

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AMERICAN AMUSEMENT MACHINE)
ASSOCIATION, AMUSEMENT & MUSIC)
OPERATORS ASSOCIATION, INDIANA)
AMUSEMENT & MUSIC OPERATORS)
ASSOCIATION,)

and)

SHAFFER DISTRIBUTING COMPANY,)
CLEVELAND COIN MACHINE EXCHANGE)
INC., NAMCO CYBERTAINMENT, INC.,)
B.J. NOVELTY, INC.,)

for themselves and as representatives)
of a class of owners, operators,)
distributors and manufacturers of)
currency-operated amusement)
machines that might be subject to)
regulation under General Ordinance)
No. 72, 2000, in the City of Indianapolis)
and Marion County, Indiana, and who)
object to the vagueness of the Ordinance)
and to the suppression of constitu-)
tionally protected expression by that)
Ordinance,)

Plaintiffs,)

v.)

SCOTT C. NEWMAN, JACK COTTEY,)
for themselves, in their official)
capacities as Marion County Prosecutor)
and Sheriff for Marion County, respectively,)
and as representatives of the class of persons)
empowered to enforce General Ordinance)
No. 72, 2000, referred to above, within)
Marion County, Indiana,)

and)

BART PETERSON, JERRY L. BARKER,)
for themselves, in their official)
capacities, as Mayor and Chief of Police)
for the City of Indianapolis, respectively,)
and as representatives of the class of persons)
empowered to enforce General Ordinance)
No. 72, 2000, referred to above, within the)
City of Indianapolis, Indiana,)

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Defendants.)

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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by and through their attorneys, institute this action in which they seek (1) a preliminary and permanent injunction prohibiting the enforcement of certain provisions of Sections 1 through 9 of City-County General Ordinance No. 72, 2000, amending Sections 831-1, 831-5, 831-6 and 831-8, and adding new section 831-7 to Chapter 831 of the Revised Code of the Consolidated City and County for the City of Indianapolis and Marion County, Indiana, which is to take effect September 1, 2000 (hereinafter, the "Ordinance"), and (2) a judgment declaring these provisions void and of no force and effect. The challenged provisions attempt to regulate and restrict constitutionally protected expression that depicts certain types of violent content. For their complaint herein, plaintiffs allege as follows:

1. The provisions of the Ordinance that plaintiffs challenge would impose a new, restrictive scheme of regulations upon the display, access and use of the medium of currency-operated amusement machines ("amusement machines") based solely upon the content of the expression displayed by them. Under these provisions, any such medium that contains a work of expression that is deemed "harmful to minors" according to the Ordinance's test: (a) must be displayed or maintained in a separate area or apart from the other amusement machines that are "not harmful" to minors, (b) must have restricted access for minors under the age of eighteen unless accompanied by a parent, guardian or custodian, (c) must carry a "conspicuous sign indicating that the machine may not be operated by a minor under eighteen (18) years of age" without the appropriate adult present, and (d) must have its playing surface or display screen shielded from the view of minors under eighteen years of age. In addition, any such medium that contains a work of expression that is deemed "harmful to minors," according to the following test, is prohibited from being made available to anyone on public property:

Harmful to minors means an amusement machine that predominantly appeals to minors' morbid interest in violence ..., is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for persons under the age of eighteen (18) years, lacks serious literary, artistic, political or scientific value as a whole for persons under the age of eighteen (18) years, and ... Contains graphic violence....

The term "graphic violence" is defined further, as follows:

Graphic violence means an amusement machine's visual depiction or representation of realistic serious injury to a human or human-like being where

such serious injury includes amputation, decapitation, dismemberment, bloodshed, mutilation, maiming or disfiguration.

1. Plaintiffs maintain that the challenged provisions, as they relate to depictions of violence are: (a) void and of no force and effect because they are (1) unconstitutional under the First and Fourteenth Amendment to the Constitution of the United States, (2) in violation of 42 U.S.C. § 1983, and (3) unconstitutional under the Constitution of the State of Indiana, Article 1, Sections 9, 12 and 23, and Article 4, Section 20, and (b) that plaintiffs represent a class of manufacturers, distributors, owners and operators of amusement machines who will suffer immediate, serious and irreparable injury if the challenged provisions were to take effect.

