

*Passed 7-2
Volau, Netherabsect*

ORDINANCE 15-26

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE**

**Re: Amending 20.05.020 ("CF-01 [Communication Facility- General]") and
20.09.320 ("Surety standards – Performance surety") to Reflect Changes in State Law;
Revising the Definition of "Fraternity/Sorority House," and Correcting Minor Errors**

WHEREAS, During the 2015 legislative cycle the Indiana General Assembly created a new Chapter in the Indiana Code, Chapter §8-1-32.3, entitled "Permits for Wireless Services Providers", which requires the City to modify certain provisions within the Unified Development Ordinance in order for said Ordinance to comply with this new Indiana Code Chapter; and

WHEREAS, During the 2015 legislative cycle the Indiana General Assembly made changes to how and when local units of government can require performance bonds for development projects, said changes occurring in Ind. Code §36-7-4-709; as a result, the Unified Development Ordinance must be amended to comply with these new Indiana Code requirements; and

WHEREAS, During a review of the Unified Development Ordinance, City staff noticed that the definition of "fraternity/sorority" does not require that the structure be occupied by students enrolled at the Bloomington campus of Indiana University or that the University recognize the structure as a legitimate fraternity; and

WHEREAS, During a review of the Unified Development Ordinance City staff noted that references to the City of Bloomington Survey of Historic Sites and Structures is referred to by numerous different terms and phrases instead of using the term as denoted by the Definition Chapter of the Ordinance; and

WHEREAS, On November 9, 2015, the Plan Commission considered this case, ZO-27-15, and made a positive recommendation in favor of the package of amendments to the UDO, as described herein;

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

SECTION 1. Section 20.03.010, entitled "Courthouse Square Overlay (CSO)-District Intent", shall be amended by deleting the number "2001".

SECTION 2. Whenever the phrase "Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report" is referenced in the subsections below, the same shall be renamed to read "City of Bloomington Survey of Historic Sites and Structures":

Subsection 20.03.060(a)(2);
Subsection 20.03.060(c)(2);
Subsection 20.03.130(a)(2);
Subsection 20.03.130(c)(2);
Subsection 20.03.200(a)(2);
Subsection 20.03.200(c)(2);
Subsection 20.03.270(a)(2);
Subsection 20.03.270(c)(2);
Subsection 20.03.340(a)(2);
Subsection 20.03.340(c)(2);
Subsection 20.03.410(a)(2); and
Subsection 20.03.410(c)(2).

SECTION 3. Section 20.05.020, entitled "CF-01 (Communication Facility-General)", shall be deleted in its entirety and replaced with the following:

20.05.020 CF-01 (Communication Facility – General)

Purpose. The purpose of these standards is to provide sensible and reasonable development standards for the provision of reliable public and private telecommunication service; and whereas, there is a need to maximize the use of any communication transmission towers in order to reduce the total number of towers needed to serve the communications needs of the area; and whereas, there is a need to minimize the adverse, undesirable visual effects of such communication towers and to provide for the reasonable location of such towers in the city.

This communication facility standards section applies to the following zoning districts:



All communication facilities must comply with the following provisions:

- (a) Eligible Applicants: Must comply with the standards of Ind. Code § 8-1-32.3-19.
- (b) Application Requirements and Review: Must comply with the standards of Ind. Code § 8-1-32.3-20.
- (c) Construction Requirements: All antennas, communication towers, accessory structures and any other wiring shall comply with the following requirements:
 - (1) All applicable provisions of this title and of the Indiana Building Code, as amended, and the Federal Communications Commission (FCC) when applicable.
 - (2) All communication towers and communication equipment shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the International Building Code, as amended, and the Electronics Industry Association.
 - (3) With the exception of necessary electric and telephone service and connection lines approved by the board of zoning appeals, no part of any communication equipment or communication tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, trail, or property line without appropriate approval in writing.
 - (4) All communication towers and communication equipment shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.
 - (5) All communication towers and communication equipment shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).
 - (6) All communication towers and communication equipment shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.
 - (7) An engineer's certification shall be submitted for all communication towers and all other communication equipment to document and verify the design specifications, including, but not limited to, the foundation for all towers, anchors for all guy wires (if used), the location of all collocation sites, and strength requirements to withstand natural forces such as ice, wind, and earth movements.
- (d) Existing Structures: Modification of existing antennas, communication towers and communication equipment shall comply with Ind. Code §8-1-32.3-21.
- (e) Abandoned Towers: Any tower unused or left abandoned for six months shall be removed by the tower owner at the owner's expense. Should the communication tower owner fail to remove the tower after thirty days from the date a notice of violation is issued, the city may remove the tower and bill the owner for the costs of removal and cleanup of the site.

