Passed: 8-1 (P. Cole)

ORDINANCE 98-40

TO AMEND TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "VEHICLES AND TRAFFIC"
(New Procedures for Enforcing Accessible Parking for Persons with Physical Disabilities)

WHEREAS, Indiana Code 36-1-3-1 et seq. grants to the City of Bloomington, Indiana, all powers that are necessary for the effective operation of government as to local affairs; and

WHEREAS, Indiana Code 5-16-9-9 grants to the City of Bloomington, Indiana, the power necessary to regulate standing or parking of motor vehicles in a space reserved for persons with a physical disability provided that such local regulation does not conflict with state statutes; and

WHEREAS, the Common Council of the City of Bloomington, Indiana believes that the community should be accessible to all of its members in order to provide an opportunity for all citizens of Bloomington to lead full and meaningful lives; and

WHEREAS, the Common Council believes that increased enforcement of accessible parking violations will lead to an overall reduction in the number of such violations, thus improving the accessibility of the community, which is in the best interest of Bloomington;

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

SECTION I. Title 15 of the Bloomington Municipal Code entitled "Vehicles and Traffic" shall be amended by adding Chapter 15.34 entitled "Accessible Parking for Persons with Physical Disabilities" and that chapter shall read as follows:

Chapter 15.34

Accessible Parking for Persons with Physical Disabilities

15.34.010 Definitions. When appearing in this chapter the following words shall have the following meanings:

"Motor vehicle" has the meaning set forth at Indiana Code 9-13-2-105.

"Parking facility" means any facility or combination of facilities for motor vehicle parking which contains parking spaces for the public, whether publicly or privately owned.

15.34.020 Parking for persons with physical disabilities required.

(a) The owner of any parking facility shall provide accessible parking for persons with a physical disability. The number of accessible spaces so provided shall, as a minimum, comply with the provisions of Indiana Code 5-16-9-2.

(b) The City shall provide accessible parking spaces in municipal lots and public streets as set forth in Section 15.32.150, Schedule S. The number of accessible spaces so provided shall, as a minimum, comply with the provisions of Indiana Code 5-16-9-2.

(c) The manner of posting signs for parking spaces for persons with a physical disability, and the size and location of parking spaces shall comply with provisions of Indiana Code 5-16-9-2 and 5-16-9-4.

15.34.030 Use of accessible parking spaces; decals and/or registration plates required.

(a) Nothing in this chapter shall be construed to require a person to obtain or display any permit, registration plate, or registration decal other than those specified in Indiana Code 5-16-9-9 (c) in order to stand or park in a space reserved for persons with a physical disability.

(b) No person shall park a motor vehicle in a space designated as an accessible parking space unless the motor vehicle displays an unexpired registration plate, placard or

decal for a person with a physical disability or for a physically disabled veteran, which is issued under the laws of the State of Indiana or under the laws of another state.
(c) As required by Indiana Code 5-16-9-9(d), a motor vehicle displaying an unexpired parking permit for a person with a physical disability, an unexpired physically disabled veteran's registration plate, or an unexpired registration plate or decal for persons with a physical disability issued under the laws of another state shall be permitted to stand or park in a space designated as an accessible parking space, but only when the vehicle is being used to transport a person with physical disabilities.
(d) Persons utilizing accessible parking spaces in accordance with this chapter must obey all other regulations and restrictions which are applicable to those spaces.

15.34.040 Violations
(a) Any person who parks a motor vehicle which does not have a valid and unexpired registration plate, placard or decal for a person with a physical disability or for a physically disabled veteran, issued under the laws of the State of Indiana, or under the laws of another state, in a parking space reserved under this chapter for a person with a physical disability, shall be deemed to be in violation of this chapter.
(b) Any person who knowingly parks in a parking space reserved for a person with a physical disability while displaying a placard, decal or registration plate to which neither the person nor the person's passenger is entitled, shall be deemed to be in violation of this chapter.
(c) Any person who displays for use in parking in a reserved space for a person with a physical disability a placard or license plate not issued under the laws of the State of Indiana, or some other state, shall be deemed in violation of this chapter.

