offense (within a 12-month period) - \$500
 - Third and subsequent offense (within a 12-month period) - \$1,000

After notice, hearing, and one of the following findings by the Board of Public Works, the Controller shall, by written order, suspend or revoke any license issued under the applicable chapter of Title 4:

- Violation of any provision or rule lawfully made under authority of the applicable chapter of this title;
- Operation of an applicable license contrary to State or local code; or
- The existence of any fact or condition which, if existing at the time the application for such license, would have permitted refusal of its issuance by the Controller.

⁷ The term “person” here also includes partnerships and corporate entities.

**Item 2 – Ord 14-25 – Amending Title 20 (Unified Development Ordinance)
Sections 20.05.110 and 20.05.111 Regarding Temporary Uses and Structures
to Provide for the Economic and Sustainable Development Department to
Permit Uses Licensed Under Title 4 (Business Licenses and Regulations)
and Account for Other Temporary Uses**

Ord 14-25 is the second of two pieces of legislation primarily affecting businesses licensed under Title 4 of the BMC entitled “Business Licenses and Regulations.” As noted above and in the memos provided by staff, the first piece of legislation replaces Chapter 14.16 (Itinerant Merchants, Peddlers, and Solicitors) with one that addresses an expanded definition of Solicitors and inserts a chapter on Mobile Food Vendors (Chapter 4.28) and Pushcarts (Chapter 4.28). This, second piece, amends the temporary uses and structures provisions of Title 20 (Unified Development Ordinance) to provide for the Office of Controller (and not the Planning and Transportation Department) to issue permits for business activities that are regulated under both Title 4 and Title 20, and to account for changes in the market for some other temporary uses.

The changes affect Section 20.05.110, regarding Temporary Uses and Structures in all 15 zoning districts and Section 20.05.111, regarding those uses in the commercial, industrial and business park zoning districts. The first change applies to all 15 zoning districts and any business activity⁸ licensed by Title 4⁹ of the Bloomington Municipal Code. It is intended to reduce the regulatory burden for temporary uses and structures regulated by both Title 20 UDO and Title 4 (Business Licenses and Regulations) by requiring one permit rather than two. At present, these activities must be permitted by the Planning and Transportation Department (which determines compliance with parking, access, and signage requirements) and the Controller, after review of various requirements by the Economic and Sustainable Development department. This change would exempt

⁸ Patty Mulvihill, City Attorney, in a communication with staff, clarified that the term “business activity” regulated by Title 4 would encompass a Pawnbroker, Secondhand Dealer, etc., but not a Farmers’ Market or other temporary use conducted by that business.

⁹ The actual text approved by the Planning Commission uses the word “Chapter.” In the event the Council wishes to approve this legislation, I suggest that “Chapter 4” be changed to “Title 4” and that the Exemption refer to “the Permit Requirement” to clarify the intent of the policy. As you may recall, from amendments to zoning text made earlier this year, there are time-frames for the initial action by the Council (90 days from Certification of Commission action) and, if amended, subsequent action by the Plan Commission (45 days from submittal of Council Statement), and, in the event of disagreement, further action by the Council (45 days from Certification of Disapproval). In addition to these time-frames, statute also prescribes the manner of action taken by these entities and establishes that a failure to act will result in the majority action forwarded to that entity going into effect once the time-frame expires. See IC 36-7-4-607(d) & (e)

“any business activity licensed by Chapter 4 of the Bloomington Municipal Code” from the permit requirement. In practice, this would still entail a review by the Planning and Transportation department which will report to the Controller before their issuance of a permit.

The remaining changes affect Section 20.05.111, which currently addresses temporary uses and structures in five of the City’s commercial, industrial and business zones. In these zones, temporary uses and structures apply, in particular, to:

- Seasonal sales,
- Farm produce,
- Sales Associated with Permanent Retail Use; and
- Other (e.g. carnivals, other outdoor sales, etc.).

Here, the ordinance:

- adds Institutional and Commercial Limited zones to the other five zones;
- clarifies that only one permit for seasonal sales may be issued for a property per calendar year;
- recognizes the benefits of a longer period for the sale of farm produce and extends that period from 60 to 180 consecutive days per year;
 - and exempts “approved” farmers’ markets from this requirement; and
- provides for a property to obtain one permit for the “buying back” of higher education books. The permit would authorize this activity for a maximum of two seven-day periods or one fifteen-day period per calendar year.

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, NOVEMBER 12, 2014
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: *None*

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR FIRST READING

1. Ordinance 14-24 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*)
2. Ordinance 14-25 To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)

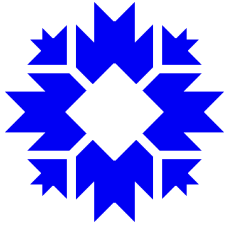
VII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

VIII. COUNCIL SCHEDULE

- **2015 Annual Council Schedule**

IX. ADJOURNMENT

* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.



**City of Bloomington
Office of the Common Council**

To Council Members
From Council Office
Re Weekly Calendar -- 10-15 November 2014

Monday, 10 November

11:30 am Plan Commission -- Work Session, Kelly
2:30 pm Council for Community Accessibility – Special Meeting for Accessibility Committee, McCloskey
6:00 pm Bloomington Commission on Sustainability, Kelly

Tuesday, 11 November

Veterans Day – City Offices Closed

Wednesday, 12 November

9:30 am Tree Commission – Special Meeting, Rose Hill – 930 W 4th St.
2:00 pm Hearing Officer, Kelly
5:00 pm Bloomington Arts Commission, McCloskey
5:30 pm Commission on the Status of Black Males, Hooker Room
7:30 pm Common Council – Regular Session, Chambers

Thursday, 13 November

12:00 pm South Central Housing Network, McCloskey
4:00 pm Monroe County Solid Waste Management District, Courthouse
5:00 pm Bloomington Historic Preservation Commission, McCloskey

Friday, 14 November

12:00 pm Common Council – Internal Work Session, Council Library

Saturday, 15 November

9:00 am Bloomington Community Farmers' Market – Showers Common, 401 N Morton St.

Posted and Distributed: Thursday, 07 November 2014

**COMMON COUNCIL
MEETING SCHEDULE AND LEGISLATION DEADLINES FOR THE YEAR 2015
(Subject to Revision by Common Council)**

LEGIS CYCLE	INTERNAL WORK SESSIONS ⁹	DEADLINE FOR ORDINANCES; E-MAILED TO CCL BY NOON	DEADLINE FOR RESOLUTIONS; E-MAILED TO CCL BY NOON	REGULAR SESSION 1 st READING FOR ORDS.	COMMITTEE DISCUSSION	REGULAR SESSION 2 nd READINGS AND RESOLUTIONS	<i>* Note on Legislative Cycle</i>
1	Fri. Dec. 19 (2014)	Mon. Dec. 22 (2014)	Mon. Dec. 22 (2014)	¹ Jan. 14	¹ Jan. 14	Jan. 21	
2	Fri. Jan. 9	Mon. Jan. 12	Fri. Jan. 16	Jan. 21	Jan. 28	Feb. 4	
3	Fri. Jan 23	Mon. Jan. 26	Mon. Feb. 2	Feb. 4	Feb. 11	Feb. 18	
4	Fri. Feb. 6	Mon. Feb. 9	Mon. Feb. 16	Feb. 18	Feb. 25	Mar. 4	
5	Fri. Feb. 20	Mon. Feb. 23	Mon. Mar. 2	Mar. 4	Mar. 11	² Mar. 25	
6	Fri. Mar. 13	Mon. Mar. 16	Mon. Mar. 16	² Mar. 25	² Mar. 25	Apr. 1	
7	Fri. Mar. 20	Mon. Mar. 23	Mon. Mar. 30	Apr. 1	Apr. 8	Apr. 15	
8	Fri. Mar. 27	Mon. Apr. 6	Mon. Apr. 13	Apr. 15	Apr. 22	May 6	
9	Fri. Apr. 24	Mon. Apr. 27	Fri. May 1	May 6	³ May 13	May 20	
10	Fri. May 8	Mon. May 11	Mon. May 18	May 20	May 27	June 3	
11	Fri. May 22	Fri. May 22	Mon. June 1	June 3	June 10	June 17	
12	Fri. June 5	Mon. June 8	Mon. June 15	June 17	⁴ June 24	July 1	
13	Fri. June 19	Mon. June 22	Fri. June 26	July 1	July 8	⁵ July 15	
SUMMER RECESS AND DEPARTMENTAL BUDGET HEARINGS (STARTING THE THIRD MONDAY IN AUGUST) ³							
14	⁹ Wed. Aug. 12	Wed. Aug. 12	Wed. Aug. 12	⁵ Aug. 26	⁵ Aug. 26	Sep. 2	
15	Fri. Aug. 21	Mon. Aug. 24	Mon. Aug. 31	Sep. 2	Sep. 9	Sep. 16	
16	N/A	Wed. Sep. 9	Wed. Sep. 9	⁶ Sep. 24	⁶ Sep. 24	⁶ Oct. 7	
17	Fri. Sept. 4	Fri. Sept. 4	Mon. Sept. 28	⁷ Sep. 16	⁷ Oct. 14	⁷ Oct. 21	
18	Fri. Oct. 9	Mon. Oct. 12	Mon. Oct. 19	⁷ Oct. 21	Oct. 28	Nov. 4	
19	Fri. Oct. 23	Mon. Oct. 26	Fri. Oct. 30	Nov 4	⁸ Nov. 10	⁸ Nov. 18	
20	Fri. Nov. 6	Fri. Nov. 6	Fri. Nov. 6	⁸ Nov. 18	⁸ Nov. 18	Dec. 2	
21	Fri. Nov. 13	Wed. Nov. 18	Mon. Nov. 30	Dec. 2	Dec. 9	⁵ Dec. 16	
YEAR END RECESS							
First Legislative Cycle for 2016:							
1	Fri. Dec. 18	Mon. Dec. 21	Mon. Dec. 21	¹ Wed. Jan. 13 (2016)	¹ Wed. Jan. 13 (2016)	Wed. Jan. 20 (2016)	

