

**ORDINANCE 21-20**  
**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)**  
**OF THE BLOOMINGTON MUNICIPAL CODE –**  
**Re: Corrections Set Forth in BMC 20.06**

WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and

WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”); and

WHEREAS, on December 18, 2019 the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and

WHEREAS, on January 14, 2020 the Mayor signed and approved Ordinance 19-24; and

WHEREAS, on April 15, 2020, the Common Council passed Ordinance 20-06 and Ordinance 20-07; and

WHEREAS, on April 18, 2020, the Unified Development Ordinance became effective; and

WHEREAS, the Plan Commission certified this proposed ordinance to the Common Council with a favorable recommendation on April 5, 2021, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council have paid reasonable regard to:

- 1) the Comprehensive Plan;
- 2) current conditions and character of current structures and uses in each district;
- 3) the most desirable use for which land in each district is adapted;
- 4) the conservation of property values throughout the jurisdiction; and
- 5) responsible development and growth; and

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

SECTION I. Title 20, entitled “Unified Development Ordinance”, is amended.

SECTION II. An amended Title 20, entitled “Unified Development Ordinance”, including other materials that are incorporated therein by reference, is hereby adopted. Said replacement ordinance consists of the following documents which are attached hereto and incorporated herein:

1. The Proposal forwarded to the Common Council by the Plan Commission with a favorable recommendation, consisting of:
  - (A) ZO-06-21, (“Attachment A”)
2. Any Council amendments thereto (“Attachment B”)

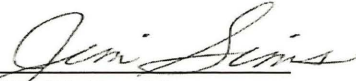
SECTION III. The Clerk of the City is hereby authorized and directed to oversee the process of consolidating all of the documents referenced in Section II into a single text document for codification.

SECTION IV. 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 V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

SECTION VI. The Clerk of the City is directed to enter the effective date of the ordinance wherever it appears in the body of the ordinance.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21 day of April, 2021.

  
JIM SIMS, President  
Bloomington Common Council

ATTEST:



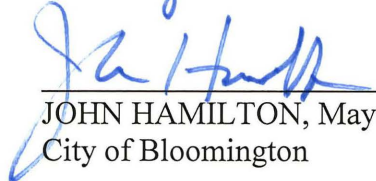
\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 22 day of April, 2021.



\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED AND APPROVED by me upon this 23<sup>rd</sup> day of April, 2021.

  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

This petition clarifies and amends regulations in the new UDO related to Administration and Procedures of the UDO

Distributed to Clerk, Council Attorney, Legal, Mayor, and Planning and Transportation Department.

\*\*\*\*ORDINANCE CERTIFICATION\*\*\*\*

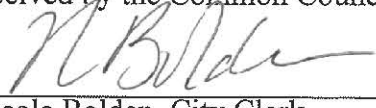
In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 21-20 is a true and complete copy of Plan Commission Case Number ZO-06-21 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 22, 2021.



Date: April 5, 2021

\_\_\_\_\_  
Scott Robinson, Secretary  
Plan Commission

Received by the Common Council Office this 5th day of April, 2021.



\_\_\_\_\_  
Nicole Bolden, City Clerk

Appropriation Ordinance # _____	Fiscal Impact Statement Ordinance # _____	Resolution # _____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

Fund(s) Affected _____		
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/- )	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

\_\_\_\_\_  
Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes \_\_\_\_\_ No XX

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

Approval of case ZO-06-21 amends Chapter 6 of the 2020 Unified Development Ordinance (UDO), by adding, removing, and editing existing text to clarify and amend standards, by the Bloomington Plan Commission. This ordinance is in accordance with Indiana Code 36-7-4-600.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

## ZO-06-21 Red-Line Amendments with Plan Commission Amendments

9. Projects that qualify for affordable housing incentives and/or sustainable development incentives established in Section 20.04.110 (Incentives), provided that, if located adjacent to one or more lots in an R1, R2, R3, or R4 district or such project does not contain more than 50 dwelling units.

