ORDINANCE 14-05

TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "UNIFIED DEVELOPMENT ORDINANCE"
(Defining "Standardized Businesses" and Treating Them as a Conditional Use in the Courthouse Square and University Village Overlay Districts of the Downtown)

WHEREAS, the properties contained within the City's Courthouse Square Overlay and University Village Overlay combine to create a very unique atmosphere in the heart of downtown Bloomington; and

WHEREAS, the May 15, 1991, Growth Policies Plan declared that central to the City's character is the mix of uses, the architectural diversity, and the pedestrian scale of the downtown area (which includes portions now regulated by the Courthouse Square Overlay and University Village Overlay); and

WHEREAS, during calendar years 1999, 2000, and 2001 the City undertook a massive renovation project of Kirkwood Avenue, located in the University Village Overlay, known as the "Big Dig" which included extensive storm water renovations, street reconstruction, and the enhancement of the sidewalk areas along the street to be more pedestrian friendly for a cost of approximately $3,000,000.00, in an effort to establish Kirkwood as one of the City's signature streets; and

WHEREAS, during the end of calendar year 2000 and the beginning of calendar year 2001, the City invested approximately $112,000.00 in improvements and the redesign of People's Park, located in the University Village Overlay along Kirkwood Avenue; and

WHEREAS, the 2002 Growth Policies Plan for the City notes that Bloomington is often described as possessing "small town character" and identifies that the City's community character is tied to the look and feel of Bloomington; and

WHEREAS, the Bloomington Historic Preservation Commission adopted the *City of Bloomington Interim Report of Indiana Historic Sites and Structures Inventory* on October 17, 2002, and in doing so specifically recognized three areas as having unique atmospheres worthy of protection: the Courthouse Square Historic District; the Old Library Historic District; and the Restaurant Row Study Area—each of these three areas is located, in whole or in part, within the Courthouse Square or University Village Overlays; and

WHEREAS, there are well over fifty (50) structures located within the Courthouse Square Overlay and University Village Overlay which have been specifically recognized on the City's Interim Report of Indiana Historic Sites and Structures; and

WHEREAS, there are six (6) structures located within the Courthouse Square and University Village Overlays which have been locally designated as historic by the City's Historic Preservation Commission; and

WHEREAS, the City engaged in a planning process to create and adopt the Downtown Vision and Infill Strategy Plan on November 2, 2005, and in that process identified six distinct character areas within the downtown – including the Courthouse Square Character Area and the University Village Character Area; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan adopted on November 2, 2005, notes that the Kirkwood Avenue Corridor (contained within the University Village Overlay) conveys the character of a small traditional main street, providing a strong pedestrian-friendly route between the Downtown and Indiana University, and further states that maintaining and reinforcing the character of this corridor should be a high priority of the City; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan notes that significant portions of the area included within the Courthouse Square Overlay were originally intended to provide a diverse mix of businesses which would capitalize on the pedestrian activity generated by the Courthouse; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan remarks that the area known as Restaurant Row, located within the University Village Overlay, is an important and distinct area of the City and that its character should be defined; and

WHEREAS, in 2006 the City designated a sixty (60) block area of the downtown as the Bloomington Entertainment and Arts District (BEAD)—an economic development district for the City to bring business and creative sectors together to advance commerce and culture, to build community and to spur economic development; and

WHEREAS, the areas of the City contained within the Courthouse Square Overlay and University Village Overlay draw many visitors each year and receive nationwide exposure for its Lotus Festival and Fourth Street Arts Festival—these festivals and the overall character of the geographic areas contained within the two Overlays are vital to the City's economic future; and

WHEREAS, the City specifically codified the Downtown Plan and created the City's Courthouse Square Overlay in 2007 with a District Intent to provide a "diverse mix of traditional commercial retail uses at the street level"; and