2. There are seven plaintiffs in this action. Three of them -- American Amusement Machine Association, Amusement & Music Operators Association and Indiana Amusement & Music Operators Association -- are associations that institute this action to protect the interests of their members. Plaintiffs Shaffer Distributing Company and Cleveland Coin Machine Exchange Inc. are distributors of entertainment machines in the City of Indianapolis and Marion County, Indiana. Plaintiffs Namco Cyberertainment, Inc. and B.J. Novelty Inc. are owners and operators of amusement machines in the City of Indianapolis. These plaintiffs institute this action to protect their own interests and to protect the interests of a class of similarly-situated persons under Rule 23(b)(1) and (b)(3) of the Federal Rules of Civil Procedure. [Collectively referred to hereinafter as "plaintiffs."]

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States, the First and Fourteenth Amendments thereto, the laws of the United States, 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 2201 and 2002, and the Constitution of the State of Indiana, Art. 1, §§ 9, 12 and 23, and Art. 4, § 20. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343(a)(3). The Court has supplemental jurisdiction over the state law claims asserted herein.

2. Venue is proper in the Southern District of Indiana. Defendants reside in this judicial district and the claims arose in this judicial district.

PARTIES

1. Plaintiff American Amusement Machine Association ("AAMA") is a non-profit trade organization organized under the laws of the State of Illinois with its principal place of business in the State of Illinois.

2. AAMA is an association of manufacturers, distributors and parts suppliers of currency-operated amusement machines and equipment. A fundamental purpose of AAMA is the promotion of the interests of its members who supply currency-operated amusement machines to owners and operators of locations that make these machines available to the public, including the freedom of these members to distribute works of expression that are protected under the First Amendment to the United States Constitution. AAMA members include a number of entities that manufacture, distribute and/or supply currency-operated amusement machines and related equipment to owners and operators of locations within the City of Indianapolis and Marion County, Indiana.

3. AAMA members are threatened with immediate, serious and irreparable injury as a result of the enactment and imminent enforcement of the challenged provisions of the Ordinance, and one or more members of AAMA have standing to bring this action in their own right. The interests AAMA seeks to protect in this action are germane to AAMA's purposes, and neither the claims nor the relief sought in this action requires participation of individual AAMA members.

4. Plaintiff Amusement & Music Operators Association ("AMOA") is a non-profit trade organization organized under the laws of the State of Illinois with its principal place of business in the State of Illinois.

5. AMOA is an association of owners and operators of currency-operated amusement machines and locations that make such machines available to the public. A fundamental purpose of AMOA is the promotion of the interests of its members, including the freedom of these members to make available works of expression that are protected under the First Amendment to the United States Constitution. AMOA members include a number of owners and operators of locations, which provide currency-operated amusement machines within the City of Indianapolis and Marion County, Indiana.

6. AMOA members are threatened with immediate, serious and irreparable injury as a result of the enactment and imminent enforcement of the challenged provisions of the Ordinance, and one or more members of AMOA have standing to bring this action in their own right. The interests AMOA seeks to protect in this action are germane to AMOA's purposes, and neither the claims nor the relief sought in this action requires participation of individual AMOA members.

7. Plaintiff Indiana Amusement & Music Operators Association ("IAMOA") is a non-profit trade organization organized under the laws of the State of Indiana with its principal place of business in the State of Indiana.

8. IAMOA is an association of established owners, operators, distributors, suppliers, manufacturers and repair technicians of currency-operated amusement machines within the State of Indiana, including the City of Indianapolis and Marion County, Indiana. A fundamental purpose of IAMOA is the promotion of the interests of its members through education and advocacy, including the freedom of these members to make available works of expression that are protected under the First Amendment to the United States Constitution.

9. IAMOA members are threatened with immediate, serious and irreparable injury as a result of the enactment and imminent enforcement of the challenged provisions of the Ordinance, and one or more members of IAMOA have standing to bring this action in their own right. The interests IAMOA seeks to protect in this action are germane to IAMOA's purposes, and neither the claims nor the relief sought in this action requires participation of individual IAMOA members.

10. Plaintiff Shaffer Distributing Company ("Shaffer Distributing") is incorporated under the laws of the State of Ohio, with a local business office in Marion County, Indiana. Shaffer Distributing's principal line of business is distribution and operation of currency-operated amusement machines, including video games. Among other areas in Indiana, Shaffer Distributing supplies currency-operated amusement machines to owners and operators of locations within the City of Indianapolis and Marion County, Indiana, where these machines are made available to the public.