Deadlines for Legislation: The deadline for submitting legislation and all accompanying materials, including a summary memo, is set at noon on the date listed. For information on the manner for submitting these materials, please inquire with the Council Office.

Usual Day, Location, and Time of Meetings: Unless otherwise indicated, the Council meets on the first four Wednesdays of the month in the Council Chambers in Room 115 of the Showers Center, 401 North Morton, at 7:30 p.m. It also meets for a Staff-Council Internal Work Session on Fridays about 10 days before the beginning of the next legislative cycle typically to hear about items to be considered during that legislative cycle. (See Footnote #9 for the day, time, and location of those meetings.)

*** Note on the Legislative Cycle:** While it is typical for the Council to introduce and take final action on legislation during the same cycle, the Council may schedule legislation or other matters for further consideration at subsequent Committees of the Whole, Regular Sessions, or Special Sessions.

The following footnotes list and explain the exceptions to this general rule:

- The Council will hold an annual Organizational Meeting on this date when, along with other matters, it elects officers and gives legislation first reading. Under local code, the meeting must be held by the second Wednesday in January unless rescheduled by a majority of the Council. (BMC 2.04.010 and BMC 2.04.050[a, c & d]). This meeting will be immediately followed by a Committee of the Whole.
- The Council will hold its second Regular Session and Committee of the Whole in March on the 25th. This schedule allows the Council to skip meeting during Spring Break (March 18th) when many residents are out-of-town.
- The Council will hold a Council Budget Advance in the McCloskey Room (Room 135) of City Hall at 5:30 p.m. on Wednesday, May 13th and Departmental Budget Hearings in the Council Chambers at 6:00 p.m. on Monday, August 17th, Tuesday, August 18th, Wednesday, August 19th, and Thursday, August 20th, 2015. Budget Books are scheduled to be delivered on Monday, August 10th, which is one week before the start of the Departmental Budget Hearings.
- The Council will hold a Special Session at 7:30 p.m. on June 24th before the Committee of the Whole to consider the Annual Tax Abatement Report.
- BMC 2.04.050[e] & [g] call for the Council to take a brief recess after the first Regular Session in August and the second Regular Session in December, and not introduce legislation for first reading at these meetings. By approving this Annual Schedule, the Council will be taking the Summer Recess after the second Regular Session in July and returning in the latter part of August for four evenings of Departmental Budget Hearings as well as an evening with a Regular Session and Committee of the Whole on the last Wednesday of that month. (See Footnote #3 for more information on the Departmental Budget Hearings.)
- After holding Departmental Budget Hearings in the latter part of August (See Footnote #3), the Council will formally

consider the City Budget for 2016 during a separate legislative cycle (known as the “Budget Cycle”) starting in late September and ending in early October. In keeping with the Wednesday meeting schedule, this Budget Cycle typically starts with a Special Session and Committee of the Whole on the fourth Wednesday in September and ends with a Special Session on the second Wednesday in October. The occurrence of Yom Kippur – the Jewish Day of Atonement – on the fourth Wednesday and a fifth Wednesday that month has led to changes in the typical schedule. The Budget Cycle in 2015 will entail a Regular Session and Committee of the Whole on Thursday, September 24th and a Special Session on Wednesday, October 7th. Please note that the statutorily required public hearings associated with the City Budget package will be held during the aforementioned Committee of the Whole and the adoption hearings will be held at the Special Budget Session on October 7th.

7. The second Legislative Cycle in September overlaps with the Budget Cycle and is intended to allow for consideration of routine, non-budget legislation during that time. This year, there is a fifth Wednesday in September that falls between the budget hearings and will not be set aside for any meetings. That will result in the Second Legislative Cycle in September beginning on the third Wednesday and ending on the third Wednesday in October. In essence, this will replace one legislative cycle in October with the Budget Cycle.

8. The Council will not meet on two Wednesdays in November because of holidays per BMC 2.04.050 (b) & (f). Those evenings include the second Wednesday (Veterans’ Day) and the fourth Wednesday (which falls on the night before the Thanksgiving Holiday). In order to set aside an evening for a Committee of the Whole during the week of Veteran’s Day, the Council will meet on the second Tuesday and in order to schedule a Committee of the Whole for the second Legislative Cycle that month, the Council will hold that meeting immediately after the Regular Session on the third Wednesday of the month.

9. Staff-Council Internal Work Sessions provide an opportunity for the Council members to learn about City initiatives, most of which are close to formal consideration by the Council. These meetings will be held in the Council Office Library (Room 110 of City Hall) at noon. Except for the meeting on Wednesday, August 12th, these meetings will be held on a Friday.

DRAFT



Office of the
Common Council

Memorandum

To: Members of the City of Bloomington Common Council, Mayor, and City Clerk
From: Daniel Sherman, Attorney/Administrator, Common Council
Re: Annual Council Schedule for 2015
Date: October 31, 2014

Dear Council Members, Mayor, and City Clerk – I’m sending a preliminary draft of the proposed Annual Schedule for early discussion and, hopefully, in time for one to go out with the Council Weekly Packet distributed on November 7th for consideration at the Regular Session on November 12th. Please review and respond to Darryl or me over the next week.

Highlights of Deviations of the Four-Wednesday-Rule and Other Significant Changes in Proposed Annual Schedule for 2015

Here are the highlights of exceptions to our first-four-Wednesday rule and also an elaboration of the Budget meetings:

- **Internal Work Sessions** - are scheduled on Friday at noon in the Council Library except for *Wednesday, August 12th*;
- **January** - Organizational Meeting – is scheduled for second Wednesday in January;
- **March** - Spring Break – is skipped and meetings are doubled-up on the fourth Wednesday;
 - *Note: this still holds an Internal Work Session on the Friday during Spring Break*
- **July & August** - Summer Recess - is scheduled to begin in mid-July and end with Departmental Budget Hearings in August;
- **August thru early October** - The Budget Schedule has some minor changes because of Yom Kippur¹ (which falls on the fourth Wednesday of September) and a fifth Wednesday in September:

¹ Religious Holiday Adjustments – this proposal adjusts schedules September for Yom Kippur. I’ll need to confirm these dates and can use your help in determining whether there are other religious holidays to be observed. Please see this link to the IU Religious Holiday Schedule - http://www.indiana.edu/~vpfaa/docs/religious_observances/religious-observances-calendar-2013-2018.pdf

- Budget Advance on the second Wednesday in May at 5:30 pm in the McCloskey Room
- Department Budget Hearings over four evenings starting on the third Monday in August (Monday the 17th – Thursday the 20th)
 - *Note: It also lists the expected arrival of the Budget Books a week before the hearings begin.*
- Formal Consideration of the Budget with a
 - Special Session and Committee of the Whole on *Thursday, September 24th* (to avoid meeting on Yom Kippur); and
 - Special Session on Wednesday, October 7th (this accounts for the fifth Wednesday in September and separates the two evenings by almost two weeks (13 days)
 - *Note: This occurs on the MCCSC Fall Break. Will everyone be able to attend that meeting?*
- **Remainder of October** – the scheduling of the budget cycle in early October and the skipping of the fifth Wednesday result in one rather than two Legislative Cycles in October. The Special Budget Session on the first Wednesday is followed the usual course of meetings for the remaining Wednesdays of October.
- **November** - a holiday on the second Wednesday (Veterans’ Day) and fourth Wednesday (the eve of Thanksgiving) will result in a Committee of the Whole on the second Tuesday and both a Regular Session and Committee of the Whole on the third Wednesday of that month.

