

**ORDINANCE 18-01**

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

**Re: Sidewalk Requirements and Sidewalk Variances Set Forth in  
BMC 20.05.010, 20.05.051, 20.09.130, 2.09.135 & 20.11.020**

- WHEREAS, Ordinance 06-24, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled, “Zoning”, including the incorporated zoning maps, and incorporated Title 19 of the Bloomington Municipal Code, entitled “Subdivisions”, went into effect on February 12, 2007; and
- WHEREAS, the Unified Development Ordinance (“UDO”) regulates development and architectural standards within the City of Bloomington; and
- WHEREAS, the UDO contains regulations in which sidewalk construction is a mandatory part of an approval; and
- WHEREAS, the Planning and Transportation Department has found that the current regulations are not generating a meaningful contribution to the sidewalk network in the City; and
- WHEREAS, the Planning and Transportation Department has found that the current regulations are creating a hindrance to single-family infill development in existing residential neighborhoods; and
- WHEREAS, the Planning and Transportation Department has found that the current regulations related to Home Occupations are not rationally related to the intensity of the permit requests; and
- WHEREAS, the City of Bloomington (“City”) wished to balance the desires to expand safe pedestrian facilities with realistic development goals for its residents; and
- WHEREAS, the Planning and Transportation Department proposes to amend the regulations; and
- WHEREAS, the Plan Commission considered this case, ZO-47-17 on January 8, 2018 and made a positive recommendation in favor of the amendment 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 20.05.010, entitled “AT-01 [Alternative Transportation; General],” shall be amended to add the following section below the *Purpose* section:

*The following Alternative Transportation standards apply to all site plans, as regulated by 20.09.120, with the exception of new single-family residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities, and additions to existing residential structures.*

SECTION 2. Section 20.05.051(c), entitled “HO-01 [Home Occupation, General],” shall be deleted and replaced with the following:

- (c) Site Plan Review:
  - (1) *Residential Districts*: An approved home occupation in a residential district shall be treated as a single family dwelling unit for purposes of Site Plan review.
  - (2) *Nonresidential Districts*: A home occupation in a nonresidential district that meets all of the standards of *Section 20.05.051* shall be treated as a single-family dwelling unit for purposes of Site Plan review.

SECTION 3. Section 20.09.130, entitled “Development Standards Variance,” shall be deleted and replaced with the following:

**20.09.130 Development Standards Variance**

(a) Intent: The purpose of *Section 20.09.130; Development Standards Variance* is:

- (1) To outline the process by which petitions for variances from the development standards of the Unified Development Ordinance are considered;
- (2) To provide a mechanism to approve those petitions that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the Unified Development Ordinance will result in practical difficulties, and so that the spirit of the Unified Development Ordinance shall be observed and substantial justice done.

(b) Applicability:

- (1) The Board of Zoning Appeals or Hearing Officer, in accordance with the procedures and standards set out in *Chapter 20.09: Processes, Permits and Fees*, may grant variances from the development standards applicable to the zoning district in which the subject property is located.
- (2) *Effect of Approval of Variances from the Development Standards*: The grant of variances from the development standards authorizes the development and establishes the terms of use. Variances from development standards are also subject to Site Plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.

(c) Exceptions:

- (1) *Subdivision Control*: It is not within the jurisdiction of the Board of Zoning Appeals or Hearing Officer to grant Development Standards Variances of *Chapter 20.06: Subdivision Types* or *Chapter 20.07: Design Standards*.

(d) Application: Refer to application requirements found at *Section 20.09.030: Applications - General*.

(e) Findings of Fact: Pursuant to IC 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
- (2) The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner; and
- (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.

(f) Determinate Sidewalk Variance Considerations: While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

- (1) That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or
- (2) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or
- (3) The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or

- (4) The location of the lot or tract is such that a complete pedestrian network is present on the other of the street on the same block; or
- (5) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

(g) Commitment for Determinate Sidewalk Variance: Upon approval of a determinate sidewalk variance, the Planning and Transportation Department staff shall prepare a Zoning Commitment pursuant to *20.09.110 Commitments - Variance and Conditional Use* indicating that the determinate sidewalk variance was approved and that future installation of sidewalk may be required. The petitioner shall record the Zoning Commitment in the Monroe County Recorder's Office before a Certificate of Zoning Compliance is issued.