### ii. Major Site Plan Review

Major site plan approval is required for any project that meets or exceeds the following criteria, unless otherwise exempted from site plan review under Section 20.06.050(a)(2)(B):

1. Development located within 500 feet, measured radially, from the centerline of State Road 37;
2. Development that contains more than 15,000 square feet of gross floor area;
3. Development that contains more than 5030 dwelling units;
- ~~4. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by more than 10,000 square feet or more than 25 percent, whichever is less;~~
- ~~5. Expansions, alterations, or modifications that increase the total number of existing dwelling units on a lot by 10 percent or more;~~
- ~~6.4.~~ Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in paragraphs (2), (3), (4), or (5) above;
- ~~7.5.~~ Projects that qualify for affordable housing or sustainable development incentives on parcels located adjacent to one or more lots in an R1, R2, R3, or R4 district that contain more than 50 dwelling units;
- ~~8.6.~~ Any minor site plan determined by the Planning and Transportation Director to require major site plan review due to unusual size, complexity, or the creation of potential significant unanticipated impacts on the city or surrounding neighborhoods; or
- ~~9.7.~~ Any project that would individually qualify for minor site plan review but that, when considered collectively with prior minor site plan approvals for adjacent lots or sites under common or related ownership within the last three years, would have required major site plan review, if the Planning and Transportation Director concludes that the combined impact of any such adjacent projects creates impacts similar to those requiring major site plan review.

### (3) Minor Site Plan Review Process

Figure 06.05-1 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to that apply to minor site plan review. Additions or modifications to the common review procedures are noted below.

#### i. Duration

1. Grading permits shall be valid for a period of 180 days, as measured from the date on the certificate of zoning compliance or run concurrently with the building permit or other construction authorizations, whichever is longer.
2. At the written request of the petitioner, the city may extend the period one or more times for up to a maximum of an additional 180 days. The city may require additional erosion control measures as a condition of the extension if they are necessary to meet the requirements of this UDO.

#### ii. Changes or Amendments

1. The petitioner may submit revisions or amendments to an approved grading permit for consideration by the local, state, and federal authorities having jurisdiction. A revision or amendment to an approved grading permit shall only be authorized upon review and approval by all the local, state, and federal authorities having jurisdiction.
2. Changes to the grading permit shall be approved in writing.

#### iii. Financial Bond Required

1. In conjunction with the approval of grading permit, the petitioner shall provide a financial guarantee for erosion control measures, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the City, that all erosion control measures required under the provisions of this UDO and Planning and Transportation Department requirements shall be completed.

2. If the City draws on the erosion control bond to stabilize and reestablish the site, either the erosion control estimate prepared by the licensed engineer or the documented actual dollar per acre amount for reestablishment of the site, whichever is greater, shall be used.

2.3. [The posting of a performance guarantee is not required when the petitioner is the City of Bloomington.](#)

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## (f) Certificate of Zoning Compliance

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### (1) Purpose

The Certificate of Zoning Compliance procedure is intended to provide a mechanism for City staff to ensure that the establishment of and alterations to uses, sites, and structures conform to the standards of this UDO.

### (2) Applicability

#### (A) Generally

- i. A Certificate of Zoning Compliance shall be required for any of the following activities:
  1. Alteration, erection, construction, reconstruction, division, enlargement, demolition, partial demolition or moving of any building, structure, sign, or mobile home;
  2. Establishment of a use or change in use to another use (see Section 20.06.090(c)(2) (Change in Use)\_\_\_\_\_

### iii. Financial Bond Required

#### 1. Purpose

In conjunction with the approval of a secondary plat, the petitioner shall be required to provide a financial performance guarantee, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the city, that all public facility improvements and installations required under the provisions of this UDO and Planning and Transportation Department requirements shall be completed.

#### 2. Applicability

[a] A performance agreement between the petitioner and the city, supported by a performance surety or irrevocable letter of credit, shall be required ensuring the timely and proper installation of required public facility improvements; provided, however, that any improvements to be dedicated to Monroe County within the City of Bloomington shall be bonded in accordance with Monroe County bonding policy.

[b] The performance guarantee for each individual public facility improvement or installation may be handled separately and shall in no way be contingent on the completion of any other individual public facility improvements and installations or their performance guarantees.

[c] The posting of a performance guarantee may be accepted for incomplete requirements that will be completed as per a written agreement with the city. The time period and amount of the performance guarantee shall be determined by the Board of Public Works and shall comply with Indiana Code § 36-7-4-709(i).

~~[e]~~[d] The posting of a performance guarantee is not required when the petitioner is the City of Bloomington.