11. Plaintiff Cleveland Coin Machine Exchange ("CCME") is an Ohio corporation, with a local business office and showroom in Marion County, Indiana. CCME's business includes distribution of currency-operated amusement machines, including video games and redemption games. CCME distributes these machines on behalf of manufacturers directly to operators, who then make these machines available to the public at local entertainment centers and various other locations. CCME's inventory has always included a wide variety of machines to cater to different market segments and to all members of a family. Among other locales within the State of Indiana, CCME distributes a number of these machines to owners and operators in and around the City of Indianapolis and Marion County, Indiana, and has done so for a number of years.

12. Plaintiff Namco Cyberertainment Inc. is among the largest suppliers of currency-operated entertainment and attractions in North America. It operates and supplies family entertainment centers in all 48 contiguous states, as well as Puerto Rico. Namco entertainment centers are generally located in shopping malls, amusement parks, movie theaters, casinos, and tourist attractions. It owns over 20,000 games and operates in over 600 entertainment sites in

North America, including locations throughout the State of Indiana. Namco has arrangements with several movie theaters within the City of Indianapolis, in which Namco places currency-operated amusement machines.

13. Plaintiff B.J. Novelty Inc. ("B.J. Novelty") is an owner and operator of currency-operated amusement machines, including video games within the State of Indiana. Among other locations, B.J. Novelty has an arrangement with a travel center in Indianapolis, where it has operated approximately 12 machines for the past 3 years. Its location is not staffed.

14. Plaintiffs Shaffer Distributing, CCME, Namco and B.J. Novelty bring this action on behalf of themselves and, under Rule 23(b)(1) and (b)(3) of the Federal Rules of Civil Procedure, as representatives of the following class of persons (hereinafter referred to as "plaintiff class"):

All manufacturers, distributors, suppliers, owners and operators of currency-operated amusement machines, who conduct business in the City of Indianapolis and/or Marion County, Indiana, whose machines might be subject to regulation under the challenged provisions of the Ordinance and who object to the suppression of constitutionally protected expression by the Ordinance.

1. There are questions of law and fact with regard to the constitutionality, implementation and effects of the challenged provisions of the Ordinance that are common to the plaintiff class. Plaintiff class is so numerous that joinder of all members is impractical.

2. The claims of plaintiff associations, AAMA, AMOA and IAMOA are typical of the claims of the plaintiff class. Plaintiff associations, Shaffer Distributing, CCME, Namco and B.J. Novelty will fairly and adequately protect the interests of the class.

3. The prosecution of separate actions by individual currency-operated amusement machine owners and operators would create a risk of inconsistent adjudications that would establish incompatible standards of conduct with respect to enforcement of and compliance with the challenged provisions of the Ordinance. Defendants' actions are generally applicable to plaintiff class, thereby making appropriate final injunctive and declaratory relief with respect to plaintiff class as a whole.

4. Defendant Scott C. Newman is the Prosecutor for Marion County, Indiana. In that capacity, he is charged with the responsibility to commence and prosecute all criminal actions in Marion County. As such, Newman is responsible for enforcing the Ordinance in the City of Indianapolis and Marion County, Indiana. This action is brought against Newman in his official capacity as Prosecutor for Marion County, Indiana.

5. Defendant Jack Cottey is the Sheriff for Marion County, Indiana. In that capacity, he is responsible for exercising "general police powers" within the County and supervising the Marion County Sheriff's Department. IC §§ 36-2-13-5, 36-8-10-4, 36-8-10-9. This action is brought against Cottey in his official capacity as Sheriff for Marion County, Indiana.

6. This action is also brought against Defendants Newman and Cottey under Rule 23(b)(1) and (b)(3) of the Federal Rules of Civil Procedure, as representatives of a defendant class of all prosecuting attorneys, city attorneys, deputies, deputy sheriffs, assistants, county police officers and all other employees of the Marion County Prosecutor's Office and of the Marion County Sheriff's Department empowered to enforce the Ordinance within Marion County, Indiana.

