



# City of Bloomington Common Council

## Legislative Packet

Regular Session

7 December 2011

*For additional background material related to Appropriation Ordinance 11-08, please consult the [legislative packet](#) issued in interest for 30 November 2011 meeting.*

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## **Packet Related Material**

**Memo**

**Agenda**

**Calendar**

**Notices and Agendas:**

*None*

## **Annual Council Schedule for 2012**

- **Annual Schedule**
  - **Memo to Council** from Dan Sherman Administrator/Attorney  
*Contact: Dan Sherman, Administrator/Attorney at 349-3409 or [shermand@bloomington.in.gov](mailto:shermand@bloomington.in.gov)*

## **Legislation for Second Reading:**

- **Res 11-17** To Approve the Interlocal Agreement Between Monroe County, Town of Ellettsville, and the City of Bloomington for Animal Shelter Operation for the Year 2012
  - Memo from Laurie Ringquist, Director of the Animal Care and Control Department; Interlocal Agreement; Calculation of Payment Amount  
*Contact: Laurie Ringquist at 349-3870 or [ringquil@bloomington.in.gov](mailto:ringquil@bloomington.in.gov)*
- **App Ord 11-08** To Specially Appropriate from the General Fund, Motor Vehicle Highway Fund, Parks General Fund, Risk Management Fund, Sanitation Fund, Fleet Maintenance Fund and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating various transfers of funds within the General Fund, Motor Vehicle Highway Fund, Parks General Fund, Risk Management Fund, and Sanitation Fund; Appropriating additional funds from the Fleet Maintenance Fund and Rental Inspection Program Fund)  
*Contact: Mike Trexler at 349-3412 or [trexlerm@bloomington.in.gov](mailto:trexlerm@bloomington.in.gov)*

*Please see the [30 November 2011](#) Council Legislative Packet for the legislation, memo and summary*

## **Legislation and Background Material for First Reading:**

### **Regarding Ord 11-13 (Wastewater Rates) and Ord 11-14 (Issuance of Bonds for Wastewater Necessities)**

- Memo from Vickie Renfrow, City Attorney (*which explains the increase in revenues, the necessity for them, and the pursuit of bonding.*)

*Contact: Vickie Renfrow at 349-3426 or renfrowv@bloomington.in.gov*

- **Ord 11-13** To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” (Wastewater Rate Adjustment)
  - BMC 10.08 (Wastewater Rates and Charges) – Annotated with Changes

*Contact: Vickie Renfrow at 349-3426 or renfrowv@bloomington.in.gov*
- **Ord 11-14** An Ordinance Concerning the Construction of Additions and Improvements to the Sewage Works of the City of Bloomington, Indiana; The Current Refunding by the City of Its Sewage Works Revenue Bonds of 1999, Series A; The Funding of Sewage Works Reserve Funds and Reimbursements to the City; Authorizing the Issuance of Sewage Works Revenue and Refunding Revenue Bonds for Such Purposes; Providing for the Collection, Segregation and Distribution of the Revenues of the Sewage Works and the Safeguarding of the Interests of the Owners of Said Sewage Works Revenue and Refunding Revenue Bonds; Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds; And Repealing Ordinances Inconsistent Herewith
  - Exhibit A (Project Description) *with two copies of the Plans and Specifications available in the Office of the City Clerk;*
  - Exhibit B (Form of Bond Purchase Agreement); Exhibit C (Form of Escrow Agreement);
  - Exhibit D (Post Issuance Compliance Policy);
  - Exhibit E (Form of Continuing Disclosure Agreement)

*Contact: Vickie Renfrow at 349-3426 or renfrowv@bloomington.in.gov*
- **Ord 11-20** To Amend Title 7 of the Bloomington Municipal Code Entitled “Animals” - Re: To Amend Provisions Regarding the Permitting of Small Flocks of Chickens in Certain Residential Districts
  - Memo from Councilmember Piedmont-Smith; Excerpts from Title 7 (Animals) highlighting changes made by the ordinance

**Preliminary Material – Re: Ord 11-21 and Ord 11-22 and Res 11-16  
(forthcoming)**

- **Memo to Council from Councilmember Volan**
  - **BMC 2.04 (Common Council) – Annotating Changes Proposed by Ord 11-21 and Ord 11-22**
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- **Ord 11-21** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Remove Requirement that Legislation be Referred to the Committee of the Whole  
*Contact: Councilmember Volan at 333-0900 or volans@bloomington.in.gov*
  - **Ord 11-22** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Establish and Clarify Scheduling Policies for Council Committees  
*Contact: Councilmember Volan at 333-0900 or volans@bloomington.in.gov*

**Minutes from Regular Session:**

*None*

**Memo**

**The Annual Schedule and Two Items Ready for Action and Five Items Ready for Introduction at the Regular Session on Wednesday, December 7<sup>th</sup>**

This packet heralds in the last legislative cycle of the Council for 2011 and for the entire term. As often happens this time of year – it is packed with items. There is an Annual Council Schedule for 2012 and resolution (Res 11-17 – Animal Control Interlocal) that will join App Ord 11-08 under Second Readings and Resolutions. The former two items can be found in this packet and the latter item can be found in last week’s packet. Then there are five ordinances ready for introduction which all can be found in the packet and summarized herein.

## Annual Schedule for 2012

This packet contains the proposed Council Schedule for 2012 and a memo explaining it. Please review the material and offer your comments and be ready to vote on it on December 7<sup>th</sup> - unless you wish the matter decided on December 21<sup>st</sup> or at the first meeting of 2012. Acting on it next week would allow the Council Intern (rather than full-time staff) to complete and distribute the Annual City Calendar (which includes Council meeting dates) before he leaves for Winter Recess. Please note, however, that the Schedule may conflict with a proposal Councilmember Volan and Piedmont-Smith want to present in December to create a regime of Standing Committees. If you need more time, the decision can be made later.

As you know, the Council generally meets on the first four Wednesdays of the month. Here are some of the meetings that would not follow the usual rule (please see the proposed Schedule and Memo for more detailed information):

- **January** – This schedule proposes holding an Organizational and Committee discussion on Wednesday, January 4<sup>th</sup> (rather than the first Monday, which is a holiday, or first Tuesday of the month);
- **February -March** – This schedule takes advantage of the fifth Wednesday in February to avoid meeting during Spring Break, yet still hold four meetings for the two legislative cycles in March. It does this by holding the first two meetings in March one week earlier than usual and not meeting on the second Wednesday that month.
- **Budget Meetings (May, July, and September)** This schedule proposes holding the:
  - Budget Advance on Wednesday, May 23<sup>rd</sup> at 5:30 p.m.;
  - Four evenings of Departmental Budget Hearings at 6:00 p.m. commencing on the *fourth rather than third* Monday of July (and running from July 23<sup>rd</sup> to 26<sup>th</sup>), and
  - Final Budget hearings on the first and second Wednesdays in September

- *Please note that these dates are being reviewed by the Office of the Mayor.*

- **Meetings in July** – This schedule takes a different tack for July because the Fourth of July falls on a Wednesday and holding the Departmental Budget Hearings during the fourth week will give more time for budget preparations and allow Council and staff to focus on the hearings rather than the weekly legislative packet. It proposes holding a:
  - Regular Session on Tuesday, July 3<sup>rd</sup> (*first Tuesday*);
  - Committee discussion on July 11<sup>th</sup> (*second Wednesday*);
  - Regular Session and Committee discussion on July 18<sup>th</sup> (*third Wednesday*); and
  - Departmental Budget Hearings the week of July 23<sup>rd</sup> (*fourth week of the month*).
  
- **September** – This schedule follows past practice of taking action on the next year’s budget during the first two weeks of September. It also doubles-up meetings on the third Wednesday in order to avoid meeting on Yom Kippur (Jewish Day of Atonement). With that in mind, it proposes holding a:
  - Regular Session and Committee of the Whole (for Budget Legislation) on September 5<sup>th</sup>;
  - Special Session (for Budget Legislation) and Committee discussion (for non-budget legislation) on September 12<sup>th</sup>;
  - Regular Session followed by a Committee discussion on September 19<sup>th</sup> ; and
  - Not meeting on the fourth Wednesday (Yom Kippur).
  
- **October and November** – This schedule takes advantage of a fifth Wednesday in October (which falls on Halloween) to meet four times during the two legislative cycles in November without meeting on the night before Thanksgiving (which is prohibited by local code). In particular, it proposes holding a:
  - Regular Session on the October 31<sup>st</sup> (*fifth Wednesday of October*);
  - Committee of the Whole on November 7<sup>th</sup> (*first Wednesday in November*);
  - Regular Session on November 14<sup>th</sup> (*second Wednesday in November*); and
  - Committee of the Whole on November 28<sup>th</sup> (*and skipping the Wednesday before Thanksgiving - November 21<sup>st</sup>*).

- **Fifth Wednesdays** - note that there are five Wednesdays in March, February, May, August, and October (*which affect deadlines for filing legislation and provide opportunities to shift your meetings.*)

**Second Readings and Resolutions**

**Item 1 - Res 11-17 Approving the Animal Control Interlocal Agreement Between the County, Town of Ellettsville and City for 2012**

**Res 11-17** is coming forward after discussion at an Internal Work Session, but without action at a Committee of the Whole, and will be considered prior to App Ord 11-08. It authorizes the signing of the *Interlocal Agreement* between Monroe County, the Town of Ellettsville, and the City regarding the funding for Animal Shelter operations in 2012. The total of those payments to the City will be \$272,561.

Under the terms of the *Agreement*, the County will pay a total of \$254,448 and the Town of Ellettsville will pay a total of \$18,113 to the City for work we do on their behalf next year. This work includes the services done by the City in sheltering animals coming from the County and otherwise assisting in County operations (i.e. dispatching runs and giving information to callers), but is distinct from the City's animal control field operations, education program and volunteer program. The amount of payment is based upon a formula that takes into account the cost of shelter operations (which is about half the City's Animal Control budget), offsetting revenues and the percentage of shelter operations attributable to animals coming from these jurisdictions during the previous year.<sup>1</sup> Please note that total payments will go up by \$19,020 in 2012, while the number of animals handled by the shelter has gone down (which is part of trend for the last few years).

The formula works as follows:

<b>Projected Budget for Animal Shelter Operations for 2012</b>	\$641,051
(including increases in budgeted expenses and offset by \$105,464 in adoption revenues).	<i>(up \$37,286 from last year)</i>

<b>Percentage of Shelter Operations Attributable to County</b>	<u>x 42 %</u>
(This is based upon the percentage of animals arriving at the Shelter from the County. According to the Statistic Sheet, the Shelter received a total of 4,407 animals, with 1,850 coming from the County. Please note that the number of animals	<i>(same as last year)</i>

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<sup>1</sup> Please also note that the amount paid by the Town of Ellettsville is negotiated between the Town and Monroe County and that 155 animals came from Ellettsville in 2010.

handled by the Shelter has dropped by about 154 between 2009 and 2010.)

**TOTAL**

**\$272,601**

*(up \$19,020 from last year)*

### **First Readings**

#### **Items 1 and 2 - Ord 11-13 Adjusting Wastewater Rates and Ord 11-14 Authorizing the Issuance of Bonds for Wastewater Necessities**

The next two ordinances raise wastewater rates (**Ord 11-13**) and authorize the issuance of bonds for various wastewater necessities (**Ord 11-14**). The following summary borrows from the memo in this packet provided by Vickie Renfrow, City Attorney, and approaches these pieces of legislation by addressing;

- the overall increase in rates, the amount of revenue the rates will raise, how the revenue will be used;
- the exact changes in the rates and charges; and
- the fiscal and legal effect of the bond ordinance (in overview).

#### **Wastewater Rate Adjustment**

**Ord 11-13** raises wastewater rates by approximately 53% and the combined wastewater and water rates by 27%, which translates into about \$13.26 a month for the average residential customer. It will be the first adjustment in six years and raises about \$6.49 million in new revenue<sup>2</sup> which will be used to cover:

- higher *Operating Expenses and Taxes*, which accounts for about 45% of the increase with Personnel Costs (particularly health insurance) accounting for a little less than a third of the increase in that category;
- higher *Annual Debt Service*, which accounts for about 25% of the increase and includes the back payments to the City for various services provided over the last few years,<sup>3</sup> the need to set aside more reserves because of Deficient Surety Policies,<sup>4</sup> and financing additions and improvements that will help the City

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<sup>2</sup> This will bring the total annual wastewater revenue to about \$19.1 million.

<sup>3</sup> This includes unpaid amounts in 2010 and 2011 totaling about \$601,000 and a temporary loan for the 3<sup>rd</sup> Street project of about \$131,000.

<sup>4</sup> As Renfrow notes in her memo, we must cash fund reserves because “the recent financial meltdown has rendered virtually worthless the surety policies which we had in lieu of cash funded debt service reserve for some of our bonds.” This is also why the ordinance does not contain what had been the routine authorization to purchase municipal bond insurance. As an aside, some of you may note that the ordinance does not authorize pursuit of State Revolving Loan Fund bonds. That is due, in part, because those funds cannot be used for refunding bonds and, in part, because the private market will provide the best funding option.



comply with an Agreed Order with the Indiana Department of Environmental Management <sup>5</sup>; and

- Other funding necessary to meet reserve requirements for past and present bonds which includes:
  - higher *Annual Extensions and Replacements*, which accounts for about 13% of the increase; and
  - higher *Annual Working Capital (Operating Fund) Requirements*, which accounts for about 12% of the increase.

### Proposed Amendments to the Code - Changes in Particular Wastewater Rates and Charges

The ordinance increases the wastewater rates by approximately 53% effective in March 1, 2012. Wastewater rates are based upon two factors. The first factor is the amount of water used by the customer. That amount is generally determined by the water meter for CBU water customers and by other measures for those who have no meters. However, for residents who water their lawns in the summer, the Utilities Services Board has discretion to ignore water that does not return to the utility, by setting usage at pre-summer levels and determining the months when these lower levels apply. The second factor relates to the wastewater coming from industrial customers, which is subject to additional rates (covered later in this memo) depending upon the treatment required to neutralize the pollutants.

**Metered Water Users** - Given the exception for residential customers noted in the first paragraph, the ordinance raises the charge for each 1,000 gallons of water used by the four classes of utility customers - Residential, Commercial, Indiana University, and Industrial - from \$4.16 to \$6.36 (or about 53%) and raises the monthly service charge from \$4.26 to \$6.52 (or about 53%).

**Non-Metered Users** - The annual minimum rate for users who are wastewater, but not water, customers (and, therefore, not on a water meter) will rise from \$414.37 to \$633.99 (or about 53 %).

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<sup>5</sup> These additions and improvements are set forth in Exhibit A of Ord 11-14 and are the subject of Plans and Specifications which will be available in the Office of the City Clerk for public inspection by Wednesday, December 7<sup>th</sup>. These capital investments will target the Dillman Road Wastewater Treatment Plant and the wastewater collection system. As stated in Exhibit A: "The Plant improvements will include effluent filter improvements, mechanical screen rehabilitation, backwash water storage tank leak repair, EQ basin design, final clarifier coating, SCADA upgrades and such other necessary improvements related thereto. The System improvements will include inflow disconnection program, Gifford Road gravity sewer improvements, CMOM document update, Westwood/Highland Village sewer rehabilitation, SE basin rehabilitation and other necessary improvements to the System related thereto. The Project is more particularly described in the plans and specifications therefore prepared by the City's engineers and available for inspection at the office of the Clerk."

**Special Service Rates** - As noted above, the code imposes monthly fees and charges for special services performed by the utility for the testing and treatment of wastewater containing pollutants of a non-conventional nature or strength that come from industrial users. These fees and charges include:

- a per-meter service charge (which will rise from \$4.26 to \$6.52 - or about 53%);
- special laboratory charges for testing biochemical oxygen demand (BOD) and suspended solids (SS), grease and oil, and metals (which will rise an average of 53%);
- a per-1,000 gallon user charge for non-excessive levels of pollutants (which will rise from \$4.26 to \$6.52 - or 53%); and
- a per-pound charge for high levels of BOD's and SS's (which will rise about 53%).

#### Authorizing Issuance of Wastewater Bonds

**Ord 11-14** approves the issuance of up to \$18 million in sewage works revenue bonds for various wastewater necessities. The bonds will be funded by the adjusted wastewater rates and be used to pay for three series of bond packages briefly noted below as well as the cost of issuance for these bonds<sup>6</sup>:

- Series 2012 A will refund the 1999 Sewer Revenue Bonds and provide for the associated reserves in an amount not to exceed \$7 million (and save the City money on its debt service);
- Series 2012 B are taxable bonds in an amount not to exceed \$6 million and will:
  - reimburse the City for services extended to the Wastewater Utility and the fund the associated reserves,
  - correct the Reserve Fund Deficiency and pay for the refunding of any associated BANs; and
- Series 2012 C will finance the construction of additions and improvements, the refunding of associated BANs, and the funding of reserves.

The ordinance is a very technical document that takes the steps necessary for the relevant financial interests to prepare and market up to \$18 million dollars worth of bonds for the City, which will be in parity with the approximately \$44.4 million in

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<sup>6</sup> The cost of issuance is estimated at \$320,450 which is total for all 3 bond issues and is inclusive of underwriter's discount, legal & financial fees, rating agency fees and escrow trustee/paying agent fees. (per Dennis Otten, Bond Counsel, Bose McKinney & Evans LLP)

previously authorized bonds. It allows the City to issue Bond Anticipatory Notes (BANs) in an amount not to exceed \$11 million and, thereby, receive proceeds at an earlier date.

Please note that the ordinance mentions documents that are either attached to or incorporated into the ordinance. These include:

- Project Description of proposed additions and improvements to the sewage works (Exhibit A)
  - Plans and Specifications (two copies of which are available in the Office of the Clerk);
- Form of Bond Purchase Agreement (Exhibit B);
- Form of Escrow Agreement – Re: Refunding Bonds (Exhibit C);
- Post Issuance Compliance Policy (Exhibit D); and
- Form of Continuing Disclosure Agreement (Exhibit E).

The ordinance, in highlight:

- Sets the parameters of the bond by putting a limit on the amount (no more than \$18 million), interest (no more than 6% on non-taxable and 8% on taxable bonds), maturity (no more than 20 years after issuance for the private bonds) and redemption date (for the non-taxable bonds which can be no earlier than January 1, 2022 and may have a premium of no more than 2%) and denominations of the bonds;
- Authorizes the City to use a registrar and paying agent to handle the bonds and BANs and, upon advice of its financial advisor, have them held in a central depository;
- Authorizes the Mayor, Controller, and, at times, the Clerk to execute certain documents and take certain actions on behalf of the City. These include obtaining bond insurance and executing the bonds and BANs, Official Statement, Escrow Agreement (for the refunded bonds) and Continuing Disclosure Undertaking Agreement (Exhibit E);
- Pledges the Net Revenues of the Wastewater Utility towards payment of the bond obligations and requires the City to put the proceeds in certain accounts, use them for limited purposes, keep certain reserves, and invest the proceeds in a certain manner. *(Please note that this debt is not counted towards the debt limit imposed of municipalities by the State constitution);*

- Commits the City to take other actions in order to protect the bond holders including:
  - Setting rates sufficient to operate and maintain the system and meet bond obligations;
  - Keeping full and accurate financial records and using revenues for the proper and reasonable expenses for the operation, repair and maintenance of the sewage works, for meeting the requirements of the Sinking Fund, and paying the costs of replacements, extensions, additions and improvements;
  - Maintaining the sewage works in good condition and providing adequate insurance;
  - Not encumbering or disposing of parts of the wastewater system except replaceable parts and, in the event of SRF bonds, without consent of the Financial Authority;
  - Requiring the Utility to connect sewage disposers in the service district to the sewer lines;
  - Keeping the tax exempt status of the non-taxable bonds;
  - Obtaining the consent of 2/3's of the bondholders for certain amendments; and
  - Meeting certain tests before incurring additional debt which are in parity with outstanding bonds.

**Item 3 – Ord 11-20 – Amending Title 7 (Animals) to Ease the Permitting of Small Flocks of Chickens in RS and RE Districts**

**Ord 11-20** is co-sponsored by Councilmembers Piedmont-Smith and Rollo and amends Title 7 of the BMC entitled “Animals” to make it easier for persons to keep small flocks of chickens within certain residential neighborhoods in the City. In particular, it removes the requirement that owners of adjacent lots waive objection to the flocks and eliminates the \$25 annual fee. It also, corrects citations to Title 20 which, since passage of the “chicken ordinance,” was repealed, re-enacted, and renamed as the Unified Development Ordinance.

In 2006, after hearing from many constituents desiring to raise chickens on their lots, the City adopted Ord 06-21, which permitted persons to keep as many as five chickens (but no roosters) if, among other provisions, they:

- Resided in an area designated as Residential Estate (Re) or Single Dwelling Residential (RS)<sup>7</sup>;

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<sup>7</sup> Or those portions of a Planned Unit Development (PUD) with those designations.

- Obtained a waiver from all owners of adjacent lots that would need to be renewed after five years;<sup>8</sup>
- Submitted a permit with relevant information and affirmations and paid a \$25 annual fee;
- Passed an inspection demonstrating that they could harbor chickens under standards designed to assure that they would:
  - not disturb their neighbors or create a nuisance;
  - treat the chickens humanely; and
  - keep the coop and run so that these structures were away from the property line and screened from the neighbors and complied with the Unified Development Ordinance; and
- Were subject to fines in the event of a violation and revocation of the permit in the event the violations occurred repeatedly.

Since that time, the City has had a rather uneventful history with urban chickens, with about three complaints a year (most commonly for a straying chicken). During that same time, the City adopted policies that encourage urban agriculture as a means of fostering local resiliency and sustainability, and has heard from constituents who find the permitting requirements onerous. As Councilmember Piedmont-Smith makes clear in her memo, removing the waiver requirement and annual fee addresses recommendations in the *Redefining Prosperity* report of the Peak Oil Task Force and all three Es of sustainability: economy, environment, and (social) equity.

**Items 4 and 5 – Ord 11-21 (Replacing Committees of the Whole with Standing Committees) and Ord 11-22 (Scheduling those Committees)**

**Ord 11-21** and **Ord 11-22** are the first two of a three-part package of legislation intended to replace Committees of the Whole with Standing Committees, provide for the scheduling of those committees, and establish Standing Committees (the last of which will be presented in Res 11-16 which is scheduled for the Council Legislative Packet to be distributed on December 9<sup>th</sup>).

The two ordinances are co-sponsored by Councilmembers Volan, Piedmont-Smith, Rollo and Wisler.

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<sup>8</sup> The waiver is an unusual legal device that is premised on a general prohibition against an activity or use that can be waived by the directly affected persons. Please note that neighbors may be part of the same subdivision with covenants that prohibit the keeping of chickens and that this ordinance does not over-ride those covenants.

## Changes in BMC 2.04 (Common Council)

The changes proposed by these ordinances are remarkably simple given the large effect they may have on Council operations. In brief, the changes:

- Require the Council to refer legislation and questions to Standing Committees rather than the Committee of the Whole (as is the current rule per 2.04.250);
- Create 10, 3-member Standing Committees to review legislation and help oversee the operations of the City (set forth in Res 11-16 which will be distributed in next week's packet); and
- Provide for:
  - Standing Committees and Committees of the Whole to meet on the second and fourth Wednesdays of the month except on holidays and during recesses;
  - Committees of the Whole to meet at 7:30 p.m.; and
  - Standing Committees to start between 5:30 p.m. and 9:45 p.m. and not meet at the same time as another Standing Committee when either is considering legislation referred to it by the Council.

## Summary of Rationale

In his four page memo to the Council, Councilmember Volan explains and gives reasons for the proposal which, in paraphrase, are to:

- Lengthen the default Legislative Cycle from two to four weeks in order to:
  - Avoid making hasty decisions;
  - Give each part-time council member the time to do their due diligence; and
  - Follow best practices from around the State.
- Establish 10, 3-member Standing Committees in order to:
  - To allow Council members to focus on what interests them;
  - Establish more apparent oversight over the operation of the City;
  - Provide a clearer line of reporting for City staff (including the presentation of legislation at what are now called "Internal Work Sessions"); and
  - Make it easier for the Council to respond quickly to matters that are not yet subject to legislation, but perhaps should be.

- Schedule Standing Committees and Committees of the Whole at set times on Wednesday night and preclude the meeting of more than one Standing Committee at a time (when any are considering pending legislation at the meeting) in order to:
  - Meet the expectation of Council members, staff, petitioners and the public that business of the Council will be done that night;
  - Allow all members to attend all the meetings of Standing Committees if they care to; and
  - Provide more certainty about when topics will be discussed.

### Comparing Committees of the Whole to Standing Committees

This proposal largely replaces Committees of the Whole (BMC 2.04.250) with Standing Committees (BMC 2.04.210 – 230). (Please see the packet material for changes in text to these provisions.) Before addressing the aforementioned rationales, I thought it would be useful to prepare a table that selectively compares treatment of the two as they appear or would appear in the local code. Please see the *italicized text and comments* for what I consider to be some of the significant differences between the two.

#### **Committees of the Whole**

#### **Standing Committees<sup>9</sup>**

##### **Creation and Abolition**

The code creates and abolishes Committees of the Whole.

Resolutions create and abolish Standing Committees.

##### **Composition and Leadership**

All nine Council members serve on the committee with everyone but the President rotating as Chair in alphabetical order.

The President appoints *at least three members (including the Chair)* and, in doing so, *observes as much as possible the preferences of the members.*

***Note: Roberts' Rules of Order offers advice on the composition of deliberative and investigatory committees. It says that they should be larger and "represent as far as possible, all points of view in the organization, so that its opinion will carry***

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<sup>9</sup> There is a third type of Committee known as a "Special Committee" which may be formed by the Presiding Officer or any three council members for any specific purpose proper for Council consideration and shall cease to function once it has completed its duties and made a report or recommendation to the council. BMC 2.04.240

*maximum weight (and) ... reflect the will of the assembly.... The usefulness of the committee will be greatly impaired ... if any important faction of the assembly is not represented.” (§50, page 481).*

*If this proposal goes forward, I suggest that the size of committee be no less than five (odd numbers help avoid deadlocks) and that the President strive to make appointments that represent the various points of view of the Council.*

### **Quorum**

A majority of the Council.

*A majority of the Committee which could be as few as two members.*

### **Duties and Responsibilities**

The Council refers ordinances, resolutions or other matters for consideration.

*Resolutions define duties and responsibilities of Standing Committees which may investigate and report on legislation and questions referred by the Council as well as other areas of their jurisdiction.*

### **Who Calls Meetings**

The Council resolves itself into the Committee of the Whole and the President of the Council sets the agenda.

*The Chair or any two members may call a meeting of a committee.*

*Note: If this proposal passes, in order to avoid a myriad of calls and emails on Thursday and Friday, I suggest that the President be authorized set the order of committees meeting on the second and fourth Wednesdays.*

### **When are Meetings Held?**

The committee meets on the second and fourth Wednesdays of the month at 7:30 p.m. except for holidays and recesses. However, the Council may, by majority vote, cancel, schedule or reschedule a meeting to another day or time.

*Ord 11-14 would require Standing Committees, when considering pending legislation, to start between 5:30 p.m. and 9:45 p.m. on the second and fourth Wednesdays of the month, except for holidays and recesses. By its silence, the ordinance would allow Standing Committees to handle its other business at other times upon call of the chair or any two members.*



*Note: If this proposal passes, the Council would need to resolve how the full Council redirects legislation to a Committee of the Whole. Would it entail merely scheduling a Committee of the Whole (which requires a simple majority) or a suspension of the rules (which requires a 2/3s majority?)*

### **When are Matters Returned to the Council? Discharged by the Council?**

The Committee of the Whole must rise and report at the next Regular or Special Session of the Council.

#### Matters and Questions Referred to Committee

The Standing Committee reports matters and questions referred to it no later than the second regular session after referral, unless given other instructions or extensions by the Council.

*The Council may by majority vote discharge the committee of any matter referred to it and take the matter up in its proper place of business.*

#### Other Matters within Committee Jurisdiction

*There is no provision for the Council to guide other actions the committee may take on matters otherwise within its purview, short of disbanding the committee.*

*Note: Some protocol should be devised to allow the majority of the Council to guide the over-sight function of Standing Committees.*

### **Who May Vote – Members**

All nine members may participate as members of this committee.

All nine may attend the meetings, *but only committee members may vote on questions before the committee.*

### **Who May Speak**

**Members of the Council** may speak for no more than five minutes, but may speak as frequently as they wish. **Interested citizens** may be heard on the question if they address the chair

*There is no provision for comment, but one could be created by rule of the committee.*

*There is no provision in this regard, but one could be established by rule of the*

and ask permission to speak.

*committee.*

***Note: The Memo proposes that the Standing Committees be scheduled for a specific duration on the second and fourth Wednesdays. This may lead the committee to forego public comment which could frustrate interested citizens.***

### **Other Formalities**

**Notice and Records** The Clerk keeps no record of the ayes and noes,<sup>10</sup> keeps a memorandum of proceedings and enters only recommendations agreed to by the committee.

Clerk communicates and keeps a record of notices.

*The Chair or person appointed by the committee may serve as secretary and keep a memorandum of the proceedings and recommendations made at committee meetings.*

**Reports** The chair reports the recommendations (which appear as the Do Pass recommendation on the agenda).

*Reports must be in writing and signed by a majority of committee members. Members may prepare and move adoption of minority reports.*

***Note: This is an example of the additional formalities tied to Standing Committees that will require more work for the City Clerk and Council members and, if not performed in time, would inadvertently delay legislation.***

### **Observations from the Administrator**

I write this as the Council Administrator because, aside from the need to comply with the Open Door Law, this proposal does not raise issues of legality. It is a matter of how the Council as the governing body of the City wishes to conduct its business.

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<sup>10</sup> Open Door Law requires the record of the meeting to include any votes taken and the Clerk does so in her Action Memoranda.

## Length of Meetings - Haste of Schedule - Creating General Rule Based Upon Exception - Current and Alternate Remedies

The memo and legislation assert, among other things, that Council meetings run long and that the schedule is too quick, which leads to hasty decisions, and, at times, querulous meetings. My review of this year's meeting lengths, however, indicate that approximately 2/3s of the 16 Committees of the Whole<sup>11</sup> took less than an hour and a half to complete and that more than half of the votes on legislation at the Regular Sessions were unanimous. The meetings that took longer, dealt with contentious issues, like traffic and transportation which divide this Council. In comparison with other Council terms, it appears this Council has considered fewer pieces of legislation and discussed them more.

Currently, the Council may, by majority vote, extend deliberations on any piece of legislation.<sup>12</sup> In the past, the Council has tabled, postponed to a certain date, and referred to an additional Committee of the Whole or Internal Work Session legislation that needed further deliberations. The Council has also handled complex legislation through a series of Special Sessions.

One concern I have, is whether this proposed time-frame for deliberating on legislation creates a rule based upon the exception.

If the Council recognizes the pace of deliberations as the major problem, then a cleaner change would be to amend BMC 2.04.250 – Committee of the Whole) to allow the Committee to continue discussions on the legislation at its next scheduled meeting without the Council having to recommit the legislation at the next Regular Session.

## Effect on Generators of Legislation and Petitioners - Smoothing Transition - Setting Expectation

The Council is the governing body of the City and its schedule affects the plans and operations of the departments and petitioners. No concerted effort has been made so far to determine how this change would affect them. One predictable consequence for them will be the need to spend part of another evening speaking about legislation to members of the Council. Should the Council hear about difficulties created by the proposed schedule, it may want to consider ways to

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<sup>11</sup> Approximately four Committees of the Whole were cancelled.

<sup>12</sup> However, the time they take to deliberate on certain zoning matters is limited to 90 days from date of certification of Plan Commission action.

smooth the transition in those circumstances and, of course, set expectations for the future.

### Effect of Proposal on the Regular Sessions Held the Other Wednesdays of the Month

Currently all nine Council members meet to consider legislation at the Committees of the Whole and Regular Sessions. The proposal to establish 10, 3-person Standing Committees to perform this and other functions, may well result in Council members being less informed about decisions they make (if they choose to forego attending the Standing Committee) or needing to spend more time (by attending what may be various Standing Committees) to be as informed as they are under the status quo. As noted below (under formalities) the record and report of Standing Committees will likely be cursory. It follows that, unless the members of the Council develop the custom of deferring to the Standing Committees, it is likely that discussions of routine legislation at Regular Sessions will be longer than happens now.

### Mediating Conflict at Regular Sessions / Size and Composition of Committees

As mentioned previously, I believe that one of the underlying reasons for long and contentious meetings is the consideration of controversial legislation on topics which divide the current Council. Any proposal for reorganizing the Council should be judged, in part, on how well it mediates those and future conflicts about City policies.

Given the need to assure that deliberative committees are composed of members who represent the various points of view of the entire assembly (*see Size and Composition of Committees – above*), the proposal to establish a series 3-person Standing Committees will not, in all likelihood, improve the manner in which the Council handles controversial legislation. This is particularly true if the Council does not modify the requirement in the code that the President make appointments to committees based upon the preferences of the members of the Council. Abiding by the preferences of Council members will certainly help people those committees with members who are engaged in the work and will pursue matters of interest. But, at the same time, I foresee it will lead to Standing Committees composed of members (all it takes it two) who want to press the envelope on City Policy (e.g. have ideas in their area of interest that are well ahead of those of the majority of the Council). Such Standing Committees will not be disposed to handle legislation in a manner that reflects the will of the majority of the Council. With that in mind,

I suggest changing the code's guidance on appointments to include "balance" and setting the minimum size of most committees at five.

### Number of Committees

For what it's worth, I suggest that, to be effective and efficient, the number of Committees should:

- Reflect the functions of the City and the priorities of the Council (nebulous, I know);
- Unless the workload requires more, be few in order to make scheduling manageable;
- Minimize the need for matters to go to more than one committee (which, in some cases, may be unavoidable);
- If the burden of workload is an issue, allow work to be spread more evenly among committees; and
- Not be predicated on assuring that each council member chair at least one committee; fairness in allocating chairs can be handled by rotating who serves as chair rather than how many chairs are established.

### Oversight Function - Existing Practice - Useful to Explore Better Means of Communication – Will Entail More Not Less Work for Council Members – Establish Protocols for Resolving Demands on Council Staff Due to Competing Priorities – Establish Protocols for Preparing Committees and Reining Them If Necessary

The memo and legislation propose that the Council establish more apparent oversight of City operations. Currently, in various settings, Council members and staff ask the Office of the Mayor and staff about matters of concern. If necessary, the President or any three council members may convene a Standing or Special Committee to engage in more formal oversight.

The materials also propose clearer lines of reporting for City staff. This will mean, in part, that members of Standing Committees will hear and discuss upcoming legislation and initiatives rather than any Council member who wishes to attend an "Internal Work Session." Clearer lines of communication are worth exploring, but need not involve Standing Committees. Currently, Council appointees to the various boards and commissions serve as the primary liaison between the Council and those entities. At times, they give a Report from Committees to inform the rest of the Council of the activities of that board or commission.

Active Standing Committees can accomplish much, but will require more and not less work on the part of Council members (some of whom, the materials assert, are already burdened by the demands of the office). To be effective, the Standing Committees will also require adequate staff and resources and, importantly, protocols for resolving competing demands on staff time in light of competing priorities within the Council.

The materials also suggest that Standing Committees will make it easier for the Council to respond quickly to matters that are not yet subject to legislation, but perhaps should be. Just two members of an established Standing Committee could quickly respond to matters of concern *but act in haste and not necessarily in a manner supported by the other six members of the Council*. In light of this prospect, some protocols should be established to assure the Committee is adequately prepared and can be reined-in if necessary.

#### Convergence of Functions on the Second and Fourth Wednesdays – Proposed Meeting Lengths - Need for Procedures to Make Those Evenings Transparent and Effective

Standing Committees may perform various functions in different settings during those Wednesday nights – To wit: Informally discuss upcoming legislation or conduct interviews in the Council Library or formally discuss pending legislation in the Council Chambers. Protocols will need to be established to decide the “who,” “what,” “when,” and “where” for those evenings. In order to avoid confusion and an unnecessary wait for those interested in that night’s proceedings, the memo suggests a rigorous schedule of meeting times. However, if the proposal is implemented, I expect that approach would give way, over time, to a more relaxed schedule dictated by the work-demand and progress being made by each committee.

