

ORDINANCE 2024-06
TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE –
Re: Amendments and Updates 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, on March 11, 2024, the Plan Commission voted to favorably recommend this amendment proposal to the Common Council, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, the Plan Commission certified this amendment proposal to the Common Council on March 21, 2024; 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;

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

SECTION I. Title 20 of the Bloomington Municipal Code, 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-07-24 (hereinafter “Attachment A”)
 - (B) 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.

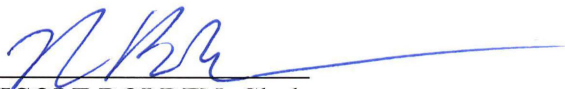
PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 10th day of April, 2024.


ISABEL PIEDMONT-SMITH, 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 06 day of June, 2024.


NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 6 day of June, 2024.


KERRY THOMSON, Mayor
City of Bloomington

SYNOPSIS

This petition contains amendments in Chapter 6 related to processes and procedures in the UDO. There are 17 amendments identified.

Distributed to: Clerk, Council Attorney, Engineering, Legal, Mayor, and Planning & Transportation.

******ORDINANCE CERTIFICATION******

In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 24-04 is a true and complete copy of Plan Commission Case Number ZO-05-24 which was given a recommendation of approval, as amended, by a vote of 7 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 11, 2024.

Date: March 21, 2024



 Jacqueline Scanlan, Secretary
 Plan Commission

Received by the Common Council Office this 21 day of March, 2024.



 Nicole Bolden, City Clerk

Appropriation Ordinance #	Fiscal Impact Statement Ordinance #	Resolution #
_____	_____	_____

Type of Legislation:

Appropriation Budget Transfer Salary Change	End of Program New Program Bonding	Penal Ordinance Grant Approval Administrative Change
Zoning Change New Fees	Investments 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 XX

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

Approval of case ZO-05-24 amends the Unified Development Ordinance (UDO), with amendments and updates to use-specific 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.)



**City of Bloomington
Office of the Common Council**

April 16, 2024

City of Bloomington Plan Commission
401 North Morton Street, Room 160
P.O. Box 100
Bloomington, IN 47402

Dear Plan Commissioners,

This letter is being written pursuant to I.C. 36-7-4-607(e), which requires the Council, in the event it amends a proposal to amend the text of the City's zoning ordinance, to return the proposal and the amendment(s) to the Plan Commission, with a statement of reasons for the amendment(s). On March 21, 2024, the Common Council received certification of the Plan Commission's action on proposals to amend certain provisions of the Unified Development Ordinance, which came forward as

- Ordinance 2024-04 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC Table of Contents and 20.04
- Ordinance 2024-05 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.02; 20.03; 20.05; 20.07
- Ordinance 2024-06 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.06

At a Regular Session on April 10, 2024, the Common Council approved of the ordinances listed above with amendments, all by a vote of 8-0. Attached to this correspondence are copies of the following records:

- Ordinance 2024-04, Ordinance 2024-05, and Ordinance 2024-06, all signed by the Council President;
- Attachment A to each of these ordinances, consisting of ZO-05-24, ZO-06-24, and ZO-07-24, the proposals forwarded to the Council by the Plan Commission;
- Attachment B to each of these ordinances, consisting of the relevant Council amendments to the proposals, which include a written statement of the reasons for the amendment.

The Council extends its deep appreciation for the work of the Plan Commissioners and staff on these items and is looking forward to your response to these proposed amendments. Please forward any questions to your staff and your attorney.

Sincerely,

Isabel Piedmont-Smith, President
Bloomington Common Council

****REPORT TO THE COMMON COUNCIL****

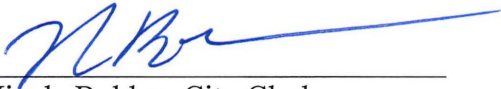
In accordance with Indiana Code 36-7-4-606(g), I hereby file this Report to the Common Council of the action of the Plan Commission in regard to Ordinance 24-06. Ordinance 24-06 amended regulations in the City's Unified Development Ordinance as amended by the Common Council and was accompanied by the amendments and a statement of reasons for those amendments. I certify that the Plan Commission considered the aforementioned materials via Case Number ZO-07-24 and approved the Unified Development Ordinance as amended by a 7-0 vote at a public meeting on May 13, 2024.

Date: June 5, 2024



David Hittle, Secretary
Plan Commission

Received by the Common Council Office this 5th day of June, 2024.



Nicole Bolden, City Clerk

Case # ZO-07-24 Memo

To: Bloomington Common Council
From: Jackie Scanlan, AICP Development Services Manager, Interim Director
Date: March 21, 2024
Re: Text Amendments to Unified Development Ordinance

The Plan Commission heard case #ZO-07-24 on March 11, 2024 and voted to send the petition to the Common Council with a positive recommendation with a vote of 7-0.

The Planning and Transportation Department proposes its annual update and amendment to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code.

The last UDO Update process was completed in the April of 2023, with the final text amendment Ordinance becoming effective in August 2023. That update was the end of 2023's annual update, with changes related to maximum parking and chicken flocks. This update is part of our regular maintenance of the code. Staff utilizes the UDO every day in our interactions with the public and other Departments, and has identified portions of the code that contain errors or that may benefit from amendment. No changes to proposed uses or zoning districts are included in this update.