More Detailed Overview of Exceptions to Four-Wednesday-Rule and Other Changes Over Past Practice in the Proposed Annual Schedule for 2015

Here is a more detailed look at unusual meeting dates in 2015:

January

Wednesday, January 14 Organizational Meeting and Committee discussion.
Please note that the schedule sets this meeting on the second Wednesday of the month which, with a recent change in our local code, is the last day we can hold that meeting.

February

(Nothing Unusual)

March

In 2015, Spring Break will occur during the week of March 15th – 21st. This schedule would have the Council skip over the Wednesday during Spring Break and meet for a Regular Session and Committee of the Whole on the fourth Wednesday.

Wednesday, March 18th
Wednesday, March 25th

No Meeting – Spring Break
Regular Session and Committee of the Whole

April

(No Irregularities – No Use of a Fifth Wednesday.)

May

Wednesday, May 13th

“Budget Advance” in the McCloskey Room at 5:30 p.m.

- *Please note that this draft of the Annual Schedule is being sent to the Office of the Mayor at the same time as it is going to the Council and, therefore, may be changed based upon their suggestions.*

June

Wednesday, June 24th

As in the past, the Council will hold a Special Session this evening before the Committee discussion in order to consider the Annual Tax Abatement Report

July

Starts Summer Recess in mid-July and keeps Departmental Budget Hearings in August.

Wednesday, July 15th

Summer Recess begins at end of the second Regular Session in July.

August

Keeps change in budget schedule instituted in 2013.

Monday, August 10th
Monday, August 17th
Thursday, August 20th
Wednesday, August 26th

Budget Books due in Council Office (*New*)
Start four evenings of Departmental Budget Hearings
End Departmental Budget Hearings
Regular Session followed by Committee of the Whole

September and October

Keeps Initial Budget Hearing in fourth week of September, but moves it from Wednesday to Thursday to avoid meeting on Yom Kippur (Jewish Day of Atonement). Also, skips a fifth Wednesday in September and schedules the Special Budget Session on the first (rather than second) Wednesday in October.

Wednesday, September 16th
Thursday, September 24th
Wednesday, September 30th

Regular Session
Special Budget Session and Committee of the Whole proposed for Thursday in order to avoid meeting on Yom Kippur
(No Meeting - Fifth Wednesday)

Wednesday, October 7 th	Special Session on Budget Package (<i>MCCSC Fall Break</i>)
Wednesday, October 14 th	First Committee of the Whole in October
Wednesday, October 21 st	First Regular Session in October
Wednesday, October 28 th	Second Committee of the Whole in October

November

Two holidays in November result in holding a meeting on a second Tuesday and doubling-up meetings on the third Wednesday.

Wednesday, November 4 th	Regular Session followed by Committee of the Whole
Tuesday, November 10 th	Committee of the Whole (<i>rather than on Wednesday, November 11th</i>)
Wednesday, November 18 th	Regular Session immediately followed by Committee of the Whole
Wednesday, November 25 th	<i>Off - Thanksgiving</i>

December

Wednesday, December 2 nd	Regular Session (two weeks between meetings)
Wednesday, December 16 th	Last meeting of the year

ORDINANCE 14-24

**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.

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 operate 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 operate 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, except for the limitations described below.

(1) Solicitors who participate in a Special Event shall not operate within fifty feet of any facade of a ground level establishment that also sells food or beverages, regardless of whether or not the solicitor is currently conducting business.

(2) The only exception to the fifty feet requirement in subsection 4.16.030(b)(1) shall be if all ground level establishments within the fifty feet radius of the solicitor consents to the solicitor's presence, in writing, and said consent is submitted to the City's Economic & Sustainable Development Department at least seventy-two (72) hours in advance of the 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 operate 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, 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

4.16.050 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 operate 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 operate in a street, street median strip or alleyway.

(c) No solicitor shall operate 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 operate 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 operate 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 operate 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;
- (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.

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.

“Courthouse Square District” means all property contained within the described geographical area:

- College Avenue between 6th Street and Kirkwood Avenue;
- Kirkwood Avenue between College Avenue and Walnut Street;
- Walnut Street between Kirkwood Avenue and 6th Street; and
- 6th Street between College Avenue and Walnut Street.

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

“Kirkwood District” means all property contained within the described geographical area:

Kirkwood Avenue between Walnut Street and Indiana Avenue.

“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.

“Restaurant Row District” means all property contained within the described geographical area:

4th Street between Lincoln Street and Indiana Avenue.

“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 operate 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 operate 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, except for the limitations described below.
 - (1) Mobile food vendor units who participate in a Special Event shall not operate within fifty feet of any facade of a ground level establishment that also sells food or beverages, regardless of whether or not the mobile food vendor unit is currently conducting business.
 - (2) The only exception to the fifty feet requirement in subsection 4.28.030(c) (1) shall be if all ground level establishments within the fifty feet radius of the Mobile food vendor unit consents to the units presence, in writing, and said consent is submitted to the City's Economic & Sustainable Development Department at least seventy-two (72) hours in advance of the 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;
- (m) The manufacturer's specifications on the decibels generated by any generator(s) associated with the mobile food vendor unit; and
- (n) 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 operate 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 operate 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 more than four mobile food vendor units shall operate in the Courthouse Square District at any one time.

(b) No more than five mobile food vendor units shall operate in the Kirkwood District at any one time.

(c) No more than five mobile food vendor units shall operate in the Restaurant Row District at any one time.

(d) No mobile food vendor unit shall operate 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.

(e) No mobile food vendor unit shall operate within fifty feet of any facade of a ground level establishment that also sells food or beverages, regardless of whether or not the mobile food vendor unit is currently conducting business.

(f) No mobile food vendor unit shall operate in an alleyway.

(g) 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.

(h) 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 operate on said property.

(i) No mobile food vendor unit shall operate 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.

(j) 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.

(k) 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.

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

(m) 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.

(n) 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.

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

(p) 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 operate on any property, both public and private, or be located on any public property, including public parking spaces, between the hours of 4:00 a.m. and 7:30 a.m. Storage of the unit on private property while not in operation is not a violation of this ordinance.

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;

(c) No mobile food vendor unit may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone poles, 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 operates, 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 "60dBA".

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.

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.

(c) The City may refuse to issue mobile food vendor unit licenses if issuing such a license would permit more than twenty-five mobile food vendor units to operate inside of the City’s jurisdiction.

(1) If more than twenty-five mobile food vendor unit licenses have been issued and the City refuses to issue more, an applicant for a license may appeal to the City’s Board of Public Works requesting an additional license be issued.

(2) The City’s Board of Public Works has the discretion to issue additional licenses provided it finds that the requirements of this Chapter are met and the issuance of additional licenses serve the best interests of the community.

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.

“Courthouse Square District” means all City property contained within the described geographical area:

- College Avenue between 6th Street and Kirkwood Avenue;
- Kirkwood Avenue between College Avenue and Walnut Street;
- Walnut Street between Kirkwood Avenue and 6th Street; and
- 6th Street between College Avenue and Walnut Street.

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

“Kirkwood District” means all City property contained within the described geographical area:

- Kirkwood Avenue between Walnut Street and Indiana Avenue.

“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.

“Restaurant Row District” means all City property contained within the described geographical area:

4th Street between Lincoln Street and Indiana Avenue.

“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 operate 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 operate 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 except for the limitations described below.

(1) Pushcarts who participate in a Special Event shall not operate within fifty feet of any facade of a ground level establishment that also sells food or beverages, regardless of whether or not the pushcart is currently conducting business.

(2) The only exception to the fifty feet requirement in subsection 4.30.030(c)(1) shall be if all ground level establishments within the fifty feet radius of the pushcart consents to the cart's presence, in writing, and said consent is submitted to the City's Economic & Sustainable Development Department at least seventy-two (72) hours in advance of the 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;
- (i) The manufacturer's specifications on the decibels generated by any generator(s) associated with the pushcart; and
- (j) 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 more than twelve pushcarts shall operate in the Courthouse Square District at any one time.

(b) No more than ten pushcarts shall operate in the Kirkwood District at any one time.

(c) No more than ten pushcarts shall operate in the Restaurant Row District at any one time.

(d) No pushcart shall operate 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.

(e) No pushcart serving food or beverages shall operate within fifty feet of any facade of a ground level establishment that also sells food or beverages, regardless of whether or not the pushcart is currently conducting business.

(f) No pushcart shall operate in a street, street median strip or alleyway.

(g) 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.

(h) No pushcart shall operate 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.

(i) 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.

(j) No pushcart shall be located within ten feet of any fire hydrant.

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

(l) 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 operate on said property.

(m) 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.