#### Formalities – More Work in a Shorter Time - Unintended Delays – Trade-Offs

The establishment and use of Standing Committees will entail more formalities than our current use of Committees of the Whole, which will require more work (in a shorter period of time) and may cause inadvertent delay. For example:

- The President typically sets the agenda for the Committee of the Whole some time the week before the meeting, but, unless some procedure were established, would need to broker the next week’s schedule with the various chairs of the Standing Committees, who are the ones with the authority to “call” their committee;

- For a Committee of the Whole, there is one notice, one agenda, one quorum, one memorandum (which is exceedingly brief), and a Do Pass reference on the Regular Session that serves as a Report;
- For Standing Committees, there will be multiple notices and agendas, which, it is true, would be combined as much as possible;
- For Standing Committees, there will be multiple memoranda and reports that must, in general, be prepared on Thursday after the meeting for Friday's packet;
- When preparing these memoranda and reports, Council members and staff will be trading-off the need to inform the full Council of the deliberations (i.e. a time-consuming summary) with the need to finish the document (i.e. a record the time, place, members present and any votes taken); and
- Failure of any one step, especially what has been an illusive quorum for our existing 3-member committees, means the legislation does not go to the first Regular Session or appears on the second Regular Session without a Report.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL REGULAR SESSION  
7:30 P.M., WEDNESDAY, DECEMBER 7, 2011  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR:** *None*

**IV. REPORTS FROM:** (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public \***

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Resolution 11-17 To Approve the Interlocal Agreement Between Monroe County, The Town of Ellettsville and the City of Bloomington for Animal Shelter Operation for the Year 2012

Committee Recommendation:           None

2. Appropriation Ordinance 11-08 To Specially Appropriate from the General Fund, Motor Vehicle Highway Fund, Parks General Fund, Risk Management Fund, Sanitation Fund, Fleet Maintenance Fund and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds Within the General Fund, Motor Vehicle Highway Fund, Parks General Fund, Risk Management Fund, and Sanitation Fund; Appropriating Additional Funds from the Fleet Maintenance Fund and Rental Inspection Program Fund)

Committee Recommendation:           Do Pass:           5 - 0 - 2

**VII. LEGISLATION FOR FIRST READING**

1. Ordinance 11-13 To Amend Title 10 of the Bloomington Municipal Code Entitled "Wastewater" (Wastewater Rate Adjustment)
2. Ordinance 11-14 An Ordinance Concerning the Construction of Additions and Improvements to the Sewage Works of the City of Bloomington, Indiana; The Current Refunding by the City of Its Sewage Works Revenue Bonds of 1999, Series A; The Funding of Sewage Works Reserve Funds and Reimbursements to the City; Authorizing the Issuance of Sewage Works Revenue and Refunding Revenue Bonds for Such Purposes; Providing for the Collection, Segregation and Distribution of the Revenues of the Sewage Works and the Safeguarding of the Interests of the Owners of Said Sewage Works Revenue and Refunding Revenue Bonds; Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds; And Repealing Ordinances Inconsistent Herewith
3. Ordinance 11-20 To Amend Title 7 of the Bloomington Municipal Code Entitled "Animals" - Re: To Amend Provisions Regarding the Permitting of Small Flocks of Chickens in Certain Residential Districts
4. Ordinance 11-21 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending Chapter 2.04 Entitled "Common Council" to Remove Requirement that Legislation be Referred to the Committee of the Whole
5. Ordinance 11-22 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending Chapter 2.04 Entitled "Common Council" to Establish and Clarify Scheduling Policies for Council Committees

*(Over)*



**VIII. ADDITIONAL PUBLIC COMMENT** \* (A maximum of twenty-five minutes is set aside for this section.)

**IX. COUNCIL SCHEDULE**

1. Annual Council Schedule for 2012

**X. ADJOURNMENT**

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.



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

To: Council Members  
From: Council Office  
Re: Calendar for the Week of 5 December – 10 December 2011

**Monday, 5 December 2011**

2:00 pm Council for Community Accessibility, McCloskey  
4:30 pm Plat Committee, Hooker Room  
5:00 pm Redevelopment Commission, McCloskey  
5:00 pm Farmers' Market Advisory Council, Parks  
5:00 pm Utilities Services Board, Utilities  
5:30 pm Plan Commission, Council Chambers  
5:30 pm Bicycle & Pedestrian Safety Commission Work Session, Hooker Room

**Tuesday, 6 December 2011**

12:00 pm Council Sidewalk Committee, McCloskey  
5:30 pm Neighborhood Improvement Grant Presentation, McCloskey  
6:00 pm Sister Cities International, Hooker Room  
7:30 pm Telecommunications Council, Council Chambers

**Wednesday, 7 December 2011**

9:30 am Tree Commission, Rose Hill  
4:00 pm Commission on the Status of Black Males, Hooker Room  
5:30 pm Commission on Hispanic and Latino Affairs, McCloskey  
7:30 pm Common Council Regular Session, Council Chambers

**Thursday, 8 December 2011**

12:00 pm Housing Network, McCloskey  
4:00 pm Bloomington Historic Preservation Commission, McCloskey  
4:00 pm Monroe County Solid Waste Management District, Council Chambers  
7:00 pm Public Input Meeting for Goat Farm Property, McCloskey

**Friday, 9 December 2011**

11:30 am Metropolitan Planning Organization Open House, McCloskey

*Posted and Distributed: Friday, 2 December 2011*

# 2012 Common Council Annual Schedule

**COMMON COUNCIL  
MEETING SCHEDULE AND LEGISLATION DEADLINES FOR THE YEAR 2012  
(Subject to Revision by Common Council)**

LEGIS CYCLE	INTERNAL WORK SESSIONS <sup>11</sup>	DEADLINE FOR ORDINANCES; E-MAILED TO CCL BY NOON	DEADLINE FOR RESOLUTIONS; E-MAILED TO CCL BY NOON	REGULAR SESSION 1st READING FOR ORDS.	COMMITTEE DISCUSSION	REGULAR SESSION FINAL ACTION
1	Wk. of Dec. 11-16	Mon. Dec. 19 (2011)	Mon. Dec. 19 (2011)	<sup>1</sup> Jan. 4	<sup>1</sup> Jan. 4	Jan. 18
2	Wk. of Jan. 2 - 6	Mon. Jan. 9	Fri. Jan. 13	Jan. 18	Jan. 25	Feb. 1
3	Wk. of Jan. 16-20	Mon. Jan. 23	Mon. Jan. 30	Feb. 1	Feb. 8	Feb. 15
4	Wk. of Feb. 1-3	Mon. Feb. 6	Mon. Feb. 13	Feb. 15	Feb. 22	<sup>2</sup> Feb. 29
5	Wk. of Feb 20 - 24	Wed. Feb. 22	Wed. Feb. 22	<sup>2</sup> Feb. 29	<sup>2</sup> Mar. 7	Mar. 21
6	Wk of Mar. 5 - 9	Mon. Mar. 12	Mon. Mar. 19	Mar. 21	Mar. 28	Apr. 4
7	Wk. of Mar. 19 - 23	Mon. Mar. 26	Fri. Mar. 30	Apr. 4	Apr. 11	Apr. 18
8	Wk of Apr. 2 - 5	Mon. Apr. 9	Fri. Apr. 16	Apr. 18	Apr. 25	May 2
9	Wk. of Apr. 16 - 20	Mon. Apr. 23	Mon. Apr. 30	May 2	May 9	May 16
10	Wk. of May 1 - 4	Fri. May 4	Mon. May 14	May 16	<sup>3</sup> May 23	<sup>4</sup> June 6
11	Wk. of May 21 - 25	Wed. May 23	Mon. June 4	<sup>4</sup> June 6	June 13	June 20
12	Wk. of June 4 - 8	Mon. June 11	Mon. June 18	June 20	<sup>5</sup> June 27	<sup>6</sup> July 3
13	Wk. of June 18 - 22	Wed. June 20	Wed. June 27	<sup>6</sup> July 3	<sup>6</sup> July 11	<sup>6</sup> July 18
14	Wk. of July 2 - 6	Tue. July 3	Tue. July 3	<sup>3 &amp; 6</sup> July 18	<sup>3 &amp; 6</sup> July 18	<sup>3 &amp; 7</sup> Aug. 1
AUGUST RECESS						
15	Wk. of Aug. 27 - 31	Wed. Aug. 22	Wed. Aug. 22	<sup>8</sup> Sep. 5	<sup>8</sup> Sep. 12	Sep. 19
16	Wk. of Sept. 3 - 7	Mon. Sep. 10	Mon. Sep. 17	Sep. 19	<sup>9</sup> Sep. 19	Oct. 3
17	Wk. of Sept. 17 - 21	Mon. Sep. 24	Mon. Oct. 1	Oct. 3	Oct. 10	Oct. 17
18	Wk. of Oct. 1 - 5	Mon. Oct. 8	Mon. Oct. 15	Oct. 17	Oct. 24	<sup>10</sup> Oct. 31
19	Wk. of Oct. 15 - 19	Mon. Oct. 22	Mon. Oct. 29	<sup>10</sup> Oct. 31	<sup>10</sup> Nov. 7	<sup>10</sup> Nov. 14
20	Wk. of Oct. 29 - 31	Wed. Oct. 31	Wed. Nov. 14	<sup>10</sup> Nov. 14	Nov. 28	Dec. 5
21	Wk. of Nov. 12 -18	Mon. Nov. 19	Mon. Dec. 3	Dec. 5	Dec. 12	<sup>7</sup> Dec. 19

YEAR END RECESS

First Legislative Cycle for 2013:

Fri. Dec. 14	Mon. Dec. 17 (2012)	Mon. Dec. 17 (2012)	<sup>1</sup> Wed. Jan. 2 (2013)	<sup>1</sup> Wed. Jan. 2 (2013)	Wed. Jan. 16 (2013)
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Deadlines for Legislation: The deadline for submitting legislation and all accompanying materials, including a summary memo, is noon on the date listed. For information on the manner for submitting these materials, please inquire with the Council Office.

Unless otherwise indicated, the Council meets on the first four Wednesdays of the month in the Council Chambers in Room 115 of the Showers Center, 401 North Morton, at 7:30 p.m. The following footnotes list and explain the exceptions to this general rule:

1. The Council will hold an annual Organizational Meeting on this date when, along with other matters, it elects officers and gives legislation first reading. The meeting is generally held on the first Monday in January, except when it is a legal holiday, in which case the meeting is held on the first Tuesday. (BMC 2.04.050[c & d]). However, by the adoption of this schedule, the Council has set this meeting for the first Wednesday after the first Monday in January. This meeting will be immediately followed by a Committee discussion.

2. The Council will hold what would ordinarily be the first Regular Session and Committee discussion in March, a week earlier than usual, in order to avoid meeting during Spring Break. With this schedule, the Regular Session will be held on the fifth Wednesday in February and the Committee discussion will be held on the first Wednesday in March.

3. The Council will hold a Council Budget Advance in the McCloskey Room (Room 135) of City Hall at 5:30 p.m. on Wednesday, May 23<sup>rd</sup> and Departmental Budget Hearings in the Council Chambers at 6:00 p.m. on Monday, July 23<sup>rd</sup>, Tuesday, July 24<sup>th</sup>, Wednesday, July 25<sup>th</sup>, and Thursday, July 26<sup>th</sup>, 2012.

4. There will be two weeks between the Committee and the Regular Session due to the occurrence of a fifth Wednesday in this month.

5. The Council will hold a Special Session at 7:30 p.m. on June 27<sup>th</sup> before the Committee discussion to consider the Annual Tax Abatement Report.

6. Given that the first Wednesday in July is a holiday (July 4<sup>th</sup>) and the last week of the month is set aside for Departmental Budget Hearings (See Note 3), the Council will meet for a Regular Session on Tuesday, July 3<sup>rd</sup>, a Committee discussion on July 11<sup>th</sup>, and a Regular Session immediately followed by a Committee discussion on Wednesday, July 18<sup>th</sup>.

7. Since it will take a brief recess after first meeting in August and the second Regular Session in December, the Council will not introduce legislation for first reading at these meetings. (BMC 2.04.060 [e] & [g])

8. The Council will consider the City Budget for 2013 along with routine legislation during the first legislative cycle in September. The City Budget will be considered at a public hearing during the Committee discussion to be held immediately after the Regular Session on the first Wednesday in September and be ready for final adoption at a Special Session on the Second Wednesday in September. Typically, non-budget related legislation for that legislative cycle will be heard at a Committee discussion held immediately after the Special Session on the second Wednesday in September and be given final action at the Regular Session on the third Wednesday in September.

9. The Council will move its Committee discussion from the fourth Wednesday of September to the third Wednesday to avoid meeting on Yom Kippur (the Jewish Day of Atonement) which runs from sunset on Tuesday to sunset on Wednesday.

10. The Council will not meet on the third Wednesday of November because it is the night before the Thanksgiving Holiday (BMC 2.04.050(f)). By taking advantage of the fifth Wednesday in October (when the Council does not ordinarily meet) and by holding the first two meetings in November a week earlier than usual, the Council will be able to schedule four evenings of meetings for the two legislative cycles in November. Those evenings include: a Regular Session on October 31<sup>st</sup>, Committee discussion on November 7<sup>th</sup>, Regular Session on November 14<sup>th</sup> and a Committee discussion on November 28<sup>th</sup>.

11. Staff/Council Internal Work Sessions provide an opportunity for the Council members to learn about City initiatives, most of which are near being formally considered by the Council. These meetings are held at noon in the McCloskey Room, unless otherwise indicated.



City of Bloomington
Office of the Common Council

To: Council Members
From: Council Office
Re: Approving the Annual Schedule for Year 2012 by December 7th
Date: December 2, 2011

Contents

Memo with Highlights of Meeting and Scheduling Issues
Proposed Annual Schedule for 2012

Memo

I generally submit the Annual Schedule for the next year to the Council in November for review and comment and for action no later than the first Regular Session in December. This practice allows the Council Office to get a head start on the new year (and is not done to meet any legal requirement). Along with the Annual Schedule, the Council Office also prepares an Annual Calendar for the entire City, which contains Council meeting dates. By having you vote on the Annual Schedule in early December, the Council Office can use the Council Intern, rather than the full-time employees, to finish and distribute the Annual City Calendar. Given that this is the end of the term and three new members will be joining the Council, I will be sending this memo and Schedule to the new folks as well, to give them a chance to see what is being proposed and let the rest of you know of any concerns.

The Council typically meets on the first four Wednesdays of the month, with Regular Sessions being held on the first and third Wednesday and Committees of the Whole being held on the second and fourth Wednesday.

Explanation of the Schedule Sheet. The Annual Schedule presents these meetings in legislative cycles which appear as 21 rows with 7 columns. The rows indicate the 21 legislative cycles next year. Legislative cycles begin with a Regular Session, are followed by a Committee discussion, and end with another Regular Session. These columns indicate:

Table with 7 columns: Column 1 (Legislative Cycle), Column 2 (Internal Work Sessions), Column 3 (Deadline for Filing Ordinances), Column 4 (Deadline for Filing Resolutions), Column 5 (Regular Session When Ordinances are Introduced), Column 6 (Committee Discussion When Ordinances and Newly Introduced Resolutions are Discussed), Column 7 (Regular Session When Ordinances and Resolutions are Available for Final Action).

**Deadlines.** The deadline for legislation generally falls 10 days before the meeting at which the legislation is scheduled to be introduced (whether at a Regular Session or a Committee discussion) and provides time for staff to review the legislation and prepare the weekly legislative packet for distribution on Friday. The deadline is typically on the Monday of the week before that meeting (or, in other words, the Monday of the week the Council Legislative packet for the upcoming meeting goes out). However, the deadline is moved back a day when there is a City holiday during that week and is moved back further when there are 5<sup>th</sup> Wednesdays in the month. This latter change allows staff to take time-off other than during the August Recess. Please note that the Municipal Code requires legislation and background material be filed at least two weeks before the item is to be introduced at the Council.

**Explanation of the Footnotes.** The footnotes in the Annual Schedule indicate those occasions when the Council does not meet on a Wednesday or does not follow the usual four-Wednesdays-a-month routine.

**Religious Holidays.** Please note that the calendar would shift the second Committee discussion in September from the fourth Wednesday to immediately after the Regular Session on the third Wednesday in order to avoid meeting on Yom Kippur (the Jewish Day of Atonement) which ends on sunset that evening.

There may be other religious holidays you want to observe and for that reason a copy of the IU "Religious Observances" is available in the Council Office or can be found on the web at [http://www.iub.edu/~vpfaa/policylocker/religious\\_observances/Comprehensive%20calendar%20update%202010-2015.pdf](http://www.iub.edu/~vpfaa/policylocker/religious_observances/Comprehensive%20calendar%20update%202010-2015.pdf)

Please review the following highlights and the accompanying schedule and be prepared to vote on the schedule at the December 8<sup>th</sup> Special Session.

### **Proposed Annual Schedule - Highlights and Issues**

#### **January**

Wednesday, January 4<sup>th</sup> Organizational Meeting and Committee discussion. *Please note that while statute no longer requires the Council to hold an Organizational Meeting on the first Monday of the new year, our local code still does (unless it is a holiday, in which case, the meeting is to be held on Tuesday). However, under local code you may reschedule that meeting by a majority vote of the Council (e.g. by approving a different date in the Annual Schedule). Please note that you could also decide to hold these meetings on the second Wednesday of the month (January 11<sup>th</sup>).*

#### **February - March**

*In 2012, there are five Wednesdays in February and Spring Break during the week of March 11<sup>th</sup> – 16<sup>th</sup>. This schedule avoids meeting during Spring Break by holding the first Regular Session and Committee discussion a week earlier than usual.*

Wednesday, February 29<sup>th</sup> Regular Session (*on the fifth Wednesday of February*).

Wednesday, March 7<sup>th</sup> Committee discussion (*on the first Wednesday in March*).

Wednesday, March 13<sup>th</sup> No Meeting (*Spring Break*)

## **May**

Wednesday, May 23<sup>rd</sup> “Budget Advance” in the McCloskey Room at 5:30 p.m.  
*Please note that the budget-related meetings have been confirmed by the Office of the Mayor.*

## **June**

Wednesday, June 27<sup>th</sup> The Council holds a Special Session this evening before the Committee discussion in order to consider the Annual Tax Abatement Report

## **July**

*In 2012, the first Wednesday of the month falls on July 4<sup>th</sup> and the usual four consecutive evenings of departmental budget hearings will be held later in the month.*

*Rather than starting the four evenings of Departmental Budget Hearings on the third Monday, this schedule starts those hearings on the fourth Monday of the month. This will give the Administration another week to prepare the budget and allow the Council staff to focus on the budget that week rather than splitting time between that and preparing a Legislative Packet for the following week.*

*In order to hold two Regular Sessions and Committee discussions that month, the Council must either:*

- *Skip meeting on the week of July 4<sup>th</sup> and hold two meetings an evening for the next two Wednesdays, or*
- *Hold a Regular Session the week of July 4<sup>th</sup> (probably Tuesday evening) and double-up meetings on July 18<sup>th</sup>.*

*This Schedule proposes holding single meetings on Tuesday, July 3<sup>rd</sup> and Wednesday, July 11<sup>th</sup>, and doubling-up on Wednesday, July 18<sup>th</sup>.*

Tuesday, July 3<sup>rd</sup> Regular Session (*shifted from July 4<sup>th</sup>*)

Wednesday, July 11<sup>th</sup> Committee discussion

Wednesday, July 18<sup>th</sup> Regular Session immediately followed by a Committee discussion



Monday, July 23<sup>rd</sup> Start of Departmental Budget Hearings which will begin at 6:00 p.m.  
(Through)  
Thursday, July 26<sup>th</sup> End of Departmental Budget Hearings

## August

Wednesday, August 1st August Recess begins after Regular Session

## September

*September is different from other months because the Council holds extra meetings during the first legislative cycle in order to take final action on the budget as well as consider other legislation. As has been generally true in the past, this schedule proposes that the Council hold a Regular Session and Committee discussion on the first Wednesday and a Special Session and Committee discussion on the second Wednesday of the month. The first Committee discussion and Special Session will be primarily devoted to the Budget for 2013; the second Committee discussion and Regular Session will be devoted to other legislation.*

*Please note that the last Wednesday falls on Yom Kippur. This schedule shifts the Committee discussion from the fourth Wednesday to immediately after the Regular Session on the third Wednesday of the month. In the alternative (and assuming the Council wishes to avoid meeting on this holiday), the Council could choose to meet on another evening that week (but not Tuesday, which is still considered Yom Kippur).*

Wednesday, September 5<sup>th</sup> August Recess ends with Regular Session immediately followed by Committee discussion to informally consider the 2013 Budget.

Wednesday, September 12<sup>th</sup> Council will hold Special Session to take action on 2013 budget immediately followed by a Committee discussion to consider non-budget related legislation for the first legislative cycle in August.

Wednesday, September 19<sup>th</sup> Regular Session immediately followed by a Committee discussion (Note: The fourth Wednesday of September [the 26<sup>th</sup>] falls on Yom Kippur – the Jewish Day of Atonement, which runs from sunset on Tuesday to sunset on Wednesday. Assuming the Council wishes to hold a Committee discussion that legislative cycle and avoid meeting on this holiday, the Council will need to either meet on another day that week or double-up on Wednesday, September 19<sup>th</sup>. This schedule proposes holding two meetings on September 19<sup>th</sup>).

**October - November**

*In 2012, there are five Wednesdays in October and the Wednesday before Thanksgiving in November when the Council does not meet. This year, the fifth Wednesday in October will allow the Council to meet four evenings in November by scheduling the first Regular Session and Committee discussion and Second Regular Session a week earlier than usual.*

Wednesday, October 31<sup>st</sup> Regular Session (on the fifth Wednesday in October)

Wednesday, November 7<sup>th</sup> Committee discussion (on the first Wednesday in November)

Wednesday, November 14<sup>th</sup> Regular Session (on the second Wednesday in November).

Wednesday, November 21<sup>st</sup> No Meeting – Night before Thanksgiving

**December**

Wednesday, December 19<sup>th</sup> Last meeting of the year

**RESOLUTION 11-17**

**TO APPROVE THE INTERLOCAL AGREEMENT  
BETWEEN MONROE COUNTY, THE TOWN OF ELLETTSVILLE  
AND THE CITY OF BLOOMINGTON FOR  
ANIMAL SHELTER OPERATION FOR THE YEAR 2012**

WHEREAS, the Common Council of the City of Bloomington desires to contract with Monroe County and the Town of Ellettsville, through the authority of I.C. § 36-1-7-2, to provide services and facilities to Monroe County and the Town of Ellettsville for animal care and control in consideration of payment therefore; and,

WHEREAS, an agreement has been reached between the City of Bloomington, Monroe County and the Town of Ellettsville to provide said services and facilities for 2012;

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

Section 1. The Common Council hereby approves the Animal Shelter Interlocal Agreement for Fiscal Year 2012 and authorizes the Mayor, the Director of the Animal Shelter and the Clerk of the City of Bloomington to execute the Agreement.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

**SYNOPSIS**

This resolution authorizes execution, by the Mayor and Director of Animal Care and Control, of the Animal Shelter Interlocal Agreement for Fiscal Year 2012 between the City of Bloomington, Monroe County and Town of Ellettsville. The agreement provides that Monroe County shall pay the City of Bloomington the sum of \$254,448.00 for 2012 in return for the space the City provides to the County and services it renders on the County's behalf. The agreement further provides that the Town of Ellettsville shall provide the City of Bloomington the sum of \$18,113.00 for 2012 in return for the space the City provides the Town of Ellettsville and services it renders on the Town of Ellettsville's behalf.

## MEMORANDUM

**To:** City Council

**From:** Laurie Ringquist

**Date:** November 30, 2011

**Re:** Resolution 11-17: Interlocal Agreement between Monroe County and the Town of Ellettsville for Animal Shelter Operations in the Year 2012

Indiana Code § 36-1-7 empowers the City of Bloomington to contract with Monroe County and the Town of Ellettsville to provide services and facilities to the County for animal care and control in return for payment.

This resolution is to authorize the Mayor and Director of Animal Care & Control to execute an interlocal agreement with Monroe County and Ellettsville regarding Animal Shelter operations for 2012. The City provides services and use of the Animal Shelter facilities to the County and Ellettsville. In return, the County and Ellettsville pay to the City a portion of the Animal Shelter operating costs each year. The County and Ellettsville do not pay any costs associated with the volunteer program or the education program or the city animal control function. The amount to be paid is calculated based on the percentage of animals from Monroe County sources the previous year times the projected Animal Shelter operations budget. Monroe County then negotiates with Ellettsville to pay a portion of the total amount due to the City. The attached sheet shows the calculation for FY 2012 with a total of \$272,601 due to the City.

## **ANIMAL SHELTER INTERLOCAL AGREEMENT FOR FISCAL YEAR 2012**

**WHEREAS**, the City of Bloomington Animal Control Department operates the Animal Shelter for the care and control of animals; and,

**WHEREAS**, the City of Bloomington Animal Control Department enforces licensing, animal care and animal control ordinances within the corporate boundaries of the municipality, including impoundment, adoptions and euthanizing of animals of the Animal Shelter; and,

**WHEREAS**, the County Animal Management Officers exercise similar functions within the County, but utilize the Shelter premises and staff for impoundment, adoptions and euthanasia; and,

**WHEREAS**, the County Animal Management Officers exercise similar functions within the town limits of the Town of Ellettsville, but utilize the Shelter premises and staff for impoundment, adoptions and euthanasia; and,

**WHEREAS**, the Town of Ellettsville finds it in the best interest of its citizens to contract with Monroe County for the animal management services and the City of Bloomington, Indiana for animal shelter use; and,

**WHEREAS**, due to budgeting timelines, the Town of Ellettsville's portion of this Interlocal's cost is the product of the 2011 City of Bloomington's Animal Shelter's operation budget and the percentage of 2010 sheltered animals originating from Ellettsville, rounding to the nearest percentage; and,

**WHEREAS**, in order to alleviate the financial burden based upon the Town of Ellettsville's budgeting timeline, Monroe County's portion is calculated using the 2012 Animal shelter operations budget multiplied by the percentage of 2010 sheltered animals originating from Monroe County and the Town of Ellettsville less the Town of Ellettsville's contribution; and,

**WHEREAS**, Monroe County finds it in the best interest of its citizens to contract with the City of Bloomington, Indiana for animal shelter use and to provide the Town of Ellettsville animal management services; and,

**WHEREAS**, the City of Bloomington, Town of Ellettsville, and Monroe County are empowered pursuant to Indiana Code § 36-1-7 to contract together on the basis of mutual advantage to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local government;

**NOW, THEREFORE**, in consideration of the mutual terms, covenants, and conditions herein agreed, the parties agree as follows:

1. The duration of the Agreement shall be for one (1) year, commencing January 1, 2012 and ending on December 31, 2012.
2. The City of Bloomington ("City") agrees to provide the Town of Ellettsville ("Town") and Monroe County ("County") the following:
  - a. The impoundment, general animal care, adoption and euthanasia for the Town and County.
  - b. Use of supplies and equipment in the City Animal Shelter by the County Animal Management personnel;
  - c. Assistance to the Town and County in answering phone calls, dispatching service calls and explaining the County animal management laws to callers; and
  - d. Accept and record payments for County license fees, and to remit these funds to the County monthly.
3. County shall administer and enforce County Animal Management Laws, including relevant kennel regulations, within the corporate limits of the Town.
4. The County agrees to pay the City the sum of \$254,448.00.
5. The Town agrees to pay the City the sum of \$18,113.00.
6. The level of cooperation recited in this Agreement is intended to exist for the purpose of efficient and effective delivery of governmental services to the citizens of the City, Town, and County; however, the parties recognize that modifications may be required, either to the Agreement itself, or to the practices and procedures that bring the recitals contained within this document to fruition.
7. The City, Town, and County departments affected by the terms of this Agreement will continue to communicate and cooperate together to assure that the purposes of this Agreement are achieved on behalf of and to the benefit of the citizens of the respective political subdivisions.
8. Payments shall be made semi-annually to the Controller of the City, upon the timely submission by the City of a claim. Such claims should be submitted to the Monroe County Board of Commissioners, Room 322, Courthouse, Bloomington, Indiana 47404 and the Town Council of Ellettsville, 211 N. Sale Street, Ellettsville, Indiana, 47429.

**THE PARTIES**, intending to be bound, have executed this *ANIMAL SHELTER INTERLOCAL AGREEMENT FOR FISCAL YEAR 2012* on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

TOWN OF ELLETTSVILLE, INDIANA

ATTEST:

\_\_\_\_\_  
 Dan Swafford, President  
 Ellettsville Town Council

\_\_\_\_\_  
 Sandra Hash  
 Clerk/Treasurer

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF BLOOMINGTON

MONROE COUNTY COMMISSIONERS

\_\_\_\_\_  
MARK KRUZAN, MAYOR

\_\_\_\_\_  
PATRICK STOFFERS, PRESIDENT

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
LAURIE RINGQUIST, ANIMAL  
CONTROL DIRECTOR

\_\_\_\_\_  
IRIS KIESLING, VICE PRESIDENT

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
MARK STOOPS, MEMBER

DATE: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
REGINA MOORE, CLERK

\_\_\_\_\_  
AMY GERSTMAN, COUNTY AUDITOR

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Approved this \_\_\_\_ day of \_\_\_\_\_, 2011, by the Bloomington  
Common Council.**

\_\_\_\_\_  
Susan Sandberg, President  
Bloomington Common Council

*Attest:*

\_\_\_\_\_, \_\_\_\_\_, 2011.

Regina Moore  
City Clerk

**CITY OF BLOOMINGTON/MONROE COUNTY  
INTERLOCAL AGREEMENT FOR ANIMAL CONTROL  
FY 2012 PROJECTED COSTS**

There are four components to the Animal Control Department budget:

- Animal Shelter Operations
- Animal Control Field Operations
- Education Program
- Volunteer Program

Monroe County pays the City of Bloomington a percentage of the Animal Shelter Operations program. The percentage is calculated as the percentage of animals Monroe County generated of the total number of animals handled the previous year.

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ANIMAL SHELTER OPERATIONS PROGRAM PROJECTED 2012 BUDGET = \$649,051  
(This includes requested budget increases and projected salary increases. Total is reduced by \$105,464 to reflect 2010 adoption revenues.)

**2010 PERCENTAGE OF ANIMALS FROM MONROE COUNTY SOURCES**

- Picked up by AMO's 286
- Strays brought in by county residents 799
- Animals relinquished by Monroe County residents 765

**Total number of Monroe County Animals 1,850**

Total number of animals handled by Shelter in 2010 4,407

Percentage of animals from Monroe County sources 42%

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ANIMAL SHELTER OPERATIONS PROGRAM BUDGET X 42% = 2012 INTERLOCAL AMOUNT

$$\$649,051 \times 42\% = \$272,601$$

**2012 PROJECTED MONROE COUNTY ANIMAL SHELTER COSTS \$272,601**



*Introduction To:*

**ORDINANCE 11-13**

**TO AMEND TITLE 10  
OF THE BLOOMINGTON  
MUNICIPAL CODE ENTITLED  
“WASTEWATER”  
(Wastewater Rate Adjustment)**

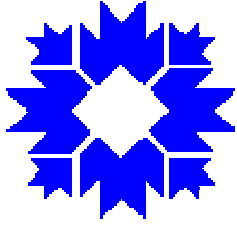
**and**

**ORDINANCE 11-14**

**ATHORIZING THE ISSUANCE OF  
WASTEWATER BONDS  
(PARAPHRASE OF TITLE)**

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**MEMO TO COUNCIL  
from Vickie Renfrow, City Attorney**



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

**CONFIDENTIALITY NOTICE:**

**This memorandum and any attachments are confidential  
and may be protected by legal privilege**

**TO: Bloomington Common Council Members**  
**FROM: Vickie Renfrow, City Attorney**  
**RE: Sewage Works Rate and Bond Ordinances**  
**DATE: November 22, 2011**

As you know, it has been six years since the sewage works rates were adjusted, and there have been many changes in our costs, the financial landscape, and other factors during that time. All of these have come together to produce the result that rates need to be increased so that they produce an additional \$6,489,961 in order for us to get our Sewage Works Utility financial house in order and move forward in a responsible manner.

It is helpful to breakdown that increased revenue into categories of expenses. The table set out on the following page breaks down the total into general categories such as Operating Expense and Taxes, and then further in subparts of those general categories. This breakdown helps to show the source of significant portions of the rate increase. The amounts attributable to the Health Insurance Trust and other benefits, and the amount needed to fund "Deficient Surety Policies" stand out. The increase in health care costs really impacts the rate change. In addition, we must deal with the fact that the recent financial meltdown has rendered virtually worthless the surety policies which we had in lieu of cash funded debt service reserve for some of our bonds. So we must now cash fund those reserves, and the portion of the proposed Taxable Sewage Works Bonds that must be dedicated to cash funding those reserves is also significant. We must finance those costs and the others included in that category of bonds with taxable bond financing due to IRS regulations regarding those payments. We are fortunate that interest rates for taxable short term debt (these will be 5 year bonds) are now very favorable. By selling the taxable bonds we can immediately pay these obligations in full rather than trying to pay them down over several years, and this is important since much of this debt is owed to the Civil City. An additional portion of the debt service part of this rate increase is the proposed tax-exempt bonds that will be sold in 2012. They all involve financing improvements that we are required to make pursuant to the Agreed Order which we have with IDEM. The point here is that when one considers these exceptional expenses and the fact that the last rate increase was based on 2004 financials, the rate adjustment increasing revenue by \$6,489,961 is understandable.

<b>Operating Expense and Taxes</b>	<b>\$</b>	<b>\$</b>
Health Insurance Trust, Other Services Flex, Basic Life & LTD	862,721	
Vehicle Parts and Repairs Expense Increase	112,704	
Interdepartment Agreement	122,288	
Other Operation and Maintenance	1,682,586	
FICA	44,469	
Payment in Lieu of Property Taxes	115,210	
<b>Subtotal:</b>	2,939,978	2,939,978
<b>Annual Energy Savings Lease Payment (will be paid off in Oct. 2013)</b>	281,400	281,400
<b>Proposed Combined Annual Debt Service</b>		
*Current Estimated Combined Maximum Annual Debt Service	(167,630)	
Proposed Taxable Sewage Works Revenue Bonds of 2012B (5 year term)		
Amount Due to City - 2010 Back Payments	216,720	
Amount Due to City - Estimated 2011 Back Payments	384,526	
Amount to be Funded for Deficient Surety Policies	681,121	
Temporary Loan Repayment for Third Street Project	131,333	
Proposed Tax-exempt Sewage Works Revenue Bonds of 2012C (20 year term)	365,670	
<b>Subtotal:</b>	1,611,740	1,611,740
<b>Estimated Annual Extension and Replacements</b>	853,548	853,548
<b>Annual Working Capital (Operating Fund) Requirement</b>	803,295	802,295
<b>TOTAL PROPOSED RATE INCREASE</b>		<b>\$6,489,961</b>

\*This is a negative because we will be refunding sewer bonds and reducing our debt service payments on those bonds. The net present value of the savings is estimated to be \$595,000. Rates must be increased and the debt service reserve issues must be corrected through cash funding before this refunding can occur.

**REVENUE REQUIREMENTS FOR EACH CATEGORY AND TOTAL:**

<b>Operating Expense and Taxes</b>	<b>\$10,767,000</b>
<b>Annual Energy Savings Lease Payment</b>	<b>\$291,000</b>
<b>Proposed Combined Annual Debt Service</b>	<b>\$6,240,000</b>
<b>Estimated Annual Extension and Replacements</b>	<b>\$1,069,000</b>
<b>Annual Working Capital (Operating Fund) Requirement</b>	<b>\$803,000</b>
<b>Total Revenue Requirements:</b>	<b>\$19,170,000</b>

It may be helpful to divide the total rate increase into two types of expenses. The first being the operating expenses and taxes which amount to a little less than half of the rate increase. Almost a third of the total for that category (i.e., \$862,721 out of \$2,939,978) is attributable to increases in health care costs.

The second general category is everything else because the rest of the rate increase is either directly or indirectly attributable to bond financing and other debt considerations. Obviously, the portions of the rate increase that are related to making bond payments or cash funding debt service reserves fall into that category. But “Estimated Annual Extension and Replacements” and “Annual Working Capital (Operating Fund) Requirement” are both directly related to debt obligations because they represent the minimum required “cover” or amount by which revenue exceeds overall costs for the Utility. These portions of the rate increase are mandatory due to requirements in selling bonds and covenants in existing and proposed bond sale documents. We are required to have a cash reserve which is what “Annual Working Capital” represents, and we have been out of compliance with existing bond covenants due to depletion of our cash reserves since our last rate increase. We are also required to have the level of revenue identified as “Estimated Annual Extension and Replacements”, and we will use those funds for that purpose. But we would be required to generate these revenues in any case due to the covenants and requirements related to our bond financing.

