

ORDINANCE 21-11

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
“ADMINISTRATION AND PERSONNEL” –**

Re: Updating and Harmonizing Portions of Title 2 of the Municipal Code

WHEREAS, a review of Title 2 of the Bloomington Municipal Code (“BMC”) indicates that there are several sections that require maintenance, and a review of such has determined that multiple chapters should be updated and amended; and

WHEREAS, several changes to state law and local practice warrant an update to Title 2 to reflect current and best practices; and

WHEREAS, the Council wishes to amend portions of Title 2 to these ends;

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

SECTION I. Section 2.09.030 of the BMC, entitled “Duties” under the Chapter establishing the Board of Public Works, shall be amended to replace the words “transportation and traffic engineering services division of the planning and transportation department” with the words “engineering department”.

SECTION II. Section 2.12.060 of the BMC, entitled “Bloomington telecommunications council” shall be deleted in its entirety, without replacement.

SECTION III. Section 2.12.070 of the BMC, entitled “Traffic commission,” shall be amended so that the words “transportation and traffic engineer” in subsection (2) are replaced with the words “director of engineering”.

SECTION IV. Section 2.12.110, entitled “Parking commission”, shall be amended as follows:

Subsection (b) shall be amended by adding the following sentences to the end of the subsection: “Each appointing authority may also appoint a standing alternate for each of its appointees and such alternate may participate with the commission at any meeting where the regular member is disqualified or is otherwise unable to participate. All alternate members appointed hereunder shall meet all qualification requirements of the regular member for whom they serve as alternate.”

Subsection (c)(5) shall be amended by deleting the words “transportation and traffic services division of the planning and transportation department” and replacing them with the words “planning and transportation department, engineering department, or department of public works.”

Subsection (f) shall be amended to delete the words “the transportation and traffic services division of” without replacement.

SECTION V. Section 2.13.010, entitled “Appointment and qualifications”, shall be amended by replacing the words “parks and recreation board” with the words “board of park commissioners” and by deleting subsection (6). Subsequent subsections shall be renumbered accordingly. The first portion of Section 2.13.010 shall be amended so that the word “twelve” is changed to the word “ten.” The first portion of Section 2.13.010 shall read, in its entirety:

“The commission shall consist of ten members who by statute shall be appointed in the following manner:”

SECTION VI. Section 2.13.020, entitled “Terms”, shall be amended to replace the words “parks and recreation board” with the words “board of park commissioners” and to delete the sentence reading: “The initial terms of the Monroe County commissioners' appointments shall be for one year and four years, terminating on the first Monday in January of the second and fifth year.”.

SECTION VII. Section 2.19.010, entitled “Appointment of Director”, shall be amended to add the word “department” after the words “neighborhood development” and to replace the words “director of redevelopment” with the words “director of the housing and neighborhood development department” so that the section reads as follows:

“The housing and neighborhood development department shall be administered by the director of the housing and neighborhood development department who is appointed by the mayor, with the approval of the redevelopment commission, and who shall serve at the pleasure of the mayor.”

SECTION VIII. Section 2.19.030 of the BMC, entitled “Neighborhood development division,” shall be amended to delete the words “be administered by the neighborhood development manager who reports to the director of the housing and neighborhood development. The division shall” so that the section reads as follows:

“The neighborhood development division shall enforce property maintenance codes applicable within the city. The division also shall assist other city departments with enforcement of city code complaints. All money received by the city for the payment of fines, penalties and reimbursement of services related to and resulting from neighborhood development division activity shall be placed in the unsafe building fund, as established by Indiana Code Section 36-7-9-1 to-28 and Bloomington Municipal Code Chapter 17.16.”