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

(o) No pushcart shall operate 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 operate on any property, both public and private, or be located on any public property, including public sidewalks, between the hours of 4:00 a.m. and 7:30 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;

(c) No pushcart may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone poles, 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 operates, 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 "60dBA".

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.

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.

(c) The City may refuse to issue pushcart licenses if issuing such a license would permit more than fifty pushcarts to operate inside of the City’s jurisdiction.

- (1) If more than fifty pushcart licenses have been issued and the City refuses to issue more, an applicant for a license may appeal to the City's Board of Public Works requesting an additional license be issued.
- (2) The City's Board of Public Works has the discretion to issue additional licenses provided it determines that the requirements of this Chapter are met and the issuance of additional licenses are in the best interest of the community.

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 _____ day of _____, 2014.

DARRYL NEHER, 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 _____ day of _____, 2014.

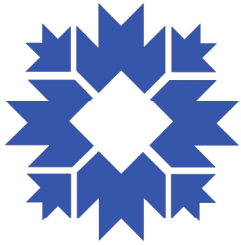
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2014.

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 parameters, the development of smaller businesses that enhance the community.



CITY OF BLOOMINGTON
economic & sustainable development

MEMORANDUM

To: City of Bloomington Common Council
From: Jason Carnes, Assistant Director
Date: November 1, 2014
Re: **Changes to Title 4 regarding solicitors, mobile food vendors and pushcarts**

Over the last few years, City staff have noticed that current City code is somewhat outdated and cumbersome as it relates how the growing and innovating segment of solicitors, mobile food vendors and pushcarts are regulated in the City. In an effort to facilitate opportunities for this business sector, streamline the permitting process while also better regulating these businesses, and also in an effort to provide more flexibility in using and encouraging mobile food vendors and pushcarts for special events, City staff have prepared Ordinance 14-24.

To begin, an explanation of the difficulties found in the current ordinance is appropriate. First, the current Bloomington Municipal Code (BMC) is cumbersome in the way that mobile food vendors operating on private property are permitted. For example, if a mobile food vendor has permission from a property owner to operate his/her truck on a private lot, the operator not only needs a business license under Title 4 of the BMC, the operator also needs a Temporary Use Permit under Title 20 of the BMC (Unified Development Ordinance) – two separate permitting processes with two separate fee structures, licensing the same operation. Second, the current Title 4 ordinance often leaves citizens, potential businesses and staff confused as to which type of license is needed—“itinerant merchant,” “solicitor,” or “peddler.” The definitions of each currently do not provide much clarity on which should be obtained, or what the substantive differences are. Third, the current ordinance does not permit special events that involve more than one mobile food vendor or pushcart operator. For instance, for the past two summers the Economic & Sustainable Development Department researched the possibility of permitting a Food Truck Friday event, but because the current ordinance limits the number of vendors who may be located in proximity to one another, such an event was not permitted by law. These examples are just a sampling of the difficulties posed by the current regulation.

As a result, last year, City staff began to research and develop potential improvements to the Code to rectify these issues, to encourage these growing types of businesses (particularly mobile food vendors and pushcarts). Staff also sought ways to strike a balance with needs of traditional brick-and-mortar restaurants. City staff conducted peer research across several different communities to identify best practices.

Staff also reached out to mobile food vendors and other stakeholders through Downtown Bloomington, Inc., the Greater Bloomington Chamber of Commerce, the Bloomington Independent Restaurant Association and Local First Bloomington. This critical stage of feedback resulted in making the legislation proposed even more effective.

BMC 4.16 – Solicitors

As mentioned above, the current code’s definitions of different types of businesses and which licenses were required were difficult to distinguish. As part of this proposed update of the current Itinerant Merchant License code, we have extracted “Solicitors” from that section and created a separate ordinance (4.16 – Solicitors). While doing this we also used this opportunity to make some updates to requirements of the Solicitors license as well. These changes include but are not limited to the following: requiring proof of business registration with the Indiana Secretary of State; updated application fees; designated three areas on the B-Line Tail where solicitors may operate; placed restrictions on hours when a solicitor may operate in a residential neighborhood or building; defined abusive solicitation; clarified that no solicitor may approach a vehicle on city streets or conduct business from the street, alley, traffic island or median.

Attached to this Memo is a breakdown of the current ordinance, the reason for the proposed change, and the proposed change.

Solicitor Ordinance

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Solicitor Business Licensing</i>		
Solicitors currently operate under the same license as itinerant merchants, peddlers, and solicitors.	Solicitation differs significantly from food trucks, pushcarts and other mobile vendor units, and poses different public safety concerns.	A new proposed ordinance would apply specifically to solicitors. The proposed ordinance clarifies that solicitation does not include communicating religious, political or charitable beliefs, polling, deliveries, or those whose usual course or business includes soliciting merchants.
NA	To ensure tax compliance and a level playing field, solicitors must prove they meet state requirements for business licensing.	Applicants must submit proof their business is registered with the State of Indiana and proof of their Employer ID Number
<u>Current Fees:</u> One Day License: \$15 Three Day License: \$40 Seven Day License: \$75 Thirty Day License: \$120 Six Month License: \$175 One Year License: \$240	To keep fees consistent and up-to-date with other City fees. The proposed ordinance also includes a new, three month license option.	<u>Proposed fees:</u> One Day License: \$25 Three Day License: \$30 Seven Day License: \$50 Thirty Day License: \$75 Three Month License: \$150 Six Month License: \$200 One Year License: \$350 In addition, all honorably discharged veterans are now exempt from fees in accordance with State Law.

Solicitor Ordinance

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Solicitor Locations</i>		
<p>Solicitors are restricted from operating:</p> <ul style="list-style-type: none">• directly in front of the primary entrance for any retail, office or church without their prior approval• on the same side of the street and within 50 feet of a primary entry way into a retail establishment offering the same type of goods, wares, services, foods, or products	<p>Solicitors do not set up their own physical operations, so the current restrictions are not practical.</p>	<p>The proposed ordinance removes these restrictions.</p>

Solicitor Ordinance

Current Ordinance	Starting Concept	Proposed Ordinance
<p>No itinerant merchants, peddlers or solicitors may be located nor any such sales be made on the following portions of the City of Bloomington B-Line Trail:</p> <ul style="list-style-type: none"> • From the north side of Country Club Road to the south side of Dodds Street • From the north side of 2nd Street to the south side of 3 rd Street • From the north side of 4th Street to the south side of 6th Street 	<p>Update B-Line restrictions to reflect plaza locations, permitted areas. (Developed in partnership with Parks & Recreation.)</p>	<p>No solicitor shall operate on the B-Line Trail except in the following permitted areas:</p> <ul style="list-style-type: none"> • Between the north side of Dodds Street and the south side of 2nd Street • Between the north side of 3rd Street and the south side of 4th Street • Between the north side of 6th Street and the south side of Fairview Street
<i>Solicitor Hours of Operation</i>		
<p>NA</p>	<p>Place time limitations to limit disturbance to residents</p>	<p>No solicitor shall operate 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</p>
<i>Abusive Solicitation</i>		

Solicitor Ordinance

Current Ordinance	Starting Concept	Proposed Ordinance
NA	Protect residents from harassment or threatening behavior	<p>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:</p> <ul style="list-style-type: none">• 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• Blocking or impeding the passage of the person solicited• Repeating the solicitation after the person solicited has indicated an objection to the solicitation• Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated an objection to the solicitation• Threatening the person solicited with physical harm by word or gesture• Abusing the person solicited with words which are offensive and inherently likely to provide an immediate violent reaction• Touching the solicited person without the solicited person's consent.
NA	Prevent solicitation in city streets	<p>No solicitor shall approach any vehicle driving upon, stopped upon, or parked upon any public or private street or alley</p> <p>No solicitor shall conduct his/her business from a street, alley, traffic island, or median.</p>

Solicitor Ordinance

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Solicitor - Fines and License Restrictions</i>		
Fine of \$500 for operating without a license	Lower initial fines, but create tiered fine system for repeat offenders	Fines for the first offense are now \$250. New tiered fine structure for repeat offenses: Second Offense \$500, Third Offense \$1,000
Fine of \$250 for not complying with regulations	Lower initial fines, but create tiered fine system for repeat offenders	Fines for the first offense are now \$50. New tiered fine structure for repeat offenses: Second Offense \$100, Third Offense \$200

Proposed Changes to Mobile Food Vendor

Highlights

- Creates separate districts within the downtown area and limits operation within those districts:
 - No more than 10 pushcarts and 5 mobile food vendor units within the Kirkwood District.
 - No more than 10 pushcarts and 5 mobile food vendor units within the Restaurant Row District.
- Clarifies that the restriction on operating within fifty feet of a restaurant shall be measured from either the facade of the building or the outer limits of any outdoor seating area.
- Prohibits pushcarts and mobile food vendor units from operating, parking, or locating on public property between the hours of 4:00 a.m. and 7:30 a.m.
- Solicitors shall be prohibited from conducting business in residential neighborhoods or buildings between the hours of dusk and 8:00 a.m.
- Adds new prerequisites for obtaining a license (like proof of registration with the Indiana Secretary of State and proof of an Employer Identification Number).
- Allows location on private property without a temporary use permit as long as they provide written permission from the property owner and the Planning & Transpiration Department reviews and approves a site plan.
- Instead of simply having to maintain trash facilities, pushcarts and mobile food vendor units shall also supply recycling stations.
- Pushcarts or mobile food vendors that qualify as food service establishments must install an approved grease interceptor or grease trap.
- Generators used by pushcarts and mobile food vendor units shall not exceed "60dBa" and they must provide a copy of the manufacturer's specifications on the decibel levels.
- The City can now prohibit the presence of pushcarts and solicitors in certain locations if an emergency is declared or if notice is given 72 hours in advance of the location being restricted.
- The City retains the right to refuse to issue any more than 50 pushcart licenses and any more than 25 mobile food vendor unit licenses.
- The proposal includes nominal fee changes and increased penalties.