The amount of increase in customers’ bills when this rate increase goes into effect is set out in the first page of Attachment A to this memo. It shows that, e.g., a typical customer consuming 5000 gallons per month will pay an additional \$13.26. Pages 2, 3, and 4 of Attachment A show how our rates for water and sewer will compare with those of other Indiana communities after the rate increase goes into effect. These tables show that we will still be in the mid-range of these rates, which is remarkable given that most of the other communities listed either are expected to raise their rates soon, or keep their rates artificially low by subsidizing their utilities in some manner. In addition, many of these communities are facing costly capital improvement projects that are required to deal with combination sanitary sewer and storm sewer systems. We do not have that looming in our future. In fact, the rate increase that is being proposed should keep our Sewage Works financially healthy for some time given the short term nature of some of the debt (the Energy Savings Lease payments and taxable bonds will be paid in two years and five years, respectively).

The bond ordinance authorizes the sale of taxable bonds which will cover payment all of obligations to the Civil City and cash funding of debt service reserves in place of surety bonds. It also authorizes sale of tax-exempt bonds to finance the construction projects described in Exhibit A attached to the bond ordinance.

If approved the proposed rate and bond ordinances will resolve financing issues that have developed over the six years since the last rate adjustment, and put the City of Bloomington Sewage Works Utility on firm financial ground going forward. If you have any questions regarding this matter please feel free to contact me.

**BLOOMINGTON MUNICIPAL SEWAGE WORKS**  
 Bloomington, Indiana

Typical Monthly Bill Analysis

<u>Gallons</u>	<u>Sewage Works Present Charge</u>	<u>Proposed Charge</u>	<u>Difference</u>
1,000	\$ 8.42	\$ 12.88	\$ 4.46
2,000	12.58	19.24	6.66
3,000	16.74	25.60	8.86
4,000	20.90	31.96	11.06
5,000	25.06	38.32	13.26
6,000	29.22	44.68	15.46
7,000	33.38	51.04	17.66
8,000	37.54	57.40	19.86
9,000	41.70	63.76	22.06
10,000	45.86	70.12	24.26
11,000	50.02	76.48	26.46
12,000	54.18	82.84	28.66
13,000	58.34	89.20	30.86
14,000	62.50	95.56	33.06
15,000	66.66	101.92	35.26
16,000	70.82	108.28	37.46
17,000	74.98	114.64	39.66
18,000	79.14	121.00	41.86
19,000	83.30	127.36	44.06
20,000	87.46	133.72	46.26

Note: The estimated bills above exclude the \$2.70 monthly Stormwater Utility Charge.

**BLOOMINGTON MUNICIPAL SEWAGE WORKS**  
Bloomington, Indiana

**Survey of Combined Water and Sewer Rates  
Indiana Cities and Towns Over 35,000 Population**

<u>City/Town</u>	<u>2010 Census Population</u>	<u>County</u>	<u>Residential 3/4" or 1" Meter Monthly Billing for 6.68 CCF or 5,000 Gallons</u>
Mishawaka (3)*	48,252	St. Joseph	\$ 111.84
Jeffersonville (1)	44,953	Clark	93.03
New Albany (1)	36,372	Floyd	87.96
Gary (2)	80,294	Lake	85.46
Noblesville	51,969	Hamilton	80.33
Kokomo	45,468	Howard	76.49
Richmond (2)	36,812	Wayne	72.43
Muncie (2)	70,085	Delaware	70.99
Greenwood	49,791	Johnson	68.93
Terre Haute (1) (2)	60,785	Vigo	68.92
Anderson (2)	56,129	Madison	68.07
Portage	36,828	Porter	66.46
<b>Bloomington - Proposed</b>	<b>80,405</b>	<b>Monroe</b>	<b>62.86</b>
Lawrence*	46,001	Marion	59.11
South Bend (1)	101,168	St. Joseph	56.42
Fishers	76,794	Hamilton	54.64
Evansville*	117,429	Vanderburgh	52.46
Indianapolis (1) (2)	820,445	Marion	51.75
Columbus	44,061	Bartholomew	50.85
<b>Bloomington - Current</b>	<b>80,405</b>	<b>Monroe</b>	<b>49.60</b>
Fort Wayne (1)	253,691	Allen	44.00
Elkhart	50,949	Elkhart	38.37
Lafayette	67,140	Tippecanoe	37.14
Carmel (1)	79,191	Hamilton	33.19
Hammond (2)	80,830	Lake	18.58

(1) Rate increase expected.

(2) Subsidized by property tax.

(3) Subsidized by Tax Increment Financing (TIF) revenues.

\* Denotes 1" meter.

**BLOOMINGTON MUNICIPAL SEWAGE WORKS**  
Bloomington, Indiana

**Survey of Sewer Rates**  
**Indiana Cities and Towns Over 35,000 Population**

<u>City/Town</u>	<u>2010 Census Population</u>	<u>County</u>	<u>Private or Municipal Ownership</u>	<u>Effective Date of Sewer Rate</u>	<u>Residential 3/4" or 1" Meter Monthly Sewer Billing for 6.68 CCF or 5,000 Gallons</u>
Mishawaka (3)*	48,252	St. Joseph	Municipal	2011	\$ 81.12
Jeffersonville (1)	44,953	Clark	Municipal	2009	46.49
Anderson (2)	56,129	Madison	Municipal	2009	43.17
South Bend (1)	101,168	St. Joseph	Municipal	2011	42.98
New Albany (1)	36,372	Floyd	Municipal	2010	41.42
<b>Bloomington - Proposed</b>	<b>80,405</b>	<b>Monroe</b>	<b>Municipal</b>		<b>38.32</b>
Columbus	44,061	Bartholomew	Municipal	2009	37.77
Evansville*	117,429	Vanderburgh	Municipal	2011	34.95
Noblesville	51,969	Hamilton	Municipal	2010	33.79
Gary (2)	80,294	Lake	Municipal	2008	32.50
Lawrence	46,001	Marion	Municipal	2009	30.57
Kokomo	45,468	Howard	Municipal	2006	29.95
Fort Wayne (1)	253,691	Allen	Municipal	2010	26.75
Fishers	76,794	Hamilton	Municipal	2000	26.00
Richmond (2)	36,812	Wayne	Municipal	2009	25.89
<b>Bloomington - Current</b>	<b>80,405</b>	<b>Monroe</b>	<b>Municipal</b>	<b>2006</b>	<b>25.06</b>
Lafayette	67,140	Tippecanoe	Municipal	2008	25.01
Muncie (2)	70,085	Delaware	Municipal	2011	24.45
Portage	36,828	Porter	Municipal	2009	23.50
Indianapolis (1) (2)	820,445	Marion	Public Trust	2011	23.11
Elkhart	50,949	Elkhart	Municipal	2011	22.91
Greenwood	49,791	Johnson	Municipal	2010	22.39
Terre Haute (1) (2)	60,785	Vigo	Municipal	2010	22.38
Camel (1)	79,191	Hamilton	Municipal	2009	18.14
Hammond (2)	80,830	Lake	Municipal	2008	13.38

(1) Rate increase expected.

(2) Subsidized by property tax.

(3) Subsidized by Tax Increment Financing (TIF) revenues.

\* Denotes 1" meter.

**BLOOMINGTON MUNICIPAL SEWAGE WORKS**  
Bloomington, Indiana

**Survey of Water Rates**  
**Indiana Cities and Towns Over 35,000 Population**

<u>City/Town</u>	<u>2010 Census Population</u>	<u>County</u>	<u>Private or Municipal Ownership</u>	<u>Effective Date of Water Rate</u>	<u>Residential 3/4" or 1" Meter Monthly Water Billing for 6.68 CCF or 5,000 Gallons</u>
Gary	80,294	Lake	Private	2010	\$ 52.96
Greenwood	49,791	Johnson	Private	2010	46.54
Kokomo	45,468	Howard	Private	2010	46.54
Muncie	70,085	Delaware	Private	2010	46.54
New Albany	36,372	Floyd	Private	2010	46.54
Noblesville	51,969	Hamilton	Private	2010	46.54
Richmond	36,812	Wayne	Private	2010	46.54
Terre Haute	60,785	Vigo	Private	2010	46.54
Jeffersonville	44,953	Clark	Private	2010	46.54
Portage	36,828	Porter	Private	2010	42.96
Mishawaka*	48,252	St. Joseph	Municipal	2002	30.72
Fishers	76,794	Hamilton	Municipal	2011	28.64
Indianapolis	820,445	Marion	Public Trust	2011	28.64
Lawrence*	46,001	Marion	Municipal	2008	28.54
Anderson	56,129	Madison	Municipal	2007	24.90
<b>Bloomington</b>	<b>80,405</b>	<b>Monroe</b>	<b>Municipal</b>	<b>2011</b>	<b>24.54 (1)</b>
Evansville*	117,429	Vanderburgh	Municipal	2010	17.51
Fort Wayne	253,691	Allen	Municipal	2006	17.25
Elkhart	50,949	Elkhart	Municipal	2007	15.46
Carmel	79,191	Hamilton	Municipal	2008	15.05
South Bend	101,168	St. Joseph	Municipal	2006	13.44
Columbus	44,061	Bartholomew	Municipal	1992	13.08
Lafayette	67,140	Tippecanoe	Municipal	2007	12.13
Hammond	80,830	Lake	Municipal	1985	5.20

(1) Includes proposed Phase II rate increase of 25.99%.

\* Denotes 1" meter.



**ORDINANCE 11-13**

**TO AMEND TITLE 10  
OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED  
“WASTEWATER”  
(Wastewater Rate Adjustment)**

WHEREAS, the City of Bloomington, Indiana (the “City”) has established, acquired, and financed its sewage works pursuant to Indiana Code 36-9-23, as amended (the “Act”), for the purpose of providing for the collection, treatment and disposal of sewage from inhabitants in and around the City; and

WHEREAS, Crowe Horwath LLP, financial advisor to the City, has prepared a rate report concerning the current rates and charges of the sewage works (the “Report”); and

WHEREAS, based upon the Report, the Common Council of the City (the “Council”) finds that the current rates and charges for the use of and service rendered by the sewage works do not produce sufficient revenues to pay all the legal and necessary expenses incident to the operation of such sewage works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals and interest charges on bonds or other obligations of the sewage works, to provide a sinking fund for the liquidation of indebtedness, and to provide adequate funds to be used as working capital and funds for making extensions and replacements and to make payments in lieu of taxes; and

WHEREAS, based upon the Report, the Council finds that the current rates and charges do not produce an income sufficient to maintain the sewage works property in a sound physical and financial condition to render adequate and efficient service; and

WHEREAS, the Council finds that the current rates and charges for the use of and service rendered by the sewage works must be increased in order to provide sufficient revenue to meet such requirements; and

WHEREAS, the Council finds that the rates and charges set forth herein are based upon the cost of providing service to the customers of the sewage works and will enable the City to meet its legal revenue requirements for the sewage works; and

WHEREAS, the Utilities Service Board of the City has recommended, after due consideration, including consideration of the Report, that the rates and charges set forth herein should be approved by the Council; and

WHEREAS, the Council has caused notice of a public hearing on the rates and charges set forth herein to be duly advertised and mailed, and has held a public hearing thereon, all pursuant to the Act;

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

Section 1. Section 10.08.040 of the Bloomington Municipal Code (the “Code”), entitled “Rates—Metered water users”, is hereby amended and restated to read as follows:

“10.08.040 Rates—Metered water users. General service rates shall be applicable to all metered water users except those with other than average strengths of BOD and suspended solids. The general service rates shall be determined as follows:

Monthly service charge (per meter)	\$6.52
User Charge	
Charge per 1,000 gallons per month for all billable usage:	
Residential <sup>(a)</sup>	\$6.36
Commercial	\$6.36
Indiana University	\$6.36
Industrial <sup>(b)</sup>	\$6.36

- (a) Residential summer rates for billings issued during the months of June, July, August, and September shall be based upon the average metered water consumption for billings issued during the months of April and May or actual usage, whichever is less. In order to more accurately reflect the actual wastewater usage of these customers, the Utilities Service Board may, by the adoption of a resolution, change the months used to set the summer rates and the length of time the summer rates are in effect. All other users shall be charged on the basis of one hundred percent of metered water consumption subject to user proof of lower wastewater use.
- (b) Industrial user rates and charges shall be based on the quantity of water used as well as any special service rates that may apply.”

Section 2. Section 10.08.070 of the Code, entitled “Rates—Nonmetered users”, is hereby amended and restated to read as follows:

“10.08.070 Rates—Nonmetered users. The minimum rate or charge for any service where the user is not a metered water user shall be six hundred and thirty-three dollars and ninety-nine cents (\$633.99) per year, payable monthly. At the request of the utility or user, a meter which measures either the water use of the customer or the discharge into the sanitary sewer system shall be installed at the user’s expense. Where a meter has been installed or the customer’s water use records are available at no charge from the water supplier, the charge for service shall be computed on the basis of water usage plus monthly service charge, just as it is with a metered user, subject to the annual minimum charge.”

Section 3. Subsection (b) of Section 10.08.110 of the Code, entitled “Special service rates”, is hereby amended and restated to read as follows:

“(b) Special Rates. Special service rates shall be determined as follows:

Monthly service charge (per meter)	\$ 6.52
Special laboratory analysis monthly charge	
Strength of BOD and SS sampling charge	\$136.80
Grease and oil sampling charge	\$128.24
Metal sampling charge (per metal per test)	\$ 28.50
User Charge	
Charge per 1,000 gallons per month for all billable usage:	
Non-excessive strength rate	\$6.52
Extra Strength Charge	
Charge per pound per month for all strength in excess of 300 ppm:	
BOD	\$0.309
Suspended Solids	\$0.251

Section 4. Severability. 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 parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

Section 5. This ordinance shall be in full force and effect upon its passage by the Common Council of the City of Bloomington, Monroe County, Indiana, and approval of the Mayor; provided, however, that the rates and charges herein approved shall not take effect until March 1, 2012.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance amends the rates and charges included in Title 10 of the Bloomington Municipal Code, entitled "Wastewater", to cover the cost of inflation, extensions and replacements, refunding one series of bonds, reimbursement for services provided by the City, and the providing an adequate amount for bond Reserve Funds. The provisions will go into effect on March 1, 2012.

## **Chapter 10.08 of the Bloomington Municipal Code as Amended by Ord 11-13**

~~strike~~ – proposed deletion

**bold** – proposed addition

▶ -- relevant section

**Section 1 of Ord 11-13** amends §10.08.040 “Rates – Metered water users”

**Section 2 of Ord 11-13** amends §10.08.070 “Rates – Nonmetered users”

**Section 3 of Ord 11-13** amends §10.08.110(b) “Special service rates”

### **Chapter 10.08**

#### **WASTEWATER RATES AND CHARGES**

Sections:

**10.08.010 Rates--Generally.**

**10.08.020 Rates--Biennial review.**

**10.08.030 Rates--Based on quantity of water used.**

**10.08.035 Rate--Establishment of stormwater utility.**

**10.08.040 Rates--Metered water users.**

**10.08.045 Rates--Stormwater utility users.**

**10.08.050 Rates--Exemptions.**

**10.08.060 Rates--Utility measurement of water.**

**10.08.070 Rates--Nonmetered users.**

**10.08.080 Billing.**

**10.08.085 Lifeline service.**

**10.08.090 Delinquencies--Late payment charge.**

**10.08.100 Liens for nonpayment.**

**10.08.110 Special service rates.**

**10.08.120 Waste haulers--Charges.**

**10.08.130 Inspection charge.**

**10.08.140 Connection fee.**

**10.08.150 Laboratory charges.**

#### **10.08.010 Rates--Generally.**

Rates or charges shall be collected for the use of and the service rendered by the utility from the owners of each and every lot, parcel of real estate, or building that is connected with and uses the utility by or through any part of the wastewater treatment system, and the rates and charges shall be payable as provided in this chapter. (Ord. 80-26 § 1 (part), 1980).

#### **10.08.020 Rates--Biennial review.**

Not less than every two years, the board shall review the wastewater contribution of users and user classes, the total cost of operation and maintenance of the treatment works, and its user charge system. The board shall, subject to enactment by the common council, revise the charges for users and user classes to maintain the proportionate

distribution of operation and maintenance costs among the user and user classes and to generate sufficient revenue to pay the total operation and maintenance costs necessary for proper operation and maintenance of the treatment system, bond payments, and routine improvements.

(Ord. 80-26 § 1 (part), 1980).

**10.08.030 Rates--Based on quantity of water used.**

(a) The residential user rates and charges shall be based upon the quantity of water used on or in the property or premises subject to the rates and charges, as water is measured by the city water meter there in use, except as otherwise provided. Residential summer rates for the months of June, July, August, and September shall be based upon the average of April and May or actual usage, whichever is less. All other users shall be charged on the basis of one hundred percent of metered water consumption subject to user proof of lower wastewater use.

(b) Industrial user rates and charges shall be based on the quantity of water used as well as any special service rates that may apply.

(Ord. 80-26 § 1 (part), 1980).

**10.08.035 Rate--Establishment of stormwater utility.**

There is hereby established within the city wastewater utility the powers, duties and responsibility for the construction, operation and maintenance for the stormwater utility in accordance with Indiana Code 36-9-23-1 et seq. The original jurisdictional boundaries of the stormwater utility are reflected in Exhibit A, attached hereto and incorporated herein; said boundaries may be amended or extended with the approval of the Utilities Service Board.

(Ord. 98-29 § 2, 1998).



**10.08.040 Rates--Metered water users.**

General service rates shall be applicable to all metered water users, except those with other than average strengths of BOD and suspended solids.

The general service rates shall be determined as follows:

	<i>Current – <u>Ord 05-34</u></i>	<i>Proposed by <u>Ord 11-13</u></i>	<i>Note: Percentage Increase</i>
Monthly service charge (per meter)	<del>\$4.26</del>	\$6.52	53.05%
User Charge			
Charge per 1,000 gallons per month for all billable usage:			
Residential <sup>(a)</sup>	<del>\$4.16</del>	\$6.36	52.9%
Commercial	<del>\$4.16</del>	\$6.36	52.9%
Indiana University	<del>\$4.16</del>	\$6.36	52.9%
Industrial <sup>(b)</sup>	<del>\$4.16</del>	\$6.36	52.9%

Notes:

(a) Residential summer rates for billings issued during the months of June, July, August, and September shall be based upon the average metered water consumption for billings issued during the months of April and May or actual usage, whichever is less. In order to more accurately reflect the actual wastewater usage of these customers, the Utilities Service Board may, by the adoption of a resolution, change the months used to set the summer rates and the length of time the summer rates are in effect. All other users shall be charged on the basis of one hundred percent of metered water consumption subject to user proof of lower wastewater use.

(b) Industrial user rates and charges shall be based on the quantity of water used as well as any special service rates that may apply.

(Ord. 05-34 § 1, 2005: Ord. 03-24 § 1, 2003: Ord. 00-34 § 1, 2000: Ord. 99-31 § 1, 1999: Ord. 98-29 § 3, 1998: Ord. 97-01 § 1, 1997: Ord. 94-41 § 1, 1994: Ord. 89-36 § 1, 1989: Ord. 81-16 §§ 1, 5, 1981: Ord. 80-26 § 1 (part), 1980).

**10.08.045 Rates--Stormwater utility users.**

(a) The rates and charges of the stormwater utility shall be as follows:

The stormwater system user fee is applicable to all utility customers with accounts within the stormwater system service area. All customers classified by the utility as being single-family residential shall pay a monthly charge of two dollars and seventy cents. All other customers shall be charged based upon the amount of runoff generated by the customer. The amount of runoff subject to the stormwater utility rate shall be determined by a calculation based upon the following formula, minus any credits, as approved by the Utilities Service Board:

Runoff generated by nonsingle-family Residential Customer	
	Multiplied times \$2.70
Runoff generated by the average single-family residential customer	

(b) These rates and charges shall be billed monthly, and all provisions of the Indiana Code, the Bloomington Municipal Code and the City Utilities Department Rules, Regulations and Standards of Service which apply to the payment and collection of rates and charges for wastewater services shall apply equally to the rates and charges for stormwater utilities services.

(Ord. 03-24 § 2, 2003: Ord. 01-15 § 1, 2001; Ord. 99-04 § 3, 1999: Ord. 98-29 § 4, 1998).

**10.08.050 Rates--Exemptions.**

Water which is used in process of manufacture or for any other purpose which does not discharge into the sanitary sewers shall be exempted; provided, however that the property owner shall install, under the supervision of the utility, the necessary meters to indicate the amount of water used which does not discharge into the sanitary sewers. All meter installation and maintenance costs shall be paid by the user, including a monthly

service charge as provided in Section 10.08.040.  
(Ord. 80-26 § 1 (part), 1980).

#### **10.08.060 Rates--Utility measurement of water.**

(a) In the event a lot, parcel of real estate, or building discharging wastewater, water, or other liquids into the wastewater treatment system, either directly or indirectly, is not a user of water supplied by the utility and the water used is not measured by a utility water meter or by a meter acceptable to the utility, then the amount of water used shall be otherwise measured or determined by the utility in order to determine the rate or charge provided for in this chapter, or the user may at his expense install and maintain a meter acceptable to the utility for this purpose.

(b) In the event a lot, parcel of real estate, or building discharges industrial wastewater either directly or indirectly into the wastewater treatment system and the utility finds it is not practical to attempt to measure such wastes by meter, it may be measured in such manner and by such methods as the utility may find practical in the light of the conditions and attendant circumstances in order to determine the rate or charge according to the corresponding rates per thousand gallons provided in this chapter. Higher than average wastewater strengths shall pay accordingly.  
(Ord. 80-26 § 1 (part), 1980).

#### **10.08.070 Rates--Nonmetered users.**

The minimum rate or charge for any service where the user is not a metered water user shall be ~~four hundred and fourteen dollars and thirty seven cents~~ **six hundred and thirty-three dollars and ninety-nine cents (\$633.99)** per year, payable monthly. At the request of the utility or user, a meter which measures either the water use of the customer or the discharge into the sanitary sewer system shall be installed at the user's expense. Where a meter has been installed or the customer's water use records are available at no charge from the water supplier, the charge for service shall be computed on the basis of water usage, plus monthly service charge, just as it is with a metered user, subject to the annual minimum charge.  
(Ord. 05-34 § 2, 2005: Ord. 03-24 § 3, 2003: Ord. 00-34 § 2, 2000: Ord. 98-29 § 5, 1998: Ord. 94-41 § 2, 1994: Ord. 89-36 § 2, 1989: Ord. 81-16 § 2, 1981: Ord. 80-26 § 1 (part), 1980).

#### **10.08.080 Billing.**

Rates and charges shall be billed monthly and shall be due according to the collection policy as adopted by the Utilities Service Board.  
(Ord. 94-41 § 3, 1994: Ord. 89-36 § 3, 1989: Ord. 80-26 § 1 (part), 1980).

#### **10.08.085 Lifeline service.**

Beginning February 23, 1981, and ending February 23, 1982, those users who are heads of households aged sixty-two or over who are dependent on Social Security or Social Security/SSI and whose total annual household income is at or below one hundred twenty-five percent of poverty level shall receive a credit on that portion of their monthly wastewater bill that is equivalent to the amount of the capital-related costs as established in Section 10.08.040.  
(Ord. 81-16 § 7, 1981).

**10.08.090 Delinquencies--Late payment charge.**

In the event a net bill is not paid within seventeen days from the mailing of the bill, it shall become a delinquent bill and a late payment charge may be added in the amount permitted by applicable state laws and regulations.  
(Ord. 03-24 § 4, 2003; Ord. 80-26 § 1 (part), 1980).

**10.08.100 Liens for nonpayment.**

(a) In addition to any other method of collection of rates and charges, including the late payment charge, the utility may foreclose liens on property when rates and charges become delinquent. The utility may recover the amount due, the penalty, and reasonable attorney's fees in the manner provided by Indiana Code 36-9-23-31.

(b) The utility shall have the right to foreclose the lien against rental property regardless of whether the delinquency in payment was created by the tenant or owner of the property.  
(Ord. 89-14 § 4, 1989; Ord. 80-26 § 1 (part), 1980).

**10.08.110 Special service rates.**

(a) Special service rates shall be applicable to all industrial users who generate wastewater which contains any nonconventional pollutants or strengths of BOD or SS that exceed the system average strengths of three hundred parts per million BOD or three hundred parts per million SS, as determined by special laboratory analysis by the utility's central laboratory. Other special service rates shall be charged on a case-by-case basis for toxic pollutant discharges, with the charges being based on the difficulty of treating the toxic pollutant as well as sampling, testing, and disposal charges. Strength charges are to be computed on actual measured strengths and volumes.

(b) Special Rates. Special service rates shall be determined as follows:



	<i>Existing Rate per Ord 05-34</i>	<i>Rate Proposed by Ord 11-13</i>	<i>Percentage Increase</i>
Monthly service charge (per meter)	\$ <del>4.26</del>	<b>\$6.52</b>	53.1%
Special laboratory analysis monthly charge			
Strength of BOD and SS sampling charge	<del>89.41</del>	<b>\$136.80</b>	53%
Grease and oil sampling charge	<del>83.82</del>	<b>\$128.24</b>	53%
Metal sampling charge (per metal per test)	<del>18.63</del>	<b>\$28.50</b>	53%
User Charge			
Charge per 1,000 gallons per month for all billable usage:			
Nonexcessive strength rate	<del>4.26</del>	<b>\$6.52</b>	53%
Extra Strength Charge			
Charge per pound per month for all strength in excess of 300 ppm:			
BOD	<del>0.202</del>	<b>\$0.309</b>	53%
Suspended Solids	<del>0.164</del>	<b>\$0.251</b>	53%

(Ord. 05-34 § 3, 2005; Ord. 03-24 § 5, 2003; Ord. 00-34 § 3, 2000; Ord. 99-31 § 2, 1999; Ord. 98-29 § 6, 1998; Ord. 97-01 § 2, 1997; Ord. 94-41 § 4, 1994; Ord. 89-36 § 4, 1989; Ord. 81-16 §§ 3, 6, 1981; Ord. 80-26 § 1 (part), 1980).

#### **10.08.120 Waste haulers--Charges.**

(a) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names and addresses of the users whose waste is brought for treatment. The director shall designate the site where the waste will be accepted.

(b) The following types of waste may be accepted for treatment by the city utilities:

- (1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only food-based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler.
- (2) Grease Waste. Grease waste is the waste contained in, or removed from, grease traps or other similar devices which have been installed for the purpose of retaining the portion of the waste stream which floats on water. For the purpose of this document, grease waste refers to greases of plant or animal origin. Petroleum based oils and greases are specifically prohibited from being discharged into the wastewater system. Analysis of the grease wastes may be required before acceptance for treatment and disposal. The

charge will be based on the calculated volume of the pit or trap. There will be no additional charge for the water used to wash the grease from the pit.

- (3) **Wastewater Treatment Plant Waste.** Wastewater treatment plant waste includes the excess solids generated at municipal or semi-public wastewater treatment plants and/or the collection systems associated with those treatment plants. The waste may be in the form of sludge, mixed liquor, lagoon dredgings, or waste from lift stations, and must be compatible with the treatment system's processes and capacities. Wastes which jeopardize compliance with the Part 503 rules concerning land application of sludge are prohibited. The board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.
- (4) **Commercial/Industrial Waste.** Commercial/industrial waste includes wastes generated by industrial or commercial operations, or an operation which combines domestic waste with waste generated from industrial operations. This waste may be the product of some one-time operation, or may be accumulated in some form of holding tank, such as a septic tank. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the director, or his designee, on a case-by-case basis. The board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.
- (5) **Out-of-County Waste.** For each of the above listed categories of waste, there shall be a surcharge of fifty percent added to the respective fees for any waste which originates at any source outside the boundaries of Monroe County.
- (6) **The charge for each delivery of the types of waste described above shall**

be:

	Portion of Rate Applicable to		
	Capital Related Costs	Total	
Operations, Maintenance, and Replacement Expenses			
Domestic Septage--First 500 gallons	\$ 7.52	\$ 2.78	\$10.30
Each additional 100 gallons	0.43	0.16	0.59
Grease Waste--First 500 gallons	21.48	7.95	29.43
Each additional 100 gallons	4.30	1.59	5.89
Wastewater Treatment Plant Waste--First 500 gallons	16.12	5.96	22.08

Each additional 100 gallons	3.23	1.19	4.42
Commercial/Industrial Waste--First 500 gallons	16.12	5.96	22.08
Each additional 100 gallons	3.23	1.19	4.42

(c) The fees for the treatment and disposal of domestic septage shall be charged to the waste hauler who transports the waste to the treatment facility for disposal. Any licensed waste hauler may purchase tickets which authorize that hauler to dispose of one load of domestic septage.

Generators of nondomestic waste must request authorization to dispose of wastes in the utility treatment works. The application will be reviewed by staff and, if approved, the tickets for disposal of the waste may be purchased by the waste generator. Generators may purchase tickets in the manner outlined above. The generator must provide the appropriate ticket(s) to the waste hauler and the hauler must present the ticket(s) to the staff at the treatment facility as evidence that the disposal of the waste has been authorized.

Additional procedures that further promote an orderly system for the delivery, tracking and payment of these wastes may be adopted by the board. (Ord. 06-11 § 6, 2006; Ord. 00-34 § 4, 2000; Ord. 98-29 § 7, 1998; Ord. 97-01 § 3, 1997; Ord. 94-41 § 5, 1994; Ord. 89-36 § 5, 1989; Ord. 80-26 § 1 (part), 1980).

**10.08.130 Inspection charge.**

All inspections during normal business hours shall be free of charge. All inspections during overtime hours shall be at the rate of twelve dollars and fifty cents per hour. (Ord. 80-26 § 1 (part), 1980).

**10.08.140 Connection fee.**

The connection fee is applicable to all utility customers within the wastewater system service area. The following fees shall be charged for each new connection to the wastewater system.

- (a) All customers classified by the utility as being single-family residential shall pay a base fee of one thousand dollars.
- (b) All customers classified by the utility as multi-family residential shall pay a charge of sixty-five percent times base fee times the number of units to be served by the connection to the wastewater system, minus any credits, as approved by the Utilities Service Board.
- (c) All customers classified by the utility as commercial shall pay the

following fee for each connection to the wastewater system, minus any credits, as approved by the Utilities Service Board:

Domestic Water Meter Size In Inches	Connection Fee
3/4	base fee
1	4 times base fee
1 1/2	10 times base fee
2	19 times base fee
3	26 times base fee
4	58 times base fee
6 and above	case by case basis

- (c) All customers classified by the utility as industrial shall pay a fee for each connection to the wastewater system. This fee shall be charged based upon the amount of flow generated by the customer. The amount of the fee shall be determined by a calculation based upon the following formula, minus any credits, as approved by the Utilities Service Board: (Flow generated by industrial customer divided by flow generated by the average single family residential customer) multiplied by base fee.
- (d) If an additional or larger meter is installed for an existing non-single family residential customer, a connection fee shall be assessed based on the following formula, minus any credits, as approved by the Utilities Service Board:

(Additional flow generated by customer divided by flow generated by the average single family residential customer) multiplied by base fee.  
 (Ord. 01-16 § 1, 2001: Ord. 97-01 § 4, 1997: Ord. 94-41 § 6, 1994).

**10.08.150 Laboratory charges.**

The following charges shall apply for laboratory tests performed on samples delivered to the wastewater laboratory.

Alkalinity	\$ 9.00
Ammonia	13.00
BOD	16.00
Chlorine	8.00
COD	19.00
Cyanide	21.00
Fluoride	11.00
Hardness	9.00
Nitrates	16.00
Oil & Grease	37.50
pH	3.00
Phosphates	17.00
Sulfates	16.00
Suspended Solids	9.00
Dissolved Solids	9.00
Total Solids	12.00

Volatile Solids	12.00
Total Coliform	10.00
Fecal Coliform	10.00
E. Coli	10.00
H. Plate Count	10.00
Cadmium	12.00
Chromium	12.00
Copper	12.00
Iron	12.00
Lead	15.00
Manganese	12.00
Nickel	12.00
Silver	15.00
Zinc	12.00

(Ord. 97-01 § 5, 1997).

**ORDINANCE 11-14**

**AN ORDINANCE CONCERNING THE CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SEWAGE WORKS OF THE CITY OF BLOOMINGTON, INDIANA; THE CURRENT REFUNDING BY THE CITY OF ITS SEWAGE WORKS REVENUE BONDS OF 1999, SERIES A; THE FUNDING OF SEWAGE WORKS RESERVE FUNDS AND REIMBURSEMENTS TO THE CITY; AUTHORIZING THE ISSUANCE OF SEWAGE WORKS REVENUE AND REFUNDING REVENUE BONDS FOR SUCH PURPOSES; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF THE SEWAGE WORKS AND THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SAID SEWAGE WORKS REVENUE AND REFUNDING REVENUE BONDS; OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HEREWITH**

WHEREAS, the City of Bloomington, Indiana (the “City”) has heretofore established, constructed and financed its sewage works, and now owns and operates said sewage works pursuant to Indiana Code 36-9-23, as in effect on the issue date of the bonds authorized herein, and other applicable laws (the “Act”) (all references herein to the Indiana Code are designated hereafter as “IC” followed by the applicable code section or sections); and

WHEREAS, the Common Council of the City (the “Common Council”) finds that certain additions and improvements to said sewage works are necessary; that plans, specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said additions and improvements (as more fully set forth in summary fashion in Exhibit A hereto and made a part hereof) (the “Project”), which plans and specifications have been or will be submitted to all governmental authorities having jurisdiction and have been or will be approved by the aforesaid governmental authorities, and are incorporated herein by reference and two copies open for inspection at the office of the Clerk as required by law; and

WHEREAS, the City will advertise and receive bids for the Project; said bids will be subject to the City’s determination to construct said Project and subject to the City obtaining funds to pay for said Project; that on the basis of engineer’s estimates, the cost of said Project, including estimated incidental expenses, is in an amount not to exceed Five Million Dollars (\$5,000,000); and

WHEREAS, the Common Council finds that there are outstanding bonds of the sewage works payable out of the Net Revenues (as hereinafter defined) thereof designated as the “Sewage Works Revenue Bonds of 1999, Series A” (the “1999 Bonds”), dated May 1, 1999, now outstanding in the aggregate principal amount of \$6,230,000 and maturing annually on January 1 over a period ending January 1, 2029, which 1999 Bonds constitute a first charge on the Net Revenues of the sewage works, on a parity with the Outstanding Parity Bonds (as hereinafter defined); and

WHEREAS, the Common Council finds that the outstanding 1999 Bonds (the “Refunded Bonds”) should be currently refunded pursuant to the provisions of IC 5-1-5, as amended, to enable the City to obtain a reduction in interest payments and effect a savings to the City; and

WHEREAS, the Common Council finds that the City is entitled to reimbursements from the sewage works of the City for certain payments made by the City on behalf of the sewage works in the amount of \$2,699,461 (the “City Reimbursement”); and

WHEREAS, the Common Council finds that as a result of certain restrictive covenants in the ordinances authorizing the Outstanding Parity Bonds (the “Prior Bond Ordinances”), the debt service reserve surety policies acquired by the City in connection with the issuance of certain of the Outstanding Parity Bonds are no longer sufficient to satisfy the debt service reserve requirements for said Outstanding Parity Bonds and, consequently, a deficiency exists in the reserve fund for the Outstanding Parity Bonds in the amount of \$2,510,836 (the “Reserve Fund Deficiency”); and

WHEREAS, the Common Council finds that the sewage works does not have sufficient funds on hand available to apply on the costs of the Project, the current refunding of the Refunded Bonds, the City Reimbursement or the funding of the Reserve Fund Deficiency and that it is necessary to finance such costs through the issuance of its sewage works revenue and refunding revenue bonds, in three series, in a combined aggregate principal amount not to exceed Eighteen Million Dollars (\$18,000,000), and, if necessary, bond anticipation notes in an aggregate principal amount not to exceed Eleven Million Dollars (\$11,000,000) (the “BANs”); and

WHEREAS, the City desires to authorize the issuance of BANs, in one or more series, hereunder, if necessary, payable solely from the proceeds of sewage works revenue bonds issued hereunder to finance the aforementioned costs of the Project, the City Reimbursement and the Reserve Fund Deficiency, and to authorize the refunding of said BANs, if issued; and

WHEREAS, in addition to the Refunded Bonds, the Common Council finds that there are now outstanding bonds payable out of the Net Revenues of the City’s sewage works designated as (i) the Sewage Works Revenue Bonds of 2000, Series A (the “2000A Bonds”), dated April 7, 2000, now outstanding in the aggregate principal amount of \$2,228,000 and maturing annually on January 1 over a period ending January 1, 2021; (ii) the Sewage Works Revenue Bonds of 2000, Series B (the “2000B Bonds”), dated June 30, 2000, now outstanding in the aggregate principal amount of \$5,352,000 and maturing annually on January 1 over a period ending January 1, 2021; (iii) the Sewage Works Revenue Bonds of 2000, Series C (the “2000C Bonds”), dated December 29, 2000, now outstanding in the aggregate principal amount of \$2,615,000 and maturing annually on January 1 over a period ending January 1, 2021; (iv) the Sewage Works Refunding Revenue Bonds of 2003 (the “2003 Bonds”), dated March 27, 2003, now outstanding in the aggregate principal amount of \$13,375,000 and maturing annually on January 1 over a period ending January 1, 2025; (v) the Sewage Works Revenue Bonds of 2004 (the “2004 Bonds”), dated December 31, 2004, now outstanding in the aggregate principal amount of \$4,695,000 and maturing annually on January 1 over a period ending January 1, 2026; (vi) the Sewage Works Revenue Bonds of 2006, Series A-1 (the “2006A-1 Bonds”), dated May 4, 2006, now outstanding in the aggregate principal amount of \$5,240,000 and maturing annually on January 1 over a period ending January 1, 2027; (vii) the Taxable Sewage Works Revenue Bonds of 2006, Series A-2 (the “2006A-2 Bonds”), dated May 4, 2006, now outstanding in the aggregate principal amount of \$1,730,000 and maturing annually on January 1 over a period ending January 1, 2017; (viii) the Sewage Works Revenue Bonds of 2006, Series B (the “2006B Bonds”), dated June 29, 2006, now outstanding in the aggregate principal amount of \$3,014,644 and maturing annually on January 1 over a period ending January 1, 2027; and (ix) the Sewage Works Revenue Bonds of 2006, Series C (the “2006C Bonds”), dated June 29, 2006, now outstanding in the aggregate principal amount of \$6,185,451 and maturing annually on January 1 over a period ending January 1, 2027, which 2000A Bonds, 2000B Bonds, 2000C Bonds, 2003 Bonds, 2004 Bonds, 2006A-1 Bonds, 2006A-2 Bonds, 2006B Bonds and 2006C Bonds (collectively, the “Outstanding Parity Bonds”) constitute a first charge on the Net Revenues of the sewage works on a parity with the Refunded Bonds; and

WHEREAS, the Prior Bond Ordinances each authorize the issuance of additional bonds ranking on a parity with the Outstanding Parity Bonds provided certain financial conditions can be met (collectively, the “Parity Tests”); and

WHEREAS, the Common Council finds that the Parity Tests can be met with respect to the bonds to be issued pursuant to this ordinance and, accordingly, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the sewage works, on a parity with the Outstanding Parity Bonds, and are to be issued subject to the provisions of the laws of the Act, IC 5-1-5, as amended, and the terms and restrictions of this ordinance; and

WHEREAS, the Utilities Service Board of the City (the “Board”) has considered the matter of the financing of the Project, the refunding of the Refunded Bonds, the City Reimbursement and the Reserve Fund Deficiency, and has adopted a resolution approving the same; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said sewage works revenue and refunding revenue bonds and BANs have been complied with in accordance with the provisions of the Act and IC 5-1-5, as amended;

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

Section 1. Authorization of Project, Refunding of Refunded Bonds, Funding of City Reimbursement and Reserve Fund Deficiency; Certain Defined Terms.