The proposal is divided into four (4) petitions. One petition is discussed below and is this Ordinance 24-06.

1. ZO-07-24 | Chapter 6: Administration & Procedures

ZO-07-24 | Chapter 6: Administration & Procedures

This petition deals with processes and procedures. The amendments cover a variety of topics. There are amendments that attempt to make clearer the requirements for a limited compliance site plan and those that clarify when site plans expire. The amendments increase the pool of interested parties for petitions, and also clarify what waivers from the Transportation Plan can be requested in a subdivision. They also include clarifying the secondary platting process, as well as which bodies can approve minor modifications. There are 17 amendments identified. These amendments are needed to provide clarity on existing processes, and also to clarify which entities are exempt from permit and petition payments.

- (A) Primary plats;
- (B) Secondary plats;
- (C) Requests for vacation of plats or parts of plats.

(2) **Procedures**

The Plat Committee shall review and hear petitions pursuant to procedures adopted by the Plan Commission by rule.

20.06.030 Summary Table of Review Procedures

Table 06-1 lists the development petitions authorized by this UDO, whether public notice is required, whether pre-submittal activities are required, and the role of City review and decision-making bodies.

Table 06-1: Summary Table of Review Procedures

R = Review and Recommendation D = Decision A = Appeal * = Public Hearing Required

Procedure	UDO Section	Public Notice			Pre-Submittal Activities			Review and Decision-Making Bodies						
		Published	Mailed	Posted	Pre-Submittal Meeting	DRC Meeting	Neighborhood Meeting	Staff	Plan Commission	Plat Committee	Board of Zoning Appeals	Common Council	Hearing Officer	Historic Preservation Commission
Development Permits and Procedures														
Site Plan Review, Minor	20.06.050(a)				✓			D	A					
Site Plan Review, Major	20.06.050(a)	✓	✓	✓	✓	✓	✓	R	D*					
Conditional Use Permit	20.06.050(b)	✓	✓	✓	✓			R			D*/A		D*	
Demolition Delay Permit	20.06.050(c)			✓	✓			R						D
Floodplain Development Permit	20.06.050(d)							D						
Grading Permit	20.06.050(e)							D						
Certificate of Zoning Compliance	20.06.050(f)							D						
Certificate of Occupancy	20.06.050(g)							D						
Certificate of Final Acceptance	20.06.050(h)							D						
Certificate of Nonconforming Use	20.06.050(i)							D						
Sign Permit	20.06.050(j)							D						
Temporary Use Permit	20.06.050(k)							D						
Easements	20.06.050(l)	See 20.06.050(l) (Easements)												
Subdivision Procedures														
Primary Plat	20.06.060(b)	✓	✓	✓	✓	✓		R	D*/A	D*				
Secondary Plat	20.06.060(c)					✓		R / D	D/A	D				

- (B) The Planning and Transportation Director may waive certain submittal requirements in order to reduce the burden on the petitioner and to tailor the requirements to the information necessary to review a particular petition. The Planning and Transportation Director may waive such requirements upon finding that the project size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver. Any such waivers shall be authorized in writing and retained in the project file.

(3) Payment of Fees

- (A) City staff shall maintain an official fee schedule for any petition, permit, or process included in this Chapter 20.06: (Administration & Procedures). Such fees shall be approved by the Plan Commission and, where applicable, the Common Council. The official fee schedule shall be available to the public in the Planning and Transportation Department Office.
- (B) Fees shall be paid at the Planning and Transportation Department office at the time of petition submittal. When the Planning and Transportation Department has received a complete submittal, the staff shall calculate the total amount of the application fee and any other applicable fees. All payments shall be made to the City of Bloomington.
- (C) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any petition, subdivision request, or permit.
- (D) No application fees shall be required for any petition or permit by a not-for-profit community service organization with a current 501(c)(3) federal tax exemption or unit of government.
- (E) The Plan Commission may waive the application fee for any proposal that is actively being promoted by a unit of local government or quasi-public organization or that involves a local subsidy.
- (F) No refunds shall be permitted after a Plan Commission or Plat Committee hearing on the petition has been held, regardless of whether or not the Plan Commission or Plat Committee has taken action on the petition.

(4) Completeness of Petition

- (A) On receiving a petition, the Planning and Transportation Director shall determine whether the petition is complete. A complete petition is one that contains all information and materials required by the Administrative Manual and this UDO for submittal of the particular petition, and that has sufficient detail and readability to evaluate the petition for compliance with applicable review standards of this UDO.
- (B) No petition shall be considered complete until all pre-submittal requirements of Section 20.06.040(b) have been satisfied and all required fees have been paid.
- (C) Upon determining that the petition is incomplete, the Planning and Transportation Director or designee, shall notify the petitioner of the submittal deficiencies. The petitioner may correct the deficiencies and resubmit the petition for a determination of completeness until the Planning and Transportation Director determines the petition is complete.
- (D) No development petition shall be reviewed for compliance with this UDO or scheduled for a public hearing by any review or advisory body until it is determined to be complete.