SECTION 4. Subsection 20.09.220(b)(5) shall be amended by deleting the words "Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report adopted on October 17, 2002, by the Bloomington Historic Preservation Commission (hereinafter "HPC") as the same may be hereafter amended or replaced (hereinafter "Historic Survey")" and replacing them with the following: "City of Bloomington Survey of Historic Sites and Structures".

SECTION 5. Subsection 20.09.230(b) shall be amended by deleting the words "historic survey" and replacing them with the following: "City of Bloomington Survey of Historic Sites and Structures".

SECTION 6. Subsection 20.09.320(a) shall be amended by deleting the phrase "Prior to or at the time of approval" and replacing it with the phrase "In conjunction with the approval of a Final Plat".

SECTION 7. Subsection 20.09.320(b)(3) shall be amended by adding the phrase "and shall comply with Ind. Code §36-7-4-709(i)" at the end of the subsection.

SECTION 8. Subsection 20.09.320(c)(1)(E) shall be amended by adding the phrase ", but in no situation shall the performance bond or letter of credit be permitted to have an effective period greater than three (3) years" at the end of the first sentence within the subsection.

SECTION 9. Subsection 20.09.320(d)(2) shall be amended by deleting the phrase "two additional years" and replacing it with the phrase "one additional year"; and be further amended by adding the phrase ", but in no situation shall an extension of a performance bond or letter of credit be permitted to have an effective period greater than three (3) years" at the end of the subsection.

SECTION 10. Subsection 20.09.320(e)(1) shall be deleted in its entirety and replaced with the following:

- "(e) Changes or Amendments.
 - (1) Performance Surety Reductions. Annual partial releases of performance sureties held by the City shall be approved by the City Planning and Transportation Department in accordance with a partial release schedule agreed to in a signed written document, said document being signed by the Director of the Planning and Transportation Department, or his or her designee, and the developer, or his or her designee."

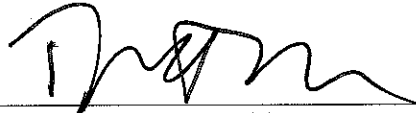
SECTION 11. Section 20.11.020, entitled "Defined Words", shall be amended by deleting the term "Fraternity/Sorority House" and replacing it with the following:

"Fraternity/Sorority House" means a building or portion thereof used for sleeping accommodations, with or without accessory common rooms and cooking and eating facilities, for groups of unmarried students who meet the following requirements: all students living in the building are enrolled at the Indiana University Bloomington campus; and Indiana University has sanctioned or recognized the students living in the building as being members of a fraternity or sorority through whatever procedures Indiana University uses to render such a sanction or recognition. Shall also include a building or portion thereof in which individual rooms or apartments are leased to individuals, but occupancy is limited to members of a specific fraternity or sorority, regardless of the ownership of the building or the means by which occupancy is so limited, provided the two requirements noted in the first sentence of this definition are also met.

SECTION 12. 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 13. 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 by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 16th day of December, 2015.



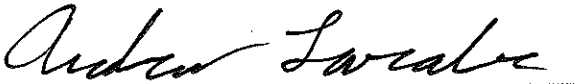
DAVE ROLLO, President
Bloomington Common Council

ATTEST:



~~REGINA MOORE, Clerk~~ Andrew Larabee, Deputy Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of December, 2015.



~~REGINA MOORE, Clerk~~ Andrew Larabee, Deputy Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 18th day of DECEMBER, 2015.



MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 20 of the Bloomington Municipal Code (the Unified Development Ordinance) in four key ways. First, it brings the Title into compliance with the newly-created Indiana Code Chapter §8-1-32.3, which governs permits for wireless service providers and providers' ability to erect, alter, and maintain wireless communication towers. Second, it updates the Title to reflect changes in the Indiana Code prescribing requirements for some bonds. Third, it updates the definition of "fraternity/sorority house" to make it clear that any such house is defined as one that only permits Indiana University, Bloomington students and is officially recognized by the University. Fourth, it amends the Title such that all references to the *City of Bloomington Survey of Historic Sites and Structures* are consistent.

Signed copies to:
contractor
legal
planning dept.

BMC
clerk

Historic Preservation