WHEREAS, the City specifically codified the Downtown Plan and created the City's University Village Overlay in 2007, with a District Intent to "draw upon the variety of architectural styles combined with diverse land uses and site features to enhance the existing eclectic mix of developments that serves as a dynamic and key transitional activity center that connects the Courthouse Square with Indiana University"; and

WHEREAS, the City specifically codified the Downtown Plan and created the City's University Village Overlay in 2007, with a District Intent to "protect and maintain the unique character of the converted residential structures along Restaurant Row"; and

WHEREAS, in 2007, the City created the position of Assistant Director of Economic & Sustainable Development for Small Business Relations in order to, in part, and as noted in the position's job description, "support the growth and sustainability of small business" in the Bloomington community; and

WHEREAS, in 2007, the City created the position of Assistant Director of Economic & Sustainable Development for the Arts in order to pursue in part, and as noted in the position's job description, ' the development and implementation of the Bloomington Entertainment and Arts District (BEAD)"; and

WHEREAS, the unique character and environment created by the City's Courthouse Square Overlay and University Village Overlay must be respected and protected so that the City can continue to thrive without experiencing inappropriate changes, which could jeopardize the environment; and

WHEREAS, the geographic area represented by the City's Courthouse Square Overlay and University Village Overlay represent the central core of the City's downtown area—an area which is one of a very precious few traditional downtowns still in existence in Indiana, in which its housing, shops, restaurants, work places, and civic facilities co-exist in harmony; and

WHEREAS, the City's Courthouse Square Overlay and University Village Overlay represent an area of the City where a sense of timelessness has been sustained because of the pedestrian friendly atmosphere; which has created a strong "small town" sense of community; and

WHEREAS, on August 4, 2009, Mayor Mark Kruzan, via a Proclamation, recognized BEAD as a cultural district within the City and noted that it is an important part of the City's overall economic efforts; and

WHEREAS, on January 5, 2010, the Indiana Arts Commission designated BEAD as one of the State's three (3) Cultural Districts; and

WHEREAS, the Market District is part of BEAD and is located wholly in the Courthouse Overlay; and

WHEREAS the Market District is a district, as described by the BEAD Character Area Descriptions, "peppered with plenty of fine dining or café-style eateries to duck into for more fuel"; and

WHEREAS, the Kirkwood Avenue District is part of BEAD and is located wholly in the University Village Overlay; and

WHEREAS, the Kirkwood Avenue District is described by the BEAD Character Area Descriptions as: "Here, the spirit is eclectic, colorful and energetic. With history-making collegiate hangouts like Nick's English Hut and the Runcible Spoon Café interspersed with local and regional magnets like the Monroe County Public Library, the Monroe County History Center and People's Park, the Kirkwood Avenue district holds plenty of nooks and crannies for the exchange of ideas and cultures"; and

WHEREAS, the Restaurant Row District is part of BEAD and is located wholly in the University Village Overlay; and

WHEREAS, the Restaurant Row District is characterized by the BEAD Character Area Descriptions as: "the Section of East 4th Street easily identifiable by the wafting smells of the diverse and delicious fare of several ethnic restaurants that have transformed bungalow homes into destination eateries. Tibet, India, Thailand, France, Italy, Greece, Ethiopia—these are just a few of the world cuisines that can be sampled in Restaurant Row"; and

WHEREAS, the geographic area represented by the Courthouse Square and University Village Overlays is one (1) of only three (3) geographic areas in the State of Indiana that meet all of the following requirements: is listed on the National Register of Historic Places; has a county courthouse; and has a historic opera house; and

WHEREAS, the City recognizes that business uses are critical to the integrity of the commercial and cultural districts identified, at least in part, by the Courthouse Square and University Village Overlays; and

WHEREAS, the City reasonably believes additional standardized businesses could, in the foreseeable future, make their way to those areas contained within the Courthouse Square and University Village Overlays due to these areas popularity and vitality; and

WHEREAS, standardized businesses and standardized restaurants, in particular, with their standardized, menus, employee uniforms, trademarks, logos, signs, and exterior design, strive to make the experience in one outlet the same as any other; and