~~1. All persons owning land adjacent and contiguous to the property included in the petition or proposal. All persons owning land within 300 linear feet from the subject parcel(s) for which a petition or proposal is being requested. Where property included in the petition abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two ownerships or one-eighth of a mile into the adjacent county, whichever is less, shall be interested parties.~~

~~1.2.~~

- [a] Intervening public rights-of-way shall not be considered in determining what property is adjacent and contiguous.
- [b] Where any adjacent or contiguous parcel is owned by a petitioner, the property included in the petition shall be deemed to include said adjacent parcel or parcels owned by a petitioner.
- [c] Owners of property adjacent and contiguous to parcel(s) owned by a petitioner but not included in the petition shall be considered interested parties entitled to notice.

~~2. All persons owning land abutting the aforementioned immediately adjacent property owners in subsection (1) above (i.e., "two properties deep").~~

~~3. All persons owning land within 300 linear feet from the subject parcel(s) for which a petition or proposal is being requested. Where property included in the petition abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two ownerships or one-eighth of a mile into the adjacent county, whichever is less, shall be interested parties.~~

- ii. In order to determine the names and addresses of property owners to whom notice shall be sent, staff shall consult either the current Plat Book and computerized ownership records located in the Office of the Auditor of Monroe County, Indiana or the Monroe County, Indiana Geographic Information System to determine the name of each adjacent property owner and address.
- iii. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine name and address of the current owner of record.

(E) Notice to Adjacent Governmental Entities

In a proceeding involving a petition for property that abuts unincorporated areas of the county, copies of the notice of public hearing shall be transmitted by the city to the planning agency of the governmental unit abutting such land.

(3) Notice Format and Timeframes

(A) Published Notice

Published notice shall be distributed in a newspaper in accordance with Indiana Code § 5-3-1: Publication Procedures, at least 10 days prior to the initial scheduled public hearing before the Plan Commission, Board of Zoning Appeals, Plat Committee, or Hearing Officer.

(C) **Plat Committee Decision**

A Plat Committee decision may be appealed to the Plan Commission pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within 10 days of the Plat Committee's decision.

(D) **Time of Expiration during Appeals**

If an appeal by writ of certiorari is taken from a decision, the time during which such appeal is pending shall not be counted in determining whether the permit or approval has expired under subsection (A) through (C).

20.06.050 Development Permits and Procedures

(a) Site Plan Review

(1) **Purpose**

The site plan review procedure is intended to ensure that potential impacts of development are considered before submittal of a petition for construction or issuance of a building permit and to:

- (A) Promote well-planned and well-designed use of property;
- (B) Promote a high character of community development;
- (C) Review site plans relative to site layout, improvements and engineering in the interest of public health, safety, convenience, and welfare;
- (D) Promote new development that has a positive impact on the community as a whole, does not negatively impact neighbors, protects sensitive natural resources, is well-designed to maximize efficient use of the land and surrounding transportation system, and provides for adequate stormwater management;
- (E) Determine compliance with the standards of this UDO;
- (F) Protect environmental quality; and
- (G) Ensure that the statutory requirements established in the Indiana Code for development plan review and approval are met.

(2) **Applicability**

(A) **Activities Subject to Site Plan Review**

Site plan review is required prior to the issuance of a building permit and/or construction of physical site improvements. Site plan review is required for all development and changes in use subject to this UDO, including the following, unless exempted by subsection B below:

- i. New building construction;
- ii. Newly established uses of land;
- iii. Expansions, alterations, or modifications of existing structures or sites for commercial, public, institutional, civic, employment, utilities and communication, group living, and multifamily residential uses of property within the city that result in increased occupancy or intensity of use; and

- iv. Creation or expansion of any vehicular parking area.

(B) Activities Exempt from Site Plan Review

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this UDO and building permit review:

- i. Construction of a single-family detached, duplex, triplex, or fourplex dwelling on a single lot, additions to such dwellings, an accessory dwelling unit, and structures accessory to such dwellings; and
- ii. Construction or erection of accessory buildings, fences, hedges, or walls; and
- iii. Interior tenant alterations or improvements that do not increase parking requirements or alter exterior building appearances.
- iv. Projects that fall below the thresholds for minor site plan review in Section 20.06.050(a)(2)(C)i).
- v. Activities that require a grading permit but do not require any site improvements.

(C) Thresholds for Minor and Major Site Plan Review

Site plan review is conducted by the Planning and Transportation Director or the Plan Commission, based on the thresholds below:

i. Minor Site Plan Review

Minor site plan review is required for any of the following activities unless that activity is exempt from the site plan process under Section 20.06.050(a)(2)(B), or the project meets or exceeds the thresholds requiring major site plan review under Section 20.06.050(a)(2)(C)ii:

- 1. A change in use that involves or requires site improvements;
- 2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section 20.06.050(a)(2)(C)ii).
- 3. Development that contains 20,000 square feet or less of new non-residential gross floor area;
- 4. Development that contains 50 dwelling units or less;
(empty 5 removed and auto-renumbered below)
- 5. The alteration of any vehicular parking area;
- 6. Petitions for a grading permit where site improvements are required; or
- 7. 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 75 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):

(E) Review and Decision

i. Generally

The Plan Commission shall review the major site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(g) (Review and Decision), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).

ii. Commitments

The Plan Commission may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.06.040(d)(8) (Commitments).

iii. Additional Review for Drainage and Floodplain

Any projects that are determined by the Planning and Transportation Department to be located within an identified floodway, flood fringe, or within the floodplain shall also meet the criteria in Section 20.04.040 (Floodplain).