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Business Licensing</i>		
Mobile food vendors currently operate under the same license as itinerant merchants, peddlers, and solicitors.	<p>Mobile food vendors operations differ significantly from other mobile vendor units, and pose different public safety concerns-- from ensuring proper food handling to safe motor vehicle operation.</p> <p>The increase in mobile food vendors operating in Bloomington led the City to undertake creating a separate chapter in the Municipal Code specifically for mobile food vendors that would tackle these issues.</p>	The proposed ordinance would apply to "Mobile food vendor units"--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
Applicants are required to obtain a temporary use permit to operate on private property.	Reduce the number of different permit types required for people interested in starting mobile food vendors.	Applicants do not need to obtain a temporary use permit to operate on private property if they have a Mobile Food Vendor License.
NA	Ensure tax compliance and a level playing field, mobile food vendors must prove they meet state requirements for business licensing.	Applicants must submit proof their business is registered with the State of Indiana and proof of their Employer ID Number.
NA	Ensure safety of both the drivers and vehicles operating on City streets.	<p>Applicants must provide proof of: motor vehicle insurance, Indiana vehicle registration, valid driver's license, and state driving record.</p> <p>Mobile food vendors must also now undergo an independent safety inspection every two years. The Chief of Police can require immediate inspections if they have probable cause to believe the vehicle is unsafe.</p>

Current Ordinance	Starting Concept	Proposed Ordinance
NA	Residents raised concerns about the noise created from generators used to power mobile food vendors.	Applicants must now provide the manufacturer's specifications on the decibels generated by their generators. Decibels are capped at 60dBA .
<p>Current Fees:</p> <p>One Day License: \$15</p> <p>Three Day License: \$40</p> <p>Seven Day License: \$75</p> <p>Thirty Day License: \$120</p> <p>Six Month License: \$175</p> <p>One Year License: \$240</p>	To keep fees consistent and up-to-date with other City fees. The proposed ordinance also includes a new, three month license option.	<p>Proposed fees:</p> <p>One Day License: \$25</p> <p>Three Day License: \$30</p> <p>Seven Day License: \$50</p> <p>Thirty Day License: \$75</p> <p>Three Month License: \$150</p> <p>Six Month License: \$200</p> <p>One Year License: \$350</p> <p>In addition, all honorably discharged veterans are nexempt from fees in accordance with State law.</p>

Mobile Food Vendor Unit Locations

<p>Mobile vendors are restricted from operating:</p> <ul style="list-style-type: none"> • directly in front of the primary entrance for any retail, office or church; • on the same side of the street and within 50 feet of a primary entry way into a retail establishment offering the same type of goods, wares, services, foods, or products; and • in a street or street median strip. 	<p>Clarify the 50 foot restriction, and update location restrictions to reflect where most mobile food vendor business happens--on City streets.</p>	<p>Mobile vendors are restricted from operating:</p> <ul style="list-style-type: none"> • within 50 feet of any façade or outdoor seating of a ground level establishment that also sells food or beverages, regardless of whether or not the mobile food vendor unit is currently conducting business; • in alleyways; • within 10 feet of a fire hydrant; • more than a foot from the curb; and • in an intersection or blocking drivers' line of sight.
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Current Ordinance	Starting Concept	Proposed Ordinance
NA	Cap the number of mobile food vendors operating within any one zoning district in order to reduce congestion and safety concerns.	<ul style="list-style-type: none"> • No more than four mobile food vendor units shall operate in the Courthouse Square District at any one time. • No more than five mobile food vendor units shall operate in the Kirkwood District at any one time. • No more than five mobile food vendor units shall operate in the Restaurant Row District at any one time.
NA	Limit commercial activity to areas currently zoned for business and commercial industries.	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.
NA	Let property owners decide whether a mobile food vendor can operate on their property or not. Provide more flexibility to mobile food vendors to choose operating locations.	Restricts mobile food vendors from operating on private property without written permission from property owners. Additionally, they must not displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes.
<i>Parking</i>		
NA	Lift restrictions on parking to allow mobile food vendors to operate on City streets. Clarify that they must follow the same rules as apply to other parkers.	Must follow all City parking restrictions and ordinances, including feeding meters.

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Hours of operation</i>		
NA	Place time limitations which would require them to move locations in order to address concerns that mobile food vendors have become semi-permanent.	Restricted from operating or being on public property from 4:00 a.m. to 7:30 a.m. Cannot be left unattended or parked overnight.
<i>Signage</i>		
Limited to 1.5 square feet	Increase the 1.5 square foot limit to a size that allows them to effectively advertise.	Allowed to have one sandwich board sign.
<i>Trash</i>		
NA	Address concerns of residents and local businesses about increased litter around mobile food vendors.	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>Additional Operations Regulations</i>		
NA	Tailor regulation to match food truck operations in order to better protect customers and City residents.	Also required to: <ul style="list-style-type: none"> • Obey law enforcement; • Install grease traps; • Collect and pay sales tax; and • Comply with lighting and vision clearance standards. Restricted from having: <ul style="list-style-type: none"> • A drive-through; • Customer seating without prior approval; and • A generator louder than 60dBA.

Current Ordinance	Starting Concept	Proposed Ordinance
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Additional Safety Regulations

NA	Add regulations on proper food handling or safety within the mobile food vendor unit.	The proposal includes new regulations on the proper storage and handling of food, equipment and utensils, and restrictions on vermin and hazardous materials.
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Fines and License Restrictions

Fine of \$500 for operating without a license	Lower initial fines, but create tiered fine system to punish repeat offenders. Discussions with Council members indicated a preference for tougher penalties.	Fines for the first offense are now \$2,500.00. New tiered fine structure for repeat offenses: Second offense \$5,000.00, Third Offense \$7,500.00.
Fine of \$250 for not complying with regulations	Lower initial fines, but create tiered fine system to punish repeat offenders. Discussions with Council members indicated a preference for tougher penalties.	Fines for the first offense are now \$250.00. New tiered fine structure for repeat offenses: Second offense \$500.00, Third Offense \$1,000.00.
NA	Allow city to place cap on licenses if they deem it necessary, and to respond to emergencies.	The City can restrict licenses if it would allow more than 25 to operate in the City at a time The City can prohibit the presence of mobile food vendors in certain locations if an emergency is declared or if notice is given 72 hours in advance of the location being restricted.

Proposed Changes to Pushcart Licenses

Current Ordinance	Starting Concept	Proposed Ordinance
<i>Business Licensing</i>		
<p>Pushcarts currently operate under the same license as itinerant merchants, peddlers, and solicitors.</p>	<p>Pushcarts operations differ significantly from other mobile vendor units, and pose different public safety concerns--from ensuring proper food handling to safe motor vehicle operation.</p> <p>The increase in pushcarts operating in Bloomington lead the city to undertake creating a separate ordinance specifically for pushcarts that would tackle these issues.</p>	<p>The proposed ordinance would apply to pushcarts-- 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.</p>
<p>Applicants are required to obtain a temporary use permit to operate on private property</p>	<p>Reduce the number of permits required for people interested in starting pushcarts</p>	<p>Applicants do not need to obtain a temporary use permit to operate on private property</p>
<p>NA</p>	<p>Ensure tax compliance and a level playing field, pushcarts must prove they meet state requirements for business licensing.</p>	<p>Applicants must submit proof their business is registered with the State of Indiana and proof of their Employer ID Number</p>
<p>NA</p>	<p>Residents raised concerns about the noise created from generators used to power pushcarts</p>	<p>Applicants must now provide the manufacturer's specifications on the decibels generated by their generators. Decibels are capped at 60dBA</p>