(a) The City proceed with the construction of the Project in accordance with the plans and specifications heretofore prepared and filed by the consulting engineers employed by the City, two copies of which plans and specifications are now on file in the office of the Clerk of the City, and are hereby adopted and approved, and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. The estimated cost for the construction of said Project, based upon information provided to the City by its engineers for the Project, will not exceed Five Million Dollars (\$5,000,000), plus investment earnings on the BAN and bond proceeds, without further authorization of the Common Council. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned and the Act, which Project is hereby approved.

(b) The City proceed with the current refunding of the Refunded Bonds thereby reducing its interest payments and effecting a savings, as reported by the City’s financial advisor, Crowe Horwath LLP. The City shall apply any amounts held for the payment of debt service on the Refunded Bonds to the refunding as provided in Section 15(a).

(c) The City proceed with the funding of the City Reimbursement thereby fulfilling the outstanding financial obligations of the sewage works to the City.

(d) The City proceed with the funding of the Reserve Fund Deficiency to address restrictive covenants in the Prior Bond Ordinances which have resulted in the debt service reserve surety policies acquired in connection with certain of the Outstanding Parity Bonds as no longer sufficient to satisfy the reserve requirement for said Outstanding Parity Bonds.

(e) The terms “*sewage works*,” “*sewage works system*,” “*works*,” “*system*,” and words of like import where used in this ordinance shall be construed to mean and include the Treatment Works, as defined in Ordinance No. 05-35, as amended, of the City, and includes the existing sewage works system and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The bonds herein authorized shall be issued pursuant to and in accordance with the provisions of the Act and IC 5-1-5, as amended.

(f) The term “*Bond Insurers*” where used in this ordinance shall mean the providers, including their successors and assigns, of any municipal bond insurance policies or debt service reserve surety policies acquired by the City in connection with any of its Outstanding Parity Bonds, with such policies herein referred to as the “*Policies*”.



## Section 2. Issuance of BANs.

(a) The City shall issue, if necessary, its BANs in one or more series for the purpose of procuring interim financing to apply on the cost of (i) the Project, (ii) the City Reimbursement, (iii) the Reserve Fund Deficiency and (iv) issuance of the BANs. The City may issue its BANs in an aggregate amount not to exceed Eleven Million Dollars (\$11,000,000) to be designated “[Taxable] Sewage Works Bond Anticipation Notes, Series 2012\_\_”, to be completed with the appropriate series designation. Said BANs shall be sold at not less than 99.5% of their par value, numbered consecutively from 1 upward, shall be in multiples of Five Thousand Dollars (\$5,000) as designated in the purchase agreement for said BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6.0% per annum (the exact rate or rates to be determined through negotiations with the purchaser of the BANs) payable either upon maturity or redemption. The BANs will mature no later than five years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6.0% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. Interest on the BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

(b) The BANs shall be issued pursuant to IC 4-4-11 if sold to the Indiana Finance Authority or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The City shall pledge to the payment of the principal of and interest on the BANs the proceeds from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act.

## Section 3. Issuance of Bonds.

(a) The City shall issue its sewage works revenue and refunding revenue bonds in three series (collectively, the “Bonds”) in a combined aggregate principal amount not to exceed Eighteen Million Dollars (\$18,000,000), all as more particularly described below in this Section 3.

(b) The first series of Bonds shall be designated “Sewage Works Refunding Revenue Bonds, Series 2012A” (the “Refunding Bonds”) and issued in the aggregate principal amount not to exceed Seven Million Dollars (\$7,000,000) for the purpose of procuring funds to apply on (i) the current refunding of the Refunded Bonds, (ii) funding a reserve for the Refunding Bonds and (iii) costs of issuance of the Refunding Bonds.

(c) The second series of Bonds shall be designated “Taxable Sewage Works Revenue Bonds, Series 2012B” (the “Taxable Bonds”) and issued in the aggregate principal amount not to exceed Six Million Dollars (\$6,000,000) for the purpose of procuring funds to apply on (i) the funding of the City Reimbursement, (ii) the funding of the Reserve Fund Deficiency, (iii) the refunding of BANs, if issued, (iv) funding a reserve for the Taxable Bonds and (v) costs of issuance of the Taxable Bonds.

(d) The third series of Bonds shall be designated “Sewage Works Revenue Bonds, Series 2012C” (the “Project Bonds”) and issued in the aggregate principal amount not to exceed Five Million Dollars (\$5,000,000) for the purpose of procuring funds to apply on (i) the costs of the Project, (ii) the refunding of BANs, if issued, (iii) funding a reserve for the Project Bonds and (iv) costs of issuance of the Project Bonds.

(e) Any sale and issuance of Bonds which follows the issuance of the first series of Bonds hereunder shall be subject to the requirements established by Sections 21 and 22(e) of this ordinance.

(f) The Bonds shall be issued and sold at a price not less than 98% of par value thereof. The Bonds shall be issued in fully registered form in denominations of \$5,000 or integral multiples thereof. The Bonds shall be numbered consecutively from 1 up and originally dated as of their date of delivery. The Bonds shall bear interest at a rate or rates not exceeding 6.0% per annum for the Refunding Bonds and the Project Bonds, and 8.0% per annum for the Taxable Bonds (the exact rate or rates to be determined by (i) negotiation with the Underwriter (as hereinafter defined) for the Refunding Bonds and Taxable Bonds and (ii) bidding for the

Project Bonds). Interest shall be payable semiannually on January 1 and July 1 in each year, commencing on the first January 1 or the first July 1 following the date of delivery of the Bonds, as determined by the Controller with the advice of the City's financial advisor. Principal shall be payable in lawful money of the United States of America at the principal office of the Paying Agent (as hereinafter defined). The Bonds shall mature annually on January 1, or be subject to mandatory sinking fund redemption on January 1, over a period ending no later than January 1, 2033. The Bonds shall mature in such amounts as will produce as level annual debt service as practicable taking into account the \$5,000 denominations of the Bonds.

(g) All or a portion of the Bonds may be issued as one or more term bonds, upon election of the purchaser of the Bonds. Such term bonds shall have a stated maturity or maturities consistent with the maturity schedule determined in accordance with the preceding paragraph, on the dates as determined by the purchaser of the Bonds, but in no event later than the last serial maturity date of the Bonds as determined in the preceding paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereafter determined in accordance with the preceding paragraph.

(h) The Bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues of the sewage works of the City after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City, on a parity with the Outstanding Parity Bonds. Interest on the Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months.

#### Section 4. Registrar and Paying Agent.

(a) The Board is hereby authorized to select and appoint a qualified financial institution to serve as Registrar and Paying Agent for the Bonds and the BANs, which Registrar is hereby charged with the responsibility of authenticating the Bonds (the "Registrar" or "Paying Agent"). The Assistant Director of Finance of the sewage works is hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of a Registrar and Paying Agent. The Assistant Director of Finance of the sewage works is further authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent, and such fees may be paid from the Sewage Works Sinking Fund established to pay the principal of and interest on the Bonds as fiscal agency charges. As to the BANs, if sold to a purchaser that does not object to such designation, the Controller may serve as Registrar and Paying Agent and in such case is charged with the duties of a Registrar and Paying Agent.

(b) The principal of the Bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof, as of the fifteenth day of the month preceding each payment (the "Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).

(c) All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

(d) Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar, by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity shall be

executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City. The City and the Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(e) Interest on Bonds which are authenticated on or before the Record Date which precedes the first interest payment date shall be paid from their original date. Interest on Bonds authenticated subsequent to the Record Date which precedes the first interest payment date thereon shall be paid from the interest payment date to which interest has been paid as of the date on which such Bonds are authenticated, unless a Bond is authenticated between the Record Date and the interest payment date in which case the interest shall be paid from such interest payment date.

Section 5. Redemption of BANs. The BANs are prepayable by the City, in whole or in part, on any date, upon seven (7) days' notice to the owner of the BANs, without any premium; provided, however, that if the BANs are held in the custody of DTC (as hereinafter defined) pursuant to the provisions of Section 7 hereof, twenty (20) days' prior notice to the owner shall be required for prepayment of the BANs.

Section 6. Redemption of Bonds.

(a) The Taxable Bonds shall not be subject to optional redemption prior to maturity.

(b) The Refunding Bonds and the Project Bonds are redeemable at the option of the City, but no sooner than January 1, 2022, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(c) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

(d) Each \$5,000 denomination amount shall be considered a separate Bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called for redemption shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(e) In either case, notice of redemption shall be given not less than thirty (30) days prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is forty-five (45) days prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date

fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

#### Section 7. Book-Entry Provisions.

(a) The City may, upon the advice of its financial advisor, have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York (“DTC”) and have transfers of the Bonds effected by book-entry on the books of the central depository system. In such case, the Bonds shall be issued in the name of Cede & Co., as nominee for DTC, as registered owner of the Bonds, and held in the custody of DTC and the terms and conditions of this provision shall apply.

(b) If the Bonds are held by DTC, a single certificate will be issued and delivered to DTC for each maturity of the Bonds. The actual purchasers of the Bonds (the “Beneficial Owners”) will not receive physical delivery of the Bond certificates except as provided herein. Beneficial Owners are expected to receive a written confirmation of their purchase providing details of each Bond acquired. For so long as DTC shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of the Bonds is to receive, hold, or deliver any Bond certificate.

(c) For every transfer and exchange of the Bonds, the Beneficial Owner may be charged a sum sufficient to cover such Beneficial Owner’s allocable share of any tax, fee, or other governmental charge that may be imposed in relation thereto. Bond certificates are required to be delivered to and registered in the name of the Beneficial Owner, under the following circumstances:

(i) DTC determines to discontinue providing its service with respect to the Bonds (such a determination may be made at any time by giving 30 days’ notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law), or

(ii) the City determines that continuation of the system of book-entry transfers through DTC (or a successor securities depository) is not in the best interests of the Beneficial Owners.

(d) The City and the Registrar will recognize DTC or its nominee as the holder of the Bonds for all purposes, including notices and voting. The City and the Registrar covenant and agree, so long as DTC shall continue to serve as securities depository for the Bonds, to meet the requirements of DTC with respect to required notices and other provisions of a Letter of Representations between the City and DTC. If necessary to comply with the terms and provisions of the Letter of Representations, a supplemental ordinance shall be adopted to amend this ordinance as necessary.

(e) The Registrar is authorized to rely conclusively upon a certificate furnished by DTC and corresponding certificates from DTC participants and indirect participants as to the identity of, and the respective principal amount of Bonds beneficially owned by, the Beneficial Owner or Beneficial Owners.

(f) The City may, upon the advice of its financial advisor, have the BANs held in the custody of DTC. In such case, the aforementioned terms and conditions of this Section 7 shall apply to the BANs.

#### Section 8. Execution of Bonds and BANs; Pledge of Net Revenues to Bonds.

(a) The Bonds and BANs shall be signed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the Controller and attested by the manual or facsimile signature of the Clerk, who shall affix the seal of said City to each of said Bonds and BANs manually or shall have the seal imprinted or impressed thereon by facsimile. These officials, by the signing of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on said Bonds and BANs. In case any officer whose signature or facsimile signature appears on

the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Bonds shall also be authenticated by the manual signature of an authorized representative of the Registrar and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

(b) The Bonds, and any bonds ranking on a parity therewith, as to both principal and interest, shall be payable from, secured by and shall constitute a first charge upon the Net Revenues of the sewage works of the City, hereby irrevocably pledged to the payment of the Bonds to the extent necessary for that purpose. The City shall not be obligated to pay said Bonds or the interest thereon except from the Net Revenues of said works, on a parity with the Outstanding Parity Bonds, and said Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana. The Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

Section 9. Form of Bonds.

The form and tenor of the Bonds shall be substantially as follows, with such additions, deletions and modifications as the Mayor, the Controller and the Clerk of the City may authorize, as conclusively evidenced by their signatures thereon, all blanks to be filled in properly prior to delivery thereof:

*Form of Bond*

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Registrar or its agent for registration or transfer, exchange or payment, and any bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

No. R12[\_]-\_\_

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF MONROE

CITY OF BLOOMINGTON

[TAXABLE] SEWAGE WORKS [REFUNDING] REVENUE BOND, SERIES 2012[\_]

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Original Date</u>	<u>Authentication Date</u>	<u>CUSIP</u>
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Registered Owner: Cede & Co.

Principal Sum:

The City of Bloomington, Indiana (the "City"), in Monroe County, State of Indiana, for value received, hereby promises to pay to the Registered Owner (named above) or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above on the Maturity Date set forth above [(unless this Bond be subject to and shall have been duly called for redemption and payment as provided for herein)], and to pay interest hereon until the Principal Sum shall be fully paid at the rate per annum specified above from the interest payment date to which interest has been paid next preceding the Authentication Date of this

Bond unless this Bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before June 15, 2012, in which case it shall bear interest from the Original Date, which interest is payable semiannually on the first days of January and July of each year, beginning on July 1, 2012. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

The principal of this Bond is payable at the principal office of \_\_\_\_\_ (the "Registrar" or "Paying Agent"), in the \_\_\_\_\_ of \_\_\_\_\_, Indiana. All payments of interest on this Bond shall be paid by check mailed one business day prior to the interest payment date to the registered owner hereof, as of the fifteenth day of the month preceding such payment, at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THIS BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY OF BLOOMINGTON, INDIANA, WITHIN THE MEANING OF THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA, AND THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE SPECIAL FUND PROVIDED FROM THE NET REVENUES (AS HEREINAFTER DEFINED).

This Bond is one of an authorized issue of Bonds of the City of Bloomington, Indiana, of like tenor and effect, except as to numbering, interest rates, and dates of maturity, in the total amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Bonds"), numbered from 1 up, issued for the purpose of providing funds to be applied on the cost of [additions and improvements to the City's sewage works,][the current refunding of certain Refunded Bonds (as defined in the hereinafter defined Ordinance),][certain reimbursements to the City on behalf of its sewage works,][funding a reserve fund deficiency for certain of the Outstanding Parity Bonds (as defined in the Ordinance),] [funding a reserve for the Bonds][, to refund interim notes issued in anticipation of the Bonds] and paying incidental expenses, as authorized by an Ordinance adopted by the Common Council of the City of Bloomington, Indiana, on the \_\_\_ day of \_\_\_\_\_, 201\_\_, entitled "An Ordinance concerning the construction of additions and improvements to the sewage works of the City of Bloomington, Indiana; the current refunding by the City of its Sewage Works Revenue Bonds of 1999, Series A; the funding of sewage works reserve funds and reimbursements to the City; authorizing the issuance of sewage works revenue and refunding revenue bonds for such purposes; providing for the collection, segregation and distribution of the revenues of the sewage works and the safeguarding of the interests of the owners of said sewage works revenue and refunding revenue bonds; other matters connected therewith, including the issuance of notes in anticipation of bonds; and repealing ordinances inconsistent herewith" (the "Ordinance"), and in strict compliance with the provisions of Indiana Code 36-9-23 (the "Act") and 5-1-5, each as in effect on the issue date of the Bonds.

The Bonds shall be initially issued in a book entry system by The Depository Trust Company ("DTC"). The provisions of this Bond and of the Ordinance are subject in all respect to the provisions of the Letter of Representations between the City and DTC, or any substitute agreement affecting such book entry system under DTC.

[Pursuant to the Ordinance and the Escrow Agreement (as defined therein), the City has set aside [securities (obligations of the United States of America purchased from proceeds of the Bonds and funds on hand of the City) and certain] cash in a Trust Account to provide payment of principal of and interest on the Refunded Bonds.]

Pursuant to the provisions of said Act and said Ordinance, the principal and interest of this Bond and all other Bonds of said issue, and any bonds hereafter issued on a parity therewith, are payable solely from the Sewage Works Sinking Fund (continued by the Ordinance) to be provided from the Net Revenues (defined as the gross revenues of the sewage works of the City after the deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City. The payment of this Bond ranks on a parity with the payment of the Outstanding Parity Bonds (as defined in the Ordinance), and the City's [Sewage Works Refunding Revenue Bonds, Series 2012A (the "Refunding Bonds")] [and Taxable Sewage Works Revenue Bonds, Series 2012B (the "Taxable Bonds")]. The City reserves the right to issue additional bonds on a parity with the Bonds of this issue, as provided in the Ordinance.

The City of Bloomington, Indiana irrevocably pledges the entire Net Revenues of said sewage works to the prompt payment of the principal of and interest on the Bonds authorized by said Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Parity Bonds [and the] [Refunding Bonds][and the Taxable Bonds], to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works and for the payment of the sums required to be paid into said Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers of the City shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this Bond, the owner of this Bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this Bond and the interest hereon.

The City of Bloomington, Indiana further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the Net Revenues of said works to meet (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works, as such principal shall fall due, and (d) an additional amount to maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of said works, on a parity with the payment of the Outstanding Parity Bonds and the [Refunding Bonds][and the Taxable Bonds].

[The Bonds of this issue maturing on January 1, 2023, and thereafter, are redeemable at the option of the City on January 1, 2022, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value together with the following premiums:

- \_ % if redeemed on January 1, 2022 or thereafter on or before December 31, 2022;
- \_ % if redeemed on January 1, 2023 or thereafter on or before December 31, 2023;
- 0% if redeemed on January 1, 2024, or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption.]

[The Bonds maturing on January 1, 20\_\_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on January 1 in the years and in the amounts set forth below:

<u>Year</u>	<u>Amount</u>
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\*Final Maturity]

[Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate Bond for purposes of [optional] [and mandatory] redemption. If less than an entire maturity is called for redemption, the Bonds to be called for redemption shall be selected by lot by the Registrar.] [If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.]

[Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the City, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.]

If this Bond shall not be presented for payment [or redemption] on the date fixed therefor, the City may deposit in trust with its depository bank, an amount sufficient to pay such Bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This Bond is transferable or exchangeable only upon the books of the City kept for that purpose at the office of the Registrar, by the registered owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. The City, the Registrar and any paying agent for this Bond may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

This Bond is subject to defeasance prior to [redemption or] payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the Bonds as provided in the Ordinance if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the Bonds.

The Bonds maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in such year.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the preparation and complete execution, issuance and delivery of this Bond have been done and performed in regular and due form as provided by law.

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Bloomington, in Monroe County, Indiana, has caused this Bond to be executed in its corporate name by the manual or facsimile signature of the Mayor, countersigned manually or by facsimile by the Controller, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by the Clerk.

CITY OF BLOOMINGTON, INDIANA

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Mayor



Countersigned:

\_\_\_\_\_  
Controller

[SEAL]

Attest:

\_\_\_\_\_  
Clerk

REGISTRAR’S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this Bond is one of the Bonds described in the Ordinance.

\_\_\_\_\_  
as Registrar

By: \_\_\_\_\_  
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the within Bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

*End of Bond Form*

Section 10. Preparation and Sale of BANs and Bonds; Official Statement; Refunding Escrow.

(a) The Controller is hereby authorized and directed to have said BANs and Bonds prepared, and the Mayor, the Controller and the Clerk are hereby authorized and directed to execute said BANs and Bonds in the form and manner herein provided.

(b) The Controller is hereby authorized and directed to deliver the Refunding Bonds and the Taxable Bonds to J.J.B. Hilliard, W.L. Lyons, LLC (the “Underwriter”) in accordance with the Bond Purchase Agreement between the City and the Underwriter (the “Purchase Agreement”). The substantially final form of Purchase Agreement between the City and the Underwriter is attached hereto as Exhibit B and is hereby approved by the Common Council. The Mayor and the Controller are hereby authorized to execute the Purchase Agreement and deliver the Refunding Bonds and the Taxable Bonds to the Underwriter so long as their terms are consistent with this ordinance. The Purchase Agreement shall establish a final principal amount, purchase price, interest rates, maturity schedule and redemption features (both optional and mandatory, if any).

(c) The Controller is hereby authorized and directed to deliver the BANs and the Project Bonds to the respective purchasers thereof after sale made in accordance with the provisions of this ordinance, including, particularly with respect to the Project Bonds the procedures set forth in Section 11 hereof, provided that at the time of said delivery the Controller shall collect the full amount which the respective purchasers have agreed to pay therefore, which amount shall not be less than 99.5% of the face value of the BANs and not less than 98% of the face value of the Project Bonds. The City may receive payment for the BANs in installments.

(d) The Bonds, when fully paid for and delivered to the respective purchasers thereof, shall be the binding special revenue obligations of the City, payable out of the Net Revenues of the City's sewage works, on a parity with the Outstanding Parity Bonds, to be set aside into the Sinking Fund as herein provided. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the cost of (i) the Project, (ii) current refunding of the Refunded Bonds, (iii) the funding of the City Reimbursement, (iv) the funding of the Reserve Fund Deficiency, (v) the refunding of the BANs, if issued, and (vi) the expenses necessarily incurred in connection with the Bonds, including the funding of a reserve therefore. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

(e) The preparation and distribution of an official statement (preliminary and final) prepared by Crowe Horwath LLP, on behalf of the City for each series of Bonds is hereby authorized. The Mayor and Controller are hereby authorized and directed to execute each preliminary official statement on behalf of the City in a form consistent with this ordinance and are further authorized to designate each such preliminary official statement as "nearly final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule").

(f) The Controller is hereby authorized to appoint a financial institution to serve as escrow trustee (the "Escrow Trustee") for the Refunded Bonds in accordance with the terms of the Escrow Agreement between the City and the Escrow Trustee (the "Escrow Agreement"). The substantially final form of Escrow Agreement attached hereto as Exhibit C is hereby approved by the Common Council, and the Mayor and the Controller are hereby authorized and directed to complete, execute and attest the same on behalf of the City so long as its provisions are consistent with this ordinance.

(g) The execution, by either the Mayor, the Controller, the Underwriter, or the City's financial advisor, of a subscription for United States Treasury Obligations – State and Local Government Series for investment of proceeds of the Refunding Bonds allocable to the current refunding of the Refunded Bonds to be held under the Escrow Agreement in a manner consistent with this ordinance is hereby approved.

(h) The Controller, with the advice of the City's financial advisor, is hereby authorized to obtain one or more ratings for the Bonds if such rating or ratings will facilitate the sale of the Bonds.

#### Section 11. Bond Sale Notice.

(a) The Project Bonds shall be sold at a competitive sale and the Controller shall cause to be published either (i) a notice of such sale in *The Herald-Times*, the only newspaper published in the City, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in *The Herald-Times* and the *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Court & Commercial Record*, and a notice or summary notice of sale may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Project Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check in an amount equal to 1% of the principal amount of the Project Bonds described in the notice and that in the event the successful bidder shall fail or refuse to accept delivery of the Project Bonds and pay for the same as soon as the Project Bonds are ready for delivery, or at the time fixed in the

notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for said Project Bonds will be required to name the rate or rates of interest which the Project Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 98% of the face amount of the Project Bonds will be considered. The opinion of Bose McKinney & Evans LLP, bond counsel of Indianapolis, Indiana, approving the legality of said Project Bonds, will be furnished to the purchaser at the expense of the City.

(b) The Project Bonds shall be awarded by the Controller to the best bidder who has submitted its bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the Project Bonds to their maturities, adding thereto the discount bid, if any, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

#### Section 12. Use of Proceeds.

Proceeds of the Bonds shall be applied as follows and in the following order:

(a) *First*, any accrued interest and any premium received at the time of the delivery of the Bonds shall be deposited in the Sinking Fund (hereinafter defined).

(b) *Second*, concurrently with the delivery of the Refunding Bonds, the Controller shall acquire, with proceeds of the Refunding Bonds and cash on hand, direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America (the "Government Obligations") to be used, together with certain cash from the proceeds of the Refunding Bonds and cash on hand, to currently refund and legally defease the Refunded Bonds all as set forth in the Escrow Agreement. In order to refund the Refunded Bonds, the Controller shall deposit Government Obligations and certain cash with the Escrow Trustee under the Escrow Agreement in an amount sufficient to provide money for payment of the principal of and interest on the Refunded Bonds from the date of delivery of the Refunding Bonds to the earliest date upon which the Refunded Bonds may be called for redemption. As an alternative to purchasing Government Obligations, the Controller, with the advice of the City's financial advisor, may deposit cash proceeds of the Refunding Bonds and cash on hand with the Escrow Trustee in an amount sufficient to currently refund and legally defease the Refunded Bonds. The Controller shall obtain a verification of an accountant as to the sufficiency of the funds deposited in the Trust Account under the Escrow Agreement to accomplish said current refunding and legal defeasance of the Refunded Bonds.

(c) *Third*, if proceeds of the Bonds will be used to fund all or a portion of the reserve for the Bonds or the Reserve Fund Deficiency, the Controller shall transfer such proceeds to the Reserve Account of the Sinking Fund, as hereinafter described.

(d) *Fourth*, the remaining proceeds from the sale of the Refunding Bonds shall be applied by the Controller to cost of issuance of the Refunding Bonds not otherwise paid. When all costs of issuance of the Refunding Bonds have been paid, the Controller shall then transfer any amount then remaining from the proceeds of the Refunding Bonds to the hereinafter described Sinking Fund.

(e) *Fifth*, the remaining proceeds from the sale of the Taxable Bonds and the Project Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Bloomington, Sewage Works Construction Account" (the "Construction Account"). The funds in the Construction Account shall be expended only for the purpose of paying the costs of the Project, refunding the BANs, if issued, funding the City

Reimbursement, or as otherwise required by the Act or for the expenses of issuance of the Taxable Bonds, the Project Bonds or the BANs.

(f) All funds deposited to the credit of the Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, and the acts amendatory thereof and supplemental thereto.

(g) Prior to the delivery of the Bonds or BANs, the Controller shall obtain the legal opinion of Bose McKinney & Evans LLP, bond counsel, of Indianapolis, Indiana, and shall furnish such opinion to the purchaser of the Bonds or BANs. The cost of the opinion shall be considered as part of the costs incidental to the issuance of the Bonds or BANs and shall be paid out of the proceeds thereof.

#### Section 13. Revenues.

All revenues derived from the operation of the sewage works and from the collection of wastewater and storm water rates and charges shall be aggregated and deposited as set forth in this ordinance. Of these revenues, the proper and reasonable expenses of operation, repair and maintenance of the sewage works shall be paid, the requirements of the Sinking Fund shall be met, and the costs of replacements, extensions, additions and improvements shall be paid.

#### Section 14. General Account.

(a) There is hereby continued an account known as the General Account (the "General Account"). All revenues of the sewage works shall be deposited in the General Account. The balance maintained in the General Account shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two calendar months. The moneys credited to the General Account shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, including the reasonable legal and professional expenses not taken into account in the definition of Net Revenues, but none of the moneys in the General Account shall be used for depreciation, payments in lieu of taxes, replacements, improvements, extensions or additions. Any moneys in the General Account may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the sewage works.

(b) Moneys in the General Account shall be transferred from time to time to meet the requirements of the Sinking Fund. Moneys in excess of those transferred to the Sinking Fund may be transferred to the Sewage Works Improvement Fund or may be retained in the General Account, in the discretion of the Board, and in a manner consistent with the requirements of this ordinance. Moneys in excess of those required to be in the General Account and the Sinking Fund may also be used, in the discretion of the Board, for any other lawful purpose related to the sewage works. Notwithstanding the foregoing, in the event any amounts are due to the Bond Insurers under the Policies, any excess moneys after making all required transfers to the Sinking Fund shall first be used to pay such amounts.

#### Section 15. Sewage Works Sinking Fund.

There is hereby continued the sinking fund, designated as the Sewage Works Sinking Fund (the "Sinking Fund"), for the payment of the principal of and interest on all outstanding revenue bonds which by their terms are payable from the Net Revenues of the sewage works and the payment of any fiscal agency charges in connection with the payment of bonds. There shall be set aside and deposited in the Sinking Fund, as available, and as provided below, a sufficient amount of the Net Revenues of the sewage works to meet the requirements of the Bond and Interest Account and the Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Reserve Account equal the principal of and interest on all of the then outstanding bonds of the sewage works to their final maturity and provide for payment of all fiscal agency charges.

(a) Bond and Interest Account. Any moneys heretofore accumulated to pay principal of and interest on the Refunded Bonds shall be credited to and become a part of the Trust Account under the Escrow Agreement and shall be applied on the first payments made from the

Trust Account. There shall be credited on the last day of each calendar month to the Bond and Interest Account, hereby continued within the Sinking Fund, an amount of the Net Revenues equal to at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date and at least one-twelfth (1/12) of the principal on all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding respective interest and principal payment dates shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest one business day prior to the interest payment date and principal on the due date thereof together with the amount of bank fiscal agency charges.

(b) Reserve Account. There is hereby continued, within the Sinking Fund, the Reserve Account (the "Reserve Account"). On the date of delivery of the Bonds, the City shall deposit funds on hand, Bond proceeds, or a combination thereof into the Reserve Account so that the balance therein shall equal but not exceed the maximum annual debt service on the Outstanding Parity Bonds and the then outstanding Bonds (the "Reserve Requirement").

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Outstanding Parity Bonds and the Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the Outstanding Parity Bonds and the Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after the credits to the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on the Outstanding Parity Bonds or the Bonds, then such depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits to the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall, at the direction of the Board, be transferred to the General Account or be used for the purchase of Outstanding Parity Bonds or Bonds or installments of principal of fully registered Outstanding Parity Bonds or Bonds at a price not exceeding par and accrued interest.

#### Section 16. Sewage Works Improvement Fund.

As set forth in Section 14(b), revenues may be transferred or credited from the General Account to a fund designated the Sewage Works Improvement Fund, hereby continued (the "Improvement Fund"). The Improvement Fund shall be used for improvements, replacement, additions and extensions of the sewage works, and for payments in lieu of taxes. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the Outstanding Parity Bonds or the Bonds, or if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account of the Sinking Fund. Moneys in the Improvement Fund may also be transferred to the General Account to meet unforeseen contingencies in the operation, repair and maintenance of the sewage works.

#### Section 17. Maintenance of Funds; Investments.

The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The General Account and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, as amended or supplemented, subject to any investment restrictions contained in the Policies, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Section 18. Maintenance of Books and Records.

The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said works and all disbursements made on account of the works, also all transactions relating to said works. There shall be furnished, upon written request, to any owner of the Bonds, the most recent audit report of the sewage works prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Assistant Director of Finance of the sewage works. Any owner of the Bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts, statements, audits, reports and data of the City relating to the sewage works. Such inspections may be made by representatives duly authorized by written instrument.

Section 19. Rate Covenant.

The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewage system of the City, or that in any way uses or is served by such works; at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the City) to provide for the proper and reasonable expenses of operation, repair and maintenance of the works, including Operation and Maintenance (as defined in Ordinance No. 05-35, as amended), to comply with and satisfy all covenants contained in this ordinance, the Policies and any Financial Assistance Agreement (as defined in Ordinance No. 05-35, as amended) and to pay all obligations of the sewage works and of the City with respect to the sewage works. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance of the sewage works and the requirements of the Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and service rendered to the City and all departments thereof, and shall be paid by the City or the various departments thereof as the charges accrue.

Section 20. Defeasance of Bonds.

If, when any of the Bonds issued hereunder shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or any portion thereof and coupons then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's sewage works. Any amounts payable to the Bond Insurers under any of the Policies shall not be deemed paid pursuant to this Section 20 and shall continue to be due and owing hereunder until paid by the City in accordance with this ordinance.

Section 21. Additional Bond Provisions.

The City reserves the right to authorize and issue additional bonds payable out of the revenues of its sewage works ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with their terms. The Reserve Requirement shall be satisfied for the additional parity bonds either at the time of delivery of the additional parity bonds or over a five year or shorter period, in a manner which is commensurate with the requirements established in Section 15(b) of this ordinance.

(b) The Net Revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of said parity bonds, the sewage rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous year's operations would have produced net operating revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the sewage works, including the additional parity bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings prepared by a certified public accountant or nationally recognized financial consultant or consulting engineer employed by the City for that purpose.

(c) The interest on the additional parity bonds shall be payable semiannually on the first days of January and July and the principal on, or mandatory sinking fund redemptions for, the additional parity bonds shall be payable annually on the first day of January.

(d) So long as the Policy is in effect for the 2003 Bonds, in connection with the issuance of additional parity bonds, the City shall deliver to the Bond Insurer of such Policy a copy of the disclosure document, if any, circulated with respect to such additional parity bonds.

(e) So long as any of the Outstanding Parity Bonds sold to the SRF Program (as defined in Ordinance No. 05-35, as amended) are outstanding, (i) the City obtains the consent of the Indiana Finance Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance, and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

## Section 22. Further Covenants.

For the purpose of further safeguarding the interests of the holders of the Bonds, it is specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under the supervision and subject to the approval of such competent engineers as shall be designated by the City. All estimates for work done or material furnished shall first be checked by the engineers and approved by the City.

(c) So long as any of the Bonds or BANs are outstanding, the City shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds or BANs are outstanding, the City shall maintain insurance on the insurable parts of the system, of a kind and in an amount such as is usually carried by private corporations engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. As an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities. All insurance or self-insurance proceeds shall be used either in replacing or restoring the property destroyed or damaged, or shall be deposited in the Sinking Fund.

(e) So long as any of the Bonds or BANs are outstanding, the City shall not mortgage, pledge or otherwise encumber the property and plant of its sewage works system, or any part thereof, and shall not sell, lease or otherwise dispose of any part of the same, excepting only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility, and so long as any Outstanding Parity Bonds sold to the SRF Program are outstanding, the City shall obtain the prior written consent of the Indiana Finance Authority.

(f) So long as any of the Outstanding Parity Bonds sold to the SRF Program are outstanding, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the sewage works, other than for normal operating expenditures, without the prior written consent of the Indiana Finance Authority if such undertaking would involve, commit or use the revenues of the sewage works.