(F) Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

i. Notification of Findings

The Plan Commission shall make written findings concerning each decision to approve or disapprove a major site plan, and such findings shall be made available to the petitioner.

ii. Expiration of Approval

Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval). A site plan approval will be considered expired if no Grading Permit has been approved related to the site plan. Or, in the case where no Grading Permit is required, a Certificate of Zoning Compliance for a building permit on the site plan has been approved related to the approval.

iii. Modification or Amendment of Approval

An approved major site plan may be modified or amended in accordance with Section 20.06.040(h)(3) (Modification or Amendment of Approval).

(b) Conditional Use Permit

(1) Purpose

The conditional use permit procedure provides a mechanism for the city to evaluate proposed land uses in a particular zoning district and to establish certain conditions to address unique characteristics associated with the proposed land use. The use shall be permitted by the Board of Zoning Appeals or Hearing Officer if it is determined that the listed conditions are met.

i. Effect of Approval of a Conditional Use

The granting of a conditional use authorizes the use and establishes the terms of use. Conditional uses are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits and approvals shall be obtained before any grading, construction, or use commences.

ii. Duration

A conditional use permit granted by the Board of Zoning Appeals or the Hearing Officer shall expire:

1. Two years after the date granted by the Board of Zoning Appeals or Hearing Officer, unless:
 - [a] A building permit has been obtained and construction of the structure or structures has commenced; or
 - [b] An occupancy permit has been obtained and the use has commenced; or
2. At the date of termination established by the Board of Zoning Appeals or Hearing Officer as a condition or commitment if different from (1) above.

iii. Modification or Amendment of Approval

1. Any modification or intensification of a conditional use that alters the essential character or operation of the use in a way not intended by the Board of Zoning Appeals or Hearing Officer at the time the conditional use was granted shall require a new conditional use approval.
2. The Planning and Transportation Director shall determine in writing whether the proposed modification or intensification represents an alteration in the essential character of the original conditional use as approved. The operator of the conditional use shall provide the Planning and Transportation Director with all the necessary information to render this determination.
3. In the case where the Planning and Transportation Director determines a new conditional use permit is required, a petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing) and this Section 20.06.050(b) (Conditional Use Permit).
4. The Hearing Officer may hear requests for amendments to a conditional use, if authorized by the Plan Commission.

(c) Demolition Delay Permit

(1) Purpose

The demolition delay permit procedure is intended to ensure that potentially historic structures are protected from demolition or alteration. ~~no certificate of zoning compliance authorizing release of a permit allowing the demolition, substantial demolition, or partial demolition of a structure that is listed as "Outstanding" or "Notable," or demolition or substantial demolition of a structure listed as "Contributing" on the City of Bloomington Survey of Historic Sites and Structures, or any accessory structure of the same era of construction as the principal structure that is so listed, shall be issued prior to review pursuant to this Subsection C.~~

(2) Applicability

This Section 20.06.050(c) shall not apply to any structure that is within a property or group of properties locally designated as a historic district or a conservation district pursuant to Title 8 (Historic Preservation and Protection) of the Bloomington Municipal Code. No certificate of zoning compliance authorizing release of a permit allowing the demolition, substantial demolition, or partial demolition of a structure that is listed as "Outstanding" or "Notable," or demolition or substantial demolition of a structure listed as "Contributing" on the City of Bloomington Survey of Historic Sites and Structures, or any accessory structure of the same era of construction as the principal structure that is so listed, shall be issued prior to review pursuant to this Subsection C.

(3) Demolition Delay Permit Review Process

Figure 06.05-4 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to demolition delay permit review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-4: Summary of Demolition Delay Permit Procedure



(A) Pre-Submittal Activities

A pre-submittal meeting is required in accordance with Section 20.06.040(b)(1) (Pre-Submittal Meeting).

(B) Petition Submittal and Processing

- i. The demolition delay permit petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing)
- ii. If a petition for demolition or partial demolition that is subject to the demolition delay procedures of this UDO is withdrawn by the petitioner, the demolition delay period shall be terminated and no certificate of zoning compliance for the withdrawn petition shall be issued.

- i. The granting of the subdivision waiver shall not be detrimental to the public safety, health, or general welfare, or injurious to other property; and
- ii. The conditions upon which the request for a Subdivision Waiver are based are unique to the property; and
- iii. The Subdivision Waiver shall not in any manner vary the provisions of the development standards, Comprehensive Plan, or Transportation Plan, except that waivers related to sidewalks and tree plots in the Transportation Plan may be requested.