(h) Signature: The findings of fact shall be signed by the Chair of the Board of Zoning Appeals or the Hearing Officer.

(i) Notification: The staff shall furnish the petitioner with a copy of the decision of the Board of Zoning Appeals or Hearing Officer.

(j) Duration:

- (1) Unless otherwise specified at the time of approval, any Development Standards Variance granted by the Board of Zoning Appeals or Hearing Officer shall expire:
  - (A) In cases where new construction or modifications to an existing structure are required, three (3) years after the date that the Development Standards Variance was granted, unless a Building Permit has been obtained and construction of the structure or structures has commenced; or
  - (B) In cases where new construction or modifications to an existing structure are not required, three (3) years after the date that the Development Standards Variance was granted, unless a Certificate of Occupancy has been obtained and the use commenced; or
  - (C) At the date of termination as established by the Board of Zoning Appeals or Hearing Officer as a condition or commitment if different from Subdivision 20.09.130(j)(1)(A) or Subdivision 20.09.130(j)(1)(B) above.
- (2) If an appeal by writ of certiorari is taken from an order granting a Development Standards Variance, the time during which such appeal is pending shall not be counted in determining whether the Development Standards Variance has expired under Subdivision 20.09.130(j)(1)(A), Subdivision 20.09.130(j)(1)(B), or Subdivision 20.09.130(j)(1)(C) above.

SECTION 4. Section 20.09.135, entitled "Sidewalk and Determinate Sidewalk Variances," shall be deleted.

SECTION 5. Section 20.11.020, entitled "Defined Words" shall be amended to include the following:

Variance, Determinate Sidewalk: A temporary variance from sidewalk construction requirements that may be rescinded by the City at any time if there is a change to the characteristics or context that justified the variance related to the property or surroundings.


SECTION 6. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance 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 7. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and in accordance with I.C. §36-7-4-607.


PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 7<sup>th</sup> day of March, 2018.

  
DOROTHY GRANGER, President  
Bloomington Common Council

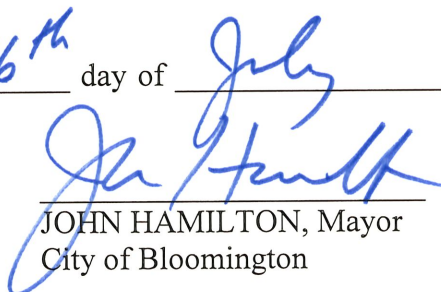
ATTEST:

  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this ~~8<sup>th</sup>~~ day of ~~March~~, 2018.  
13<sup>th</sup> July SL

  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this 16<sup>th</sup> day of July, 2018.

  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance amends the Unified Development Ordinance, Title 20. These changes amend which projects require sidewalk construction and change the variance criteria used to evaluate sidewalk and determinate sidewalk variance petitions used by the Board of Zoning Appeals.

*Note: On March 7, 2018, the Council amended this ordinance by passage of Am 03, which changed Section 1.*

*Pursuant to IC §36-7-4-607, the amendment must be returned to the Plan Commission for its response before this ordinance may go into effect.*

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

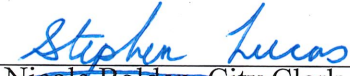
In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 18-01 is a true and complete copy of Plan Commission Case Number ZO-47-17 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on January 8, 2018.

Date: January 16, 2018



Terri Porter, Secretary  
Plan Commission

Received by the Common Council Office this 18<sup>th</sup> day of January, 2018.



~~Nicole Bolden, City Clerk~~

Stephen Lucas, Chief Deputy 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
Zoning Change	Investments	Change
New Fees	Annexation	Short-Term Borrowing
		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 \_\_\_\_\_

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

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.)