SECTION IX. Section 2.19.040 of the BMC, entitled “Board of Housing Quality Appeals,” shall be amended as follows:

Subsection (1), entitled “Purpose”, shall be amended to delete the words “owner or” in the first sentence, to replace the word “aggrieved” with the words “the subject of, or directly impacted” in the first sentence, to add the words “Title 16 of the Bloomington Municipal Code, hereinafter referred to as” after the words “the provisions of” in the first sentence, to place quotation marks around the words “property maintenance code” in the first sentence, to replace the word “complaint” with the word “appeal” in the second sentence, and to replace the word “manager” with the word “division” in the second sentence. As amended, subsection (1) shall read as follows:

(1) Purpose. The purpose of this board is to hear the appeal of any person who is the subject of, or directly impacted by, a ruling or decision of the enforcing officer or any administration official, in any matter relative to the interpretation or enforcement of any of the provisions of Title 16 of the Bloomington Municipal Code, hereinafter referred to as the “property maintenance code” of the city. The board is authorized to make investigations relative to the appeal and may overrule the decisions of any administrative officer including the neighborhood development division.

Subsection (4), entitled "Rules of Procedure", shall be amended to replace the words "housing quality appeals board" with the words "board of housing quality appeals", to replace the words "an exception" with the words "a variance", to add the words "property maintenance" before the word "code", and to replace the words "the exception" with the words "the variance." As amended, subsection (4) shall read as follows:

(4) Rules of Procedure. The board of housing quality appeals shall establish its own rules of operating procedure which may be amended from time to time by a majority of the membership; provided, however, that a petitioner seeking a variance from the property maintenance code shall always be required to make a showing that the variance requested shall not harm the safety, health, or welfare of the occupants as well as provide a reasonable explanation of why the variance is needed.

Subsection (5), entitled "Powers and Duties", shall be amended to delete the words "and review" from subpart (a), to delete the words "or board" from subpart (a), to replace the word "exceptions" with the word "variances" in subpart (b), to replace the words "decide special exceptions" with the words "authorize variances" in subpart (c), to replace the words "housing quality appeals board" with the words "board of housing quality appeals" in subpart (d), and to delete the words "or board" in subpart (d). As amended, subsection (5) shall read as follows:

(5) Powers and Duties. The powers and duties of the board of housing quality appeals shall be to:

(a) Hear and determine appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of any regulation or restrictions set forth in the property maintenance code;

(b) Permit and authorize variances in particular situations specified in the property maintenance code;

(c) Hear and authorize variances to the terms of the property maintenance code upon which the board is required to act under this section;

(d) In exercising its powers, the board of housing quality appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the officer from which the appeal is taken.

Subsection (6), entitled "Jurisdiction", shall be deleted in its entirety and replaced with the following:

(6) Jurisdiction. The board of housing quality appeals shall have jurisdiction to hear the appeal of any person directly affected by a decision, notice, or order of the director or an administrative officer of the housing and neighborhood development department related to the property maintenance code.

Subsection (7), entitled “Jurisdiction Granting Exceptions—Requirements”, shall be deleted in its entirety and replaced with the following:

(7) Granting Variances—Requirements. The board of housing quality appeals shall not grant any variance unless it first finds in each individual case that the following conditions are present:

(a) That the value of the property to which the variance is to apply will not be adversely affected;

(b) That the variance is consistent with the intent and purpose of the housing code and promotes public health, safety, and general welfare.

Subsection (8), entitled “Petitions,” shall be deleted in its entirety and replaced with the following:

(8) Appeals. A person may file an appeal with the board of housing quality appeals by submitting a written appeal to the board of housing quality appeals, accompanied by a filing fee of twenty dollars (\$20.00). The Appellant shall list the names of the occupants of the premises in the appeal.

Subsection (9), entitled “Board Action on Petition”, shall be amended to replace the word “Petition” to the word “Appeal” in the title, to replace the words “set a date for” with the word “schedule,” to delete the words “to be held within thirty days thereof. Notice of the public hearing shall be advertised at least ten days beforehand according to provisions in IC 5-3-1. The cost of advertising shall be borne by the petitioner”, and to replace the word “petitioner” with the word “appellant.” As amended subsection (9) shall read as follows:

(9) Board Action on Appeal. Within thirty days after the filing, the board shall investigate the petition and schedule a public hearing. Notice of the hearing shall be served at least ten days before the hearing date on the appellant, the person having possession of the premises and the owner of the premises, if the owner is not in possession. The occupants of the premises shall be allowed to participate in the public hearing.