(g) Except as hereinbefore provided in Section 21 hereof, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, executed, or issued by the City except such as shall be made subordinate and junior in all respects to the Bonds, unless all of the Bonds are redeemed, retired or defeased pursuant to Section 20 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The City shall take all actions or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(i) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of said Bonds or BANs, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said Bonds or BANs nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of said Bonds or BANs or the interest thereon remain unpaid. Except for the changes set forth in Section 25 (a)-(g), this ordinance may be amended, however, without the consent of Bond or BAN owners, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds or BANs.

(j) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of said Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act, including the right to have a receiver appointed to administer the sewage works, in the event the City shall fail or refuse to fix and collect sufficient rates and charges for those purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there be a default in the payment of the interest on or principal of the Bonds.

(k) If the City shall fail to repay any amounts owing to a Bond Insurer under a Policy, such Bond Insurer shall be entitled to exercise any and all remedies available at law other than (i) acceleration of the maturity of the Outstanding Parity Bonds covered by such Policy or (ii) remedies which would adversely affect the holders of the Outstanding Parity Bonds or the Bonds.

### Section 23. Investment of Funds.

The Controller is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds under federal law. The Controller shall



keep full and accurate records of investment earnings and income from moneys held in the funds and accounts continued or referenced herein. In order to comply with the provisions of the ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any such fees as operating expenses of the sewage works.

#### Section 24. Tax Covenants.

In order to preserve the exclusion of interest on the Refunding Bonds and the Project Bonds (collectively, the "Tax-Exempt Bonds") from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the Tax-Exempt Bonds (the "Code") and as an inducement to purchasers of the Tax-Exempt Bonds, the City represents, covenants and agrees that:

(a) The sewage works will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Tax-Exempt Bonds or property financed by the Tax-Exempt Bond proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Tax-Exempt Bond proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the Tax-Exempt Bonds. If the City enters into a management contract for the sewage works, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Tax-Exempt Bonds.

(b) No more than 10% of the principal of or interest on the Tax-Exempt Bonds is (under the terms of the Tax-Exempt Bonds, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Tax-Exempt Bond proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Tax-Exempt Bond proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Tax-Exempt Bond proceeds.

(d) The City reasonably expects, as of the date hereof, that the Tax-Exempt Bonds will not meet either the private business use test described in paragraphs (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Tax-Exempt Bonds.

(e) No more than 5% of the proceeds of the Tax-Exempt Bonds will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Tax-Exempt Bonds that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to

enter into any contracts or arrangements which would cause the Tax-Exempt Bonds to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this ordinance if the interest on any Tax-Exempt Bond is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Tax-Exempt Bonds.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Tax-Exempt Bonds.

(i) The City represents that, if necessary, it will rebate any arbitrage profits to the United States of America in accordance with the Code.

(j) The City hereby adopts the Post Issuance Compliance Policy for Tax Exempt Obligations (the "Compliance Policy") attached hereto as Exhibit D as the Compliance Policy of the City relating to post issuance compliance with applicable Code provisions concerning the City's outstanding tax-exempt obligations, including the Tax-Exempt Bonds.

#### Section 25. Amendments with Consent of Bondholders.

Subject to the terms and provisions contained in this Section and Section 22(i), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

- (a) An extension of the maturity of the principal of or interest on any Bond issued pursuant to this ordinance; or
- (b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or
- (c) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or
- (d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or
- (e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or
- (f) A reduction in the Reserve Requirement; or
- (g) The extension of mandatory sinking fund redemption dates, if any.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Controller of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds

issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds issued pursuant to this ordinance then outstanding.

Section 26. Tax Exemption.

Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance (the “Tax Sections”) which are designed to preserve the exclusion of interest on the Tax-Exempt Bonds from gross income under federal law (the “Tax Exemption”) need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 27. Continuing Disclosure.

In order for the purchasers of the Bonds to comply with the SEC Rule, the Mayor and the Controller are hereby authorized to execute and deliver an agreement by the City to comply with the requirements of a continuing disclosure undertaking by the City pursuant to subsection (b)(5) of the SEC Rule, and any amendments thereto from time to time (the “Continuing Disclosure Agreement”). The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. The substantially final form of Continuing Disclosure Agreement attached hereto as Exhibit E and incorporated herein by reference is hereby approved and the Mayor and Controller are authorized to execute the same and to approve such changes in form or substance thereto which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by the execution thereof.

Section 28. Loan of Water Utility Funds.

In order to facilitate temporary loans from the waterworks of the City to the sewage works, there is hereby established the “City of Bloomington, Waterworks Cash Reserve Fund” (the “Cash Reserve Fund”) pursuant to which “surplus earnings”, as defined in IC 8-1.5-3-11, of the waterworks shall be deposited. At the discretion of and subject to the terms prescribed by the Board, funds in the Cash Reserve Fund may be (i) temporarily loaned to the sewage works for terms not exceeding 5 years or (ii) used for any other lawful purposes permitted by IC 8-1.5-3-11. The repayment of any such loan from revenues of the sewage works shall be deposited to the Cash Reserve Fund and shall, in all respects, be junior and subordinate to any Outstanding Parity Bonds, the Bonds and any sewage works revenue bonds issued in the future by the City pursuant to Section 21 of this ordinance.

Section 29. Sewer Rate Ordinance.

The estimates of the rates and charges of the sewage works are set forth in Ordinance No. 11-13, adopted by the Common Council of the City on December 21, 2011, and such ordinance is incorporated herein by reference.

Section 30. Conflicting Ordinances.

All ordinances and parts of ordinances in conflict herewith, except the Prior Bond Ordinances, are hereby repealed; provided, however, that this ordinance shall not be construed as adversely affecting the rights of the owners of the Outstanding Parity Bonds or the Refunded Bonds.

Section 31. Headings.

The headings or titles of the several sections of this ordinance shall be solely for convenience or reference and shall not affect the meaning, construction or effect of this ordinance.

Section 32. Effective Date.

This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21<sup>st</sup> day of December, 2011.

By: \_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

SYNOPSIS

Ordinance 11-14 authorizes the sale of taxable Sewage Works Revenue Bonds which will cover payment of all obligations currently owed to the Civil City and will allow the Sewage Works to cash fund debt service reserves in place of surety bonds on outstanding bonds. It also authorizes sale of tax-exempt Sewage Works Revenue Bonds to finance the construction projects described in Exhibit A attached to the bond ordinance. It further authorizes refunding of Sewage Works Revenue Bonds of 1999 Series A to obtain a lower interest rate and reduce debt service payments on those bonds for significant savings to the City.

## **EXHIBIT A**

### *Project Description*

The Project consists of additions and improvements to the sewage works of the City, including improvements to the Dillman Road Wastewater Treatment Plant (the “Plant”) and the wastewater collection system (the “System”). The Plant improvements will include effluent filter improvements, mechanical screen rehabilitation, backwash water storage tank leak repair, EQ basin design, final clarifier coating, SCADA upgrades and such other necessary improvements related thereto. The System improvements will include inflow disconnection program, Gifford Road gravity sewer improvements, CMOM document update, Westwood/Highland Village sewer rehabilitation, SE basin rehabilitation and other necessary improvements to the System related thereto. The Project is more particularly described in the plans and specifications therefore prepared by the City’s engineers and available for inspection at the office of the Clerk. The Project will comply with the City’s Agreed Order with the Indiana Department of Environmental Management.

**EXHIBIT B**

*Form of Bond Purchase Agreement*

CITY OF BLOOMINGTON, INDIANA

\$ \_\_\_\_\_  
SEWAGE WORKS REFUNDING REVENUE BONDS, SERIES 2012A

\$ \_\_\_\_\_  
TAXABLE SEWAGE WORKS REVENUE BONDS, SERIES 2012B

**BOND PURCHASE AGREEMENT**

\_\_\_\_\_, 2012

The Members of the Common Council  
City Hall  
401 North Morton Street, P.O. Box 100  
Bloomington, IN 47402

Dear Members of the Common Council:

The undersigned, J.J.B. Hilliard, W.L. Lyons, LLC (the "Underwriter"), hereby offers to enter into the following agreement with the City of Bloomington, Indiana (the "City"), which, upon acceptance of this offer, will be binding upon the City and the Underwriter. This offer is made subject to acceptance on or before 5:00 P.M. Eastern Standard Time, \_\_\_\_\_, 2012.

1. Upon the terms and conditions and upon the basis of the respective representations and covenants hereafter set forth, the Underwriter hereby agrees to purchase from the City, and the City hereby agrees to sell to the Underwriter all, but not less than all, of the (i) \$ \_\_\_\_\_ in aggregate issued amount of the City of Bloomington, Indiana Sewage Works Refunding Revenue Bonds, Series 2012A (the "Refunding Bonds") and (ii) \$ \_\_\_\_\_ in aggregate issued amount of the City of Bloomington, Indiana Taxable Sewage Works Revenue Bonds, Series 2012B (the "Taxable Bonds"). The Refunding Bonds and the Taxable Bonds (collectively, the "Bonds") shall be dated as of the date of delivery, shall mature in such amounts, bear interest at such rates to their stated maturities and be subject to redemption as set forth in **Schedule A** attached hereto and made a part hereof.

2. The initial purchase price of the Refunding Bonds shall be \$ \_\_\_\_\_, which price includes an Underwriter's discount of \$ \_\_\_\_\_, and net original issue premium of \$ \_\_\_\_\_. The initial purchase price of the Taxable Bonds shall be \$ \_\_\_\_\_, which price includes an Underwriter's discount of \$ \_\_\_\_\_, and net original issue premium of \$ \_\_\_\_\_. In addition to such initial purchase prices, if, from the date of execution of this Bond Purchase Agreement, the Bonds are sold by the Underwriter at a price in excess of 100% of the face amount thereof, the Underwriter shall pay the amount of any such excess to the City based upon the original pricing of the Bonds. The initial purchase price for each issue of Bonds, together with the amount of any such excess, shall be referred to herein as the "Purchase Price". For information purposes only, we calculate the bond yield for the Refunding Bonds to be \_\_\_\_\_% and for the Taxable Bonds to be \_\_\_\_\_%.

3. The Bonds shall be authorized and secured by, and issued under, a Bond Ordinance, adopted by the Common Council of the City on December 21, 2011 (the "Bond Ordinance"), drafted by Bose McKinney & Evans LLP, Indianapolis, Indiana, Bond Counsel, and approved by the Underwriter.

4. The City previously authorized a Preliminary Official Statement, prepared for and on behalf of the City, and deemed to be a "nearly final official statement" and other documents to be used in connection with the public offering and sale of the Bonds. The City hereby authorizes an Official Statement, prepared for and on behalf of the City, and other documents to be used in connection with the public offering and sale of the Bonds, and agrees to provide the Underwriter with sufficient copies of the Final Official Statement in accordance with SEC Rule 15c2-12. In addition, the City will enter into a Continuing Disclosure Undertaking Agreement

dated as of the date hereof, for the purpose of assisting the Underwriter in complying with subsection (b)(5) of SEC Rule 15c2-12, and as an inducement to the Underwriter to assume its obligations hereunder.

5. The Bonds, registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”) and in such authorized denominations as shall be requested by the Underwriter, shall be delivered to the Underwriter at the offices of Bond Counsel, Bose McKinney & Evans LLP, Indianapolis, Indiana, or at such other location as the Underwriter shall direct, on \_\_\_\_\_, 2012, at which time the Underwriter agrees to pay the purchase price in full. Such delivery and payment is referred to herein as the “Closing”. If the Underwriter so requests, the City shall make the Bonds available to the Underwriter and/or DTC at least one business day (or such additional days as DTC may require) before the Closing for purposes of inspection. It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error in the printing of such numbers shall constitute cause for failure or refusal of the Underwriter to accept delivery of and to make payment for any of the Bonds.

6. The Underwriter shall have the right to cancel its obligation to purchase the Bonds if between the date hereof and the date of Closing, (i)(A) legislation shall be introduced in Congress, or enacted or actively considered for enactment by the Congress, or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to either House of the Congress by any committee of such House, or (B) a decision by a Federal court of the United States or the United States Tax Court shall be rendered, or a ruling or regulation by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed with respect to Federal taxation upon revenues or other income to be derived by the City or upon interest on obligations of the general character of the Bonds, or (C) other actions or events shall have occurred or transpired, any of which has the purpose or effect, directly or indirectly, of materially adversely affecting the Federal or Indiana income tax or other Indiana tax consequences of any of the transactions contemplated in connection herewith, and in the reasonable judgment of the Underwriter materially adversely affects the market for the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds at the contemplated offering price, or (ii) there shall exist in the reasonable judgment of the Underwriter any fact, or any event shall have occurred which either (A) makes untrue or incorrect any statement of a material fact or material information contained in the Official Statement, or (B) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect, or (iii) there shall have occurred any outbreak of hostilities or any national or international calamity or crises, including a financial crisis, the effect of which on the financial markets of the United States being such as would in the reasonable judgment of the Underwriter materially adversely affect the market for the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds at the contemplated offering price, or (iv) there shall be in force a general suspension of trading on the New York Stock Exchange or a general banking moratorium shall have been declared by Federal, Indiana or New York authorities, the effect of which would, in the reasonable judgment of the Underwriter, materially adversely affect the market for the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds at the contemplated offering prices, or (v) there shall have occurred, since the date hereof, any material adverse change in the affairs of the City from that reflected in the financial statements of the City contained in the Official Statement.

7. The City hereby represents and warrants to the Underwriter that:

(a) It is authorized by law to enter into this Bond Purchase Agreement and the documents herein referred to and to perform all of its obligations to consummate the transactions contemplated hereby and thereby;

(b) The information contained in the Official Statement as of the Closing will be complete and correct in all material respects and does not and will not contain any untrue statement of a material fact and does not and will not omit a material fact required or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and



(c) The City has not been in default as to principal and interest payments on any securities at any time after December 31, 1975.

The City agrees that it shall take all necessary action to authorize the execution and delivery of, and shall execute and deliver the Bonds, the Bond Ordinance and any and all other agreements, certificates, and documents as may be required to consummate the transactions contemplated hereby and by the Official Statement.

Any certificate signed by an authorized officer of the City and delivered to the Underwriter shall be deemed a representation and warranty by the City to the Underwriter as to statements made therein.

8. The Underwriter hereby represents and warrants to the City as follows:

(a) The Underwriter has been duly authorized to execute this Bond Purchase Agreement, and to carry out the terms of this Bond Purchase Agreement.

(b) In the event that, from and after the date of execution of this Bond Purchase Agreement, the Underwriter sells any Bond for a price in excess of the face amount thereof, the full amount of any such excess shall be paid to the City as part of the Purchase Price, as set forth in paragraph 2 hereof.

9. The obligations of the Underwriter hereunder shall be subject to:

(a) The performance by the City of its obligations to be performed hereunder at and prior to the Closing;

(b) The accuracy of the warranties and representations of the City, and

(c) Delivery to the Underwriter of executed counterparts of the following documents in such number as shall be reasonably required and in form and substance satisfactory to the Underwriter:

(1) The Bond Ordinance.

(2) The unqualified approving opinion of Bond Counsel in customary market form, dated the date of Closing, relating to the due authorizations, execution, and delivery of the Bond Ordinance, the Bonds (and any documents relating to the issuance and security therefor), the tax-exempt status of interest on the Refunding Bonds for Federal income tax purposes, and such other matters as are customarily provided in such opinions.

- (3) Evidence that Standard and Poor's Ratings Services has assigned a rating of "\_\_\_\_\_" to the Bonds.
- (4) The Continuing Disclosure Undertaking Agreement executed by the City, dated as of the date hereof.
- (5) Such additional legal opinions, bonds, proceedings, and such other documents, including references to the provisions of the Internal Revenue Code of 1986, as amended, as Bond Counsel or the Underwriter may reasonably request to evidence compliance by the City with legal requirements, the truth and accuracy of their representations herein, the accuracy and completeness of the Official Statement as of the Closing and the due performance or satisfaction by the City at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by the City.

10. Incident to the issuance of the Bonds, and whether the Bonds are delivered to the Underwriter or not, the Underwriter agrees to pay the expenses of forming and managing a national selling group, the fees of any counsel retained by the Underwriter, any advertising in connection with selling the Bonds, the costs of registering the Bonds or confirming exceptions from registration in any jurisdiction and the costs of preparing Blue Sky and Legal Investment Memoranda, MSRB fees and other out-of-pocket expenses. The City shall pay, or cause to be paid, from the proceeds of the sale of the Bonds the fees and disbursements of Bond Counsel, counsel to the City, financial advisor/verification agent to the City, the cost of preparing, printing and distribution of the Preliminary Official Statement and the Final Official Statement, the fees of the rating agencies, the cost of printing and delivery of definitive Bonds, the cost of CUSIP numbers, DTC/Midwest charges and the costs and expenses of the issuance and delivery of the Bonds.

11. All representations, warranties, and agreements of the City shall remain in full force and effect regardless of any investigations made by or on behalf of the Underwriter and shall survive the Closing.

12. No recourse under or upon any obligatory covenant or agreement contained in this Bond Purchase Agreement or to be implied therefrom shall be had against any officer, trustee, employees agent or representative of the City; and no personal liability whatsoever shall attach to or be incurred by the present or any future officers, trustees, employees, agents or representatives of the City by reason of any of the obligations, covenants or agreements contained or this Bond Purchase Agreement, or to be implied therefrom.

13. Any notice or other communication to be given to the City shall be given by delivering the same in writing at the address set forth above and any notice or other communication to be given to the Underwriter shall be given in writing to J.J.B. Hilliard, W.L. Lyons, LLC, 14390 Clay Terrace Boulevard, Suite 241, Carmel, IN 46032.

This Bond Purchase Agreement is made solely for the benefit of the parties hereto, and no other person, including any holders of the Bonds, shall acquire or have any right hereunder or by virtue hereof.

The approval and acceptance of this offer by the City, as evidenced by the execution of the acceptance clause below, shall cause this document to constitute a contract for the sale by the City and the purchase by the Underwriter of the herein-described Bonds, subject to and in accordance with the terms and conditions herein outlined and established.

Respectfully submitted,

**J.J.B. HILLIARD, W.L. LYONS, LLC**, as  
Underwriter

By: \_\_\_\_\_

*(Signature Page to Bond Purchase Agreement)*

Accepted by the City of Bloomington, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF BLOOMINGTON, INDIANA**

By: \_\_\_\_\_  
Mark Kruzan, Mayor

By: \_\_\_\_\_  
Mike Trexler, Controller

**SCHEDULE A**

***Refunding Bonds***

Designation: City of Bloomington, Indiana  
Sewage Works Refunding Revenue Bonds, Series 2012A

Principal Amount: \$\_\_\_\_\_

Dated: \_\_\_\_\_, 2012

Maturities and Interest Rates: Maturing annually on January 1, with interest payable semiannually on January 1 and July 1 of each year, commencing July 1, 2012, in the years and amounts and with interest rates, as shown below

<b><u>Maturity</u></b>	<b><u>Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Price</u></b>
	\$	%	%

Optional Redemption: The Refunding Bonds maturing on January 1, 2023, and thereafter, are redeemable at the option of the City on January 1, 2022, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value together with the following premiums:

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plus in each case accrued interest to the date fixed for redemption.

***Taxable Bonds***

Designation: City of Bloomington, Indiana  
Taxable Sewage Works Revenue Bonds, Series 2012B

Principal Amount: \$\_\_\_\_\_

Dated: \_\_\_\_\_, 2012

Maturities and Interest Rates: Maturing annually on January 1, with interest payable semiannually on January 1 and July 1 of each year, commencing July 1, 2012, in the years and amounts and with interest rates, as shown below

<u>Maturity</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Price</u>
	\$	%	%

Optional Redemption: The Taxable Bonds are not subject to optional redemption prior to maturity.

**EXHIBIT C**

*Form of Escrow Agreement*

**ESCROW AGREEMENT**

**BETWEEN**

**THE**

**CITY OF BLOOMINGTON, INDIANA,**

**AND**

\_\_\_\_\_  
**As Escrow Trustee**

**SEWAGE WORKS REFUNDING REVENUE BONDS, SERIES 2012A**

**Dated \_\_\_\_\_, 2012**

## ESCROW AGREEMENT

This agreement (the "Escrow Agreement") made and entered into as of \_\_\_\_\_, 2012, by and between the City of Bloomington, Indiana (the "City"), and \_\_\_\_\_ (the "Escrow Trustee"), a national banking association organized under the laws of the United States of America, having its principal corporate trust office in Indianapolis, Indiana, as Escrow Trustee under this Escrow Agreement with the City.

### WITNESSETH

WHEREAS, Indiana Code, Title 5, Article 1, Chapter 5 (the "Act"), has been enacted by the legislature of the State of Indiana; and

WHEREAS, the Act declares that the refunding of bonds to effect a savings for the City or to relieve the City of restrictive covenants which impede additional financings and the issuance of refunding bonds to accomplish the refunding constitute a public purpose; and

WHEREAS, the Act provides that the proceeds of the refunding bonds may be secured by a trust agreement between the City and a corporate trustee; and

WHEREAS, the execution and delivery of this Escrow Agreement has been in all respects duly and validly authorized by Ordinance No. \_\_\_\_\_ duly passed and adopted by the Common Council of the City on December 21, 2011 (the "Ordinance"); and

WHEREAS, the City has heretofore issued, pursuant to Ordinance No. 98-30 adopted by the Common Council of the City on September 9, 1998 (the "1998 Ordinance"), its Sewage Works Revenue Bonds of 1999, Series A, dated May 1, 1999, in the total amount of \$8,200,000, of which \$6,230,000 in principal amount is now outstanding (the "Refunded Bonds"); and

WHEREAS, the City has concurrently with the execution and delivery of this Escrow Agreement, executed, issued and delivered pursuant to the Ordinance, its Sewage Works Refunding Bonds, Series 2012A (the "2012 Bonds") in the principal amount of \$\_\_\_\_\_, and the City has deposited with the Escrow Trustee (a) certain hereinafter described securities or evidences thereof in the amount of \$\_\_\_\_\_ (the "Government Obligations") purchased from proceeds of the Bonds in the amount of \$\_\_\_\_\_ and (b) cash in the amount of \$\_\_\_\_\_ funded from proceeds of the 2012 Bonds (the "Cash Requirement"), in a total amount sufficient to pay the Refunded Bonds from the date of delivery of the 2012 Bonds to \_\_\_\_\_, 2012, the earliest redemption date of the Refunded Bonds, with accrued interest to such date;

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That in order to secure the payment of the principal of and interest and redemption premium on the Refunded Bonds according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants and conditions herein and in the Refunded Bonds and 2012



Bonds, and for and in consideration of the mutual covenants herein contained, and of the acceptance by the Escrow Trustee of the trust hereby created, the City has executed and delivered this Escrow Agreement.

TO HAVE AND TO HOLD the same unto the Escrow Trustee, and its successor or successors and its or their assigns forever;

IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth, to secure the payment of the Refunded Bonds and the interest payable thereon, and to secure also the observance and performance of all the terms, provisions, covenants and conditions of this Escrow Agreement, and for the equal and ratable benefit and security of all and singular the owners of all Refunded Bonds without preference, priority or distinction as to lien or otherwise of any one Refunded Bond or as between principal and interest; and it is hereby mutually covenanted and agreed that the terms and conditions upon which the Refunded Bonds are to be paid, and a portion of the proceeds of the 2012 Bonds invested, and the trusts and conditions upon which the pledged Government Obligations and Cash Requirement are to be held and disbursed, are as follows:

1. The Escrow Trustee acknowledges receipt from the City of the Government Obligations, as set forth in Exhibit A attached hereto, together with the Cash Requirement, to be applied on the principal of and interest on the Refunded Bonds in accordance with the schedule set forth in Exhibit B attached hereto. The Government Obligations have been deposited with the Escrow Trustee and will bear interest at such rates and will mature at such times and in such amounts so that, when paid according to their respective terms, together with the Cash Requirement, sufficient moneys will be available for the payment of principal of and interest on the Refunded Bonds until \_\_\_\_\_, 2012, the earliest date upon which the Refunded Bonds may be called for redemption, and the cost of redeeming the Refunded Bonds at a redemption price of 100% of principal amount.

2. (a) A Trust Account is created hereby for the Refunded Bonds (the "Trust Account"). For purposes of securing payment for the Refunded Bonds, the Government Obligations and the Cash Requirement set forth on Exhibit A will be held in trust by the Escrow Trustee in the Trust Account and such Government Obligations on deposit with the Escrow Trustee, including interest to be earned thereon, together with the Cash Requirement, are pledged solely and irrevocably for the benefit of the owners of the Refunded Bonds. Pursuant to this Section, the City irrevocably instructs the Escrow Trustee to duly call the Refunded Bonds on or before \_\_\_\_\_, 2012 for redemption on \_\_\_\_\_, 2012, and the Escrow Trustee hereby agrees to follow this instruction.

(b) The Escrow Trustee and the City agree to redeem on \_\_\_\_\_, 2012, all outstanding Refunded Bonds due on January 1, 2013 and thereafter. The Escrow Trustee shall complete the notice attached as Exhibit C and mail the notice to all registered owners of the Refunded Bonds at least thirty (30) days prior to \_\_\_\_\_, 2012, substantially in the form

attached to this Escrow Agreement as Exhibit C. The Escrow Trustee serves as the paying agent for the Refunded Bonds and shall effectuate timely payments under this Escrow Agreement.

(c) Any balance remaining in the Trust Account after payment of all the Refunded Bonds shall be deposited with the City and used by the City to pay debt service on the 2012 Bonds.

(d) The mathematical calculations of the adequacy of the Trust Account to fully provide for all payments enumerated in this Escrow Agreement will be computed at the time of delivery of the 2012 Bonds by Crowe Horwath LLP (the “Verification Report”).

3. The City covenants that the proceeds from the sale of 2012 Bonds, any moneys attributable to the proceeds of the 2012 Bonds or the Refunded Bonds, amounts received from the investment of the proceeds of the 2012 Bonds, any other amounts treated as proceeds of the 2012 Bonds under the applicable provisions of the Internal Revenue Code of 1986 as existing on the date of the issuance of the 2012 Bonds (the “Code”), to the extent applicable to the 2012 Bonds or held in funds or accounts under the 1998 Ordinance or the Ordinance, shall not be invested or otherwise used in a manner which would cause the 2012 Bonds to be “arbitrage bonds” within the meaning of the Code and the regulations and rulings promulgated thereunder.

4. The Escrow Trustee hereby accepts the trusts imposed upon it by this Escrow Agreement and agrees to perform these trusts as a corporate trustee ordinarily would perform such trusts under a corporate indenture. The Escrow Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same if appointed in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all compensation to all such attorneys, certified public accountants, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Escrow Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the City). The Escrow Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

The Escrow Trustee shall be entitled to payment and/or reimbursement in accordance with the schedule attached hereto as Exhibit D in connection with services under this Escrow Agreement including costs incurred under the preceding paragraph. Such fees shall not constitute a lien against the Trust Account. If, after the Refunded Bonds are paid, there are insufficient funds to pay such fees, the City is responsible for the payment of such Escrow Trustee fees and paying agent fees.

5. The Escrow Trustee shall have the power to sell, transfer, request the redemption or otherwise dispose of some or all of the Government Obligations in the Trust Account and to substitute other Government Obligations of equal or greater security identified in the Verification Report therefor provided that the Escrow Trustee shall receive (i) the unqualified opinion of nationally recognized municipal bond attorneys prior to any such actions to the effect that such

disposition and substitution would not cause any of the Refunded Bonds or the 2012 Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code, or any other regulations and rulings to the extent applicable to the Refunded Bonds of the 2012 Bonds; and (ii) the unqualified opinion of a certified public accountant or a firm of certified public accountants to the effect that such disposition and substitution shall not reduce the sufficiency and adequacy of the Trust Account to fully provide for all payments enumerated in this Escrow Agreement.

6. This Escrow Agreement is made for the benefit of the City and the holders from time to time of the Refunded Bonds, and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Trustee and the City, provided, however, that the City and the Escrow Trustee may, without the consent of, or notice to, such holders, amend this Escrow Agreement or enter into such agreements supplemental to this Escrow Agreement, in their sole judgment and discretion, as shall not materially adversely affect the rights of such holders, for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Escrow Agreement; (ii) to grant to, or confer upon, the Escrow Trustee for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers, security or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Trustee; and (iii) to include under this Escrow Agreement additional funds, securities or properties.

7. If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the City or the Escrow Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

8. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

9. This Escrow Agreement shall be construed and enforced under the laws of the State of Indiana, without regard to conflict of law principles.

10. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Escrow Agreement, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Escrow Trustee are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized to remain closed, with the same force and effect as if done on the nominal date provided in this Escrow Agreement, and no interest shall accrue for the period after such nominal date.

11. This Escrow Agreement shall not be assigned by the Escrow Trustee or any successor thereto without the prior written consent of the City.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed for and on their behalf the day and year first hereinabove written.

**CITY OF BLOOMINGTON, INDIANA**

\_\_\_\_\_  
Mark Kruzan, Mayor

\_\_\_\_\_  
Mike Trexler, Controller

[SEAL]\_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

**EXHIBIT A**

Attached to and made a part of the  
Escrow Agreement executed by the  
City of Bloomington, Indiana and  
\_\_\_\_\_ as Escrow Trustee  
Dated \_\_\_\_\_, 2012

SCHEDULE OF GOVERNMENT OBLIGATIONS

<u>Type</u>	<u>Maturity Date</u>	<u>Amount</u>	<u>Coupon Rate</u>
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Cash in the amount of \$\_\_\_\_\_

**EXHIBIT B**

PAYMENT OF PRINCIPAL AND INTEREST  
ON REFUNDED BONDS

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Redemption Premium</u>	<u>Total Payment</u>
__/__/2012	\$6,230,000.00	\$	\$0	\$

**EXHIBIT C**

**NOTICE OF REDEMPTION TO THE HOLDERS OF THE  
CITY OF BLOOMINGTON  
SEWAGE WORKS REVENUE BONDS OF 1999, SERIES A**

**NOTICE IS HEREBY GIVEN** to the registered owners of the Six Million Two Hundred Thirty Thousand Dollars (\$6,230,000) in aggregate principal amount of Sewage Works Revenue Bonds of 1999, Series A, of the City of Bloomington, Indiana, dated May 1, 1999, and maturing annually on January 1, 2011 through January 1, 2029, inclusive (the "Bonds"), that the Bonds will be redeemed on \_\_\_\_\_, 2012, at the price of one hundred percent (100%) of the par amount thereof (the "Redemption Price"), plus accrued and unpaid interest to \_\_\_\_\_, 2012.

Payment of the Redemption Price of and accrued interest on the Bonds will be made upon presentation and surrender of the Bonds at the corporate trust operations office of \_\_\_\_\_ (the "Escrow Agent").

The Bonds will cease to bear interest on \_\_\_\_\_, 2012, whether or not presented for payment on that date.

**IMPORTANT:** Withholding of 34% of gross redemption proceeds of any payment made within the United States may be required by the Economic Growth and Tax Relief Reconciliation Act of 2001 (the "Act") unless the Escrow Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

Dated this \_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_

Mail to registered owners at least thirty (30) days prior to \_\_\_\_\_, 2012.

**EXHIBIT D**

**ESCROW TRUSTEE FEES**



**EXHIBIT D**

*Post Issuance Compliance Policy*

## CITY OF BLOOMINGTON, INDIANA

### Post-Issuance Compliance Policy for Tax-Exempt Qualified Obligations

#### Statement of Purpose

This Post-Issuance Compliance Policy (the “Policy”) sets forth specific policies of the City of Bloomington, Indiana (the “Issuer”) designed to monitor post-issuance compliance of tax-exempt qualified obligations<sup>1</sup> (the “Obligations”) issued by the Issuer with applicable provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations promulgated there under (the “Treasury Regulations”). The Policy documents existing practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations be, or continue to be, or would be but for certain provisions of the Code, excludable from gross income for federal income tax purposes. The Issuer recognizes that compliance with applicable provisions of the Code and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the Issuer’s debt management. Accordingly, the analysis of those facts and implementation of the Policy will require on-going monitoring and consultation with bond counsel.

This Policy also sets forth certain procedures in respect of assuring continued compliance by the Issuer with continuing disclosure obligations in respect of its outstanding Obligations under Rule 15c2-12 (17 CFR Part 240, §240.15c2-12) (“Rule 15c2-12”) promulgated by the Securities and Exchange Commission (the “SEC”) pursuant to the Securities and Exchange Act of 1934, as amended, together with all interpretive guidances or other official interpretations or explanations thereof that are promulgated by the SEC.

#### Policy Components

The Controller (the “Fiscal Officer”) approves the terms and structure of Obligations executed by the Issuer, which Obligations are ultimately subject to the approval of the legislative body of the Issuer. Such Obligations are issued in accordance with the provisions of the Code of the applicable State of Indiana code section. Specific post-issuance compliance procedures address the relevant areas described below. The following list is not intended to be exhaustive and further areas may be identified from time to time by the Fiscal Officer in consultation with bond counsel.

#### General Policies and Procedures

The following policies relate to procedures and systems for monitoring post-issuance compliance generally.

- A. The Fiscal Officer shall be responsible for monitoring post-issuance compliance issues.
- B. The Fiscal Officer will coordinate procedures for record retention and review of such records.
- C. The Fiscal Officer will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.

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<sup>1</sup> For purposes of the Policy, tax-exempt qualified obligations shall include (a) obligations the interest on which is excludable from gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended, and regulations there under (collectively, the “Code”) (“tax-exempt obligations”), and (b) obligations the interest on which is not excludable from gross income for federal income tax purposes, but federal law otherwise requires such obligations to satisfy requirements of the Code applicable to tax-exempt obligations. For example, Section 54AA of the Code, added by the American Recovery and Reinvestment Act of 2009, authorizes the issuance of “Build America Bonds,” the interest on which is includible in gross income for federal income tax purposes, provided that (a) the interest on the bonds would, but for such Section 54AA, be excludable from gross income for federal tax purposes under Section 103 of the Code, (b) such bonds are issued before a specified date (currently January 1, 2011), and (c) the Issuer makes an irrevocable election to have Section 54AA apply. Accordingly, the Policy will apply to any Build America Bonds issued by the Issuer.

- D. Electronic media will be the preferred method for storage of all documents and other records maintained by the Issuer. In maintaining such electronic storage, the Fiscal Officer will comply with applicable Internal Revenue Service (the “IRS”) requirements, such as those contained in Revenue Procedure 97-22.

### **Issuance of Obligations**

The following policies relate to the issuance of a specific issue of Obligations.

The Fiscal Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents.
- B. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038-G, Form 8038-CP) for such issue with the IRS on a timely basis.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable Issuer staff.

### **Arbitrage**

The following policies relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Fiscal Officer will:

- A. Coordinate the tracking of expenditures, including the expenditure of any investment earnings, with other applicable Issuer staff.
- B. Obtain a computation of the yield on such issue from the Issuer’s financial advisor for such issuance or other outside arbitrage rebate specialist) and maintain a system for tracking investment earnings.
- C. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- D. Coordinate with Issuer staff to monitor compliance by departments with the applicable “temporary period” (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- E. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.
- F. Coordinate to avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- G. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions.
- H. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.

- I. Monitor compliance of the Issuer with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.
- J. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- K. Arrange for timely computation and payment of “yield reduction payments” (as such term is defined in the Code and Treasury Regulations), if applicable.
- L. In the case of any issue of refunding Obligations, coordinate with the Issuer’s financial advisor and any escrow agent to arrange for the purchase of the refunding escrow securities, obtain a computation of the yield on such escrow securities from Treasury’s external source and monitor compliance with applicable yield restrictions.

**Private Activity Concerns**

The following polices relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Fiscal Officer will:

- A. Coordinate with staff to maintain records determining and tracking facilities financed with specific Obligations and in what amounts.
- B. Coordinate with applicable staff to maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Coordinate with applicable staff to maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Coordinate with staff to monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Coordinate with applicable staff to monitor private use of financed facilities to ensure compliance with applicable percentage limitations on such use. Such monitoring should include the following:
  - 1. Procedures to review the amount of existing private use on a periodic basis; and
  - 2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.
- F. Consult with bond counsel as to any possible private use of financed facilities.

**Reissuance**

The following policies relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Fiscal Officer will:

- A. Identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

- B. Confirm with bond counsel whether any “remedial action” in connection with a “change in use” (as such terms are defined in the Code and Treasury Regulations) would be treated as a reissuance for tax purposes and, if so, confirm the filing of any new Form 8038-G.

### **Record Retention**

The following polices relate to retention of records relating to the Obligations issued.