(G) Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

i. Effect of Approval

1. All decisions of the Plan Commission or Plat Committee approving, denying, or placing conditions upon a primary plat must be in writing and signed by the president of the Plan Commission, the chair of the Plat Committee, or the Planning and Transportation Director.
2. The approval of a primary plat by the Plan Commission is strictly tentative, involving merely the general acceptability of the layout as submitted.

ii. Revisions to Primary Plat

Following Plan Commission approval, the petitioner shall submit revised copies of the plans that address the conditions required by the Plan Commission. The petitioner shall refer to the petition form to determine the format and number of copies of the revised plans to deliver to the Planning and Transportation Department.

iii. Expiration of Primary Plat

1. A secondary plat petition shall be filed no later than 12 months after the date of approval of the primary plat, otherwise the primary plat approval shall be considered void, to the extent permitted by Section 20.01.040(b) (Effect of Change in the Law after Filing of Complete).
2. One extension of up to six months may be authorized by the Planning and Transportation Director for reason/cause. The petitioner shall submit the request for extension in writing to the Planning and Transportation Director, and the Planning and Transportation Director shall make a written determination regarding his or her decision to extend or deny extension. Both the request and the determination shall be made part of the primary plat record.

(c) Secondary Plat

(1) Purpose

The secondary plat procedure provides a mechanism for the city to review a petition for the secondary platting of a subdivision and ensures that the statutory requirements established in the Indiana Code for the subdivision of land are met.

(B) Review and Decision

- i. Where the concurrently reviewed petition requires review and approval by the planning and transportation staff, the Planning and Transportation Director shall review the petition and shall approve, approve with conditions, or deny the modification based on the criteria in Section 20.06.080(a)(5).
- ii. Where the concurrently reviewed petition requires review and approval by the Plan Commission, Plat Committee, or Common Council, the decision making body commission or council, as applicable, shall review and decide the minor modification petition based on the criteria in Section 20.06.080(a)(5).

(C) Effect of Approval

Approval of a minor modification authorizes only the particular adjustment of standards approved, and only to the subject property of the petition.

(D) Expiration of Minor Modification

A minor modification shall automatically expire if the associated development petition is denied or if approval of the concurrently reviewed petition expires, is revoked, or otherwise deemed invalid.

(5) Minor Modification Approval Criteria

A minor modification may be approved if the decision-making body finds that the modification:

- (A) Will not create a hardship or adverse impacts on adjacent properties unless adequately mitigated;
- (B) Is not necessitated by the petitioner's actions; and
- (C) Is of a technical nature and is required to compensate for an unusual site condition or to protect a sensitive resource, natural feature, or community asset.

(b) Variance

(1) Purpose

The variance procedure provides a mechanism for the City to authorize variances from the development standards of this UDO when it is demonstrated that such a variance will not be contrary to the public interest or the spirit of this UDO, where, owing to special conditions, literal enforcement of this UDO will result in practical difficulties or unnecessary hardship.

(2) Applicability

(A) Development Standards Variance

- i. The Board of Zoning Appeals or Hearing Officer, in accordance with the procedures established in this UDO, may grant variances from the development standards applicable to the zoning district in which the subject property is located.
- ii. It is not within the jurisdiction of the Board of Zoning Appeals or Hearing Officer to grant development standards variances of Chapter 20.05: Subdivision Standards.

(B) Floodplain Variance

- i. The Board of Zoning Appeals or Hearing Officer, in accordance with the procedures established in this UDO, may grant variances from the standards in Section 20.04.040(e) (Provisions for Flood Hazard Reduction), only when a new structure is to be located on a lot of one half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- ii. Variances may be granted for the reconstruction, restoration, repair, or rehabilitation of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures. Upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- iii. No variance for a residential use within a floodway that requires a permit for construction in a floodway from the Indiana Department of Natural Resources pursuant to the provisions of IC 14-28-1 or a project that is subject to 20.04.040(e)(2)(C) ~~Error! Reference source not found.~~ ~~(Error! Reference source not found.)~~, may be granted.

(3) Variance Review Process

Figure 06.05-3 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to variance review. Additions or modifications to the common review procedures are noted below.

Figure 06.08-1: Summary of Variance Procedure



(A) Pre-Submittal Activities

- i. A pre-submittal meeting shall be held in accordance with Section 20.06.040(b)(1) (Pre-Submittal Meeting).
- ii. Petitions subject to review and decision by the Hearing Officer shall not require a Development Review Committee meeting.

- (2) A lawful nonconforming lot of record may be used and developed or redeveloped without compliance with the lot area and lot width standards of this UDO as long as all use restrictions and other development standards of this UDO are met.

(f) Nonconforming Site Features

A lawfully nonconforming site feature may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required. No increase in the degree of nonconformity with any site feature is permitted except as expressly provided in this section.

(1) Full Compliance

A lawful nonconforming site shall be brought into compliance with this UDO with any petition for new building construction or in connection with demolition of existing and construction of new buildings.

