ORDINANCE 00-18

TO AMEND TITLES OF THE BLOOMINGTON MUNICIPAL CODE REGARDING "ADMINISTRATION AND PERSONNEL" (TITLE 2) AND "HEALTH AND SANITATION" (TITLE 6) (Authorizing Enforcement of Certain Ordinance Violations Through the City's Ordinance Violations Bureau)

WHEREAS, accumulation of weeds and trash pose a health and safety threat to the community; and

WHEREAS, accumulation of weeds and trash detract significantly from the aesthetic appeal of the community; and

WHEREAS, the City has established an Ordinance Violations Bureau pursuant to Indiana Code § 33-6-3-1, which enables the City to efficiently resolve instances of ordinance violations; and

WHEREAS, the Common Council wishes to encourage timely remedy of ordinance violations; and

WHEREAS, the Common Council wishes to adopt procedures for efficient collection of fines for ordinance violations;

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

SECTION 1. Section 2.27.00 **Establishment of bureau** shall be amended to increase the maximum daily penalty provision by deleting "fifty" and replacing it with "one hundred" wherever it appears in the provision.

SECTION 2. Section 2.27.010 **Appointment of administrator of bureau and designation of agents for collection of civil penalties** shall be amended as follows:

1. Subsection (d) shall be amended to add "Chapter 6.04, Refuse and Yard Waste Collection by the City," immediately preceding the phrase "Chapter 6.06."

2. Subsection (f) shall be re-lettered as subsection (g).

3. A new subsection (f) shall be added as follows:

(f) Planning department: for the receipt of penalties for violations of Bloomington Municipal Code Title 20 provisions as codified in the schedule at 20.09.05.00.

SECTION 3. Section 2.27.020 **Limitations on powers of bureau** shall be amended to increase the maximum daily penalty provision by deleting "fifty" and replacing it with "one hundred" wherever it appears in the provision.

SECTION 4. Section 6.04.060 **Violations and complaints** shall be repealed and replaced with the following:

6.04.060 Enforcement Procedures

(a) If the Director of the Housing and Neighborhood Development Department, the Assistant Director, any Neighborhood Compliance Officer, or any other designee of the Director (collectively referred to as "Staff") determines that there exists a violation of this chapter, that person shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing NOV, the following persons shall be considered responsible parties, with liability for fines and

responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation.

(b) The NOV shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by First Class Mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:

(1) the location of the violation
(2) the nature of the violation
(3) the period of correction (if any)
(4) the fine assessed for the violation during the correction period
(5) the increase in fine, which is to be assessed daily, if violation continues beyond the correction period
(6) additional remedies the City may seek for violation
(7) that the fine is to be paid at the City of Bloomington Department of Housing and Neighborhood Development
(8) that the fine may be contested in the Monroe County Circuit Courts

(c). Schedule of Fines

The following fine schedule shall apply to violations of this chapter:

(1) Correction period allowed from date of NOV: 24 hours
(2) Fine during correction period: $10.00
(3) Daily fine assessed after correction period has elapsed: $15.00

(d) If the responsible party fails to remedy the violation cited in the NOV during the correction period, the City Legal Department shall bring suit in a court of competent jurisdiction to collect the accumulated fines, any other costs associated with remedy of the violation as are allowed by law, and obtain any other legal remedy available at law.

SECTION 5. Section 6.06.030 **Excessive growth** shall be amended to replace the words "one foot" with "eight inches".

SECTION 6. Section 6.06.040 **Inspections** shall be amended to repeal the words "upon request".

SECTION 7. Section 6.06.050 **Removal notice** shall be repealed and replaced with the following:

6.06.050 Enforcement Procedures

(a). If the Director of the Housing and Neighborhood Development Department, the Assistant Director, any Neighborhood Compliance Officer, or any other designee of the Director (collectively referred to as "Staff") determines that there exists refuse, weeds or other vegetation on property within the City which violates this chapter, that person shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation.

(b). The NOV shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by First Class Mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:

(1) the location of the violation
(2) the nature of the violation
(3) the period of correction (if any)

(4) the fine assessed for the violation during the correction period

(5) the increase in fine, which is to be assessed daily, if violation continues beyond the correction period

(6) additional remedies the City may seek for violation

(7) that the fine is to be paid at the City of Bloomington Department of Housing and Neighborhood Development

(8) that the fine may be contested in the Monroe County Circuit Courts

(c). Schedule of Fines

The following fine schedule shall apply to violations of this chapter

6.06.010: Deposit of Refuse

(1) Correction period allowed from date of NOV: seven days
(2) Fine during correction period: $25.00
(3) Daily fine assessed after correction period has elapsed: $50.00

6.06.030: Excessive growth of vegetation:

(1) Correction period allowed from date of NOV: seven days
(2) Fine during correction period: $20.00
(3) Daily fine assessed after correction period has elapsed: $25.00

SECTION 8. Section 6.06.060 **Failure to remove** shall be repealed and replaced with the following:

6.06.060 Failure to remedy

(a) If the responsible party fails to remedy the violation cited in the NOV during the correction period, the City Legal Department shall bring suit in a court of competent jurisdiction to collect the accumulated fines, any other costs associated with remedy of the violation as are allowed by law, and any other remedies available at law, including but not limited to injunctive relief.

(b) In addition to subsection (a) above, the City may, upon order of its Board of Public Works take steps to remedy the violation. Any order of the Board of Public Works shall be in writing and shall include written findings of fact. All appeals from written findings of the Board shall be made to courts of competent jurisdiction within ten days. The City may also seek any other remedies available at law.

SECTION 9. Section 6.06.100 **Violations** shall be amended to lower the minimum fine by deleting the word "fifty" and replacing it with the word "ten" wherever it appears in the provision.

SECTION 10. 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 11. 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 3rd day of May, 2000.

TIMOTHY MAYER, 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 4th day of May, 2000.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 4th day of May, 2000.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance makes several changes to the Bloomington Municipal Code to improve the enforcement and remedy for certain ordinance violations. The ordinance empowers the HAND and Planning Departments to issue Notices of Violation for violations of code sections covering weeds, trash and several zoning provisions. The HAND and Planning departments will be able to issue notices of violation in the field. Follow-up notification will also be made via first class mail. Notice will be given to "responsible parties,"defined as parties in possession of the property, property owners, and parties actually known to have caused any violation. The purpose of issuance of notification to responsible parties, so defined, is to increase the likelihood that the violation will be speedily remedied and to assure that the costs and burdens associated with ordinance violations are not borne by the general citizenry of Bloomington, but by one or more of the parties who have directly caused the violation, or who have a legal interest in the property where the violation occurs, as these are the parties who are viewed as most capable of efficiently remedying and preventing violations. The schedules of fines and, where applicable, periods granted for correction, are adopted as reasonable and proportionate to the specific violation involved. The ordinance provides for payment of fines through the City's Ordinance Violation Bureau as established pursuant to I.C. § 33-6-3-1.