The Fiscal Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
  - 1. Basic records relating to the transaction (e.g., any non-arbitrage certificate, net revenue estimates and the bond counsel opinion);
  - 2. Documentation evidencing expenditure of proceeds of the issue;
  - 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation;
  - 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of management contracts and research agreements);
  - 5. Documentation evidencing all sources of payment or security for the issue; and
  - 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS. While this is typically accomplished through the maintenance of hard copies, records may be kept in electronic format so long as applicable requirements, such as Revenue Procedure 97-22, are satisfied.
- E. Keep all material records for so long as the issue is outstanding (including any refunding), plus eleven years.

### **Continuing Disclosure**

The Fiscal Officer shall determine with respect to each outstanding Obligation the applicability of Rule 15c2-12 to such Obligation. The Fiscal Officer shall periodically determine whether all required filings under any continuing disclosure agreements for Obligations covered by Rule 15c2-12 have been filed with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System (“EMMA”) and, if applicable, the State Information Depository, but in any event no less than semiannually. The Fiscal Officer shall assure that timely filings are made to the EMMA and, if applicable the SID, of all required filings including, specifically, annual financial information and disclosure of certain events in respect of Obligations subject to Rule 15c2-12, all in accordance with the applicable continuing disclosure agreement for such Obligations.

**EXHIBIT E**

*Form of Continuing Disclosure Agreement*

## CONTINUING DISCLOSURE UNDERTAKING AGREEMENT

This CONTINUING DISCLOSURE UNDERTAKING AGREEMENT (the “Agreement”) is executed and delivered by CITY OF BLOOMINGTON, INDIANA (the “Obligor” or “Issuer”), in connection with the issuance by the Obligor of its Sewage Works [Refunding] Revenue Bonds, Series 2012[ ] [and Taxable Sewage Works Revenue Bonds, Series 2012B], in the aggregate principal amount of \$\_\_\_\_\_ [and \$\_\_\_\_\_, respectively] (the “Bonds”). The Bonds are being issued pursuant to Indiana Code 36-9-23 [and Indiana Code 5-1-5, each ]as amended, and Ordinance No. \_\_\_\_\_, adopted December 21, 2011 by the Common Council of the Issuer (the “Ordinance”) (collectively, the “Bond Proceedings”). Pursuant to the Ordinance, the Bonds will be secured by the Net Revenues (as defined in the Ordinance) of the sewage works of the Issuer, on a parity with the Outstanding Parity Bonds and the [Taxable Bonds][and the Refunding Bonds] (each as defined in the Ordinance). The Obligor covenants and agrees as follows:

### Section 1. Purpose of the Disclosure Agreement.

a. This Disclosure Agreement is being executed and delivered by the Obligor for the benefit of the Bondholders and the Beneficial Owners and in order to assist the Participating Underwriter in complying with subsection (b)(5) of the Rule.

b. In consideration of the purchase and acceptance of any and all of the Bonds by those who shall hold the same or shall own beneficial ownership interests therein from time to time, this Disclosure Agreement shall be deemed to be and shall constitute a contract between the Obligor and the Bondholders and Beneficial Owners from time to time of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the Obligor shall be for the benefit of the Bondholders and Beneficial Owners of any and all of the Bonds.

c. The Obligor hereby determines that it will be an obligated person with respect to more than \$10,000,000 in aggregate amount of outstanding municipal securities, including the Bonds and excluding municipal securities that were offered in a transaction exempt pursuant to subsection (d)(1) of the Rule.

Section 2. Definitions. In addition to the definitions set forth in the Bond Proceedings, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings.

“Annual Report” shall mean any annual report provided by the Obligor pursuant to, and as described in, Section 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including any person holding Bonds through nominees, depositories or other intermediaries).

“Dissemination Agent” shall mean the Obligor, or any successor Dissemination Agent appointed in writing by the Obligor and which has filed with the Obligor a written acceptance of such appointment.

“EMMA” means the Electronic Municipal Market Access system at [www.emma.msrb.org](http://www.emma.msrb.org), created and operated by the MSRB.

“GAAP” shall mean generally accepted accounting principles, as such principles are prescribed, in part, by the Financial Accounting Standards Board and modified by the Governmental Accounting Standards Board and in effect from time to time.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board established in accordance with the provisions of Section 15B(b)(1) of the 1934 Act.

“National Repository” shall mean any nationally recognized municipal securities information repository for purposes of the Rule. Commencing July 1, 2009, the sole National Repository approved by the SEC shall be the MSRB through the EMMA.

“1934 Act” shall mean the Securities Exchange Act of 1934, as amended.

“Official Statement” shall mean the Official Statement for the Bonds dated \_\_\_\_\_, 2012.

“Participating Underwriter” shall mean \_\_\_\_\_.

“Repository” shall mean the National Repository and the State Repository.

“Rule” shall mean Rule 15c2-12 (17 CFR Part 240, §240.15c2-12) promulgated by the SEC pursuant to the 1934 Act, as the same may be amended from time to time, together with all interpretive guidances or other official interpretations or explanations thereof that are promulgated by the SEC.

“SEC” shall mean the United States Securities and Exchange Commission.

“Securities Counsel” shall mean legal counsel expert in federal securities law.

“State” shall mean the State of Indiana.

“State Repository” shall mean any public or private repository or entity designated by the State as a state information depository for the purpose of the Rule and recognized as such by the SEC. As of the date of this Disclosure Agreement, there is no State Repository.

Section 3. Provision of Annual Reports.

a. Each year, the Obligor shall provide, or shall cause the Dissemination Agent to provide, not later than the date six months after the first day of the Obligor’s fiscal year, commencing with the Obligor’s Annual Report for its fiscal year ended December 31, 2011 to the MSRB through EMMA an Annual Report for the preceding fiscal year which is consistent with the requirements of Section 4 of this Disclosure Agreement. Not later than fifteen business days (or such lesser number of days as is acceptable to the Dissemination Agent) prior to said date, the Obligor shall provide the Annual Report to the Dissemination Agent (if other than the Obligor). Currently, the Obligor’s fiscal year commences on January 1. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by specific reference other information as provided in Section 4 of this Disclosure Agreement; provided, however, that if the audited financial statements of the Obligor are not available by the deadline for filing the Annual Report, they shall be provided when and if available, and unaudited financial statements in a format similar to the audited financial statements then most recently prepared for the Obligor or in the form provided by the State on an annual basis shall be included in the Annual Report.

b. If the Obligor is unable to provide an Annual Report by the date required in subsection (a), the Obligor shall send a notice, in a timely manner, to the MSRB through EMMA, in substantially the form attached as Exhibit A.

c. If the Obligor’s fiscal year changes, the Obligor shall send notice of such change to the MSRB through EMMA, in substantially the form attached as Exhibit B.

d. Whenever any Annual Report or portion thereof is filed as described above, it shall include a cover sheet in substantially the form attached as Exhibit C.

e. The Dissemination Agent shall, if the Dissemination Agent is other than the Obligor, file a report with the Obligor certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided.



f. In connection with providing the Annual Report, the Dissemination Agent (if other than the Obligor) is not obligated or responsible under this Disclosure Agreement to determine the sufficiency of the content of the Annual Report for purposes of the Rule or any other state or federal securities law, rule, regulation or administrative order.

Section 4. Content of Annual Reports. The Obligor's Annual Report shall contain or include by reference the following:

a. the audited financial statements of the Obligor for its fiscal year or two fiscal years, as may be required by State law, immediately preceding the due date of the Annual Report and shall include (i) the Audit or Examination Report of the Obligor as prepared and examined by the Indiana State Board of Accounts for such period, together with the opinion of such accountants and all notes thereto and (ii) unaudited financial information of the Obligor, if the information in (i) is not available. Such financial statements, however, shall not be included if State law does not require the Obligor to prepare such statements for its immediately preceding fiscal year by the due date of the Annual Report for such fiscal year. The Obligor's financial statements shall be audited and prepared in accordance with GAAP with such changes as may be required from time to time in accordance with State law or shall be audited (only if required by State law) and prepared in accordance with State law.

b. An update of the financial information and operating data relating to the Obligor of the same nature as that contained in the Official Statement under \_\_\_\_\_.

Any or all of the items listed above may be included by specific reference to other documents that previously have been provided to each of the Repositories or filed with the SEC. Notwithstanding the foregoing, if the document included by reference is a final official statement, it need only be available from the MSRB. The Obligor shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

a. The Obligor shall disclose the following events to the MSRB through EMMA, within 10 business days of the occurrence of any of the following events, if material (which determination of materiality shall be made by the Obligor in accordance with the standards established by federal securities laws):

- (1) non-payment related defaults;
- (2) modifications to rights of Bondholders;
- (3) bond calls;
- (4) release, substitution or sale of property securing repayment of the Bonds;
- (5) the consummation of a merger, consolidation, or acquisition, or certain asset sales, involving the obligated person, or entry into or termination of a definitive agreement relating to the foregoing; and
- (6) appointment of a successor or additional trustee or the change of name of a trustee.

b. The Obligor shall disclose the following events to the MSRB through EMMA, within 10 business days of the occurrence of any of the following events, regardless of materiality:

- (1) principal and interest payment delinquencies;
- (2) unscheduled draws on debt service reserves reflecting financial difficulties;
- (3) unscheduled draws on credit enhancements reflecting financial difficulties;

- (4) substitution of credit or liquidity providers, or their failure to perform;
- (5) defeasances;
- (6) rating changes;
- (7) adverse tax opinions or events affecting the status of the Bonds, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material events, notices or determinations with respect to the tax status of the Bonds;
- (8) tender offers; and
- (9) bankruptcy, insolvency, receivership or similar event of the obligated person.

The disclosure may be accompanied by a certificate of an authorized representative of the Obligor in the form of **Exhibit D** attached hereto.

c. If the Obligor determines that the occurrence of a Listed Event must be filed as set forth above, the Obligor shall promptly cause a notice of such occurrence to be filed with the MSRB through EMMA, together with a cover sheet in substantially the form attached as **Exhibit C**. In connection with providing a notice of the occurrence of a Listed Event described above in subsection (b)(5), the Obligor shall include in the notice explicit disclosure as to whether the Bonds have been escrowed to maturity or escrowed to call, as well as appropriate disclosure of the timing of maturity or call.

d. In connection with providing a notice of the occurrence of a Listed Event, the Dissemination Agent (if other than the Obligor), solely in its capacity as such, is not obligated or responsible under this Disclosure Agreement to determine the sufficiency of the content of the notice for purposes of the Rule or any other state or federal securities law, rule, regulation or administrative order.

e. The Obligor acknowledges that the “rating changes” referred to above in subsection (b)(6) may include, without limitation, any change in any rating on the Bonds or other indebtedness for which the Obligor is liable.

f. The Obligor acknowledges that it is not required to provide a notice of a Listed Event with respect to credit enhancement when the credit enhancement is added after the primary offering of the Bonds, the Obligor or the Issuer does not apply for or participate in obtaining such credit enhancement, and such credit enhancement is not described in the Official Statement.

#### **Section 6. Termination of Reporting Obligation.**

a. The Obligor’s obligations under this Disclosure Agreement shall terminate upon the legal defeasance, the prior redemption or the payment in full of all of the Bonds. If the Obligor’s obligation to pay the principal of and interest on the Bonds is assumed in full by some other entity, such entity shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the Obligor, and the Obligor shall have no further responsibility hereunder.

b. This Disclosure Agreement, or any provision hereof, shall be null and void in the event that the Obligor (i) receives an opinion of Securities Counsel, addressed to the Obligor, to the effect that those portions of the Rule, which require such provisions of this Disclosure Agreement, do not or no longer apply to the Bonds, whether because such portions of the Rule are invalid, have been repealed, amended or modified, or are otherwise deemed to be inapplicable to the Bonds, as shall be specified in such opinion, and (ii) delivers notice to such effect to the MSRB through EMMA.

Section 7. Dissemination Agent. The Obligor, from time to time, may appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Agent, with or without appointing a successor Dissemination Agent. Except as otherwise provided in this Disclosure Agreement, the Dissemination Agent (if other than Obligor) shall not be responsible in any manner for the content of any notice or report prepared by the Obligor pursuant to this Disclosure Agreement.

Section 8. Amendment; Waiver.

a. Notwithstanding any other provisions of this Disclosure Agreement, this Disclosure Agreement may be amended, and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(1) if the amendment or waiver relates to the provisions of Section 3(a), (b), (c), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, a change in law or a change in the identity, nature or status of the Obligor, or type of business conducted by the Obligor or in connection with the Project;

(2) this Disclosure Agreement, as so amended or taking into account such waiver, would, in the opinion of Securities Counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(3) the amendment or waiver either (A) is approved by the Bondholders in the same manner as provided in the Indenture for amendments to the Indenture with the consent of the Bondholders, or (B) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Bondholders.

b. In the event of any amendment to, or waiver of a provision of, this Disclosure Agreement, the Obligor shall describe such amendment or waiver in the next Annual Report and shall include an explanation of the reason for such amendment or waiver. In particular, if the amendment results in a change to the annual financial information required to be included in the Annual Report pursuant to Section 4 of this Disclosure Agreement, the first Annual Report that contains the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of such change in the type of operating data or financial information being provided. Further, if the annual financial information required to be provided in the Annual Report can no longer be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be included in the first Annual Report that does not include such information.

c. If the Amendment results in a change to the accounting principles to be followed in preparing financial statements as set forth in Section 4 of this Disclosure Agreement, the Annual Report for the year in which the change is made shall include a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of such differences and the impact of the changes on the presentation of the financial information. To the extent reasonably feasible, the comparison shall also be quantitative. A notice of the change in accounting principles shall be sent by the Obligor, or the Dissemination Agent (if other than the Obligor) at the written direction of the Obligor, to the MSRB through EMMA.

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Obligor from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Obligor chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the Obligor shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Failure to Comply. In the event of a failure of the Obligor or the Dissemination Agent (if other than the Obligor) to comply with any provision of this Disclosure Agreement, any Bondholder or Beneficial Owner may bring an action to obtain specific performance of the obligations of the Obligor or the Dissemination Agent (if other than the Obligor) under this Disclosure Agreement, but no person or entity shall be entitled to recover monetary damages hereunder under any circumstances, and any failure to comply with the obligations under this Disclosure Agreement shall not constitute a default with respect to the Bonds or under the Ordinance. Notwithstanding the foregoing, if the alleged failure of the Obligor to comply with this Disclosure Agreement is the inadequacy of the information disclosed pursuant hereto, then the Bondholders and the Beneficial Owners (on whose behalf a Bondholder has not acted with respect to this alleged failure) of not less than twenty percent (20%) of the aggregate principal amount of the then outstanding Bonds must take the actions described above before the Obligor shall be compelled to perform with respect to the adequacy of such information disclosed pursuant to this Disclosure Agreement.

Section 11. Duties of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement.

Section 12. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Obligor, the Dissemination Agent, the Participating Underwriter, the Bondholders and the Beneficial Owners, and shall create no rights in any other person or entity.

Section 13. Transmission of Information and Notices. Unless otherwise required by law or this Disclosure Agreement, and, in the sole determination of the Obligor or the Dissemination Agent, as applicable, subject to technical and economic feasibility, the Obligor or the Dissemination Agent, as applicable, shall employ such methods of information and notice transmission as shall be requested or recommended by the herein-designated recipients of such information and notices.

Section 14. Additional Disclosure Obligations. The Obligor acknowledges and understands that other State and federal laws, including, without limitation, the Securities Act of 1933, as amended, and Rule 10b-5 promulgated by the SEC pursuant to the 1934 Act, may apply to the Obligor, and that under some circumstances, compliance with this Disclosure Agreement, without additional disclosures or other action, may not fully discharge all duties and obligations of the Obligor under such laws.

Section 15. Governing Law. This Disclosure Agreement shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Disclosure Agreement shall be instituted in a court of competent jurisdiction in the State. Notwithstanding the foregoing, to the extent this Disclosure Agreement addresses matters of federal securities laws, including the Rule, this Disclosure Agreement shall be construed and interpreted in accordance with such federal securities laws and official interpretations thereof.

Section 16. Severability. If any portion of this Disclosure Agreement is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability or enforceability of the remaining portions of this Disclosure Agreement shall not be affected, and this Disclosure Agreement shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

*Signature Page to Continuing Disclosure Agreement*

**CITY OF BLOOMINGTON, INDIANA**

By: \_\_\_\_\_  
Mark Kruzan, Mayor

ATTEST:

\_\_\_\_\_  
Mike Trexler, Controller

Dated: \_\_\_\_\_, 2012.

**EXHIBIT A**

NOTICE TO THE NATIONAL REPOSITORY AND  
TO THE STATE REPOSITORY, OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer/Obligor:      City of Bloomington, Indiana

Name of Bond Issue:          [Taxable] Sewage Works [Refunding] Revenue Bonds, Series  
2012\_\_

Date of Bonds:                \_\_\_\_\_, 2012

NOTICE IS HEREBY GIVEN that the Obligor has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of its Continuing Disclosure Agreement with respect to the Bonds. The Obligor anticipates that the Annual Report will be filed by \_\_\_\_\_.

CITY OF BLOOMINGTON, INDIANA

By \_\_\_\_\_

Its \_\_\_\_\_

Dated: \_\_\_\_\_

**EXHIBIT B**

NOTICE TO THE NATIONAL REPOSITORY AND  
TO THE STATE REPOSITORY, OF CHANGE IN OBLIGOR'S FISCAL YEAR

Name of Issuer/Obligor: City of Bloomington, Indiana

Name of Bond Issue: [Taxable] Sewage Works [Refunding] Revenue Bonds, Series  
2012\_\_

Date of Bonds: \_\_\_\_\_, 2012

NOTICE IS HEREBY GIVEN that the Obligor's fiscal year has changed. Previously the  
Obligor's fiscal year ended on December 31. It now ends on \_\_\_\_\_.

CITY OF BLOOMINGTON, INDIANA

By \_\_\_\_\_

Its \_\_\_\_\_

Dated: \_\_\_\_\_

**EXHIBIT C**

**MUNICIPAL SECONDARY MARKET  
DISCLOSURE INFORMATION COVER SHEET**

This cover sheet should be sent with all submissions made to the Municipal Securities Rulemaking Board, Nationally Recognized Municipal Securities Information Repositories, and any applicable State Information Depository pursuant to Securities and Exchange Commission rule 15c2-12 or any analogous state statute.

\*\*\*

Issuer's and/or Other Obligated Person's Name: City of Bloomington, Indiana

**CUSIP Numbers** (attach additional sheet if necessary):

Nine-digit number(s) to which the information relates:

Information relates to **all securities** issued by the issuer having the following six-digit numbers(s):

\*\*\*

Number of pages of attached information: \_\_\_\_\_

Description of Material Event Notice / Financial Information (Check One):

1. \_\_\_\_\_ Principal and interest payment delinquencies
2. \_\_\_\_\_ Non-payment related defaults
3. \_\_\_\_\_ Unscheduled draws on debt service reserves reflecting financial difficulties
4. \_\_\_\_\_ Unscheduled draws on credit enhancements reflecting financial difficulties
5. \_\_\_\_\_ Substitution of credit or liquidity providers, or their failure to perform
6. \_\_\_\_\_ Adverse tax opinions or events affecting the tax-exempt status of the security
7. \_\_\_\_\_ Modifications to rights of security holders
8. \_\_\_\_\_ Bond calls
9. \_\_\_\_\_ Defeasances
10. \_\_\_\_\_ Release, substitution, or sale of property securing repayment of the securities
11. \_\_\_\_\_ Rating changes
12. \_\_\_\_\_ Failure to provide annual financial information as required
13. \_\_\_\_\_ Other material event notice (specify)
- \*14. \_\_\_\_\_ Financial information: Please check all appropriate boxes:

CAFR: (a)  includes  does not include Annual Financial Information  
(b) Audited? Yes  No

Annual Financial Information: Audited? Yes  No

Operating Data

Fiscal Period Covered: \_\_\_\_\_

\*Financial information **should not** be filed with the MSRB.

\*\*\*

I hereby represent that I am authorized by the Issuer or the Obligated Person, or its agent to distribute this information publicly:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Title \_\_\_\_\_

Employer: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Voice Telephone Number: \_\_\_\_\_



EXHIBIT D  
CERTIFICATE RE: MATERIAL EVENT DISCLOSURE

The undersigned, on behalf of the City of Bloomington, Indiana, as Obligor under the Continuing Disclosure Agreement, dated \_\_\_\_\_, 2012 (the "Agreement"), hereby certifies that the information enclosed herewith constitutes notice of the occurrence of a material event which is required to be provided pursuant to Section 5 of the Agreement.

Dated: \_\_\_\_\_

CITY OF BLOOMINGTON, INDIANA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ORDINANCE 11-20**

**TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED  
“ANIMALS”**

**Re: To Amend Provisions Regarding the Permitting of Small Flocks of Chickens  
in Certain Residential Districts**

WHEREAS, the City of Bloomington (City) recognizes that the keeping of urban chickens is a growing phenomenon that has avocational, educational and sustainable value; and

WHEREAS, in December 2009, the Common Council adopted the report *Redefining Prosperity*, issued by the Bloomington Peak Oil Task Force, which emphasizes the importance of urban agriculture in increasing local resilience and sustainability; and

WHEREAS, for the past five years, the City has imposed a general prohibition against the harboring of chickens in most residential districts out of concern for protecting property owners from a potential offensive use of neighboring property, but has allowed small flocks of chickens when neighbors adjacent to the chicken owner waive that prohibition; and

WHEREAS, along with requiring a waiver of the general prohibition, the City also established an annual permitting program that requires owners to comply with standards for maintaining chicken flocks, to allow inspections and be subject to fines in the event of violations and revocation of the permit if the violations are repeated; and

WHEREAS, over the last five years there have been an average of three complaints a year regarding chickens, the most common of which involves chickens that stray from the property; and

WHEREAS, the City finds that the minor problems associated with harboring small flocks of chickens in certain residential districts are outweighed by the potential benefits and proposes to remove the general prohibition against small flocks of chickens and allow them by permit; and

WHEREAS, the City also finds that the value of harboring small flocks of chickens as a source of sustenance justifies the waiver of the annual fees; and

WHEREAS, citations in the provisions regarding chicken flocks to Title 20 of the Bloomington Municipal Code should be changed to reflect the repeal and re-enactment of that title, which is now known as the “Unified Development Ordinance”;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:

SECTION 1. Section 7.01.010 of the Bloomington Municipal Code entitled “Definition of Terms” shall be amended by updating the citations referencing Title 20 in the definition of “chicken flock” such that the definition reads as follows:

“Chicken Flock” means one chicken or a group of two or more chickens which:

- (a) contains no more than five hens and no roosters; and
- (b) is issued a permit by the City of Bloomington Animal Care and Control; and
- (c) is not otherwise permitted by 20.05.093 - SC-07 (Special conditions—Crops and pasturage, and accessory chicken flocks) of the Bloomington Municipal Code as the same may be hereafter amended or replaced; and
- (e) reside in an area zoned Estate Residential (RE) or Single-Dwelling Residential (RS) or those Estate Residential or Single-Dwelling Residential portions of a Planned Unit Development (PUD) as defined in Chapter 20.02 of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.

SECTION 2. Section 7.21.028 shall be given a new title, which shall be reflected in the table of contents for this chapter, and shall be amended to remove the harboring prohibition and the waiver provision. The section shall read as follows:

7.21.028 Obtaining a permit for chicken flocks

Persons wishing to harbor a chicken flock shall obtain a permit.

(a) Permit.

(1) Applications for a permit to harbor a chicken flock shall be made by the owner of the property to the City of Bloomington Animal Care and Control Department and shall include:

(A) The name, address, and telephone number of the applicant;

(B) The description (breed, sex, age and coloration) of each chicken in the chicken flock;

(C) The address where the chicken flock is to be harbored, and the zoning district in which such address is located (which must be a district listed in part (e) of the definition of "Chicken Flock" in this Title);

(D) A statement indicating whether the applicant has ever been convicted of the offense of cruelty to animals.

(2) The permit to harbor a chicken flock shall not be transferable to another person or to another location; and

(3) No applicant shall harbor more than one chicken flock within the City; and

(4) If the applicant withholds or falsifies any information on the permit application, no permit shall be issued and any permit previously issued on false or withheld information shall be revoked; and

(5) An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock; and

(6) All permits shall be conditioned upon a passing inspection by senior and staff animal control officers of the City and/or their designees and compliance with this Chapter; and

(7) Senior and staff animal control officers may refuse to grant or renew a permit and may revoke a permit if applicant/harbinger is unable to maintain his/her flock so as to not create a nuisance, as evidenced by three (3) admitted or judicially-determined violations of this Chapter within twelve (12) consecutive months.

(b) No person previously convicted of cruelty to animals shall be registered or issued a permit without prior review by the Animal Control Commission.

SECTION 3. Section 7.21.070 of the Bloomington Municipal Code entitled "Fees" shall be amended by deleting part (c) and relettering subsequent parts.

SECTION 4. 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 5. This Ordinance shall be in full force and effect upon adoption and compliance with IC 36-4-6-14.

PASSED AND ADOPTED by the Common Council of the City of Bloomington on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

Attest:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

Presented by me to the Mayor of the City of Bloomington, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

Signed and approved by me, the Mayor of the City of Bloomington, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance is sponsored by Councilmembers Piedmont-Smith and Rollo. It follows an uneventful five-year history of a general prohibition against harboring small flocks of chickens in certain residential districts except through waiver by adjacent neighbors and would now allow this activity by permit and without a waiver. It also waives the \$25 annual fee for the permit. Lastly, it brings relevant citations to Title 20 of the Bloomington Municipal Code up to date with the repeal and re-enactment of that title in 2006.

December 1, 2011

Dear Council Colleagues,

We are pleased to bring before you Ordinance 11-20, proposing changes to Title 7 of our Municipal Code to amend provisions regarding the permitting of small flocks of chickens in certain residential districts.

Over the past year, we have increasingly heard from constituents that they would like to make it easier to keep chickens in the city. The main hurdle cited by these residents is the fact that, under current code, they are required to obtain permission from all neighbors before they can obtain a permit to keep a chicken flock. To many residents this stringent requirement does not seem in keeping with the city's stated goal of encouraging urban agriculture, as found in the *Redefining Prosperity* report of the Peak Oil Task Force, adopted by the Council two years ago. We agree with their assessment.

The *Redefining Prosperity* report describes how dependent our community is on oil to provide sustenance. Oil is an essential element of our current food supply system due to its reliance on transporting food long distances, use of petroleum products for fertilizer, and use of fuel for irrigation systems and food processing. As of the date of the report, less than 2% of the food consumed in Bloomington was produced within the city, its surrounding region, or the state. "Feeding ourselves," the report states, "is a critical goal." (pg. 182)

One of the short-term goals outlined in *Redefining Prosperity* is "Remove or reduce legal, institutional, and cultural barriers to farming within and around the city, and open institutional markets to local food." Specifically, the report points out that our current code requirements "create significant hurdles for residents wishing to raise chickens." (pg. 193) The recommendation is to remove the requirement of obtaining permission from all neighbors and to remove the required permit and fee. Ordinance 11-20 does not go quite so far. We are proposing to maintain the level of government oversight that the permitting process allows, but do away with the required waiver<sup>1</sup> from the neighbors.

Ordinance 11-20 also proposes to eliminate the fee for the permit to own and keep chickens. As mentioned above, this is in keeping with the *Redefining Prosperity* recommendations. We feel strongly that there should be no financial barrier to keeping chickens other than the cost of providing for their care and shelter. Raising chickens is a way for low-income families to supplement their diets with a healthy, local source of protein<sup>2</sup>, and we don't want the \$25 fee to be a barrier.

---

<sup>1</sup> The Municipal Code currently states that there is a prohibition against harboring chickens in the city limits. In order to harbor chickens, a resident must obtain a waiver from each neighboring property owner. This is a waiver against the general prohibition. The current legislation removes the general prohibition against owning chickens.

<sup>2</sup> Note that the slaughter of animals is not proposed, and it is indeed not allowed in the city. We are talking about eggs here.

Through this ordinance we are addressing, in some way, all three E's of sustainability: Economy, Environment, and (social) Equity. Reducing barriers to raising chickens in the city makes an important protein source more affordable (equity, economy), allows our community to become more self-sufficient in the face of the peak oil phenomenon (environment, economy), and reduces our community's reliance on factory farms (environment).

We ask for your support for Ordinance 11-20 as an important step in implementing the *Redefining Prosperity* report two years after the report's adoption. We welcome your questions and look forward to discussion of this ordinance.

Sincerely,

Isabel Piedmont-Smith, District V  
Dave Rollo, District IV

## Excerpts from Title 7 “Animals”

### – Re: Permitting of Small Flocks of Chickens in Certain Residential Districts

- ▶ ~~Strikeout~~ = deleted text
- ▶ **Bold** = inserted text

## Title 7 - ANIMALS

### ■ Chapters:

#### Chapter 7.01 - DEFINITIONS

#### Sections:

##### 7.01.010 - Definition of terms.

"Chicken" means Gallus gallus domesticus, a domestic bird typically kept on a farm. This definition does not include other fowl, such as, but not limited to, peacocks, turkeys or waterfowl.

"Chicken coop" means an enclosed structure for housing chickens that provides shelter from the elements.

"Chicken flock" means one chicken or a group of two or more chickens which:

- (a) Contains no more than five hens and no roosters; and
- (b) Is issued a permit by the city of Bloomington animal care and control; and
- ▶ (c) Is not otherwise permitted by Section ~~20.07.16.01, Table 7-2~~ **20.05.093 - SC-07 (Special conditions—Crops and pasturage, and accessory chicken flocks)** of the Bloomington Municipal Code as the same may be hereafter amended or replaced; and
- ▶ (d) Reside in an area zoned estate residential (RE) or single-dwelling residential (RS) or those estate residential or single-dwelling residential portions of a planned unit development (PUD) as defined in Chapter ~~20.07 02~~ of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.

"Chicken run" means an enclosed outside yard for keeping chickens.

"Domestic livestock" means any animal, other than a domestic pet, that is a member of one of the following species:

- (1) Bison;
- (2) Elk;
- (3) Poultry;
- (4) Cattle;
- (5) Donkey;
- (6) Horse;
- (7) Goat;
- (8) Llama;
- (9) Mule;
- (10) Ostrich;
- (11) Pig; or
- (12) Sheep.

"Public nuisance" means any animal or animals that:

- (1) Molest passersby or passing vehicles;
- (2) Attack other animals;
- (3) Damage public property or private property;
- (4) Bark, whine or howl in an excessive or continuous fashion;
- (5) Defecate on public or private property, other than the owner/guardian's/harbinger's/colony

caretaker's property, unless the waste is immediately removed and disposed of in a sanitary manner by the animal's owner/guardian/harbinger/colony caretaker; or

(6) Otherwise interferes with the free use and comfortable enjoyment of life or property.

"Stray" means any animal that does not appear, upon reasonable inquiry, to have an owner/guardian.

## **Chapter 7.21 - KENNEL PERMITS\***

### **Sections:**

#### **7.21.010 - Kennel permits required.**

(a) No person shall operate a commercial or noncommercial kennel or chicken flock without first obtaining a permit from the city of Bloomington animal care and control department in accordance with this chapter.

(b) No permit shall be issued unless the proposed operation is in compliance with all zoning laws. (*Ord. 07-01 § 8, 2007; Ord. 06-21 § 2, 2006; Ord. 05-33 § 5 (part), 2005.*)

#### **7.21.020 - Obtaining noncommercial kennel permits.**

Applications for noncommercial kennel permits shall be made to the city of Bloomington animal care and control department.

(a) The application for a noncommercial kennel permit shall include:

(1) The name, address, and telephone number of the applicant;

(2) The description (species, breed, sex, age and coloration) of and proof of rabies vaccination for each animal to be housed in the kennel; and

(3) A statement as to whether the applicant has ever been convicted of the offense of cruelty to animals.

(b) If the applicant withholds or falsifies any information on the application, no permit shall be issued and any permit previously issued on false or withheld information shall be revoked.

(c) No person previously convicted of cruelty to animals shall be issued a kennel permit without prior review by the animal control commission.

(*Ord. 05-33 § 5 (part), 2005.*)

#### **▶ 7.21.028 - Obtaining a waiver and a permit for chicken flocks.**

▶ Except as provided in this title and by Title 20, as the same may be hereafter amended or replaced, it shall be unlawful for any person to harbor chickens. Persons wishing to harbor a chicken flock shall obtain both a waiver and a permit.

~~(a) Waiver. All persons wishing to harbor a chicken flock shall obtain written waivers by all owners of adjacent lots indicating that said owner does not oppose the harboring of chicken flocks at the applicant's address and therefore waives the prohibition of this chapter. An adjacent lot is one whose boundary line touches the boundary line of applicant's lot, or is separated from the applicant's lot only by an intervening alley or other right of way, but does not include lots with an intervening right of way classified as a neighborhood street or higher on the city's master thoroughfare plan. All waivers shall be in a form provided by the city.~~

~~(1) Where the applicant receives waivers from all owners of all adjacent lots and complies with all other requirements of this title for chicken flocks, the applicant shall be permitted to replenish the chicken flock upon the death or loss of any chicken; but~~

~~(2) An applicant who harbored chickens on March 31, 2006 may obtain a permit pursuant to subsection (b)(5) of this section without obtaining waivers hereunder, and the applicant will thereby be permitted to retain a chicken flock but shall not replace any chicken upon its death or loss. Should such applicant subsequently obtain waivers from all owners of all adjacent lots, then this class of harborers shall be allowed to replenish his/her flock pursuant to subsection (a)(1) above;~~



~~(3) The written waiver as provided in subsection (a) of this section is effective when it is filed with the city of Bloomington animal care and control department and shall expire five years from its effective date.~~

► **(b) (a) Permit.**

(1) Applications for a permit to harbor a chicken flock shall be made by the owner of the property to the city of Bloomington animal care and control department and shall include:

- (A) The name, address, and telephone number of the applicant,
- (B) The description (breed, sex, age and coloration) of each chicken in the chicken flock,
- (C) The address where the chicken flock is to be harbored, and the zoning district in which such address is located (which must be a district listed in subsection (d) of the definition of "Chicken flock" of this title),
- (D) A statement indicating whether the applicant has ever been convicted of the offense of cruelty to animals;

(2) The permit to harbor a chicken flock shall not be transferable to another person or to another location; and

(3) No applicant shall harbor more than one chicken flock within the city; and

(4) If the applicant withholds or falsifies any information on the permit application, no permit shall be issued and any permit previously issued on false or withheld information shall be revoked; and

- (5) An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock, ~~except where the applicant harbored chickens on March 31, 2006 in which case the harborer shall submit an application for a permit no later than ninety days after the effective date of the ordinance codified in this chapter. Where the applicant harbored chickens on March 31, 2006, the applicant must reduce his/her flock to no more than five hens and no roosters, and comply with all other requirements of this title pertaining to chicken flocks within ninety days from the effective date of the ordinance codified in this chapter. A person who harbored chickens on March 31, 2006 but fails to apply for a permit within this timeline shall have no entitlement to continue to harbor any chicken unless and until such person meets all requirements of this section for chicken flocks and obtains a permit for same;~~ and

(6) All permits shall be conditioned upon a passing inspection by senior and staff animal control officers of the city and/or their designees and compliance with this chapter; and

(7) Senior and staff animal control officers may refuse to grant or renew a permit and may revoke a permit if applicant/harbinger is unable to maintain his/her flock so as to not create a nuisance, as evidenced by three admitted or judicially-determined violations of this chapter within twelve consecutive months.

- **(e) (b)** No person previously convicted of cruelty to animals shall be registered or issued a permit without prior review by the animal control commission.

*(Ord. 06-21 § 3, 2006).*

**7.21.030 - Inspection.**

It shall be a condition to the issuance of any permit required by this chapter that:

**(a)** The senior and staff animal control officers of the city and/or their designees shall be permitted to inspect the structure and/or premises wherein a kennel is maintained (or believed to be maintained) and all animals located thereon where such animals are harbored.

**(b)** All reports of such inspections shall be in writing and maintained by the senior animal control officer.

**(c)** The senior animal control officer, staff animal control officers, and/or their designees are authorized to enter the structure or premises wherein a kennel is maintained (or believed to be maintained) at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures.

**(d)** If the owner or those in possession of a structure or premises wherein a kennel is maintained (or believed to be maintained) refuse inspection of said kennel, the senior animal control officer, staff animal control officers, and/or their designees may obtain an inspection warrant from any court of record in the county in which the kennel is located in order to

determine if the kennel is maintained in accordance with this title.  
(Ord. 07-01 § 11, 2007).