#### 3. Review

The City Planning and Transportation Department shall review the estimate upon receipt of a complete petition and supportive documents. The City Planning and Transportation Department shall verify that the performance bond or letter of credit shall:

[a] Be in a sum of not less than one hundred twenty-five percent of the approved estimate of the total improvement construction cost of the project in order to be sufficient to complete the improvements and installations in compliance with this UDO and City Planning and Transportation Department requirements;

[b] Provide bond satisfactory to the city or to the county;

[c] Run to and be in favor of the city or the county;

[d] Specify the time for the completion of the improvements and installations (both on site and off site);

## ZO-06-21 Red-Line Amendments with Plan Commission Amendments

5. The building permit application was filed prior to the effective date of this UDO, unless otherwise provided by Section 20.01.040(b) (Effect of Change in the Law after Filing of Complete ).
  - ii. In the event that said application or permit expires or is suspended or revoked as provided in the Bloomington Municipal Code or other applicable regulation of the city or Monroe County, any new permit application may be subject to the regulations in this UDO, subject to Section 20.01.040(b) (Effect of Change in the Law after Filing of Complete ).

### (D) **Abandonment of Residential Occupancy**

Where such a use is classified as a lawful nonconforming use under this Section 20.06.090(c)(4), the use shall not be subject to termination through cessation or abandonment except when the right to continue such a lawful nonconforming use is terminated by the owner's execution and proper recording in the chain of title, in a form acceptable to city staff, of an express, voluntary, permanent, and irrevocable waiver and relinquishment of such right.

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### (d) **Nonconforming Structures**

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#### (1) **Authority to Continue**

A lawfully nonconforming structure may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required as set forth in Section 20.06.090(f)(2) and the following provisions. No increase in the degree of nonconformity with any development standard is permitted except as expressly provided herein.

#### (2) **Nonconforming Structures in Regulated Floodplains**

##### (A) **Changes to Structures**

Any structure or use located in a regulated floodplain shall be governed by the general regulations of this Section 20.06.090 to the extent that nonconformance is related to requirements other than those governing regulated floodplains. To the extent that nonconformance is related to the regulations of the regulated floodplains, modifications to a lawful nonconforming structure are allowed ~~only on a one-time basis and only~~ where:

i. A permit is issued by the Department of Natural Resources for such modifications; and

ii.

## ZO-06-21 Red-Line Amendments with Plan Commission Amendments

~~ii. Such modifications may not increase the value of the structure, excluding the value of land, by more than 40 percent of its pre-improvement market value unless such structure is brought into compliance. If the addition, in combination with all other additions to the abode or residence that have been constructed since the abode or residence was originally built, would increase the market value of the abode or residence to an amount more than fifty percent (50%) greater than: (1) the market value of the abode or residence if no additions have been constructed since the abode or residence was originally built; or (2) the approximate market value the abode or residence would have in the form in which the abode or residence was originally built if at least one (1) addition has already been constructed. (d) For the purposes of subsection (c), the market value of an abode or a residence does not include the value of the land on which the abode or residence is built.~~

### **(B) Replacement of Structures**

A lawful nonconforming structure or any structure which contains a lawful nonconforming use which has been partly or completely destroyed or removed by accidental cause, including Acts of God, may be replaced, provided the elevation of the lowest floor, including the basement floor, must be at least two feet above the regulatory flood elevation; all necessary permits must be obtained from the Department of Natural Resources and all other applicable requirements of state law are met; and that application for a building permit must be made within six months of the date of destruction or removal.

### **(3) Restoration and Repairs**

A lawful nonconforming structure, or a structure containing a lawful nonconforming use, may be restored when the conditions of this Section 20.06.090 have been met regardless of other regulations in this UDO. Replacement, restoration, and repairs shall conform to building code and other applicable regulations set forth by the Bloomington Municipal Code.

### **(4) Structure Damaged or Destroyed**

- (A) A lawful nonconforming structure or a structure which contains or is associated with a lawful nonconforming use, which has been partly or completely destroyed or removed by accidental cause, including Acts of God, may be replaced, provided the owner or agent makes application for a building permit within six months of the date of destruction or removal.
- (B) The replacement structure shall be placed on the footprint of the old structure, may not be higher than the old structure, and shall be substantially the same architecture and constructed of similar materials, unless any deviation would bring the structure or use into or closer to compliance with the regulations of this UDO, to the extent possible and to the extent permitted by building code or other applicable regulation.

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### **(e) Nonconforming Lots**

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A lawfully nonconforming lot may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required as established in Section 20.06.090 (Nonconformities).