7. There are questions of fact and law with regard to the constitutionality, implementation and effects of the challenged provisions of the Ordinance that are common to defendant class. The defenses of the named defendants with respect to the Ordinance are typical of the defendants of defendant class. Newman and Cottey are sworn public officials. Newman is also a member of the Indiana bar. They will fairly and adequately protect the interests of defendant class.

8. The prosecution and defense of separate claims against individual members of defendant class would create the risk of inconsistent adjudications with respect to the enforceability of the Ordinance by individual defendants that would establish incompatible standards of conduct for enforcement and compliance with the Ordinance.

9. Defendant Bart Peterson is the Mayor of Indianapolis, Indiana. In that capacity, he is the chief law enforcement officer for the City of Indianapolis charged with the responsibility "to cause the provisions of [the Revised City-County] Code and other ordinances of the city and county to be executed and to seek their enforcement together with state law." Revised Code of the Consolidated City and County § 201-1. This action is brought against Mayor Peterson in his official capacity.

10. Defendant Chief of Police Jerry Baker is the chief executive officer for the Indianapolis Police Department. In that capacity, he has "general charge of the daily operations of the department," including the responsibility "[t]o carefully observe and inspect all places of business under license or required to have licenses; and ... To enforce and prevent the violation of all laws in force in the city." Revised Code of the Consolidated City and County, §§ 253-

102, 253-103. This action is brought against Baker in his official capacity as Chief of Police for the City of Indianapolis, Indiana.

11. This action is also brought against Defendants Peterson and Baker under Rule 23(b)(1) and (b)(3) of the Federal Rules of Civil Procedure, as representatives of a defendant class including the deputy mayor, the city controller and of all assistant chiefs, deputy chiefs, majors, captains, detectives, sergeants, lieutenants, police officers and all other officers and employees of the Indianapolis Mayor's Office and the Indianapolis Police Department empowered to enforce the Ordinance within the City of Indianapolis, Indiana.

12. There are questions of fact and law with regard to the constitutionality, implementation and effects of the challenged provisions of the Ordinance that are common to defendant class. The defenses of the named defendants with respect to the Ordinance are typical of the defendants of defendant class. Peterson and Baker are sworn public officials. They will fairly and adequately protect the interests of defendant class.

13. The prosecution and defense of separate claims against individual members of defendant class would create the risk of inconsistent adjudications with respect to the enforceability of the Ordinance by individual defendants that would establish incompatible standards of conduct for enforcement and compliance with the Ordinance.

FACTS COMMON TO ALL CAUSES OF ACTION

1. The Ordinance was enacted by the City-County Council of the City of Indianapolis and Marion County, Indiana on or about July 10, 2000, and signed into law by Mayor Bart Peterson on or about July 13, 2000. A true, complete and accurate copy of the Ordinance is attached hereto as Exhibit 1, and incorporated herein as if fully set forth. The Ordinance is to take effect on September 1, 2000.

2. The challenged provisions of the Ordinance seek to regulate the manner in which certain currency-operated mediums of expression (defined as "amusement machines" under the Ordinance) are displayed and limit access to certain of those machines based solely on the content of the expression depicted.

3. The challenged provisions of the Ordinance would present members of the plaintiff class with the possibility of arbitrary and discriminatory enforcement as the Ordinance fails to set forth minimal guidelines for enforcement.

4. The First Amendment provides in part that "Congress shall make no law ... abridging the freedom of speech, or of the press," and the prohibitions of the First Amendment apply to Marion County and the City of Indianapolis.
5. The First Amendment shields verbal expression, written expression, visual expression, entertainment, art and music.
6. The protections of the First Amendment include expressions and depictions of violence devoid of obscene sexual content.
7. The First Amendment protects expression in words, sounds, pictures and video.
8. The First Amendment protects expressions of violence depicted by the medium of amusement machines.
9. Amusement machines are described in the Ordinance to include currency-operated machines and devices, including but not limited to currency-operated video games.
10. Video games present an integrated visual medium of words, pictures, videos, sound and music.
11. Video games are a form of expression, including artistic expression of scriptwriters, animators and musical artisans.
12. The challenged provisions of the Ordinance seek to suppress expression from the medium of amusement machines because of the perceived effect of the expression on minors under the age of eighteen.
13. The challenged provisions of the Ordinance would impose restrictions on freedom of expression by requiring that any work of expression in medium of an amusement machine deemed "harmful to minors" must be maintained "separate" and apart from other such machines as to all users and completely limit the access of individuals under the age of 18 years unless accompanied by a parent, guardian or custodian, if the machine:
 - (a) "predominantly appeals to minors' morbid interest in violence..., is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for persons under the age of eighteen (18) years, lacks serious literary, artistic, political or scientific value as a whole for persons under the age of eighteen years, and:
 - (b) contains a "visual depiction or representation of realistic serious injury to a human or human-like being where such serious injury includes amputation, decapitation, dismemberment, bloodshed, mutilation, maiming or disfiguration...."
1. The Ordinance provides that each violation of the Ordinance is an offense and is "punishable" by a fine between \$200 and \$2500 for each violation. In addition, each violation may serve as grounds for suspension or