#### **7.21.057 - Standards for maintaining chicken flocks.**

- (a) All harborers of chicken flocks shall:
- (1) Operate in such a manner so as to not constitute a public nuisance or disturb neighboring residents due to noise, odor or damage; and
  - (2) Operate in a manner so as to not pose a threat to public health. Harborers shall isolate chickens which are sick or diseased so as to not endanger the health and well-being of other animals and humans. When necessary for the protection of the public health and safety, the director of animal care and control may require the specified animal be kept or confined in a secured enclosure. This provision is subordinate to any local, state or federal code governing the treatment of chickens in the event of a threat to human health; and
  - (3) Comply with all of the provisions of Chapter 7.36 of this title regarding general animal care; and
  - (4) Not slaughter chickens on harborer's property; and
  - (5) Keep all chickens completely and securely enclosed and under the control of the harborer on the harborer's property at all times; and
  - (6) Provide both a chicken coop and attached chicken run that afford a combined twelve square feet per chicken; and
  - (7) Provide a chicken coop and attached chicken run that are clean, dry and odor-free; and
  - (8) Provide a chicken coop that affords shelter from the elements; and
  - (9) Provide a chicken coop and attached chicken run that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs; and
  - (10) Provide chickens with access to feed and clean water at all times, such feed and water shall be unavailable to rodents, wild birds and predators; and
  - (11) Provide adequate safeguards to prevent unauthorized access to the chickens by members of the public; and
  - (12) Keep the chicken coop, chicken run and surrounding area free from trash and accumulated droppings. The harborer shall dispose of chicken waste and uneaten feed in a timely manner and in accordance with the Bloomington Municipal Code.
- (b) The chicken coop and chicken run shall:
- (1) Provide a sight fence or shrub screening of at least four feet in height around both coop and run if visible to occupants of neighboring lots; and
  - (2) Be located at least twenty feet from any building not owned or occupied by the harborer, that is used or capable of being used for human habitation; and
  - (3) Be located at least twelve feet from the property line of any neighboring lot.
- (c) All chicken coops and chicken runs shall comply with the requirements for accessory structures outlined in Title 20 of the Bloomington Municipal Code as the same may be hereafter amended or replaced.

(Ord. 06-21 § 5, 2006).

#### **7.21.060 - Kennel permit periods.**

- (a) Noncommercial kennel permits shall be valid for a period of one year from the date of issuance. An application must be made within ten days of the creation of a kennel.
- (b) Commercial kennel permits shall be valid for one year beginning January 1st of each year. Applicants requiring a commercial kennel permit during the year shall pay a prorated fee for the remaining portion of the current year. An application must be made prior to the creation of a kennel.
- (c) Repealed by Ord. 07-01.
- (d) Chicken flock permits shall be valid for a period of no more than one year from the date of issuance.

(Ord. 07-01 § 13, 2007; Ord. 06-21 § 6, 2006; Ord. 05-33 § 5 (part), 2005).

### **7.21.070 - Fees.**

- (a) The fee for noncommercial kennel permits shall be:
  - (1) 5—8 altered dogs: \$25.00
  - (2) 9—12 altered dogs: \$50.00
  - (3) 13—16 altered dogs: \$75.00
  - (4) 17—19 altered dogs: \$100.00
  - (5) 7—11 altered cats: \$25.00
  - (6) 12—16 altered cats: \$50.00
  - (7) 17—19 altered cats: \$75.00
- (b) The fee for commercial kennel permits shall be:
  - (1) Class B, boarding:
    - (A) 1—25 kennels: \$100.00
    - (B) 26—50 kennels: \$250.00
    - (C) Additional kennels in increments of 25: \$200.00 per increment of twenty-five.
  - (2) Class C, training: \$75.00
  - (3) Class D, grooming: \$50.00
- ▶ ~~(e)~~ The fee for a permit for a chicken flock shall be : twenty five dollars.
- ▶ ~~(d)~~ (c) No fee shall be required of any veterinary hospital or municipal animal shelter, research laboratory or government-operated zoological park.
- ▶ ~~(e)~~ (d) Persons whose establishments operate under more than one class, as defined by this chapter, shall be required to apply for a permit for each applicable  
*(Ord. 07-01 § 14, 2007; Ord. 06-21 § 7, 2006; Ord. 05-33 § 5 (part), 2005).*  
*(Ord. No. 09-19, § 10, 12-21-2009)*

### **7.21.080 - Reclassification.**

Any person or business who has a change in class under which the commercial and/or noncommercial kennel permit was issued shall report the change to the city of Bloomington animal care and control department and apply for a new permit within thirty days of any such change.

*(Ord. 05-33 § 5 (part), 2005).*

### **7.21.090 - Violations.**

- (a) Any animal control officer may issue any person or business in violation of this chapter a notice of ordinance violation. The penalty established in subsection (b) of this section shall be paid to the city of Bloomington animal care and control department within seventy-two hours of the notice of ordinance violation. In the event that such payment is not made within seventy-two hours, the city may file a proceeding in the county court of competent jurisdiction to collect the applicable penalty.
- (b) Persons or businesses who violate any provision of this chapter shall be subject to a fine of double the applicable permit fee for the first offense, with the fine for each subsequent offense of this chapter increasing by an increment of double the permit fee. In the event that the kennel permit does not require a fee, the fine for a first offense shall be twenty-five dollars, with the fine for each subsequent offense of this chapter increasing by an increment of fifty dollars.
- (c) In the event that the person or business has no additional violations of this chapter for a period of twelve consecutive months, the fine for any violation of this chapter after that period shall be double the applicable permit fee for the first offense, with the fine for each subsequent offense increasing by an increment of double the applicable permit fee. In the event that the kennel permit does not require a fee, the fine for a first offense shall be twenty-five dollars, with the fine for each subsequent offense of this chapter increasing by an increment of fifty dollars.  
*(Ord. 05-33 § 5 (part), 2005).*

## Chapter 7.24 - RESTRAINT

### Sections:

#### 7.24.010 - General requirements.

All animals, except cats which have been neutered or spayed and are wearing identification or are ear-tipped or tattooed in the case of feral cats, shall be kept under restraint. However, altered cats not kept under restraint at all times are still subject to public nuisance laws cited in Chapter 7.28 of this title.

*(Ord. 07-01 § 16, 2007).*

#### 7.24.020 - Animals in heat.

Every female animal in heat shall be confined in a building or secure enclosure in such a manner that the animal cannot come into contact with a male animal of the same species, except for planned breeding.

*(Ord. 05-33 § 7 (part), 2005; Ord. 77-74 § 4 (part), 1977).*

#### 7.24.030 - Vicious animals.

(a) If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the animal control officer shall request a hearing by the animal control commission for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious.

(1) Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for finding probable cause shall be sworn to and verified by the complainant and shall be provided to the animal control commission.

(2) The hearing will be held at the next regularly scheduled meeting of the animal control commission and shall be open to the public.

(3) The owner/guardian of the animal shall be served with notice of the hearing and a copy of any complaints received by certified mail or in person.

(4) The animal control officer shall notify the owner/guardian of the animal of the date and time of such hearing, at which time he or she may present evidence as to why the animal should not be declared potentially dangerous or vicious.

(A) Such evidence may include eyewitness testimony of the incident; or

(B) Evidence that the action of the animal and the damage sustained by the person or other animal could have reasonably been expected to occur given the circumstances of the event. Such circumstances may include, but are not limited to: willful trespass upon the owner/guardian's property; teasing, tormenting, abusing or assaulting the animal; and/or attempted abuse or assault upon the owner/guardian.

(5) The animal control commission may consider all relevant evidence, including incident reports, affidavits of witnesses, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.

(6) The animal control commission may decide all issues for or against the owner/guardian of the animal even if the owner/guardian of the animal fails to appear at the hearing.

(7) After the hearing, the owner/guardian of the animal shall be notified in writing of the determination by certified mail or in person.

(A) If a determination is made that the animal is potentially dangerous or vicious, the owner/guardian shall comply with this section's requirements for restraint in accordance with a time schedule established by the animal control commission but in no case more than thirty days after the date of the determination.

(B) An animal determined to be vicious may be destroyed by the city of Bloomington animal care and control department when it is found by the animal control commission that the release of the animal would create a significant threat to the public health, safety, and welfare.

(C) If it is determined that an animal found to be vicious shall not be destroyed, the

animal control commission may impose reasonable conditions upon the ownership of the animal that protect the public health, safety and welfare.

**(D)** Decisions of the animal control commission are final.

**(b)** If, upon investigation, it is determined by the animal control officer or law enforcement officer that probable cause exists to believe the animal in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this section. The owner/guardian of the animal shall be liable to the city of Bloomington animal shelter where the dog is impounded for the costs and expenses of keeping the animal, if the animal is later declared potentially dangerous or vicious.

**(c)** A potentially dangerous animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass. A potentially dangerous animal may be off the owner/guardian's premises only if it is restrained by a substantial leash, of appropriate length, and if it is under the control of an adult.

**(d)** An animal that has been declared vicious may not be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition, except to a secured enclosure. When outside, all vicious animals must be confined in a secure enclosure, except when necessary to obtain veterinary care.

**(1)** All such enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

**(2)** The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure.

**(3)** The enclosure shall be kept locked at all times to prevent unintentional opening.

**(4)** The enclosure shall include suitable shelter and protection from the elements, and shall provide adequate exercise room, light, ventilation, and sanitation.

**(5)** The enclosure shall be approved by the city of Bloomington animal care and control department prior to its usage for confinement.

**(6)** Whenever necessity requires a vicious animal to be outside of the enclosure, the animal shall be securely muzzled and restrained by a leash not exceeding three feet in length, with handgrip, and shall be under the direct control and supervision of the owner/guardian of the animal.

**(e)** The owner/guardian of a potentially dangerous or vicious animal shall display clearly visible warning signs on all entry points to the premises on which the animal is maintained warning that a potentially dangerous or vicious animal is being harbored on such property. In addition, at least one sign shall be posted on the enclosure in which the animal is maintained. Signs must inform both children and adults of the presence of a potentially dangerous or vicious animal on the property.

**(f)** Any animal classified as potentially dangerous or vicious shall not be used for breeding and shall be altered by a licensed veterinarian within thirty days of such classification unless:

**(1)** A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or

**(2)** A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animal shall be altered immediately after the health condition has been corrected.

**(g)** If the animal in question dies, or is sold or transferred, the owner/guardian shall notify the city of Bloomington animal care and control department of the changed condition and new location of the animal in writing within two working days.

**(h)** An owner/guardian may submit one request for reconsideration per year to the animal control commission to have the designation of potentially dangerous or vicious removed from his or her animal.

**(1)** The application must be in writing.

**(2)** The application must be given to the city of Bloomington animal care and control department.

**(3)** The application shall include detailed information about how the change in circumstances or measures taken by the owner/guardian, such as training of the animal, have mitigated the risk to public safety.

**(4)** The animal control commission may hear evidence, both pro and con, as to whether and why the designation should or should not be removed.

**(5)** The animal control commission may make a decision to remove or not to remove such

designation.

*(Ord. 05-33 § 7 (part), 2005; Ord. 99-39 § 46, 1999; Ord. 81-101 § 1 (part), 1981; Ord. 77-74 § 4 (part), 1977).*

#### **7.24.040 - Violations.**

**(a)** Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation. The penalty established in subsection (b) of this section may, at the discretion of the animal owner/guardian, be paid to the city of Bloomington animal care and control department within seventy-two hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction.

**(b)** Persons who violate any provision of this chapter shall be subject to the following fine:

**(1)** Failure to restrain, first offense, altered animal: twenty dollars.

Fines for each subsequent offense within twelve consecutive months of first offense increase in increments of twenty dollars per offense.

**(2)** Failure to restrain, first offense, unaltered animal: one hundred dollars.

However, an owner/guardian who agrees to have their dog or cat spayed or neutered at their expense prior to reclaiming the animal from the City of Bloomington Animal Care and Control Department, will be assessed the fine for failure to restrain, first offense, altered of twenty dollars.

Fines for each subsequent offense within twelve consecutive months of first offense increase in increments of forty dollars per offense.

**(3)** An animal that has been previously impounded as a stray or at-large animal and is now being redeemed for the second or subsequent redemption within the last twelve months will be required to be:

**(A)** Implanted with a microchip by the City of Bloomington Animal Care and Control Department at the owner/guardian's expense for the purpose of future identification and recovery; and

**(B)** Spayed or neutered by a licensed veterinarian at the owner/guardian's expense prior to the City of Bloomington Animal Care and Control Department relinquishing the animal to the owner/guardian. Should cost be an issue, the City of Bloomington Animal Care and Control Department may enter into a payment agreement with the owner/guardian or the owner/guardian may sign over ownership rights of the animal to the City of Bloomington Animal Care and Control Department.

**(4)** Failure to restrain female animal in heat, first offense: one hundred dollars.

Fines for each subsequent offense within twelve consecutive months of first offense are one hundred fifty dollars per offense.

**(5)** Failure to restrain vicious animal or potentially dangerous animal, first offense: one hundred dollars.

Fines for each subsequent offense within twelve consecutive months of first offense are one hundred fifty dollars per offense.

**(6)** Failure to post warning signs for potentially dangerous and/or vicious animals: fifty dollars.

**(7)** Failure to notify city of Bloomington animal care and control department of change of status for potentially dangerous and/or vicious animals: fifty dollars.

**(8)** Failure to prevent potentially dangerous and/or vicious animal from breeding: one hundred dollars.

**(9)** Failure to alter potentially dangerous and/or vicious animal within thirty days of such classification: one hundred dollars.

**(10)** Failure to comply with any portion of this chapter, not previously addressed in subsections (b)(1) through (9) of this section, shall result in a one hundred-dollar fine.

*(Ord. 05-33 § 7 (part), 2005; Ord. 99-39 § 47, 1999; Ord. 94-13 § 2, 1994; Ord. 81-101 § 3 (part), 1981; Ord. 77-74 § 4 (part), 1977).*

*(Ord. No. 09-19, §§ 19, 20, 12-21-2009)*

## **Chapter 7.28 - NUISANCE**

### **Sections:**

#### **7.28.010 - Public nuisance prohibited.**

No owner/guardian/colony caretaker shall fail to exercise due care and control of his animals to prevent them from becoming a public nuisance.

*(Ord. 07-01 § 17, 2007).*

#### **7.28.020 - Violations.**

(a) Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation. The penalty established in subsection (b) of this section may, at the discretion of the animal owner/guardian, be paid to the city of Bloomington animal care and control department within seventy-two hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction.

(b) Persons who violate any provision of this chapter shall be subject to a fine of fifty dollars for the first offense, with the fine of each subsequent offense of this chapter increasing by an increment of fifty dollars.

(c) In the event the person has no additional violations of this chapter for a period of twelve consecutive months, the fine for any violation of this chapter after that period shall be fifty dollars for the first offense, with the fine for each subsequent offense increasing by an increment of fifty dollars.

*(Ord. 05-33 § 8 (part), 2005; Ord. 99-39 § 48, 1999; Ord. 81-101 § 7 (part), 1981).*

## **Chapter 7.32 - IMPOUNDMENT**

### **Sections:**

#### **7.32.010 - Animals to be impounded.**

(a) At-large animals (with the exception of altered cats that are wearing identification or are ear-tipped or tattooed in the case of feral cats and are not a public nuisance), nuisance animals, animals suspected of being neglected, subjected to cruelty or abandoned, and animals which have bitten persons or other animals may be taken by law enforcement or animal control officers and impounded in the city of Bloomington animal shelter.

(b) In lieu of impounding an animal which is at large or a public nuisance according to this title, the law enforcement officer or animal control officer may issue to the known owner/guardian/colony caretaker of such animal a notice of ordinance violation and may return the animal to the owner/guardian/colony caretaker's property if the animal can be secured safely.

*(Ord. 07-01 § 18, 2007).*

#### **7.32.020 - Jurisdiction of animal control officer for impoundment.**

The jurisdiction of animal control officers for purposes of enforcing this chapter shall include, in addition to the municipality of Bloomington itself, all land within four miles of its corporate limits.

*(Ord. 05-33 § 9 (part), 2005; Ord. 81-101 § 1 (part), 1981; Ord. 77-74 § 5 (part), 1977).*

#### **7.32.030 - Notice of impoundment.**

(a) If the owner/guardian/colony caretaker of an impounded animal can be identified, the senior animal control officer or his or her designees shall immediately upon impoundment notify the owner/guardian/colony caretaker by telephone or mail.

(b) Animals whose owners/guardians/colony caretakers are not identifiable or cannot be notified after reasonable effort shall be held for five calendar days from the date of impoundment, not counting officially recognized holidays, before becoming the property of the city.

(c) Animals whose owners/guardians/colony caretakers have been notified and who do not reclaim their animals within the five-day stray period shall also become the property of the city unless the owner/guardian of the animal posts a five hundred fifty-dollar bond with the city controller prior to the expiration of the five-day stray period to provide for the animal's care and keeping.



- (1) The bond must be valid for thirty days.
- (2) The owner/guardian may renew a bond by posting a new bond in the amount of six hundred dollars prior to the expiration of the original bond, but may only do so once.
- (3) If a bond expires and is not renewed, the animal becomes the property of the city.
- (d) Any stray animals found as part of a litter of two or more shall become the property of the city and may be placed for adoption or humanely euthanized if not claimed by the owner/guardian within three days of impoundment.
- (e) Any stray animal found with severe medical conditions and/or injuries shall be assessed by a veterinarian, whenever possible. Whenever possible, humane care will be provided in order to allow the animal to remain comfortable for the duration of the stray period. However, when an animal's injuries or illnesses are so severe such that the animal cannot be maintained in a comfortable fashion, the animal may be euthanized prior to the end of the stray period.
- (f) Any medical expenses incurred while any animal except an ear-tipped or tattooed cat is in the care of the city shall be the responsibility of the owner/guardian should the owner/guardian be identified.
- (g) Animals that are the property of the city may be placed for adoption or humanely euthanized.  
(Ord. 07-01 § 19, 2007).

**7.32.040 - Impounded animals—Reclamation.**

- (a) An owner/guardian reclaiming an impounded animal shall pay a board fee as follows, in addition to a fee of seven dollars for vaccinations of reclaimed cats and dogs:

(1) Dog, impounded for 1-5 days	\$10.00 per day
(2) Dog, impounded for 6 or more days	\$20.00 per day
(3) Cat or ferret, impounded for 1-5 days	\$5.00 per day
(4) Cat or ferret, impounded for 6 or more days	\$10.00 per day
(5) Horses, goats, pigs, poultry	\$10.00 per day
(6) Other animals	\$5.00 per day

- (b) The city of Bloomington animal care and control department may agree to waive some or all of its fines and fees at the discretion of the director if the owner/guardian of an unaltered animal agrees to have the animal spayed or neutered as a condition of its release.
- (c) A person may reclaim an animal in the custody of the city of Bloomington animal care and control department upon providing the following:
  - (1) Proof of ownership;
  - (2) Identification, such as a driver's license;
  - (3) Payment of redemption fee and any other service/medical fees, as approved by the director of Bloomington animal care and control.
- (d) An animal that has been a previously impounded, stray or at-large animal and is now being redeemed for the second or subsequent redemption within the last twelve months will be required to be:
  - (1) Implanted with a microchip by the city of Bloomington animal care and control department at the owner/guardian's expense for the purpose of future identification and recovery; and
  - (2) Spayed or neutered by a licensed veterinarian at the owner/guardian's expense prior to the shelter relinquishing the animal to the owner/guardian. Should cost be an issue, the city of Bloomington animal care and control department may enter into a payment agreement with the owner/guardian or the owner/guardian may sign over ownership rights of the animal to the city of Bloomington animal care and control department.

(Ord. 05-33 § 9 (part), 2005; Ord. 99-39 § 1, 1999).

**Chapter 7.36 - ANIMAL CARE**

**Sections:**

**7.36.010 - Giving animals as prizes.**

- (a) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contract, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement in



which the offer was for the purpose of attracting trade.

(b) No person shall auction any live animal, except domestic livestock.

(c) Violations. Any animal control officer may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (d) of this section may, at the discretion of the animal owner/guardian, be paid to the city of Bloomington animal care and control department within seventy-two hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction.

(d) Persons who violate any provision of this section shall be subject to a fine of one hundred dollars for each offense.

*(Ord. 05-33 § 10 (part), 2005: Ord. 99-39 § 52, 1999; Ord. 81-101 § 11, 1981: Ord. 77-74 § 6 (part), 1977).*

### **7.36.020 - Poisoning animals.**

No person shall expose any known poisonous substance, whether mixed with food or not, so that it shall be likely to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his own property common rat or mouse poison, unmixed or mixed only with vegetable substances. Persons who violate this section shall be subject to a fine of up to two thousand five hundred dollars for each offense.

*(Ord. 05-33 § 10 (part), 2005: Ord. 99-39 § 53, 1999; Ord. 77-74 § 6 (part), 1977).*

### **7.36.025 - Cruelty, abuse and neglect of animals.**

No person shall torture, beat, mutilate or neglect an animal resulting in serious injury or death to the animal. Persons who violate this section shall be subject to a fine of two thousand five hundred dollars for each offense.

*(Ord. 05-33 § 10 (part), 2005: Ord. 99-39 § 54, 1999).*

### **7.36.030 - Motor vehicle accidents involving animals.**

Any person, who, as the operator of a motor vehicle, strikes a dog or cat, shall at once report the accident to the appropriate law enforcement agency or the city of Bloomington animal care and control department. Persons who violate this section shall be subject to a fine of fifty dollars for each offense.

*(Ord. 05-33 § 10 (part), 2005: Ord. 99-39 § 55, 1999; Ord. 77-74 § 6 (part), 1977).*

### **7.36.040 - Use of devices to induce performance.**

No animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that is likely to cause physical injury or suffering. Persons who violate this section shall be subject to a fine of two thousand five hundred dollars for each offense.

*(Ord. 05-33 § 10 (part), 2005: Ord. 99-39 § 56, 1999; Ord. 77-74 § 6 (part), 1977).*

### **7.36.050 - General animal care.**

(a) Every owner/guardian/colony caretaker of an animal within the city shall see that his animal:

(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit, or lie in its own excrement;

(2) Has proper and adequate food, water, shelter, and protection from the weather;

(3) If kept in an enclosure, ensure that the enclosure is appropriate to their species and/or breed. Such enclosure is to be constructed in a manner to enable the animal to remain clean and dry, to prevent the animal's injury or escape, and to be able to be disinfected. However, no flooring may be used to house dogs or cats which would allow their feet or legs to fall through and all enclosures shall contain an area that allows the animal to be on a solid surface; and

(4) If diseased or injured, receives care as necessary to prevent suffering and, if diseased, is segregated from other animals so as to prevent the transmittal of the disease to other animals.

(b) Any domestic pet or feral cat that is owned or harbored and habitually kept outside or repeatedly left outside unattended by an adult person for such periods of time as may cause suffering or endanger the health or well-being of the animal shall be provided with a structurally sound, moistureproof and windproof shelter large enough to keep the animal reasonably clean and dry and provide adequate protection from the cold and heat. Shelter must be placed in a dry area free of debris, feces and standing water.

(c) If multiple animals are present in one location, each animal must have access to shelter and the owner/guardian/colony caretaker must meet all standards for each animal, as detailed in this section.

(d) The shelter must have bedding to provide insulation and protection against cold and dampness and promote the retention of body heat.

(e) Appropriate medical care and grooming of animals must be provided.

(f) No chain or tether shall weigh more than one-eighth of the animal's body weight.

(g) Any chain or tether shall be at least ten feet in length and have swivels on both ends.

(h) Any chain or tether must be attached to a properly fitting buckle-type collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering an animal to a stationary object or cable run. A person may not wrap a chain or tether around an animal's neck. A chain or tether used to restrain an animal must, by design and placement, be unlikely to become entangled.

(i) It shall be unlawful for the owner/guardian/colony caretaker of any animal to keep or maintain the animal on a tether for a period of more than ten continuous hours and no more than twelve hours in any twenty-four hour period, or for any duration under conditions, which threaten the health, or well-being of the animal.

(j) A muzzle may not be worn continuously as a means for controlling barking.

(k) A person may not restrain an animal in a manner that does not allow the animal to have access to necessary shelter, water and food.

(l) A person may not restrain an animal in a manner that allows the animal to move outside property owned, lawfully occupied or controlled by the person.

(m) Any person who owns or harbors any intact female dog or cat shall, during the period that such animal is in heat or in estrus, shall keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female, except for controlled breeding permitted by the owner/guardian/colony caretaker of the female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a mate.

(n) It shall be unlawful for any person to place or confine or allow any animal to be confined in such a manner that it must remain in a motor vehicle, trailer or pet carrier under such conditions for such periods of time as may cause suffering or endanger the health or well-being of the animal due to extreme temperatures or lack of food or water.

(o) No person shall intentionally or unintentionally cause or allow the breeding of more than one litter per female cat or dog in a twelve-month period.

(p) Any animal control officer may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (q) of this section may, at the discretion of the animal owner/guardian/colony caretaker, be paid to the city of Bloomington animal care and control department within seventy-two hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction.

(q) Persons who violate any provision of this section shall be subject to a fine of fifty dollars for each offense.

*(Ord. 07-01 § 20, 2007; Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 57, 1999; Ord. 81-101 § 12, 1981; Ord. 77-74 § 6 (part), 1977).*

*(Ord. No. 09-19, § 21, 12-21-2009)*

### **7.36.070 - Abandonment.**

No owner/guardian/colony caretaker of an animal shall abandon such animal. Persons who violate this section shall be subject to a fine of up to five hundred dollars for each offense.

*(Ord. 07-01 § 21, 2007).*

**Ord 11-21 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” –  
Re: Amending Chapter 2.04 Entitled “Common Council” to Remove Requirement that Legislation be Referred to the Committee of the Whole**

**Ord 11-22 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” –  
Re: Amending Chapter 2.04 Entitled “Common Council” to Establish and Clarify Scheduling Policies for Council Committees**

**and**

**Res 11-16**

**To Establish a Slate of Standing Committees of the Bloomington Common Council  
(*Forthcoming Next Week*)**

**PRELIMINARY MATERIAL**

**Memo from Councilmember Volan**

**BMC 2.04 (Common Council) –  
Annotated Changes Proposed by  
Ord 11-21 and Ord 11-22**

**To: Council Members**  
**From: Councilmember Volan, District 6**  
**Re: Memo On Council Process Reform (Ord 11-21, Ord 11-22, Res 11-16)**  
**Date: December 2, 2011**

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This package of legislation improves the way that the Bloomington City Council conducts its legislative business. For a number of reasons -- a more populous city, increasingly complex issues, more engaged Councilmembers -- the process by which Council considers legislation has become untenable, and is in need of reform.

#### PROBLEMS WITH THE CURRENT PROCESS

The Council meets in Regular Session twice a month on first and third Wednesdays. It refers all its legislation to a committee of the whole, which meets between Regular Sessions on second and fourth Wednesdays. The committee of the whole, by Bloomington's definition, dissolves upon adjournment. This leaves less than seven calendar days between the legislation's committee presentation (when it's presented and discussed in front of Council for the first time) and its Second Reading at the next Regular Session.

If any one member wishes to take further time on an issue, the Council has to vote at Regular Session to continue (or recommit to the committee of the whole). Through this schedule, however, Council has set up the expectation that once an item is First Read, it will be disposed of by the next Regular Session. Continuing an issue almost never happens, and two weeks has become the default length of the so-called "legislative cycle."

Bloomington is unlike every other second-class city in the state and Indianapolis in this respect. The others take at least four weeks (or a month, whichever is longer) to take a final vote on an issue, even though half of them also meet in Regular Session twice a month like Bloomington.

Some additional problems with the current Council process:

-- Returning members who wish to do a conscientious job evaluating items on the Council agenda are challenged by this unnecessarily compressed legislative cycle, and regularly request to extend the schedule for deliberating.

-- The disinclination of the Council to extend its current compressed process also causes members to dig in their heels during contentious hearings, often extending the meetings past the 10:30pm deadline for introducing new items on the agenda, and sometimes to record durations, simply because they have had insufficient time to exercise their privilege as councilmembers to fully understand the issue at hand.

-- Administration staff, petitioners, and members of the public can sometimes find themselves waiting several hours before they can speak to the issue they came to address, while the Council disposes of other issues.

-- Few members of the general public make the fine distinction between committee of the whole and Regular Session. It just looks like all nine members are present four weeks out of the month.

-- Councilmembers do not indulge in extended debate because of the cable-access television cameras in the room. They indulge in extended debate because all nine councilmembers are in the room, and they perceive that the opportunity to persuade the others is imminent. This is contrary to the goal of a committee meeting, which is intentionally a sub-quorum number to emphasize its advisory nature.

-- The compressed legislative cycle causes burnout. The three members of this term who are retiring are doing so because the time demands put on them by Council business are too great.

This process is not best practice. Bloomington's own Plan Commission, which hears items that often come before the City Council, takes at least four weeks from initial hearing to final vote, and recently had a meeting that ran 6 hours 45 minutes -- longer than any Council meeting in the past decade. It could have broken its agenda down into two 3 hour 30 minute meetings, the second held two weeks later, to take up the rest of its agenda. That is certainly what Council should be doing to prevent nights that go past 10:30.

#### THE SOLUTION: STANDING COMMITTEES

The Council, as the foremost legislative body of the City, is responsible for overseeing the City administration, writing new ordinance when necessary, and responding to public concerns. Yet the job of Councilmember was conceived as a part-time position. CMs typically expect to devote 15-20 hours a week on City business, rely on other employment, and in most cases have families. Councilmembers must have the opportunity to do their due diligence under these difficult constraints, and thus must be the final arbiters of the Council agenda.

The problem lies in BMC 2.04.250, which defines the Committee of the Whole. Section (a) requires that legislation be referred to it instead of to a typical committee structure. And Paragraph (c)(1) does not allow a Committee of the Whole to extend itself to a future date; when the Committee of the Whole "rises" (i.e., when the meeting adjourns), the Committee must "report" (at the next Regular Session).

The solution lies in the several paragraphs that precede BMC 2.04.250. Standing Committees have been defined (.210) for longer than has the Committee of the Whole, but Council has not used them for at least a decade.

Paragraph .230(b) specifies that a matter referred to a standing committee "shall normally be reported back to the council not later than the second regular session after being referred." The act of referring to standing committees, then, extends the typical legislative period by at least two weeks, effectively giving Councilmembers at least three weeks after hearing live testimony (instead of one) to gather more information or develop motions.

## ORDINANCE 11-21: THE "HOW" OF COMMITTEES

Ordinance 11-21 simply swaps two words of Bloomington municipal code. It changes from a requirement to an option ("shall" to "may") that legislation before the City Council be referred to a committee of the whole, and changes from an option to a requirement ("may" to "shall") that legislation be referred to one or more of a slate of standing committees. The Council would thus refer any pending legislation to a standing committee, while still being able to refer to committee of the whole for big issues such as the annual city budget.

This change has two additional benefits. If an issue is non-controversial, a standing committee can make its recommendation after one meeting; it is still entirely within Councilmembers' power to dispose of legislation at the current compressed pace. But referral to a standing committee also gives every member a longer period to exercise due diligence, without having every time to ask permission of a majority of Council. The default legislative cycle thus becomes four weeks, ensuring that the right of individual members to pursue lines of questioning can do so free of undue deadline pressure.

Note that Paragraph .230(d) expressly limits the power of standing committees to the making of recommendations, which "shall have no force unless adopted by the council at a properly convened session." The only cities in Indiana whose city council committees can kill legislation are Evansville and Hammond; in all other cases including Bloomington's, committees have only the power to recommend.

Decisions must never be made in haste. The Council's priority must be the quality of its decisions, and must protect the ability of each member to do due diligence in making them. This change to code, and the Council's process, is long overdue.

## ORDINANCE 11-22: THE "WHEN" OF COMMITTEES

Ordinance 11-22 would change city code to clarify and harmonize scheduling policies for council committees, whether they be standing committees, special committees or the committee of the whole. The first part of the Ordinance unifies committee scheduling policies, scattered throughout Article III of Chapter 2.04 of municipal code, under a single new section 2.04.255.

(The second part of the Ordinance moves language prohibiting the scheduling of committee meetings on holidays to its own heading, and clarifies it to apply to all types of committees. Since committees could possibly meet on days other than Wednesday, it clarifies the definition of the end-of-the-year recess to disallow any official meeting between the fourth Wednesday of December and the end of the year. The third part of the Ordinance simply removes a line specifying when committees of the whole are to meet, since it is made redundant by the previous parts of this ordinance.)

Other cities schedule their committee hearings at times between regular sessions that vary wildly. Bloomington's council is accustomed to meeting four Wednesday nights a month; this tradition should be continued. The new paragraph .255(a) maintains this commitment to Wednesday nights for either standing committees or committees of the whole, without prohibiting the

occasional need to meet on a different day of the week. (Note that this paragraph does not specify "Special Committees," which should be allowed to be scheduled when necessary.)

#### MEETINGS TO CONSIDER LEGISLATION REFERRED: WEDNESDAY NIGHTS

Paragraph .255(b) specifically covers meetings “convened to consider legislation referred” to standing committees and committees of the whole. (Special committees, even if legislation has been referred to them, are excepted.) It heeds the fourth sentence of .210, which provides that “all council members may attend the meetings of any standing committee,” by guaranteeing that meetings of standing committees not overlap.

The combination of serial meetings and a limited window for them dictates that standing committees will have to schedule start AND end times. This will require committee members to keep an eye on the meeting clock. It also emphasizes that committees should refrain from extended debate, which should be a matter for the full Council. Committee meetings should instead function as opportunities to focus on the questions that the full Council would be most interested in.

The last serial committee meeting of an even-numbered Wednesday night does not have to specify an end time and can thus go late, but ought to anticipate an end time whenever possible; the spirit of .420 is to respect the difficulty that anyone would have trying to deliberate or legislate at a late hour.

#### THE BROADER WEDNESDAY-NIGHT WINDOW FOR STANDING COMMITTEE MEETINGS

That spirit is why paragraph .255(c) explicitly allows for committee meeting start times as early as 5:30 pm, granting the Council more scheduling flexibility than 7:30 pm currently allows. The paragraph also takes into account the precedent set by .420, which discourages the introduction of legislation for Council action after 10:30 pm, by guaranteeing that standing committees can be scheduled to start no later than 9:45 pm.

This term we have held untelevised "internal work sessions" (IWS) to consider items that regard legislation that is NOT YET on the Council's agenda, at noon on second and fourth Fridays. It has proven difficult to attract more than 3 members to any session, because the time is difficult for many working councilmembers.

Nevertheless, IWSes are an important part of the legislative process. They are also effectively the type of meeting we have conducted to interview potential nominees to boards and commissions. This proposal makes the even-Wednesday-night time window wider so as to accommodate moving IWSes from Fridays to Wednesdays, when CMs are already used to conducting Council business. It proposes that committee meetings can be scheduled as early as 5:30pm, a more practical time for CMs to meet with department heads in IWS.

Committees requiring less time to hear an issue should be scheduled earlier in the evening than committees facing more substantial issues. Anticipating this concern, Paragraph .255(b) also does not allow hearings to begin after 9:45pm without the suspension of the rules.

## COMMITTEE MEETING TIME LIMITS AND THEIR IMPACT

Any committee meeting needing 3 hours fairly cries out for breaking up hearing of the issue into two sessions two weeks apart; the typical committee should not need more than 90-120 minutes on any given to tackle an issue as much as is possible that fortnight.

Council will need to be judicious about estimating how much time a hearing will require, and committee members will need to be cautious about using hearing time wisely so as to preserve the schedule of hearings that evening. Committee members should use the hearing to dispose of insignificant questions regarding the issue, and gather the information necessary for the full Council to concentrate on the issue's significant questions.

Committee hearings are by definition less formal than Regular Sessions; committee members should not worry about their opinions of the legislation being noted, as both majority and minority committee voters will have a chance to summarize their opinions in Regular Session, when the committee makes its report.

An important benefit of this scheduling change is that Administration staff, Petitioners and members of the public who are interested in only one issue will find that, at least on even-numbered Wednesdays, the time that their issue will be heard will be significantly more predictable than with a Committee of the Whole. No one will have to sit through a number of other issues unnecessarily.

Paragraph .255(c) is where the language from the existing .250(a), specifying the meeting time for Committee of the Whole, is relocated. Since the primary use of Committee of the Whole after adoption of these ordinances will be for Budget Week (which Council has been scheduling for 6:00pm start times), this paragraph is less emphatic about meeting at 7:30.

### RESOLUTION 11-16: "WHICH" COMMITTEES?

As required by city code, standing committees must be established by resolution. Resolution 11-16 specifies the standing committees to be used by Council starting in 2012.