15.34.050 Enforcement
(a) The provisions of Section 15.34.040 (a) and (b) of this chapter may be enforced as follows:
(1) The violator may be issued a citation for the commission of a Class C infraction pursuant to the provisions of Indiana Code 5-16-9-5; or
(2) The violator may be issued a citation for the violation of the local ordinance herein established.
(b) The provisions of Section 15.34.040(c) of this chapter may be enforced as follows:
(1) The violator may be issued a citation for the commission of a Class C misdemeanor pursuant to the provisions of Indiana Code 5-16-9-5; or
(2) The violator may be issued a citation for the violation of the local ordinance herein established.
(c) Officers of the Bloomington Police Department and the Parking Enforcement Division, and members of the Citizens' Accessible Parking Enforcement Patrol shall have the authority to issue citations for violations of the parking provisions of this chapter.

15.34.060 Penalties
(a) A violation of Section 15.34.040 (a), (b), or (c) of this chapter is a Class C traffic violation and is subject to the penalty listed in Section 15.64.010(c). Each day that a violation continues shall constitute a separate offense.
(b) Nothing in this paragraph shall be construed as preventing the enforcement of parking violations for the physically disabled pursuant to the provisions of Indiana Code 5-16-9-5.

15.34.070 Disposition of revenue; Community Accessibility Fund. All funds derived from the issuance of citations for violation of this ordinance shall be used to pay the costs of operating this program. Funds received in excess of the annual cost of operating the program shall go into a Community Accessibility Fund. The Community Accessibility Fund shall be for the purpose of educating the public about accessibility issues and improving accessibility within the community. The Council for Community Accessibility and the Community and Family Resources Commission shall make recommendations for expenditures from this fund, and such expenditures shall be approved by the Common Council.

15.34.080 Citizens' Accessible Parking Enforcement Patrol. The Bloomington Police Department may create a Citizens' Accessible Parking Enforcement Patrol

program as set forth in Indiana Code 5-16-9-11. Members of the Patrol will assist the Bloomington Police Department in the enforcement of this ordinance.

SECTION II. The Table of Contents for Title 15 shall be amended to add Chapter 15.34 Accessible Parking for Persons with Physical Disabilities to the list of chapters.

SECTION III. Section 15.04.100 Physically handicapped person, shall be amended by adding the phrase "or person with physical disabilities" after the words "physically handicapped person" wherever they appear in the section so that it shall now read:

> 15.04.100 Physically handicapped person or person with physical disabilities.
> "Physically handicapped person" or "Person with physical disabilities" means a person who has been issued a special handicapped or disabled registration plate or decal for a motor vehicle, by the state of Indiana, or any other state or province, which limits eligibility to one who is severely and permanently restricted in mobility, or visually impaired.

SECTION IV. The Table of Contents for Chapter 15.04 Definitions shall be amended by replacing the citation "15.04.100 Physically handicapped person" with the one that reads "15.04.100 Physically handicapped person or person with physical disabilities."

SECTION V. Section 15.32.150 Handicapped parking spaces, shall be amended by providing a new heading and deleting parts (a) through (e), and inserting new text so that the section shall now read:

> 15.32.150 Accessible parking for persons with physical disabilities
> The parking spaces described in 15.32.150 Schedule S are designated as parking spaces reserved for persons with physical disabilities on public streets or in municipal facilities.

SECTION VI. Table of Contents for Chapter 15.32 Parking Controls shall be amended to delete the old heading and replace it with the new heading for 15.32.150 as set forth in Section V of the ordinance.

SECTION VII. Section 15.64.010(c) shall be amended by:

a) Deleting the term "(e)" from the line that currently reads "15.32.150(e)"; and.

b) Adding "15.34.040 Parking illegally in an accessible parking space for persons with disabilities." to the list of violations.

SECTION VIII. Severability. 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 IX. Enactment. 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 7th day of October, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 7th day of October, 1998.

Patricia Williams
PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 8 day of October, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 15 to allow enforcement of proper use of accessible (handicapped) parking spaces on all parking lots. It also allows the Bloomington Police Department to create a Citizen's Accessible Parking Enforcement Patrol that will assist the Police Department in enforcing the provisions of this ordinance. Revenue generated from citations issued under this ordinance will be used to defray the costs of the enforcement program and to create a fund for the purpose of educating the public about accessibility issues and improving accessibility within the community.

Signed copies to:
BMC File & Book
Clerk + CA/CA
Legal - 5
PED
Public Works
Street Dept (Don Porter)
Police Dept
CAFR