



City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 01 February 2023

Regular Session at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
REGULAR SESSION
WEDNESDAY | 6:30 PM
01 February 2023

*Council Chambers (#115), Showers Building, 401 N. Morton Street
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/83563751784?pwd=QWhBTktXb3FDaktsR2pjd0J6NGNvZz09>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **APPROVAL OF MINUTES:**
 - A. April 21, 2021 – Regular Session
 - B. September 01, 2021 – Regular Session
- IV. **REPORTS** *(A maximum of twenty minutes is set aside for each part of this section.)*
 - A. Councilmembers
 - B. The Mayor and City Offices
 - C. Council Committees
 - D. Public *
- V. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
- VI. **LEGISLATION FOR SECOND READINGS AND RESOLUTIONS**
 - A. Ordinance 23-02 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” Re: Transfer from Chapter 2.21 (Department of Law) to Chapter 2.23 (Community and Family Resources Department)
- VII. **LEGISLATION FOR FIRST READINGS**

None
- VIII. **ADDITIONAL PUBLIC COMMENT ***

(A maximum of twenty-five minutes is set aside for this section.)
- IX. **COUNCIL SCHEDULE**
- X. **ADJOURNMENT**

*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment 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.

To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.



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

Minutes for Approval

21 April 2021 | 01 September 2021

In Bloomington, Indiana on Wednesday, April 21, 2021 at 6:30pm, Council President Jim Sims presided over a Regular Session of the Common Council. This meeting was conducted electronically via Zoom.

COMMON COUNCIL
REGULAR SESSION
April 21, 2021

Councilmembers present via Zoom: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:31pm]

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [6:32pm]

There were no minutes for approval.

APPROVAL OF MINUTES

Volan spoke about Robert's Rules of Order and the ability for council members to present, comment, rebuttal, and debate. He expressed his opinion that the opportunity to debate was not being followed, and that parliamentary methods that had been recently employed by another councilmember, pertaining to Ordinance 21-06, were not used in a principled or proper manner.

REPORTS

- COUNCIL MEMBERS [6:38pm]

Sgambelluri announced her upcoming constituent meeting.

Flaherty shared the news that the "Resolution on Housing First" was recently passed by the Bloomington Commission on Sustainability. He applauded the work by the commission to address housing security in Bloomington.

Piedmont-Smith commented that tomorrow was Earth Day and encouraged everyone to consider making changes to their daily lives to have a positive impact on the environment and to do their part to curb climate change.

Sims commented that one of the roles of the council president was to schedule items for meeting agendas through participation in the weekly leadership meetings. He did not wish to debate the comment on meeting procedures and expressed his intention to work with the council parliamentarian to ensure proper council meeting decorum moving forward.

Jane Kupersmith, Assistant Director of Small Business Development, Economic and Sustainable Development, gave an update on the Rapid Response Fund Loan Program and the city's work on the stabilization and recovery of the local economy. There was brief council discussion following the report.

- The MAYOR AND CITY OFFICES [6:50pm]

President Sims announced that Flaherty had volunteered to fill the open councilmember seat on the Public Safety Committee.

- COUNCIL COMMITTEES [7:13pm]

Jim Shelton, spoke on behalf of the CASA (Court Appointed Special Advocate) program. He announced that April was both National Child Abuse Prevention Month and National Volunteer Month and encouraged everyone to consider becoming a CASA volunteer.

- PUBLIC [7:14pm]

Jean Lennon spoke in appreciation of infrastructure improvements to the bike and pedestrian crossing on Walnut Street at Allen Street. She expressed interest in adding the feature found at the pedestrian crossing into Switchyard Park that allows a pedestrian to push a button to change the traffic light to red to alert vehicles to stop.

Flaherty moved and it was seconded to appoint Cory Ray to seat C-4 of the Environmental Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:20pm]

Piedmont-Smith moved and it was seconded to conclude the meeting by 10:30pm. The motion received a roll call vote of Ayes: 8, Nays: 1 (Rollo), Abstain: 0.

Vote to end Regular Session at 10:30pm [7:23pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:24pm]

Flaherty moved and it was seconded that Resolution 21-08 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Resolution 21-08-Accepting the City of Bloomington Climate Action Plan [7:25pm]

Flaherty moved and it was seconded that Resolution 21-08 be adopted.

Alex Crowley, Director, Economic & Sustainable Development, introduced Lauren Travis, Assistant Director of Sustainability, and highlighted the work she completed on the Climate Action Plan.

Lauren Travis stated she served as project manager of the Climate Action Plan and presented the plan.

Rollo asked if the emissions data in the report included imbedded values on emissions from importing goods.

Council comment:

Travis said it did not.

Rollo commended the city's attempt to reduce and eventually eliminate the leaf vacuum. He also expressed interest in providing composters to residents for organic waste and asked Travis for her opinion.

Travis said there was an opportunity for more composting to occur.

Rollo lastly pointed out that the council was the city body that passed a resolution in support of the Kyoto protocol in 2005.