(2) Limited Compliance

(A) Applicability

A lawful nonconforming site or structure shall be brought into compliance with the standards in paragraph (B) below when any of the following occur on the site:

i. Nonresidential and Mixed-Use

1. Any change in use, expansion, enlargement, or relocation of any use;
2. Reestablishment of a prior conforming use that has been discontinued for a period of 12 months or longer; or
3. Expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 cumulative percent, including previous additions approved under any UDO effective since February 12, 2007.

ii. Multifamily and Group Living

1. Any expansions, alterations, or modifications to an existing building, with the exception of accessory structures less than 580 square feet, provided that the accessory structure does not increase the degree of nonconformity regarding required maximum impervious surface coverage or required number of parking spaces;
2. Any change in use, or any expansion, enlargement, or relocation of any use; or
3. Any addition of ~~bedrooms or~~ dwelling units.

iii. Single-Family Detached, Duplex, Triplex, and Fourplexes

A lawful nonconforming use or site feature on a lot where the primary use is a single-family detached, duplex, triplex, or fourplex dwelling may continue except as provided below:

1. Enlargement or modification of an existing driveway shall be subject to Section 20.04.050(c)(3)(C) (Surface Material); and
2. Changes to nonconforming uses and structures containing nonconforming uses involving occupancy of unrelated adults are subject to Section 20.06.090(c)(4) (Residential Occupancy).

(B) Required Compliance

A lawful nonconforming site or structure that meets or exceeds the thresholds established in paragraph (A) above shall comply with the following standards:

i. Building Setbacks and Height

Existing buildings shall not be subject to current setback or height standards and shall remain lawful nonconforming unless completely demolished and replaced, in which case full compliance with this UDO shall be required.

ii. ~~Parking Setback and Maximum Number of Spaces/Impervious Surface Coverage~~

~~If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess asphalt or parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback. If a corner lot, then priority for front setbacks shall be given for the side facing the higher classified street. All parking spaces over the maximum number of spaces allowed must be removed. If all setbacks cannot be met through the removal of excess parking spaces, then priority shall be given to the parking spaces located in the front setback. If on a corner lot, then priority for front setbacks shall be given for the side facing the higher classified street. Any parking spaces or asphalt that encroaches into public right-of-way or adjacent property not owned by the petitioner must be removed.~~

iii. Parking

Any change in use or reestablishment of an abandoned conforming use must meet parking requirements of Section 20.04.060 (Parking and Loading). Any expansion, enlargement, or relocation of an existing conforming use, or addition to any building of more than ten percent of the gross floor area may not increase the degree of nonconformity regarding the required number of parking spaces.

iv. Paving

Any substandard parking surfaces shall be brought into compliance with Section 20.04.060(i)(7) (Surface Material).

v. ADA-accessible Parking

All required ADA-accessible parking spaces must be installed in accordance with Section 20.04.060(f) (Accessible Parking). If no additional room for parking is available, the number of parking spaces provided may be decreased enough to provide adequate ADA-accessible aisles.

vi. Bicycle Parking

All required bicycle parking must be installed per Section 20.04.060(l) (Minimum Bicycle Parking Required) and Section 20.04.060(m) (Bicycle Parking Location and Design).

vii. Landscaping

If full compliance with Section 20.04.080 (General Landscaping) cannot be achieved due to lack of adequate planting area, all yard areas must be landscaped to the maximum practicable density with a priority given to shade tree installation.

viii. Pedestrian Facilities

Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (Pedestrian and Bicycle Circulation). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that curb ramps shall comply with the Americans with Disabilities Act.

ix. Signage

All signage must be brought into compliance with Section 20.04.100 (Signs) to the extent practicable, although freestanding signs may use existing setbacks where the sign is not located within a restricted vision clearance area.

x. Dumpster Enclosures

All outdoor waste collection facilities must be brought into compliance with Section 20.04.080(m) (Screening).

xi. Lighting

All lighting shall be brought into compliance with Section 20.04.090 (Outdoor Lighting).

xii. Entrances and Drives

All entrances and drives shall be brought into compliance with Section 20.04.050(c) (Driveways and Access), with the exception of driveway location requirements.

xiii. Minimum Landscape Area

If a site can be brought closer to compliance with the Minimum Landscape Area standards through the removal of excess asphalt, gravel, parking, or other impervious surfaces necessary to achieve the minimum amount of landscape area requirement, then such impervious area shall be removed and landscape area and vegetation installed.

xiv. Fencing

Any fence or wall that contains prohibited components must remove the prohibited components only.

(g) Nonconforming Signs

(1) Generally

- (A) Notwithstanding any other provision of this chapter or this UDO, a lawful nonconforming sign may not be altered, relocated or expanded, which includes any increase in height or area, except as expressly provided in this Section 20.06.090(g).
- (B) Ordinary maintenance is permitted and shall include replacement of supports with different materials or design from the previous supports but shall not include any increase in the dimensions or numbers of supports.