<p><u>Current Fees:</u> One Day License: \$15 Three Day License: \$40 Seven Day License: \$75 Thirty Day License: \$120 Six Month License: \$175 One Year License: \$240</p>	<p>To keep fees consistent and up-to-date with other City fees. The proposed ordinance also includes a new, three month license option.</p>	<p><u>Proposed fees:</u> One Day License: \$25 Three Day License: \$30 Seven Day License: \$50 Thirty Day License: \$75 Three Month License: \$150 Six Month License: \$200 One Year License: \$350</p> <p>In addition, all honorably discharged veterans are now exempt from fees</p>
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Pushcart Locations

<p>Pushcarts are restricted from operating:</p> <ul style="list-style-type: none"> • directly in front of the primary entrance for any retail, office or church • on the same side of the street and within 50 feet of a primary entry way into a retail establishment offering the same type of goods, wares, services, foods, or products • in a street or street median strip 	<p>Clarify the 50 foot restriction, and update location restrictions to improve safety.</p>	<p>Pushcarts are restricted from operating:</p> <ul style="list-style-type: none"> • within fifty feet of any façade or outdoor seating of a ground level establishment that also sells food or beverages. • in a street, street median strip or alleyway • within 10 feet of a fire hydrant • in an intersection or blocking drivers' line of sight • On the B-Line trail except: between the north side of Dodds Street and the south side of 2nd Street; between the north side of 3rd Street and the south side of 4th Street; and between the north side of 6th Street and the south side of Fairview Street.
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NA	Cap the number of pushcarts operating within any one zoning district in order to reduce congestion and safety concerns.	<ul style="list-style-type: none"> • No more than twelve pushcarts shall operate in the Courthouse Square District at any one time. • No more than ten pushcarts shall operate in the Kirkwood District at any one time. • No more than ten pushcarts shall operate in the Restaurant Row District at any one time.
NA	Limit commercial activity to areas currently zoned for business and commercial industries.	No pushcart shall locate within any zoning district except the following: Commercial General; Commercial Arterial; Commercial Downtown; Industrial General; Business Park; and Institutional
NA	Let property owners decide whether a pushcart can operate on their property or not. Provide more flexibility to pushcarts to choose operating locations.	<p>Restricts Pushcarts from operating on private property without written permission from property owners.</p> <p>Additionally, they must not displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes.</p>
Parking		
NA	Clarify that pushcarts may not operate in a parking space, but must stay on sidewalk	Pushcarts may not operate in a parking space, but must stay on sidewalk

<i>Hours of operation</i>		
NA	Place time limitations which would require them to move locations in order to address concerns that pushcarts have become semi-permanent.	Restricted from operating or being on public property from 4am to 7:30am. Cannot be left unattended or parked overnight
<i>Signage</i>		
Limited to 1.5 square feet	Increase the 1.5 square foot limit to a size that allows them to effectively advertise.	Allowed to have one sandwich board sign
<i>Trash</i>		
NA	Address concerns of residents and local businesses about increased litter around pushcarts.	Before leaving any location each pushcart 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 pushcart unit

Additional Operations Regulations

NA	Tailor regulation to match pushcart operations in order to better protect customers and city residents.	Also required to: <ul style="list-style-type: none">• Obey law enforcement• Install grease traps• Collect and pay sales tax• Comply with lighting and vision clearance standards Restricted from having: <ul style="list-style-type: none">• A drive-through• Customer seating without prior approval• A generator louder than 60dBA
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Additional Safety Regulations

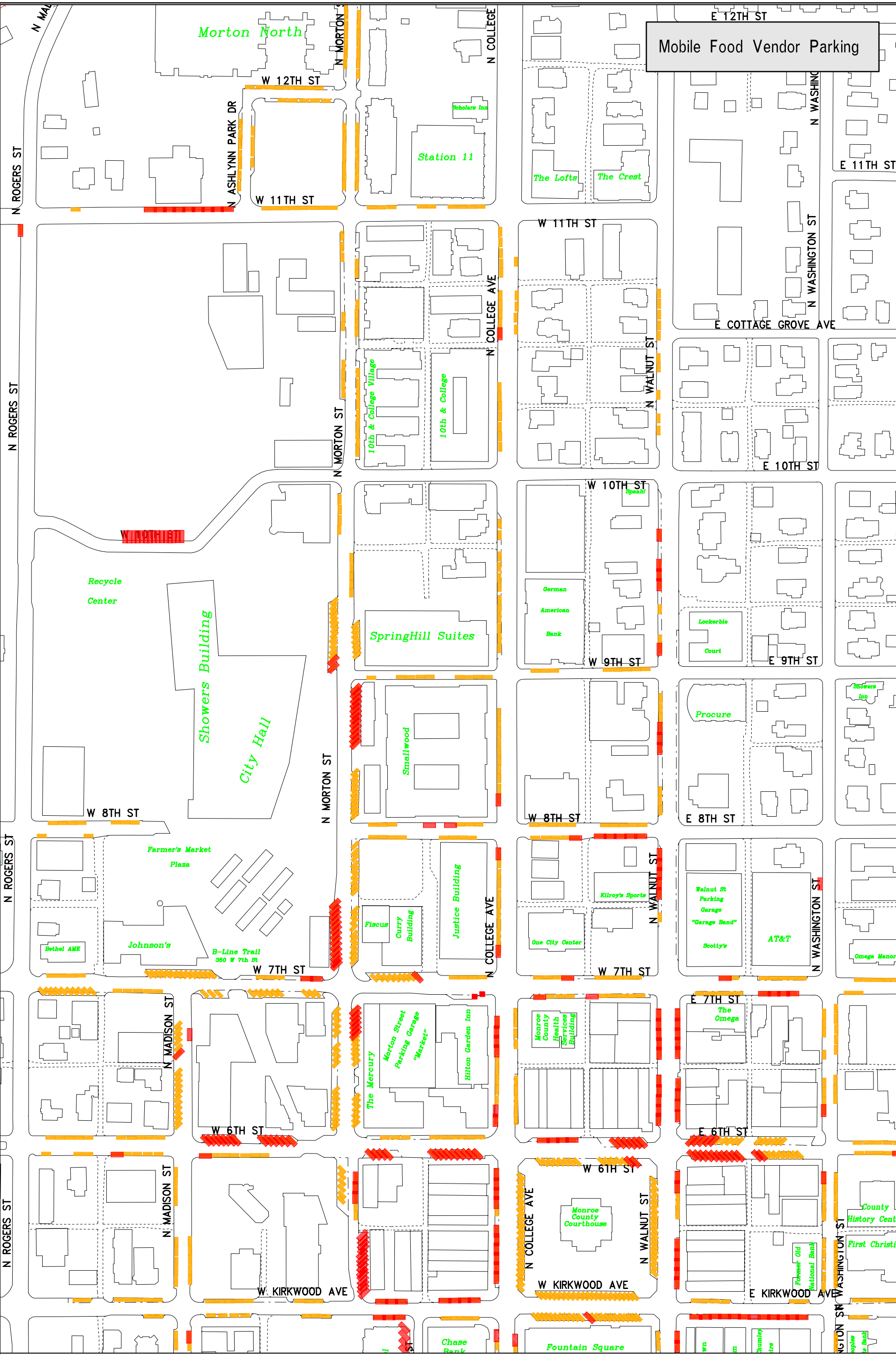
NA	Add regulations on proper food handling or safety within the pushcart	The proposal includes new regulations on the proper storage and handling of food, equipment and utensils, and restrictions on vermin and hazardous materials
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Fines and License Restrictions

Fine of \$500 for operating without a license	Lower initial fines, but create tiered fine system to punish repeat offenders	Fines for the first offense are now \$2,500. New tiered fine structure for repeat offenses: Second offense \$5,000, Third Offense \$7,500
Fine of \$250 for not complying with regulations	Lower initial fines, but create tiered fine system to punish repeat offenders	Fines for the first offense are now \$250. New tiered fine structure for repeat offenses: Second offense \$500, Third Offense \$1,000

NA	Allow city to place cap on licenses if they deem it necessary, and respond to emergencies.	The city can restrict licenses if it would allow more than 50 to operate in the city at a time The city can prohibit the presence of Pushcarts in certain locations if an emergency is declared or if notice is given 72 hours in advance of the location being restricted.
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Mobile Food Vendor Parking

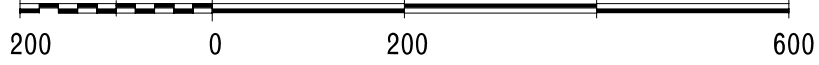


- Parking Spaces:**
-  Metered - Vendors Allowed
 -  Vendors Allowed After 5 pm
 -  No Vendors Allowed

