ORDINANCE 93-26

TO AMEND TITLE XIV OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED, "PEACE AND SAFETY"
(Prohibition of Open Containers of an Alcoholic Beverage in Motor Vehicles)

WHEREAS, over the last ten years in Indiana alone, alcohol related motor vehicle accidents have caused thousands of deaths and tens of thousands of injuries; and

WHEREAS, open container restrictions which prevent the consumption of alcohol or the possession of an open container of alcohol in a motor vehicle may help deter alcohol impaired driving and therefore are important to the public health and safety; and

WHEREAS, the Common Council acknowledges that while the best means of addressing this issue is through state legislation, in the absence of such a law, the Council believes that an interim local measure is appropriate;

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

SECTION I. Amend Title 14.00 of the Bloomington Municipal Code entitled, "Peace and Safety" by adding the following chapter:

Chapter 14.50

Prohibition of open containers of alcoholic beverages in motor vehicles

Section 14.50.010 Definitions. For purposes of this Chapter, the following definitions shall apply:

"Alcoholic Beverage" shall have the meaning set forth in Indiana Code Section 7.1-1-3-5.

"Container" shall have the meaning set forth in Indiana Code Section 7.1-1-3-13.

"Motor Vehicle" shall have the meaning set forth in Indiana Code Section 9-13-2-105 except that, unless specifically identified in this chapter, the term shall not include any chartered passenger vehicle, including buses, licensed to operate within the State of Indiana.

Section 14.50.020 Possession or consumption prohibited. A person who, while in a motor vehicle that is being operated upon a public highway within the corporate limits of the City, knowingly consumes an alcoholic beverage or possesses a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this ordinance.

Section 14.50.030 Operator or owner of motor vehicle in violation. The operator or owner of the motor vehicle who, while the motor vehicle is being operated upon a public highway within the corporate limits of the City, knowingly keeps or allows to be kept in an area of the motor vehicle that is accessible to the operator or passenger a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this ordinance.

Section 14.50.040 Chartered passenger vehicles The operator of a chartered passenger vehicle licensed to

operate within the State of Indiana who, while in a motor vehicle that is being operated upon a public highway within the corporate limits of the City, knowingly consumes an alcoholic beverage or, keeps or allows to be kept in an area of the vehicle that is accessible to the operator a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this ordinance. For purposes of this paragraph, an area accessible to the operator is one that is within reach of the operator.

Section 14.50.050 Citation. An officer of the City of Bloomington Police Department may issue a citation to a person who violates this chapter and an attorney of the Legal Department of the City may prosecute the violation in Monroe County Circuit Court.

Section 14.50.060 Penalties. A violation of this ordinance shall be subject to a fine of no more than fifty dollars ($50.00).

Section 14.50.070 Defense. Transportation of open containers for recycling, catering, picnic, or other similar purposes may be raised as a defense to a violation of the chapter so long as consumption of alcohol does not occur during transportation and all open containers are kept within a closed box, bag, or other container. However, the burden shall be on the person raising the defense to establish this defense.

Section 14.50.080 Signs. Signs giving notice of the prohibition of open alcoholic beverage containers in motor vehicles may be posted at locations deemed appropriate by the City Engineer.

Section 14.50.090 Record keeping. The Police Department shall keep records of violations of this ordinance. These records shall contain the name of the person cited, date of violation, basis for stop, case number and level of Blood Alcohol Content (BAC) if applicable, whether injuries or property damage were involved, disposition of the matter, and other information as is necessary to determine the efficacy of this ordinance. A summary of these records shall be sent to City Clerk annually. Any unresolved cases shall be included in subsequent annual summaries.

SECTION II. Amend Section 14.36.090 Intoxicating beverages - Consumption in public, by deleting the phrase "whether within, on or outside of a motor vehicle of any type," after the words "city limits," as they appear in that provision.

SECTION III. Severability. If any section, 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 IV. 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 21st day of July, 1993.

JACK W. HOPKINS, President
Bloomington Common Council