WHEREAS, the addition or expansion of standardized businesses, with this aspect of "sameness" within the boundaries of the Courthouse Square and University Village Overlays, if not monitored and regulated, will jeopardize the City's goal of nurturing and protecting the unique, eclectic, historic and small town character of these areas and undermine a key strategy for the City's economic development; and

WHEREAS, the Common Council values the importance of the connections between community character and commerce; and

WHEREAS, in light of the foregoing considerations, the City Council has determined that the public welfare of the City will best be served and advanced by monitoring and regulating the establishment of new and expanded standardized businesses in the Courthouse Square and University Village Overlays through the issuance of Conditional Use Permits by the City's Board of Zoning Appeals, which shall require the amendment and supplementation of certain provisions of the City's Unified Development Ordinance; and

WHEREAS, on March 10, 2014, the Plan Commission considered this case, ZO-7-14, and made a positive recommendation in favor of a package of amendments to the Unified Development Ordinance; and

WHEREAS, the Common Council has reviewed that package of amendments and proposes changes which, first narrow the special criteria to whether the petitioner's project visually complements the immediate surroundings as well as the character of the particular overlay district and, second, broaden the regulated uses from standardized restaurants to standardized businesses; and

WHEREAS, this combination of broadening the reach but narrowing the focus of the regulation is intended to focus upon, and comprehensively protect, the unique and eclectic visual character of these two overlay districts; and

WHEREAS, adoption of this ordinance does not preclude the subsequent designation of the Courthouse Square as a historic district;

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

SECTION 1. Section 20.01.030 shall be amended to create a new subsection "u" and said subsection shall read as follows:

20.01.030 Purpose
"(u) To protect the integrity and unique, diverse character of the Courthouse Square Overlay and the University Village Overlay areas."

SECTION 2. Section 20.02.380, entitled "Commercial Downtown (CD); Permitted Uses" shall be amended to create a new permitted land use. The new permitted land use shall be "business, standardized" and shall be added immediately following "business/professional office."

SECTION 3. Section 20.02.380, entitled "Commercial Downtown (CD); Permitted Uses" shall be amended by creating a new cross-reference placed directly below the current cross-reference. The new cross-reference shall read as follows:

"** Additional requirements refer to Section 20.03.040 Courthouse Square Overlay (CSO) - Effect on Uses and Section 20.03.180 University Village Overlay (UVO) - Effect on Uses"

SECTION 4. Section 20.03.040, entitled "Courthouse Square Overlay (CS0) – Effect on Uses" shall be deleted in its entirety and replaced with the following:

20.03.040 Courthouse Square Overlay (CSO) - Effect on Uses

Additional Permitted Uses other than those listed in 20.02.380:
- dwelling, upper floor units*
* Additional requirements refer to Chapter 20.05, SC: Special Conditions Standards.

Excluded Uses:
- assisted living facility
- convenience store (with gas or alternative fuels)
- dwelling multifamily
- medical care clinic, immediate

Conditional Uses:
(a) as listed in Section 20.02.390; and
(b) Business, Standardized (see Section 20.05.0331 for additional Conditional Use Standards),

SECTION 5. Section 20.03.180, entitled "University Village Overlay (UVO) – Effect on Uses," shall be deleted in its entirety and replaced with the following:

20.03.180 University Village Overlay (UVO) - Effect on Uses

Permitted Uses are those listed in 20.02.380.
* Additional requirements refer to Chapter 20.05, SC: Special Conditions Standards.