Nov 7, 2014

TtrkvendBP

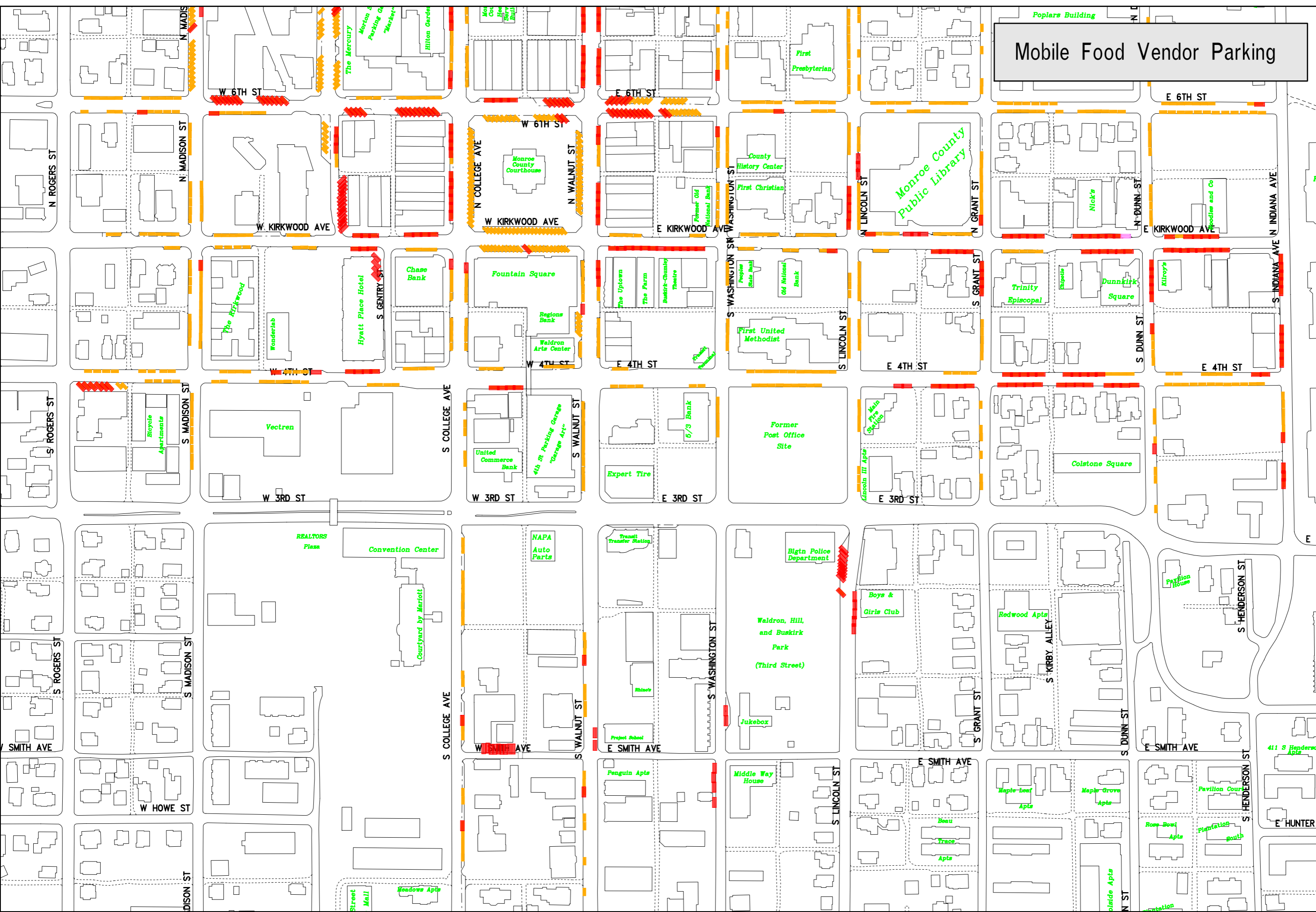
Scale: 1" = 200'



City of Bloomington
ESD Department



Geographic Information System



Mobile Food Vendor Parking

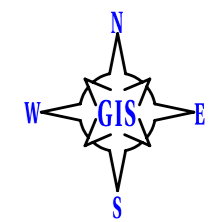


City of
Bloomington

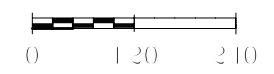
Parking Spaces

- Metered - Vendors Allowed
- Vendors Allowed After 5 pm
- No Vendors Allowed

Nov 6, 2014



Scale: 1" = 240'



This map was produced by the City of Bloomington GIS for use as map information only. Map is NOT warranted.

ORDINANCE 14-25

**TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “UNIFIED DEVELOPMENT ORDINANCE”
(Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)**

- 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, to that end and 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 within Title 4 of the Bloomington Municipal Code; and
- Whereas, the changes to Title 4 of the Bloomington Municipal Code directly impact portions of the Temporary Use and Structure regulations found in Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code, therein requiring Title 20 to also be amended; and
- Whereas, in reviewing changes to the Temporary Use and Structure Standards, the City noted that it would be appropriate to review and update other relevant portions of these Standards; and
- Whereas, the Mayor and Common Council believe the seasonal sale of farm produce enhances the Bloomington community and should be expanded from a maximum of sixty days to one hundred and eighty days; and
- Whereas, the last several years have seen an increase in book buyback programs in the City limits during the end of Indiana University semesters and, in an effort to better regulate this growing program, the City believes set guidelines are needed; and
- Whereas, the City of Bloomington Plan Commission approved the changes requested in this Ordinance at their regularly scheduled monthly meeting on October 6, 2014; and
- Whereas, the City of Bloomington Plan Commission certified its positive recommendation of the proposed amendments to the Bloomington Common Council on October 13, 2014.

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

SECTION 1. Subsection 20.05.110(b), regarding exemptions to the permit requirement for temporary uses and structures, shall be amended by creating a new division (3), which shall read as follows:

- (3) Any business activity licensed by Chapter 4 of the Bloomington Municipal Code.

SECTION 2. Section 20.05.111, entitled “TU-02 [Temporary Uses and Structures --- Commercial and Industrial] shall be amended to add two additional zoning districts in the section heading. The new section heading shall read as follows and also replace the one appearing in the Table of Contents for Chapter 20.05 (Development Standards):

“20.05.111 TU-02 [Temporary Uses and Structures --- Commercial, Industrial, Business Park, and Institutional]”

SECTION 3. Section 20.05.111 shall be amended to insert the zoning districts “IN” and “CL” in the list of such districts which appears after the first sentence.

SECTION 4. Subsection 20.05.111(a)(2) shall be amended to add a new sentence to the end of said section. The new sentence shall read as follows:

“No property shall be issued more than one (1) Temporary Use Permit in a calendar year.”

SECTION 5. Subsection 20.05.111(b), entitled “Farm Produce,” shall be amended in two ways. First, the phrase “sixty (60)” as it appears in the first sentence shall be deleted and replaced with the phrase “one hundred and eighty (180)”. Second, a new subsection (1) shall be added and shall read as follows:

“(1) The Bloomington Community Farmers’ Market and any other approved Farmers’ Market shall be exempt from this requirement.”

SECTION 6. Section 20.05.111 shall be amended by adding a new subsection (c), entitled “Book Buyback,” and re-lettering all remaining subsections accordingly. The new subsection (c) shall read as follows:

“(c) Book Buyback: The temporary buyback of higher education books shall require a Temporary Use Permit. Such permit shall be valid for a maximum of two (2) periods of seven (7) consecutive days or one period of fifteen (15) consecutive days. No property shall be issued more than one (1) such Temporary Use Permit in a calendar year.”

SECTION 7. 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 8. 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 _____ day of _____, 2014.

DARRYL NEHER, 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 _____ day of _____, 2014.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2014.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance does three things. First, it aligns the Unified Development Ordinance with the newly amended Title 4 by making it clear that those solicitors, mobile food vendors, and pushcart operators licensed by the City only need to obtain a license, they no longer need to obtain both a license and a Temporary Use Permit. Second, it extends the period of time seasonal farm produce can be sold under a Temporary Use Permit from sixty days to one hundred and eight days. Third, it regulates book buybacks in that property owners must obtain a Temporary Use Permit to hold such a sale, and those sales are limited to no more than two times per year, with each time lasting no more than seven days (or one single sale per year that lasts no more than fifteen consecutive days).

ORDINANCE CERTIFICATION

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 14-25 is a true and complete copy of Plan Commission Case Number ZO-28-14 which was given a recommendation of approval by a vote of 7 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on October 6, 2014.

Date: October 13, 2014



 Thomas B. Micuda, Secretary
 Plan Commission

Received by the Common Council Office this 15th day of October, 2014.