The number of committees in cities across the state ranges from 3 or 4 to more than two dozen. The proposal specifies ten standing committees, the department(s) and/or division(s) of the City Administration that each oversees, and the board(s) and/or commission(s) that each oversees and nominates members to. (These committees replace the separate nominating committees for each board or commission.)

(Note that the two committees that have been regularly meeting the past few years, Sidewalks and Jack Hopkins Social Service Fund, are both functionally "special committees" which dissolve after their work is done. Jack Hopkins was defined by resolution as a "standing committee" but should be adjusted to "special" because its schedule is irregular. At any rate both committees can and should continue to function as they have.)



Even if standing committees do not regularly have legislation referred to them, establishing a slate of them is important, to establish more apparent Council oversight over the operation of the City. Knowing that there are three members duly appointed by Council to concentrate on a particular subject area for the year gives departments a clearer line of reporting, making it easier to identify and involve Council without having to approach them ad hoc. Establishing committees also allows them to more easily hold special hearings on items that are not yet the subject of legislation but perhaps should be (e.g.: urban deer, the imminent bankruptcy of the BAAC). If Council is to uphold its statutory duty, it is beyond time that it used the most fundamental tool in its oversight tool chest to do so.

## **Chapter 2.04**

### **COMMON COUNCIL**

#### Sections:

#### **Article I. Officers and Employees**

- 2.04.010 Election of officers.**
- 2.04.020 Duties of president.**
- 2.04.030 Duties of sergeant-at-arms.**
- 2.04.040 Duties of city clerk.**

#### **Article II. Meetings and Rules of Procedure**

- 2.04.050 Regular meetings.**
- 2.04.060 Special meetings--Emergency meetings.**
- 2.04.070 Budget meetings.**
- 2.04.080 Parliamentary authority.**
- 2.04.090 Amendment and suspension of rules.**
- 2.04.100 Convening meeting--Quorum.**
- 2.04.110 Seating of members.**
- 2.04.120 Limits on debate.**
- 2.04.130 Absence from meeting--Leaving meeting in session.**
- 2.04.140 Orderliness of members.**
- 2.04.150 Conflict of interest.**
- 2.04.160 Expressing dissent.**
- 2.04.170 Violation of rules.**
- 2.04.180 Address on personal privilege.**
- 2.04.190 Expulsion of member.**
- 2.04.200 Investigatory powers--Removal of officers.**

#### **Article III. Committees**

- 2.04.210 Standing committees--Establishment.**
- 2.04.220 Standing committees--Meetings.**
- 2.04.230 Standing committees--Reports.**
- 2.04.240 Special committees.**
- 2.04.250 Committee of the whole.**

#### **Article IV. Ordinances and Resolutions**

- 2.04.260 Ordinances--Title and enacting clause.**
- 2.04.270 Ordinances and resolutions--Filing and copies.**
- 2.04.280 Ordinances and resolutions--Synopsis required.**
- 2.04.290 Ordinances and resolutions--Fiscal impact statement required.**
- 2.04.300 Ordinances and resolutions--Readings required.**
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- 2.04.320 Ordinances and resolutions--Public inspection and publication.**
- 2.04.330 Ordinances and resolutions--Amendment.**
- 2.04.340 Ordinances--Repeal or modification.**
- 2.04.350 Veto procedure.**

#### **Article V. Proceedings and Motions**

- 2.04.360 Voting procedure.**
- 2.04.370 Appointments to boards and commissions.**
- 2.04.380 Order of business.**
- 2.04.390 Motions generally.**
- 2.04.400 Motions when question is under debate.**
- 2.04.410 Motion for the previous question.**
- 2.04.420 Motion to adjourn or recess.**
- 2.04.430 Division of question.**
- 2.04.440 Motion to table.**

**2.04.450 Motion to postpone indefinitely.**

**2.04.460 Motion to reconsider.**

#### **Article VI. Council Districts**

**2.04.500 Definition of councilmanic districts.**

**2.04.510 Repeal of former council districts.**

### **Article I.**

#### **Officers and Employees**

##### **2.04.010 Election of officers.**

The council shall, at its meeting on the first Monday in January, subject to the exceptions noted in Section 2.04.050, choose from its members a president, a vice president, and a parliamentarian, all of whom shall serve until the first Monday in January of the next succeeding year, when their successors shall be chosen to serve for one year in like manner.

(Ord. 90-48 § 1, 1990).

##### **2.04.020 Duties of president.**

The president shall have general direction of the council chambers and shall preserve order and decorum. The president shall rule on all points of order subject to an appeal to the council by any two members, shall state all questions properly proposed, shall put all questions which come to a vote, and shall declare the results of each vote. After any ordinance, resolution, address or order is adopted by the council, the president shall certify such action and certification shall be attested by the city clerk. In the absence of the president, the vice-president shall preside.

(Ord. 90-48 § 2, 1990; Ord. 83-15 § 1 (part), 1983).

##### **2.04.030 Duties of sergeant-at-arms.**

The chief of police or his designee shall act as sergeant-at-arms. It shall be the duty of the sergeant-at-arms to preserve order in the council chambers under the direction of the presiding officer, to request any person in attendance at a council meeting to surrender firearms and dangerous weapons during attendance at the meeting, to act as messenger of the council under the direction of the city clerk by serving notices of special meetings upon council members, and to procure the attendance of absent members when a quorum is not present.

(Ord. 79-97 § 2 (part), 1979).

##### **2.04.040 Duties of city clerk.**

In addition to any other duties imposed by state law or local ordinance, the clerk shall perform the following duties with respect to the proceedings of the council:

- (1) Serve as secretary of the council and keep an accurate record of all proceedings;
  - (2) Cause all notices of regular and special meetings of the council and its committees to be served according to law and the directions of the presiding officer of the council;
  - (3) Publish all notices of public hearings and ordinances and post upcoming legislation as required by law;
  - (4) Serve as the legal custodian of all records of the council;
  - (5) Maintain complete and orderly files containing all papers and documents pertaining to the business of the council and make them available to the council and the public;
  - (6) Take roll call, record motions, and perform other statutory functions at council meetings; and
  - (7) Obtain necessary signatures and attest to legislation immediately after its passage, and provide copies of signed legislation to all interested persons.
- (Ord. 79-97 § 2 (part), 1979).

## **Article II.**

### **Meetings and Rules of Procedure**

#### **2.04.050 Regular Meetings.**

(a) With the exceptions noted in subsections (b) through (g), of this section, the council shall meet in regular session on the first and third Wednesday of each month at seven thirty p.m. local time. The council may agree by majority vote to dispense with any regular session or to change the day or hour of any meeting, but the council shall meet at least once a month.

(b) The council shall not meet on legal holidays as enumerated in Indiana Code 1-1-9-1. The council may agree by majority vote to meet at an alternative time should such a holiday fall on a Wednesday.

(c) In accordance with Indiana Code 36-4-6-7, in the year following its election the Council shall hold its first regular meeting at seven thirty pm. on the first Monday of the year to elect officers. Should the first Monday of the year fall on a legal holiday as enumerated in Indiana Code 1-1-9-1, the council shall instead meet on the day after the legal holiday. Should the council president of the previous year still be a member of the council, he or she shall preside over the election of new officers. If the President of the previous year is no longer on the council, the majority party shall

designate a councilmember to preside over the election of officers. The council may decide by majority vote to reschedule a regularly scheduled Wednesday meeting and conduct other official business at this first meeting of the year.

(d) In accordance with Indiana Code 36-4-6-8, in years subsequent to the year immediately following its election, the council shall meet on the first Monday of the year of electing officers. Should the first Monday of the year fall on a legal holiday as enumerated in Indiana Code 1-1-9-1, the council shall instead meet on the day after the legal holiday. The council president of the previous year shall preside over the election of officers. The council may decide by majority vote to reschedule a regularly scheduled Wednesday meeting and conduct other official business at this meeting.

(e) The council shall go into recess upon adjournment of the first regular session in August and reconvene on the first Wednesday in September. No legislation shall be heard for first reading at the August meeting.

(f) The council shall not meet on the Wednesday before Thanksgiving Day. The council may by majority vote decide to combine the meeting scheduled for this date with the meeting scheduled for the previous or following Wednesday.

(g) The council shall go into recess upon adjournment of the second regular session held in December and reconvene in January. No legislation for first reading shall be heard at the last regular session of December.  
(Ord. 90-48 § 3, 1990).

#### **2.04.060 Special meetings--Emergency meetings.**

(a) Special meetings of the council may be held on call of the mayor, the president or any three members of the council. It shall be the duty of the president or the members calling the special session to notify the city clerk of the meeting, its date, hour, and agenda. The city clerk shall, at least forty-eight hours before the time set for the meeting, notify each member of the council, either in person, by telephone, or by notice left at the member's place of residence. Notice shall also be given at least forty-eight hours in advance of the meeting to the news media and to the public as required by state law.

(b) Emergency meetings may be held provided there is compliance with the notice requirements of state law.  
(Ord. 83-15 § 1 (part), 1983).

#### **2.04.070 Budget meetings.**

Each year on or before the last Monday in August, the council shall meet at 7:30 p.m. local time to fix the budget, tax rate, and tax levy for the civil city for the ensuing budget year. Should a quorum of the council not be present at the convening of the annual budget meeting, the members present shall recess until a quorum is present.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.080 Parliamentary authority.**

All meetings of the council and its committees shall be conducted in accordance with the procedures set forth in "Robert's Rules of Order" except where a different procedure is required by state law, this chapter, or other ordinances of the city. A majority of the members of the council shall decide all matters of procedure not covered by the authorities stated in this section.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.090 Amendment and suspension of rules.**

These rules may be amended only by adopting an amending ordinance. These rules may be suspended by a two-thirds vote of the members of the council. If a rule is suspended, a majority of the members present shall decide the procedure to follow in lieu of the suspended rule. The power to suspend these rules shall not apply to rules which are required by state or federal statutory or constitutional law.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.100 Convening meeting--Quorum.**

(a) The presiding officer shall take the chair at the hour designated for convening and shall call the members to order. The roll shall then be called by the city clerk who shall enter in the minutes of the meeting the names of the members present.

(b) A majority of the members of the council shall constitute a quorum. If the roll call establishes that a quorum is present, the presiding officer shall proceed in the manner and order prescribed by this chapter. In the absence of a quorum, the members present may, by a majority vote of those present, adjourn, set a time at which to adjourn, take a recess, or direct the sergeant-at-arms to procure the attendance of the absent members.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.110 Seating of members.**

Members shall occupy the seats assigned them by the presiding officer, but any two or more members may exchange seats by joining in a written memorandum to that effect.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.120 Limits on debate.**

No member shall speak more than once upon a question until every other member has had the opportunity to speak. The council may, before debate begins, decide by a two-thirds vote of all members to set time limits on debate upon a particular pending

question, but time spent in answering questions shall not be counted against the speaker. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.130 Absence from meeting--Leaving meeting in session.**

No member shall be absent from a properly convened meeting of the council without notifying the city clerk. Any member desiring to be excused while the council is in session shall notify the presiding officer. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.140 Orderliness of members.**

Members shall confine their remarks to the question under consideration and avoid personalities. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.150 Conflict of interest.**

In the event a council member would be required to take any action that would directly affect a financial interest of the member other than an interest of a minimal nature or an interest that is not distinct from that of the general public, the member shall either explain the potential conflict and ask that he be excused from voting, deliberating, or taking action on the matter, or shall explain the potential conflict and state why he is able to participate fairly, objectively, and in the public interest despite the potential conflict. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.160 Expressing dissent.**

Any member shall have the right to express dissent from or protest against any ordinance or resolution and have the reasons entered into the record. Such dissent or protest shall be in respectful language and may be filed in writing and presented to the council not later than the next regular meeting following the date of passage of the ordinance or resolution. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.170 Violation of rules.**

If any member, in speaking or otherwise, transgresses the rules of the council or the limits of debate, the presiding officer or any other member may call the member to order and that member shall immediately surrender the floor. The council shall, if there is an appeal by the member called to order, decide the question without debate. Only if the decision is in favor of the member called to order shall the member be at liberty to proceed. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.180 Address on personal privilege.**

The right of a member to address the council on a question of personal privilege shall be limited to cases in which integrity, character, or motives are assailed, questioned, or impugned.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.190 Expulsion of member.**

The council shall have the power to expel any of its members for violation of official duty, including gross neglect, and it may declare the seat of any member vacant by reason of disability to perform official duties. The council shall in such cases first, by resolution, direct the city attorney to draw up a bill of impeachment setting forth the charges and alleged conditions of disability, after which the council shall in special session try the charges, following in such trial the rules of courts of law as closely as possible. A vote of two-thirds of the members of the council shall be required to expel a member or vacate a member's seat.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.200 Investigatory powers--Removal of officers.**

The council shall have the power to supervise and investigate all departments, officers, and employees of the government of the city and to remove any officer or employee against whom charges are sustained. Investigations shall be conducted in accordance with the rules and procedures set forth in state law. A vote of two-thirds of the members of the council shall be required to impeach or remove an officer or employee.

(Ord. 79-97 § 2 (part), 1979).

### **Article III.**

#### **Committees**

#### **Ord11-21 – §2**

#### **► 2.04.210 Standing committees--Establishment.**

To facilitate the transaction of business, the council may by resolution establish standing committees and define the duties and responsibilities of each committee. If such committees are established, the presiding officer shall appoint at least three council members to each committee, observing the preference of each member as closely as possible, and shall appoint a chairperson for each committee. Legislation and questions before the council ~~may~~ **shall** be referred for investigation and report to the standing committees and the committees may investigate other areas within their jurisdiction. All council members may attend the meetings of any standing committee, but only those members who have been appointed to the committee shall be permitted to vote on questions before the committee. The council may create or abolish standing committees



by adoption of subsequent resolutions. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.220 Standing committees--Meetings.**

A committee shall meet on call of its chairperson or any two of its members. Notice shall be communicated by the city clerk, who shall keep a record of such notices. A majority of the membership of a committee shall constitute a quorum, which shall be necessary to conduct the business of the committee. The chairperson may act as secretary of the committee or the committee may appoint a secretary, who shall keep a memorandum of the proceedings and the recommendations made at the committee meeting. In committee meetings the rules of debate shall be relaxed in order to encourage discussion but general procedural decorum shall prevail. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.230 Standing committees--Reports.**

(a) The reports of standing committees shall be in writing and signed by a majority of the committee. Documents referred to the committee shall be returned with the report.

(b) Matters or questions referred to standing committees shall normally be reported back to the council not later than the second regular session after being referred to the committee, but the council may extend the time for reporting. When a committee to which a matter or question has been referred with instructions to report at a specific time is not ready to report at that time, the matter referred shall, unless further time is granted, be considered as though reported back without recommendation.

(c) The council may agree by majority vote to discharge any committee from further consideration of any matter referred to it. The matter referred shall be brought back before the council and take its proper place in the order of business.

(d) When an ordinance or resolution is reported back from a committee with recommendations, the recommendation of the committee shall have no force unless adopted by the council at a properly convened session.

(e) Any member of a committee may file a minority report and may move that the minority report be substituted for the recommendations of the majority. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.240 Special committees.**

Any three council members or the presiding officer may form a special committee for any specific purpose proper for council consideration. The committee shall cease to function when it has completed its duties and made a report or recommendation to the

council.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.250 Committee of the whole.**

*(Note: The following three changes will be assembled in one paragraph)*

##### **Ord11-21 – § 1**

- ▶ (a) With the exceptions noted in this section, the council ~~shall~~ **may** resolve itself into a committee of the whole on the second and fourth Wednesday of each month

##### **Ord11-22 - §3**

- ▶ ~~at seven thirty p.m. local time~~ to consider ordinances, resolutions, or other matters with the freedom of committee procedures. The council may decide by majority vote to cancel any such committee meeting or to meet at an alternative date and time. The council may by majority vote resolve itself into a committee of the whole at any other time and for any other legitimate purpose.

##### **Ord11-22 - §2** *(Note: This sentence was modified and moved to the last sentence in BMC 2.04.255(b))*

- ▶ ~~The council shall not meet as a committee of the whole on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on the fourth Wednesday in December.~~

(b) Whenever the council resolves itself into a committee of the whole the presiding officer shall leave the chair. Chair of the committee meetings scheduled for Wednesday evenings and city budget hearings shall rotate by alphabetical order among all councilmembers except the council president and such rotation will be tracked by the city clerk. Should a councilmember be unable to attend a committee meeting the next member on the rotation shall preside and the rotation shall proceed from that point. The council president will designate the chair for any unscheduled committee meetings.

(c) When the council resolves itself into the committee of the whole, the rules of the council shall govern except that:

(1) The committee of the whole may consider only matters and questions referred to it, and the only motions in order shall be to amend or adopt, or that the committee rise and report;

(2) No limit shall be placed on frequency of speaking, but no member may speak for longer than five minutes at a time;

(3) Interested citizens may be heard on the question under consideration if they address the chair and ask permission to speak;

(4) The previous question may not be moved;

(5) The ayes and noes shall not be recorded; and

(6) The clerk shall keep a memorandum of proceedings and

recommendations, but shall enter into the minutes of the meeting only the recommendations agreed to by the committee of the whole.

(d) When the committee of the whole rises, the presiding officer of the council shall resume the chair, and the chairperson of the committee shall report its recommendations to the council. The question shall then be on agreeing the recommendations of the committee and adopting the action or measures recommended. (Ord. 79-97 § 2 (part), 1979).

**Ord11-22 § 1**

**► New 2.04.255 Committees--Scheduling**

**(a) Meetings of standing committees or the committee of the whole convened to consider legislation referred by the Council shall meet on the second or fourth Wednesdays of the month.**

**(1) If more than one standing committee has had legislation referred to it during the same period of time, the committees shall not be scheduled at the same time, so that any Council members may attend any meeting.**

**(2) Such standing committee meetings shall not begin before five thirty p.m. or after nine forty-five p.m.**

**(3) Such meetings of the committee of the whole shall convene at seven thirty p.m. local time.**

**Ord11-22 - §2** *(Note: This sentence was modified and moved from the last sentence in BMC 2.04.250(a) to here and changed as follows)*

(b) ~~The A~~ **A council committee** shall not meet as a ~~committee of the whole~~ on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on **or between** the fourth Wednesday in December **and New Year's Eve**.

**Article IV.**

**Ordinances and Resolutions**

**2.04.260 Ordinances--Title and enacting clause.**

Each ordinance to be submitted to the council shall have a title indicating the nature of the subject matter and an enacting clause in substantially the following style: "Be It Ordained by the Common Council of the City of Bloomington, Monroe County, Indiana, That:." (Ord. 79-97 § 2 (part), 1979).

**2.04.270 Ordinances and resolutions--Filing and copies.**

Each ordinance or resolution submitted to the council shall be typewritten,

accompanied by any relevant documents, and filed with the city clerk at least two weeks before the meeting at which the legislation is to be introduced. The president shall approve the agenda and the council staff shall prepare and distribute copies of the agendas and legislation to the council members, the mayor, and city attorney. (Ord. 83-15 § 1 (part), 1983).

#### **2.04.280 Ordinances and resolutions--Synopsis required.**

(a) Each ordinance and resolution submitted to the council shall be accompanied by a short, nontechnical synopsis of the legislation which is comprehensible to the average citizen and suitable for publication. The council staff may edit the synopsis to clarify information or standardize format.

(b) The edited synopsis shall be read whenever the legislation it accompanies is introduced at a council meeting for first or second reading and it shall become a part of the official record, but shall not have the legal effect of being part of the legislation. (Ord. 79-97 § 2 (part), 1979).

#### **2.04.290 Ordinances and resolutions--Fiscal impact statement required.**

(a) Any legislation that makes an appropriation or has a major impact on existing city appropriations, fiscal liability, or revenues shall be accompanied by a fiscal impact statement. The statement shall describe the effect of the legislation on the financial condition of the city government and shall become a part of the official record of the legislation.

(b) The fiscal impact statement shall be submitted on a form provided by the council staff and shall set forth in as much detail as possible all fiscal data relevant to the legislation, including the effect on the costs and revenues of city government, the funds affected, and factors which could lead to significant additional expenditures in the future.

(c) The fiscal impact statement shall be prepared by the city agency submitting the legislation and shall carry the signature of the responsible city official. If the legislation directly affects city funds, the controller shall complete that part of the statement dealing with information on the funds affected by the legislation. The council staff may edit the statement to clarify information and ensure accuracy and completeness.

(d) The city agency submitting the legislation shall be responsible for determining whether the legislation will have a major impact on the city's financial condition. If the agency determines that the legislation will not have a major fiscal impact, the agency shall submit a fiscal impact statement stating its conclusion and the basis for it.

(e) In the event that a fiscal impact statement is not submitted or the statement states that there is no major fiscal impact, the council staff or any member of the council may request a statement before a final vote is taken by the council. The council shall then

either decide, by a two-thirds vote of the members, to accept the statement as submitted or postpone the legislation until the statement is prepared.

(f) The council may adopt rules and regulations to effectuate the purposes of this section.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.300 Ordinances and resolutions--Readings required.**

(a) Every ordinance shall be given two readings before a vote may be taken on its passage and no ordinance shall be passed on the same day or at the same meeting as it is introduced except by unanimous consent of the members present, at least two-thirds of the members being present and voting. An ordinance may not be debated or amended at its first reading or introduction unless state or federal requirements provide otherwise.

(b) At each reading of an ordinance the synopsis shall be read and the clerk shall read the ordinance by title only, provided there is unanimous consent.

(c) Each resolution submitted to the council shall be read by title only provided there is unanimous consent.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.310 Ordinances and resolutions--Vote required.**

A majority vote of the members of the council shall be necessary to adopt any resolution, order or ordinance, unless state or federal requirements provide otherwise.  
(Ord. 83-15 § 1 (part), 1983).

#### **2.04.320 Ordinances and resolutions--Public inspection and publication.**

(a) For purpose of public inspection, the city clerk shall mail copies of ordinances to the Monroe County Public Library within twenty-four hours after first reading. The clerk shall also mail copies of resolutions there as well prior to their being considered by the council.

(b) Copies of proposed legislation shall be made available to the public prior to and during meetings when the legislation is being considered.

(c) All ordinances and resolutions passed by the council shall be recorded by the clerk and due proof of publication of all ordinances requiring publication shall be obtained by the clerk and attached to the original ordinance. Ordinances and resolutions shall be made available for public inspection and copying at all times during regular

business hours.  
(Ord. 92-4 § 2, 1992; Ord. 79-97 § 2 (part), 1979).

#### **2.04.330 Ordinances and resolutions--Amendment.**

The following rules shall govern the council when considering proposals for amendment of ordinances and resolutions:

- (1) All amendments to resolutions and ordinances must be reduced to writing before they may be considered to be properly before the council;
- (2) An amendment must be germane to the proposition to which it is to apply;
- (3) A primary amendment may be amended, but a secondary amendment (an amendment to an amendment) may not be amended;
- (4) When adopted, an amendment merely modifies the proposition or question to which it applies and the question before the council is then the consideration of the proposition or question as amended;
- (5) An amendment once rejected may not be moved again in the same form in the same meeting of the council without first reconsidering the vote by which the amendment was defeated.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.340 Ordinances--Repeal or modification.**

Whenever an ordinance or a part of an ordinance is repealed or modified by a subsequent ordinance, the part of an ordinance thus repealed or modified shall continue in force until due publication of the ordinance when required, unless otherwise expressly provided. No suit, proceeding, right, fine, forfeiture or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed, and recovered as fully as if such ordinance had continued in force, unless it shall be otherwise expressly provided.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.350 Veto procedure.**

(a) In the event the mayor disapproves any ordinance, order, or resolution requiring mayoral approval, such ordinance, order, or resolution shall not become law unless at the next properly convened meeting or special meeting held at least ten days following presentation of the ordinance, order, or resolution to the mayor, the council again passes the ordinance, order, or resolution by two-thirds vote of all members of the council.

(b) Further, in conformance with Indiana Code 36-7-4-609 "Vote Required for Legislative Action," as amended, each zoning ordinance adopted by the city under Indiana Code 36-7-4-606, 36-7-4-607, or 36-7-4-608 may be vetoed by the executive of the city. The executive must exercise the veto:

- (1) In a case in which the legislative body adopted (as certified) the proposal, within ten days after the legislative body acts;
- (2) In a case in which the legislative body amends the proposal and the plan commission approves the amendment or fails to act, within fifty-five days after the proposal is returned to the plan commission for its consideration;
- (3) In a case in which the legislative body amends the proposal and confirms its original amendment by another vote, within ten days after the legislative body confirms its original amendment; or
- (4) In a case in which the proposal is to take effect because of the legislative body's failure to act within a period of days, within ten days after the expiration of that period.

(c) If a city zoning ordinance is not vetoed under subsection (b), it takes effect without any action being taken by the executive of the city.

(d) If a city zoning ordinance is vetoed under subsection (b), it is defeated unless the city legislative body, at its first regular or special meeting after receiving the veto message, passes the ordinance over the veto by a two-thirds vote. (Ord. 89-14 § 1, 1989; Ord. 86-57 § 1, 1986; Ord. 83-15 § 1 (part), 1983).

## **Article V.**

### **Proceedings and Motions**

#### **2.04.360 Voting procedure.**

(a) All votes upon the passage of ordinances and resolutions, upon motions to suspend the rules, and upon motions to reconsider shall be by roll call vote. Any two members may demand a roll call vote upon any question to be voted upon by the council and when such demand is made the clerk shall call the roll.

(b) The council may by a majority vote of the members present adopt any method for tabulating the vote, including a random or alphabetical order of calling the roll.

(c) During a roll call vote on any question, it shall be out of order for any member to offer remarks as the member is voting other than a short and concise explanation of his vote. After a roll call vote, it shall be out of order for any member to

offer any remarks on the question that had been voted upon.

(d) Members shall vote on all questions before the council except in situations where there is a conflict of interest or for other good cause. If a member fails to vote upon any matter, any other member may raise the question and insist that the member either vote or state the reason for not voting and be excused.

(e) Any member may change a vote before the result is announced, and afterwards by leave of the council provided that the change will not affect the result. In no case shall a member absent when the question is put be allowed to vote after the result is announced.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.370 Appointments to boards and commissions.**

Vacancies on boards and commissions to be filled by the council shall be filled by a majority vote of the members in a properly convened session of the council.

(Ord. 79-97 § 2 (part), 1979).

#### **2.04.380 Order of business at Regular Sessions.**

The council shall transact its business in the following order, but it may by majority vote amend the normal order of business and time limits set forth below:

- (1) Roll call;
- (2) Agenda summation;
- (3) Approval of minutes;
- (4) Reports (A maximum of twenty minutes is set aside for each part of this section.):
  - (A) Council members,
  - (B) The mayor and city offices,
  - (C) Council committees, and
  - (D) Public \*;
- (5) Appointments to Boards and Commissions;
- (6) Legislation for second readings and resolutions;
- (7) First readings;
- (8) Additional Reports from the Public \* (A maximum of twenty-five minutes is set aside for this section of the agenda.);
- (9) Council Schedule;
- (10) Adjournment.

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.



#### **2.04.390 Motions generally.**

(a) When a motion is made and seconded it shall be stated by the presiding officer before it shall be debated. The name of the member making the motion or offering any business shall be entered into the minutes.

(b) A motion may be withdrawn by the maker, but if there is any objection to the withdrawal, it may not be withdrawn until a motion to that effect has been passed.

(c) Every motion except procedural motions shall be reduced to writing upon request of any members.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.400 Motions when question is under debate.**

When a question is under debate, no motion other than pertinent incidental motions shall be entertained except to adjourn or recess, to lay on the table, for the previous question, to postpone for a definite time, to refer to committee, to amend, or to postpone indefinitely, which motions shall have precedence in the order above named and only the motions to postpone for a definite time, to refer to committee, to amend, and to postpone indefinitely shall be debatable.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.410 Motion for the previous question.**

The motion for the previous question shall only be admitted when demanded by a two-thirds vote, and until it is decided, shall preclude all further amendments and debate of the main question. The effect of the previous question shall be to bring the council to a vote on the immediate question under discussion.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.420 Motion to adjourn or recess.**

(a) A motion to adjourn or recess shall be decided without debate and shall be in order at any time, except when it is repeated without intervening business or discussion, when a member is speaking, when the previous question has been ordered, or during roll call. A motion to recess shall take precedence over a motion to adjourn.

(b) No legislation may be introduced for council action after 10:30 p.m. local time without a two-thirds vote of the members of the council.  
(Ord. 79-97 § 2 (part), 1979).

#### **2.04.430 Division of question.**

Any member may move that a question under consideration covering two or more

distinct propositions be divided. If the motion is adopted by a majority of the members present, the question shall be divided.  
(Ord. 79-97 § 2 (part), 1979).

**2.04.440 Motion to table.**

A motion to lay a question under consideration on the table shall take precedence over all amendments or debate of the question. Any matter laid on the table may be taken up by a vote of the council at any meeting after the meeting at which it is tabled. The motion to table may not be debated.  
(Ord. 79-97 § 2 (part), 1979).

**2.04.450 Motion to postpone indefinitely.**

If a motion to postpone indefinitely is adopted or a motion to reconsider a negative vote has been laid on the table, the main question shall be declared defeated and removed from before the council for that session.  
(Ord. 79-97 § 2 (part), 1979).

**2.04.460 Motion to reconsider.**

When any question has been decided in the affirmative or negative, any member voting with the majority may move a reconsideration of the vote before adjournment. Concurrence of a majority of the members present shall be sufficient to order reconsideration of a vote, but if a motion to reconsider is defeated, it shall not again be entertained.  
(Ord. 79-97 § 2 (part), 1979).

**Article VI – Council Districts** *(omitted)*

**ORDINANCE 11-21**

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

**Re: Amending Chapter 2.04 Entitled "Common Council" to Remove Requirement  
that Legislation be Referred to the Committee of the Whole**

- WHEREAS, a legislative cycle based on a single committee-of-the-whole meeting often means less than seven calendar days between Committee of the Whole and Second Reading, often giving members insufficient time to deliberate, gather more information, or prepare motions or amendments based on Committee of the Whole testimony; and
- WHEREAS, the Council's workload is increasing, its meetings are running long, and members are invoking "the 10:30 rule" (BMC 2.04.420(b)) with increasing frequency; and
- WHEREAS, the committee of the whole is an alternative to the original solution provided in the BMC, to use standing committees to consider issues before the Council; and
- WHEREAS, according to BMC 2.04.230(b), standing committees may report back by the second Regular Session as a matter of course, giving them the option to continue deliberating without undue pressure to expedite legislation, and making the default expectation of all comers that Council will typically rule within four weeks instead of two; and
- WHEREAS, issues taken up by a committee of the whole are heard at unpredictable times, and can be many hours after the scheduled start of the meeting, making it difficult for administration staff, petitioners and the public to attend; and
- WHEREAS, any given issue brought before Council will interest some members more than others, and not every issue needs the full attention of every member throughout the legislative process, and focusing fewer council members per issue before Second Reading makes for a more efficient use of total hours devoted by Council members to public meetings; and
- WHEREAS, according to BMC 2.04.210, no member is precluded from attending a standing committee hearing; and
- WHEREAS, according to BMC 2.04.230(d), the recommendations of a standing committee have no force and do not bind the Council any more than a decision by the committee of the whole does; and
- WHEREAS, these rules for the establishment of standing committees have been enumerated in BMC 2.04 Article III for at least three decades;

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

**SECTION 1.** Section 2.04.250(a) of the Bloomington Municipal Code shall be amended by deleting the word "shall" as it appears in the first sentence and replacing it with the word "may" so that the first sentence now reads as follows:

With the exceptions noted in this section, the council may resolve itself into a committee of the whole on the second and fourth Wednesday of each month at seven thirty p.m. local time to consider ordinances, resolutions, or other matters with the freedom of committee procedures."

SECTION 2. Section 2.04.210 of the Bloomington Municipal Code shall be amended by deleting the first use of the word “may” as it appears in the third sentence and replacing it with the word “shall” so that the third sentence now reads as follows:

Legislation and questions before the council shall be referred for investigation and report to the standing committees and the committees may investigate other areas within their jurisdiction.

SECTION 3. 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 parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance is co-sponsored by Councilmembers Volan, Piedmont-Smith, Rollo and Wisler. It swaps two words of Bloomington municipal code. It changes from a requirement to an option ("shall" to “may”) that legislation before the City Council be referred to a committee of the whole, and changes from an option to a requirement (“may to “shall”) that legislation be referred to one or more of a slate of standing committees. The Council would thus refer any pending legislation to a standing committee, while still being able to refer to committee of the whole for big issues such as the annual city budget.

Making this change will help Council manage its growing workload more effectively, while in a manner more time-efficient for individual Council members, City employees, petitioners, and members of the public. The use of standing committees, as defined by long-extant code, will lengthen the default legislative cycle without compromising efficiency when desired, will shorten meetings, will not reduce Council member privilege, and will allow Council members to focus on their areas of expertise and interest to their constituents.

**ORDINANCE 11-22**

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED "ADMINISTRATION AND PERSONNEL" –  
Re: Amending Chapter 2.04 Entitled "Common Council" to Establish and Clarify  
Scheduling Policies for Council Committees**

WHEREAS, issues taken up by a committee of the whole are heard at unpredictable times, and can be many hours after the scheduled start of the meeting, making it difficult for administration staff, petitioners and the public to attend; and

WHEREAS, standing committees do not preclude any Council member from attending meetings of the committee (BMC 2.04.210); and

WHEREAS, the Council's workload is increasing, its meetings are running long, and members are invoking "the 10:30 rule" (BMC 2.04.420(b)) with increasing frequency;

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

SECTION 1. A new Section 2.04.255 entitled "Committees--Scheduling" shall be added to the municipal code and included in the table of contents of Chapter 2.04 and shall read as follows:

**2.04.255 Committees--Scheduling**

(a) Meetings of standing committees or the committee of the whole convened to consider legislation referred by the Council shall meet on the second or fourth Wednesdays of the month.

(b) If more than one standing committee has had legislation referred to it during the same period of time, the committees shall not be scheduled at the same time, so that any Council members may attend any meeting.

(c) Such standing committee meetings shall not begin before five thirty p.m. or after nine forty-five p.m.

(d) Such meetings of the committee of the whole shall convene at seven thirty p.m. local time.

SECTION 2. The last sentence of paragraph 2.04.250(a) of the Bloomington Municipal Code shall be moved to become paragraph (b) of the new Section 2.04.255 provided for above and shall be amended to refer to any type of committee meeting, and shall read as follows:

(b) A council committee shall not meet on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on or between the fourth Wednesday in December and New Year's Eve.

SECTION 3. The first sentence in paragraph 2.04.250(a) of Bloomington Municipal Code shall be amended to strike reference to the scheduling of a meeting and shall read as follows:

(a) With the exceptions noted in this section, the council shall resolve itself into a committee of the whole to consider ordinances, resolutions, or other matters with the freedom of committee procedures.

SECTION 4. 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 parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

## SYNOPSIS

This ordinance would change city code to clarify and harmonize scheduling policies for council committees, whether they be standing committees, special committees or the committee of the whole. It unifies committee scheduling policies, scattered throughout Article III of Chapter 2.04 of municipal code, under a single new section 2.04.255.

The first section of this ordinance specifically covers meetings “convened to consider legislation referred” to standing committees and committees of the whole. (Special committees, even if legislation has been referred to them, are excepted.) It specifically contemplates the fourth sentence of BMC 2.04.210, which provides that “all council members may attend the meetings of any standing committee,” by guaranteeing that meetings of standing committees not overlap. It also takes into account the precedent set by BMC 2.04.420, which discourages the introduction of legislation for Council action after 10:30 pm, by guaranteeing that standing committees can be scheduled to start no later than 9:45 pm.

The combination of serial meetings and a limited window for them dictates that standing committees will have to schedule start *and* end times. This will require committee members to keep an eye on the meeting clock. It also emphasizes that committees should refrain from extended debate, which should be a matter for the full Council. Committee meetings should instead function as opportunities to focus on the questions that the full Council would be most interested in. (The last serial committee meeting of an even-numbered Wednesday night does not have to specify an end time and can thus go late, but ought to anticipate an end time whenever possible; the spirit of 2.04.420 is to respect the difficulty that anyone would have trying to deliberate or legislate at a late hour. That spirit is also why this ordinance explicitly allows for committee meeting start times as early as 5:30 pm.)

The second section of this ordinance moves language prohibiting the scheduling of committee meetings on holidays to its own heading, and clarifies it to apply to all types of committees. Since committees could possibly meet on days other than Wednesday, it clarifies the definition of the end-of-the-year recess to disallow any official meeting between the fourth Wednesday of December and the end of the year.

The third section of this ordinance simply removes a line specifying when committees of the whole are to meet, since it is made redundant by the previous parts of this ordinance.