revocation of the violator's license, and if the violator is convicted of three or more violations, its license shall be revoked.

2. Some of the content displayed by the amusement machines manufactured, distributed, rented, sold and/or made available to the public by Shaffer Distributing, CCME, members of AAMA, AMOA and IAMOA, and owners and operators of amusement machines including Namco and B.J. Novelty, while fully protected by the United States Constitution and the Constitution of the State of Indiana, may include scenes that may be deemed by law enforcement officials in the City of Indianapolis and Marion County, Indiana to meet the statutory tests set forth in Paragraphs 45 hereof, thus subjecting members of AAMA, AMOA, IAMOA and members of the plaintiff class to the threat of prosecution and creating a chilling effect on their rights to freedom of expression.

3. The challenged provisions of the Ordinance would compel amusement locations throughout Marion County and the City of Indianapolis to restrict the access of all persons regardless of age to certain amusement machines on threat of prosecution, even though such machines, and the expression contained therein, are not obscene and are not constitutionally subject to restriction under the United States Constitution and the Constitution of the State of Indiana.

4. The challenged provisions of the Ordinance threaten plaintiffs, the plaintiff class, and its and their members, and other amusement locations with serious, immediate and irreparable injury for which there is no adequate remedy at law.

Count I

(First and Fourteenth Amendment – Freedom of Expression)

1. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 49 as if fully set forth herein.

2. The challenged provisions of the Ordinance would impose governmental restrictions upon access to amusement machines based solely upon the content of the work of expression depicted. The content of the expression made subject to these restrictions is not obscene. The content of the works of expression made subject to these restrictions is not included in any other category of expression that may constitutionally be regulated based solely upon its content.

3. There are three distinct forms of unconstitutional content regulation in the challenged provisions of the Ordinance. First, the challenged provisions would absolutely prohibit any viewing, playing or accessing of any

amusement machine, the contents of which meet the description set forth in Paragraph 45 hereof, to any person under the age of eighteen, unless such person is accompanied by their natural parent, guardian or custodian, as defined in the Ordinance. Second, the challenged provisions would prohibit the viewing, playing or accessing of any currency-operated amusement machine, the contents of which meet the description set forth in Paragraph 45 hereof, to any person regardless of age, unless those machines are displayed and maintained separate and apart from other currency-operated amusement machines that do not meet the description, and that the view of the screen of such machines is blocked. And third, the challenged provisions would prohibit any amusement machine, the contents of which meet the description set forth in Paragraph 45 hereof, from being made available to any person regardless of age on public property. All three forms of regulation restrict the freedom of owner and operators of amusement machines, amusement locations and others to communicate expression that is neither obscene nor otherwise constitutionally subject to regulation based upon its content. Neither form of regulation serves a compelling governmental interest, and neither is narrowly tailored to serve any such interest.

4. The challenged provisions of the Ordinance would impose upon every owner and operator of amusement machines in the City of Indianapolis and Marion County, Indiana, the burden of determining whether each such machine meets the description set forth in Paragraph 45 hereof prior to including such machine for display, access, viewing and/or use by members of the public. The challenged provisions impose the risk of criminal penalties. Such burdens and risks are aggravated by the vagueness of the statutory description. The challenged provisions thus would establish an unconstitutional scheme of censorship under which even works of expression that do not meet the statutory description contained in the Ordinance would be suppressed by the burden of determining the scope of its coverage and the risk of erroneous determination, which would induce owners and operators of amusement machines and amusement locations (and their respective distributors and suppliers) to refuse to include the works in their inventories. Imposition of this burden and risk serves no compelling interest and is not a narrowly-tailored means to serve any such interest.