Excluded Uses:
- convenience store (with gas or alternative fuels)

Excluded Uses for Restaurant Row:
- amusements, indoor
- assisted living facility
- bank/credit union
- bar/dance club
- billiard/arcade room
- brewpub
- cellular phone/pager services
- coin laundry
- community center
- computer sales
- convenience store (without gas)
- day-care center, adult
- day-care center, child
- department store
- drug store
- dry-cleaning service
- fitness center/gym
- fitness training studio
- hardware store
- home electronics/appliance sales
- hotel/motel
- license branch
- liquor/tobacco sales
- lodge
- medical care, immediate
- office supply sales
- park
- pawn shop
- pet grooming
- pet store
- radio/TV station
- recreation center
- research center
- school, preschool
- school, primary/secondary
- school, trade or business
- tattoo/piercing parlor
- theater, indoor
- transportation terminal
- utility substation and transmission facility
- veterinarian clinic

Conditional Uses:
(a) as listed in Section 20.02.390; and
(b) Business, Standardized (see Section 20.05.0331 for additional Conditional Use standards).

SECTION 6. A new Section 20.05.0331 shall be created, added to the Table of Contents for this Chapter, and shall read as described below.

20.05.0331 CU-12 [Conditional Use; Business, Standardized]

This Conditional Use Standards section applies to the following zoning districts:
[CD] (CSO and UVO districts only)

a. The proposed use shall be designed and constructed in a style that visually complements its surroundings, especially the existing buildings on both sides of the same block the business is to be located, as well as the character of the particular overlay district. Visual complementation shall include, but may not be limited to: architecture, scale, facade, and signage. If the use is proposed for a site which contains an existing building of special historical, cultural, or architectural significance, with or without official historic designation, the proposed use shall seek to preserve and reuse as much of the existing building as possible, particularly the building's facade. Visual complementation may also include interior décor. Elements of interior décor such as displays of public art, photos or memorabilia of Bloomington or Indiana University, may be considered, but should not be viewed as sufficient to meet this criterion.

SECTION 7. Section 20.11.020, entitled "Defined Words", shall be amended by adding the newly created Land Use "Business, Standardized" and said newly created word shall be defined as follows:

"**Business, Standardized:** Any type of commercial business establishment, not including commercial businesses located in such a manner as to be devoid of any building frontage which is visible to a street, located in the Courthouse Square Overlay and University Village Overlays, which are required by contractual or other arrangement or affiliation to offer or maintain standardized services, merchandise, menus, employee uniforms, trademarks, logos, signs, or exterior design.

SECTION 8. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application 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 9. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, with approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 11th day June, 2014.

DARRYL NEHER, 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 12th day of June, 2014.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 12th day of June, 2014.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends proposed changes to Title 20 (Unified Development Ordinance) brought forward from the Plan Commission on March 21, 2014 at the request of the Common Council with adoption of Res 14-03. It creates a process whereby uses defined as 'Standardized Businesses' are required to obtain Conditional Use approval in order to locate in two downtown overlay districts. These districts are the Courthouse Square Overlay (CSO) and the University Village Overlay (UVO). The amendments to the Plan Commission proposal, first, narrow the special conditional use criteria to whether the petitioner's project visually complements the immediate surroundings as well as the character of the particular overlay district and, second, broaden the regulated uses from standardized restaurants to standardized businesses. These amendments are intended to focus upon, and comprehensively protect, the unique and eclectic visual character of these two overlay districts

In accordance with IC 36-7-4-607(b), if adopted, the legislation and an accompanying statement will be forwarded to the Plan Commission, which will have 45 days from that time to approve or reject that action of the Council. If the Plan Commission disapproves the action of the Common Council within said 45 days, then the legislation stands only if the Common Council confirms its action by another vote within 45 days after certification of Plan Commission disapproval.

Note: The Common Council passed Ord 14-05 with 4 amendments: Am 01 both broadened the reach and narrowed the focus of this regulation; Am 02 inserted a Title, Whereas clauses, and a synopsis which, together, provided a history and rationale for this legislation; Am 03 added a whereas clause regarding possible designation of the Courthouse Square Overlay as a historic district; and, Am 04 revised the definition of "standardized business" to exclude businesses "devoid of any building frontage which is visible to a street" from the definition.

Signed copies to:
- Legal
- Controller
- Planning
- ED + Sust.

OA/CA
Clerk (2)
BMC (2)

Chamber of Commerce