ZO-07-24 Chapter 6 Changes

Page	Chapter	Citation	Current Language	Proposed Language	Synopsis
314	6	20.06.050(a)(4)(F)(ii)	Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval). A site plan approval will be considered expired if no Grading Permit has been approved related to the site plan. Or, in the case where no Grading Permit is required, a Certificate of Zoning Compliance for a building permit on the site plan has been approved related to the approval.	Adds additional language clarifying that a Certificate of Zoning Compliance must be approved within the one-year approval period
310	6	20.06.050(a)(2)(B)	New language	v. Activities that require a grading permit but do not require any site improvements	Adds new language to reflect current policy
391	6	20.06.090(f)(2)(A)(ii)(3)	Any addition of bedrooms or dwelling units. If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess asphalt or parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback. If a corner lot, then priority for front setbacks shall be given for the side facing the higher classified street.	Any addition of bedrooms or dwelling units. Parking Setback and Maximum number of spaces: If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess asphalt or parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. All parking spaces over the maximum number of spaces allowed must be removed. If all setbacks cannot be met through the removal of excess parking spaces, then priority shall be given to the parking spaces located in the front setback. If on a corner lot, then priority for front setbacks shall be given for the side facing the higher classified street. Any parking spaces or asphalt that encroaches into public right-of-way or adjacent property not owned by the petitioner must be removed.	Revises language to reflect changes made in the 2023 updates where the addition of bedrooms was no longer considered an expansion
392	6	20.06.090(f)(2)(B)		xiii. Minimum Landscape Area: If a site can be brought closer to compliance with the Minimum Landscape Area standards through the removal of excess asphalt, gravel, parking, or other impervious surfaces necessary to achieve the minimum amount of landscape area requirement, then such impervious area shall be removed and landscape area and vegetation installed.	Revising the language to provide better clarity
393	6	20.06.090(f)(2)(B)	New language The demolition delay permit procedure is intended to ensure that no certificate of zoning compliance authorizing release of a permit allowing the demolition, substantial demolition, or partial demolition of a structure that is listed as "Outstanding" or "Notable," or demolition or substantial demolition of a structure listed as "Contributing" on the City of Bloomington Survey of Historic Sites and Structures, or any accessory structure of the same era of construction as the principal structure that is so listed, shall be issued prior to review pursuant to this Subsection C.	The demolition delay permit procedure is intended to ensure that potentially historic structures are protected from demolition or alteration. no certificate of zoning compliance authorizing release of a permit allowing the demolition, substantial demolition, or partial demolition of a structure that is listed as "Outstanding" or "Notable," or demolition or substantial demolition of a structure listed as "Contributing" on the City of Bloomington Survey of Historic Sites and Structures, or any accessory structure of the same era of construction as the principal structure that is so listed, shall be issued prior to review pursuant to this Subsection C.	New language to help guide the limited compliance review process to require excess areas of impervious surface coverage to be removed if possible.
318	6	20.06.050(c)(1)			Revised language to more accurately describe the purpose of the ordinance. Removes language that specifies which structures are protected and places that in the Applicability section instead.

		This Section 20.06.050(c) shall not apply to any structure that is within a property or group of properties locally designated as a historic district or a conservation district pursuant to Title 8 (Historic Preservation and Protection) of the Bloomington Municipal Code.	This Section 20.06.050(c) shall not apply to any structure that is within a property or group of properties locally designated as a historic district or a conservation district pursuant to Title 8 (Historic Preservation and Protection) of the Bloomington Municipal Code. No certificate of zoning compliance authorizing release of a permit allowing the demolition, substantial demolition, or partial demolition of a structure that is listed as "Outstanding" or "Notable," or demolition or substantial demolition of a structure listed as "Contributing" on the City of Bloomington Survey of Historic Sites and Structures, or any accessory structure of the same era of construction as the principal structure that is so listed, shall be issued prior to review pursuant to this Subsection C.	Moves language that determines what structures are regulated to the Applicability section rather than the general purpose section
319	6 20.06.050(c)(2)			
391	6 20.06.090(f)(2)(A)(ii)	Multifamily	Multifamily and Group Living	Adds the subheading of Group Living to the applicability section for limited compliance
309	6 20.06.050(a)(2)(A)(iii)	iii. Expansions, alterations, or modifications of existing structures or sites for commercial, public, institutional, civic, employment, utilities and communication, and multifamily residential uses of property within the city that result in increased occupancy or intensity of use; and	i. Expansions, alterations, or modifications of existing structures or sites for commercial, public, institutional, civic, employment, utilities and communication, group living , and multifamily residential uses of property within the city that result in increased occupancy or intensity of use; and	Adds "Group Living" to list of uses included for site plan review. This subheading was accidentally omitted.
292	6 20.06.040(c)(3)(D)	No application fees shall be required for any petition by a not-for-profit community service organization with a current 501(c)(3) federal tax exemption.	No application fees shall be required for any petition or permit by a not-for-profit community service organization with a current 501(c)(3) federal tax exemption or unit of government.	Adds language not requiring permit fee for 501(c)(3) organizations or government agencies.
374	6 20.06.080(a)(4)(B)(ii)	Where the concurrently reviewed petition requires review and approval by the Plan Commission or Common Council, the commission or council, as applicable, shall review and decide the minor modification petition based on the criteria in Section 20.06.080(a)(5).	Where the concurrently reviewed petition requires review and approval by the Plan Commission, Plat Committee , or Common Council, the decision making body commission or council , as applicable, shall review and decide the minor modification petition based on the criteria in Section 20.06.080(a)(5).	Revises Boards and Commission list
347	6 20.06.060(b)(3)(F)(iii)	The Subdivision Waiver shall not in any manner vary the provisions of the development standards, Comprehensive Plan, or Transportation Plan.	The Subdivision Waiver shall not in any manner vary the provisions of the development standards, Comprehensive Plan, or Transportation Plan, except that waivers related to sidewalks and tree plots in the Transportation Plan may be requested.	modifies language to specifically allow Transportation Plan waivers Subdivisions
			All persons owning land adjacent and contiguous to the property included in the petition or proposal. All persons owning land within 300 linear feet from the subject parcel(s) for which a petition or proposal is being requested. Where property included in the petition abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to one eighth of a mile into the adjacent county shall be interested parties. [a] Intervening public rights-of-way shall not be considered in determining what property is adjacent and contiguous.	
		All persons owning land adjacent and contiguous to the property included in the petition or proposal. [a] Intervening public rights-of-way shall not be considered in determining what property is adjacent and contiguous.	[b] Where any adjacent or contiguous parcel is owned by a petitioner, the property included in the petition shall be deemed to include said adjacent parcel or parcels owned by a petitioner.	
		[b] Where any adjacent or contiguous parcel is owned by a petitioner, the property included in the petition shall be deemed to include said adjacent parcel or parcels owned by a petitioner.	[c] Owners of property adjacent and contiguous to parcel(s) owned by a petitioner but not included in the petition shall be considered interested parties entitled to notice.	
304	6 20.06.040(e)(2)(D)(i)(1)	[c] Owners of property adjacent and contiguous to parcel(s) owned by a petitioner but not included in the petition shall be considered interested parties entitled to notice.	Interested parties entitled to notice.	Clarifies that all 'interested parties for notice in a petition is all property owners within 300 feet.
304	6 20.06.040(e)(2)(D)(i)(2)	All persons owning land abutting the aforementioned immediately adjacent property owners in subsection (1) above (i.e., "two properties deep").	All persons owning land abutting the aforementioned immediately adjacent property owners in subsection (1) above (i.e., "two properties deep").	Removes the "two properties deep" language to require public notice to all property owners within 300 feet. This helps increase public notification and decreases chance of errors in determining interested parties to be notified.