 Regina Moore, City Clerk

Appropriation Ordinance # _____	Fiscal Impact Statement Ordinance # _____	Resolution # _____
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Type of Legislation:

Appropriation Budget Transfer Salary Change Zoning Change New Fees	End of Program New Program Bonding Investments Annexation	Penal Ordinance Grant Approval Administrative Change Short-Term Borrowing Other
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If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

Staff Report:

To: City of Bloomington Plan Commission
From: Tom Micuda, Planning and Transportation Director
Date: October 2, 2014
Re: Amendments to UDO Regarding Temporary Uses

BACKGROUND: Staff is requesting the Plan Commission's positive recommendation for a minor amendment to the Unified Development Ordinance (UDO) that addresses Temporary Use regulations. For many months, staff from City Legal, Economic and Sustainable Development, and Planning and Transportation has been working to develop new regulations for food trucks and push carts. As Plan Commissioners know, there is substantial entrepreneurial interest in the sale of food and beverages from mobile food trucks and push carts. Communities across the country are reviewing their codes in light of this growing mobile food vending movement.

Currently, any entrepreneur interested in mobile food vending on private property must get two different permits from two City departments to engage in this short term business activity. First, a temporary use permit is needed from the Planning and Transportation Department. Second, an Itinerant Merchant permit must be obtained through the City Controller's Office. There is simply no need for a food vendor to have to obtain two different permits working through two different City departments. Additionally, food vendors run into problems when trying to obtain a Temporary Use permit because the Temporary Use standards in the UDO only allow for retail activity over 15 consecutive days. This presents an enormous obstacle for food vendors who want to operate at multiple locations, operate only one or two days a week, or operate on a seasonal basis.

AMENDMENT OVERVIEW: The proposed amendment to the UDO is very simple and addresses both of the problems outlined above. The first part of the amendment, 20.05.110 (a)(3) adds an exemption to the ordinance allowing mobile food vending to only be regulated by Title 4 of the Bloomington Municipal Code. This means that a mobile food vendor wishing to operate on private property will no longer need a Temporary Use Permit, but would still need to receive a food vending permit governed by Title 4. Planning and Transportation staff would still review the site plan for the permit request to make sure the proposed temporary use does not negatively affect property access, block sidewalks or handicapped accessibility, cause parking problems, or lead to excessive signage displays. As a companion piece to this legislation, a comprehensive amendment to Title 4 will be brought to the City Council in November addressing appropriate fees, duration of activity, food handling and waste restrictions, and location requirements.

The next code change affects Section 20.05.111 of the UDO. This change would allow for temporary uses in Institutional and Commercial Limited zoning districts. The purpose of the amendment is to think ahead to merchant activity the City may want to allow at the future Switchyard Park as well as to eliminate the need for variances to allow temporary use activity in smaller commercial business areas (West Kirkwood Avenue, the Crosstown Shopping Center on East 10th Street, and the 17th and Dunn Convenience Store site).

The final proposed text amendments address temporary use activities that don't work well within the 15 consecutive day provision in the UDO. These are also outlined in 20.05.111. The first allows for longer time periods associated with farm produce sales. Given the great interest in the community in the growing and purchase of local produce, extending the time period for sales from 60 days to 180 days is consistent with the City's support for local food security. Finally, the City proposes new regulations for higher education "book buy-back" activities. In the past, the City has been forced to grant variances for these temporary uses because they wish to operate at the end of fall and spring semesters (twice a year for short durations rather than one time period for 15 days). The proposed amendment removes the need for future variances.

RECOMMENDATION: Staff recommends that the Plan Commission send this text amendment proposal, Case # ZO-28-14, with a positive recommendation to the City Council.

20.05.110 TU-01 [Temporary Uses and Structures; General]

This Temporary Use/Structure Standards section applies to the following zoning districts:

RE RS RC RM RH MH CL CG CA CD IG BP IN MD QY

- (a) **Permit Required:** All temporary uses shall require a Temporary Use Permit unless specified otherwise in this Unified Development Ordinance.
- (b) **Exemptions:**
 - (1) Garage sales, religious tent meetings, nonprofit events and political rallies, provided they meet the following standards:
 - (A) The event is allowed for a maximum of seven (7) consecutive days;
 - (B) No property shall hold more than three (3) such events in a single calendar year; and
 - (C) The hours of operation of such events shall be limited to between the hours of 7:00 a.m. and 11:00 p.m.
 - (2) Temporary structures used for collection of donation items by a non-profit organization, provided they are displayed for a maximum of 90 days.
 - (3) Any business activity licensed by Chapter 4 of the Bloomington Municipal Code.
- (c) **Termination and Removal:** Temporary uses shall be terminated and removed at the end of the event period.
- (d) **Required Parking:** Temporary uses shall not displace required parking for any existing use or block any existing drives.
- (e) **Off-street Parking:** Adequate off-street parking is required for each temporary use in accordance with the parking standards of *Chapter 20.05; §PK: Parking Standards*.
- (f) **Public Rights-of-way:** Temporary uses shall be arranged so that vehicles do not block a public right-of-way.
- (g) **Contractor's Offices, Equipment Storage and Portable Lavatories:** Contractor's offices, equipment storage and portable lavatories are permitted on or adjacent to construction sites subject to following conditions:
 - (1) The use is for the length of the construction activity. All temporary facilities shall be removed upon completion of construction.
 - (2) The structures shall not contain sleeping or cooking facilities.
 - (3) Portable lavatories shall be located as to minimize impacts to adjacent residential uses.
- (h) **Real Estate Sales and Model Homes:** Real estate sales and model homes are permitted in any zoning district on the site of the development for which the sales are taking place. They are permitted to remain on the site of the development until all home sites within the development are sold.
- (i) **Signs:** Temporary uses shall be permitted to display signs subject to the following standards:
 - (1) Temporary uses shall also be subject to additional applicable sign standards in *Chapter 20.05; §SI: Sign Standards*.
 - (2) **Maximum Number:**
 - (A) One (1) freestanding temporary sign;
 - (B) One (1) banner type sign.

Comment [IA1]: Items proposed for deletion are identified by the use of ~~strike through~~ and new proposals to the ordinance are identified by the use of gray highlight.

- (3) *Maximum Sign Area:*
 - (A) Freestanding Temporary Sign: Twenty-four (24) square feet per side.
 - (B) Banner Type Sign: Thirty (30) square feet. Banners shall be placed on the structure, and shall not be freestanding.
- (4) *Sign Permit:* A separate Sign Permit is not required for temporary uses.

20.05.111 TU-02 [Temporary Uses and Structures; Commercial, Industrial, Business Park, Institutional,

This Temporary Use and Structure Standards section applies to the following zoning districts:

CL CG CA CD IG BP IN

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- (a) **Seasonal Sales:** Temporary uses selling seasonal items such as Christmas trees, Halloween pumpkins and 4th of July fireworks shall be permitted subject to the following standards:
 - (1) Fireworks sales shall be permitted only at locations within the Commercial Arterial (CA) zoning district.
 - (2) A Temporary Use Permit shall be required and shall be valid for a maximum of thirty (30) consecutive days. The temporary use shall be removed from the property within five (5) days after the holiday, regardless of the remaining valid length of the Temporary Use Permit. No property shall be issued more than one (1) Temporary Use Permit in a calendar year.
 - (3) The temporary use shall be located on a lot that fronts on a collector or arterial street.
 - (4) The temporary use shall be located at least fifty (50) feet from any residential district.
- (b) **Farm Produce:** The seasonal sale of farm produce shall require a Temporary Use Permit, and such permit shall be valid for a maximum of ~~sixty (60)~~ one hundred and eighty (180) consecutive days. No property shall be issued more than one (1) such Temporary Use Permit in a calendar year.
 - (1) The Bloomington Community Farmers' Market and any other approved Farmers' Market shall be exempt from this requirement.
- (c) **Book Buyback:** The temporary buyback of higher education books shall require a Temporary Use Permit. Such permit shall be valid for a maximum of two (2) periods of seven (7) consecutive days or one period of fifteen (15) consecutive days. No property shall be issued more than one (1) such Temporary Use Permit in a calendar year.
- (d) **Sales Associated with a Permanent Retail Use:** Temporary retail activity conducted on property associated with a permanent retail use shall be permitted subject to the following standards:
 - (1) The temporary retail activity shall be of the same nature as the permanent retail activity conducted on the property.
 - (2) A Temporary Use Permit shall be required and good for a maximum of forty-five (45) consecutive days.
 - (3) A Temporary Use Permit shall only be issued to the operator of the associated permanent retail use.
 - (4) No property shall be issued more than one (1) such Temporary Use Permit in a calendar year.
- (e) **Other:** Other temporary retail or wholesale activities, carnivals, and traveling circuses shall require a Temporary Use Permit, and such permit shall be valid for a maximum of fifteen (15) consecutive days. No property shall be issued more than one (1) such Temporary Use Permit in a calendar year.