Subsection (11), entitled “Notice of Decision” shall be amended to replace the word “board’s” with the words “board of housing quality appeals”, to replace the words “, determination, reasons for the decision, and recommendation” with the words “and decision”, to replace the word “petitioner” with the word “appellant”, to add the words “of housing quality appeals” after the words “the board”, and to replace the words “board and the neighborhood development manager” with the words “housing and neighborhood development department”. As amended, subsection (11) shall read as follows:

(11) Notice of Decision. A copy of the board of housing quality appeals’ written findings and decision shall be mailed to the person having possession of the premises, the owner of the premises, if the owner is not in possession, and the appellant, if a different party. In addition, the board of housing quality appeals shall make a detailed report of all its proceedings, setting forth its reasons, the vote of each member participating and the absence or abstention from voting of a member. Such record shall be open to public inspection in the offices of the housing and neighborhood development department

Subsection (12), entitled "Appeal from Board Decision", shall be deleted in its entirety and replaced as follows:

(12) Appeal from Board Decision. The written decision of the board of housing quality appeals constitutes a final administrative decision, and may be appealed to any court of competent jurisdiction.

SECTION X. Section 2.21.140 of the BMC, entitled "Hate crime statistics," shall be renumbered so that it is now Section 2.21.098 and the renumbered section shall be reflected in the table of contents for this chapter.

SECTION XI. Section 2.21.150 of the BMC, entitled "Complaints of housing status discrimination," shall be renumbered so that it is now Section 2.21.099 and the renumbered section shall be reflected in the table of contents for this chapter.

SECTION XII. Section 2.22.030 of the BMC, entitled "Employee policies," shall be amended as follows:

Subsections (2) through (6) shall be deleted and replaced by a new subsection (2) that shall read as follows:

"(2) Vacations, sick leave and sick bank, paid time off, and other paid benefit time.

(a) For union-eligible employees, vacation leave, sick leave and sick bank, paid time off, and all other paid benefit time shall be governed by the rules contained in each employee's applicable collective bargaining agreement, as supplemented by the rules contained in the City of Bloomington Personnel Manual.

(b) For non-union-eligible employees, vacation leave, sick leave and sick bank, paid time off, and all other paid benefit time shall be governed by the rules contained in the City of Bloomington Personnel Manual."

Subsection (7) shall be renumbered so that it is now subsection (3).

SECTION XIII. Section 2.24.040 of the BMC, entitled "Qualifications" shall be amended to delete the final sentence, which reads "No more than two thirds of the Board shall be of the same political party."

SECTION XIV. Section 2.28.080 of the BMC, entitled "Annual reporting," shall be deleted in its entirety without replacement.


SECTION XV. Section 2.34.020 of the BMC, entitled "Bargaining unit," shall be amended to replace the word "sergeant" with the word "chauffeur" and to replace the words "fireman first class" with "firefighter first class".

SECTION XVI. Chapter 2.52 of the BMC, entitled "Property Sales", shall be deleted in its entirety without replacement.

SECTION XVII. If any section, sentence, 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 XVIII. 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 by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 7 day of April, 2021.




JIM SIMS, President
Bloomington Common Council

ATTEST:



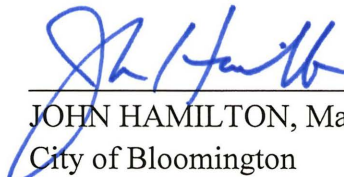
NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 9 day of April, 2021.



NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 14th day of April, 2021.



JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

Ordinance 21-11 makes several changes to Title 2 of the Bloomington Municipal Code to bring the Title into line with changed statutes, to clarify references, and to harmonize current practices and the City Code.

Note: At the April 7, 2021 Regular Session, the Council adopted Amendment 01, which added a provision to Section V of the ordinance to change the word "twelve" to "ten" in BMC 2.13.010.

Distributed to Clerk, Council Attorney, Housing and Neighborhood Development Department, Human Resources, Legal, and Mayor.