304	6 20.06.040(e)(2)(D)(i)(3)	All persons owning land within 300 linear feet from the subject parcel(s) for which a petition or proposal is being requested. Where property included in the petition abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two ownerships or one eighth of a mile into the adjacent county, whichever is less, shall be interested parties.	All persons owning land within 300 linear feet from the subject parcel(s) for which a petition or proposal is being requested. Where property included in the petition abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two ownerships or one eighth of a mile into the adjacent county, whichever is less, shall be interested parties.	Moves the 300 feet regulation to the section with the caveats in section 1.
393	6 20.06.090(f)(2)(B)	New language	xiii. Fencing: Any fence or wall that contains prohibited components must remove the prohibited components only.	Adds language that requires fences or walls that contain prohibited materials (barbed wire, security wire, electrified wire, etc) to have to be removed as part of Limited Compliance.
289	6 20.06.030 Table 06-1	Secondary plats must go to DRC	Remove "check mark" that indicates secondary plats must go to DRC	Removes requirement that secondary plats have to go to DRC
375	6 20.06.080(b)(2)(B)(iii)	Reference source not found	20.04.040(e)(2)(C)	Updated broken floodplain reference

*** Amendment Form ***

Ordinance #: 2024-06
Amendment #: Am 01
Submitted By: Cm. Piedmont-Smith
Date: April 10, 2024

Proposed Amendment: (additions are shown in **bold** and deletions in ~~strikethrough~~)

The proposal forwarded to the Common Council by the Plan Commission and attached to Ordinance 2024-06 as "Attachment A" (ZO-07-24) shall be amended as follows (only affected portions of the proposal are shown below):

1.

20.06.050(a) Site Plan Review

(2)(B) Activities Exempt from Site Plan Review

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this UDO and building permit review:

- i. Construction of a single-family detached, duplex, triplex, or fourplex dwelling on a single lot, additions to such dwellings, an accessory dwelling unit, and structures accessory to such dwellings; and
- ii. Construction or erection of accessory buildings, fences, hedges, or walls; and
- iii. Interior tenant alterations or improvements that do not increase parking requirements or alter exterior building appearances.
- iv. Projects that fall below the thresholds for minor site plan review in Section 20.06.050(a)(2)(C)i).
- v. Activities that require a grading permit but do not **require** any site improvements.

(2)(F) Post-Decision Actions and Limitations

ii. Expiration of Approval

Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval). A site plan approval will be considered expired if no Grading Permit has been approved related to the site plan. Or, in the case where no Grading Permit is required, **no a** Certificate of Zoning Compliance for a building permit on the site plan has been approved related to the approval.

Synopsis

This amendment corrects two typographical errors in the ordinance.

4/10/24 Regular Session Action: Adopted 8-0 (Ruff absent)