5. For each of the reasons set forth above, the challenged provisions of the Ordinance are unconstitutional under the First Amendment to the United States Constitution as applied to the State of Indiana by the Due Process Clause of the Fourteenth Amendment.

Count II

(First and Fourteenth Amendments – Vagueness)

1. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 54 as if fully set forth herein.
2. The challenged provisions of the Ordinance are unconstitutionally vague in that many of the terms and phrases employed therein, including but not limited to the terms and phrases "realistic serious injury," "human-like being," "minor's morbid interest in violence," "patently offensive," and "suitable material for persons under the age of eighteen," have no certain meaning in the context of currency-operated amusement machines. Persons of common intelligence are, therefore, forced to guess at their meaning and at the scope of the challenged provisions.
3. The unconstitutional vagueness of the challenged provisions operates to chill producers, designers, manufacturers, distributors, owners and operators of amusement machines from exercising their constitutionally protected freedom of expression and is likely to lead to enforcement by law enforcement officials on an unfair, subjective and *ad hoc* basis.
4. For each of the reasons set forth above, the challenged provisions of the Ordinance are unconstitutional under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, as well as the First Amendment to the United States Constitution as applied to the State of Indiana by the Due Process Clause of the Fourteenth Amendment.

Count III

(Fourteenth Amendment - Equal Protection)

1. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 58 as if fully set forth herein.
2. The challenged provisions of the Ordinance regulate and restrict under the threat of criminal penalties certain works of expression presented through the medium of amusement machines. These same regulations, restrictions and criminal penalties do not apply to other works of expression containing the same or similar content but communicated in other media, including by way of example only, cable television, broadcast television, movie theaters, drive-in theaters, books, magazines and the like.
3. The challenged provisions of the Ordinance arbitrarily and irrationally would establish a legislative scheme that creates classifications that burden fundamental rights and that is not closely related to any compelling state interest.

4. For the foregoing reasons, the challenged provisions of the Ordinance are unconstitutional under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

Count IV

(Violation of 42 U.S.C. § 1983)

1. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 63 as if fully set forth herein.
2. The challenged provisions of the Ordinance would cause Plaintiffs to be subjected to the deprivation of rights, privileges and immunities secured to them by the Constitution and laws of the United States. The challenged provisions thus constitute a deprivation of rights under 42 U.S.C. § 1983.
3. In the event Plaintiffs prevail on any claims under the Constitution of the United States set forth in this Complaint, Plaintiffs are entitled to recover attorneys' fees under the provisions of 42 U.S.C. § 1988.

Count V

(Indiana Constitution – Art., I, §§ 9, 12 and 23, and Art. 4, § 20)

1. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 65 as if fully set forth herein.
2. The challenged provisions of the Ordinance interfere with the exercise by Plaintiffs, and others similarly situated, of their rights and privileges secured by the Constitution of the State of Indiana, including:
 - (a) the right to freedom of expression guaranteed by Article 1, Section 9, which provides that "[n]o law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever";
 - (b) the right to due process guaranteed by Article 1, Section 12, which provides that "every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law";
 - (c) the right to equal protection under the law guaranteed by Article 1, Section 23, which provides that the legislature "shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens"; and
 - (d) The right to plainly worded legislation guaranteed by Article 4, Section 20, which provides that "[e]very act and joint resolution shall be plainly worded, avoiding as far as practicable, the use of technical terms."
1. The challenged provisions of the Ordinance are, therefore, unconstitutional under the Constitution of the State of Indiana.

2. WHEREFORE, Plaintiffs demand that this Court enter a judgment in their favor and against Defendants as follows:

3. (a) That this Court issue a declaratory judgment that the challenged provisions of the Ordinance are void and of no force and effect;

4. (b) That this Court issue a preliminary injunction and a permanent injunction against Defendants enjoining them from enforcing, or directing the enforcement of, the challenged provisions of the Ordinance in any respect;

5. (c) That the Plaintiffs be awarded their attorneys' fees under 42 U.S.C. § 1988;

6. (d) That the Plaintiffs be awarded their costs herein; and

7. (e) That this Court order such other general and equitable relief as it deems fit and proper.

Respectfully submitted,

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