(Passed 9-0)

ORDINANCE 01-46

TO AMEND ORDINANCE 01-14 WHICH AMENDED TITLE 2 AND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE IN ORDER TO ESTABLISH A PERMITTING PROGRAM FOR SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS (Correcting Minor Errors and Omissions)

WHEREAS, on October 3, 2001 the Common Council passed Ordinance 01-14 which amended Title 12 entitled "Streets, Sidewalks and Storm Sewers" and Title 2 entitled "Administration and Personnel" in order to establish a permitting program for sidewalk seating and merchandising encroachments; and

WHEREAS, there were six amendments to Ordinance 01-14 and the Common Council wishes to acknowledge that the final version correctly reconciled the lettering and numbering of the provisions in these amendments with the ordinance as a whole; and

WHEREAS, there were some typographical errors and minor omissions in Ordinance 01-14 that should be corrected before the amendments are entered into the Bloomington Municipal Code;

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

SECTION 1. Section 7 of Ordinance 01-14 established Section 12.06.030 of the Bloomington Municipal Code entitled "Standards for Encroachment" and the Common Council desires to take further actions in regard to that section, which are stated below:

A. The ordering and lettering of the provisions in Section 7 of Ordinance 01-14, as presented to the City Clerk and signed by the President of the Council and Mayor, correctly reconciled the lettering in the amendments with the lettering in the ordinance.

B. Part (a) of Section 12.06.030 shall be amended by striking the word "at" as it appears between the words "accommodate" and "54-inch" in the last sentence and replacing it with the word "a" so that the provision shall read as follows:

(a) A clear straight pathway at least 54 inches wide must be maintained along blocks with the following exception: the north side of the 200 block of West Kirkwood Avenue, where a clear straight pathway at least 40 inches wide must be maintained. If and when there is a redesign and renovation of the sidewalk or streetscape on this side of this block, any encroachments will be required to accommodate a 54-inch straight clear path at that time.

SECTION 2. Section 8 of Ordinance 01-14 established Section 12.06.040 of the Bloomington Municipal Code entitled "Applications for Encroachments" and that code section shall be amended in the following manner:

A. Part (e) of Section 12.06.040 shall be amended by adding the following sentence "In addition to the information required in section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to, the following:" at the beginning of the second sentence so that the first sentence and the beginning of the second sentence shall now read as follows:

(e) Applications requesting outdoor seating permits should be submitted to the Department at least sixty (60) days prior to the date the applicant wishes the encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to, the following:

B. Part (f) of Section 12.06.040 shall be amended by deleting the words "outdoor seating" as they appear in the first sentence and replacing them with the word "merchandising" and by adding a colon ":" after the word "following" as it appears in the third line of the second sentence, so that the first sentence and beginning of the second sentence in part (f) shall read as follows:

(f) Applications requesting merchandising permits should be submitted to the Department at least sixty (60) days prior to the date the applicant wishes the

encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to, the following:

SECTION 3. Section 11 of Ordinance 01-14 established Section 12.06.070 of the Bloomington Municipal Code entitled "Permit Renewal" and that code section shall be amended in the following manner:

Section 12.06.070 shall be amended by striking the word "fopermit" in the first sentence and replacing it with "for permit" and striking the word "its" in the last sentence of the provision so that the section now reads:

> 12.06.070. Permit Renewal: The permittee may file an application for permit renewal, accompanied by the appropriate renewal fee set forth in 12.06.090, no later than least sixty (60) days prior to the date the applicant wishes the renewed encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit. The application for permit renewal shall be reviewed and processed by Department staff. If a permittee should have a record of failure to comply with the provisions of this chapter, this record shall be considered by staff in the decision to approve or deny renewal of the permit.

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 12th day of December, 2001.

S. Patricia Cole
PATRICIA COLE, President
Bloomington Common Council

ATTEST:

Regina Moore
REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 13th day of December, 2001.

Regina Moore
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 13th day of December, 2001.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Ordinance 01-14 in order to correct some minor errors and omissions before the provisions of the ordinance are inserted into the Bloomington Municipal Code. It also acknowledges that the final version of the ordinance correctly reconciled the lettering of provisions in the amendments with those in one section of the ordinance.

Signed copies to:

legal (5)	Econ. dev. dir.	CA/CA	engineering
controller	BMC file	Comm. Downtown B-tax	Board of Public Works
file	Public Works	Council for Community Accessibility	