Piedmont-Smith asked which council member was on the advisory committee for the Climate Action Plan.

Travis said there was no council member on the advisory committee.

Flaherty inquired about the transportation emissions that were noted in the plan. In the report for the 2018 greenhouse gas emissions inventory, the transportation sector accounted for 27% of emissions for the community and in this report, that figure was reported as 15%. He asked what change in methodology was used that led to the decrease in this figure.

Travis said that the Indiana Department of Transportation (INDOT) provided figures for that calculation. For the 2018 report, INDOT included traffic on I-69 as primary emissions for Bloomington. The traffic engineering department worked with INDOT and changed I-69 traffic emissions to be categorized as pass-through emissions, which affected the numbers they provided for her 2021 report. The cities' emissions reporting protocol was the same as in previous reports.

Flaherty asked about the development of a dashboard for the goals. He asked how progress would be tracked and displayed on the dashboard.

Travis explained how updates to goals in the plan would be reported.

Resolution 21-08 (cont'd)

Council comment:

Smith asked how homeowners could install solar panels on their homes.

Travis explained that there were two options available. One was to attend a virtual information session held by Solar Indiana Renewable Energy Network. Then if interested, someone could make a request for a quote. The federal tax credit was extended via the Cares Act through the next two years, representing a 26% tax credit. Individuals could also contact a solar company on their own.

Smith asked if there were any subsidies available for the installation of the panels.

Travis said they were looking at opportunities with the Clean Energy Credit Union, perhaps through low-interest rates on loans to cover part of the cost. She hoped to report on this at her next Council update. This was something they were working on through the Recover Forward initiative.

Volan asked about goal "EB2" about increasing energy efficiency city-wide. He asked to what extent the Economic and Sustainability Department worked with the Planning Department to achieve goals through more efficient building construction. He asked if she felt that the UDO should be more stringent about building codes.

Travis stated that the State of Indiana had not updated its energy efficiency code for quite a while, which posed a challenge. The sustainable development incentive for new construction was an opportunity for efficiency. She expressed that current retrofits to existing construction to improve efficiency were also helpful in reaching goals.

Volan asked if the city's UDO should be more stringent than the state code.

Travis said she was unsure if it was legal for a municipality to regulate building efficiency beyond the state code but that it seemed worthy of investigation.

Piedmont-Smith stated she believed that the non-profit, Indiana Solar for All, was subsidized, sometimes through sweat equity, and provided opportunities for lower-income residents to solarize their homes.

Travis concurred this was another option for residents to implement solar energy.

Dave Warren, speaking on behalf of Neighbors United Bloomington-Monroe County, thanked city staff and specifically Travis, for the work on the Climate Action Plan. The City may be unintentionally exporting carbon emissions to other communities because residents moved out of Bloomington to surrounding communities because of the lack of affordable housing in Bloomington.

Public comment:

Stephen Lucas, Council Attorney/Administrator, read the following comments that were submitted via Zoom chat:

- David Wolfe Bender commented on the city's goal of reducing vehicle miles traveled in Bloomington by 8% and car-free pedestrian zones. He asked what the city had learned from the pilot programs and future car-free pedestrian zones.
- Dave Askins from the B-Square Beacon commented on the Climate Action Plan that was presented five months ago.

He noted pages 109-127 had a master table of all the recommended actions in one easy-to-digest place, which had been deleted from the final version. He further commented on the difficulty to understand the seventeen new laws recommended in the draft. Askins asked if it was possible to include a summary table at the end of the plan that recapitulated the recommended actions in the plan.

Resolution 21-08 (cont'd)

Public comment:

Piedmont-Smith asked Lucas about either adopting the plan or accepting the report as an advisory document.

Council comment:

Lucas responded that Resolution 21-08 stated the Council would accept the plan as an advisory document and guiding document.

Piedmont-Smith clarified that the report would be different from the Comprehensive Plan or the Transportation Plan that the Council adopted.

Lucas agreed with the distinction.

Flaherty was encouraged that the council would accept the document to guide the city towards a net zero carbon emissions target by 2050. He believed the stated 2030 interim targets were soft but acknowledged that some factors were out of the city's control. He hoped that the City would continue with better decisions that impacted climate change in large capital projects and budgetary decisions.

The motion to adopt Resolution 21-08 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 21-08 [8:17pm]

Flaherty moved and it was seconded that Ordinance 21-15 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 8, Nays: 0, Abstain: 1.

Ordinance 21-15 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Technical Corrections Set Forth in BMC 20.02, 20.04, 20.06, 20.07

Flaherty moved and it was seconded that Ordinance 21-15 be adopted. Ryan Robling, Zoning Planner, Planning and Transportation Department, presented the legislation.

Council comment:

There were no council questions.

Public comment:

There was no public comment.

Council comment:

There was no council comment.

Vote to adopt Ordinance 21-15 [8:22pm]

The motion to adopt Ordinance 21-15 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-16 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 21-16 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Corrections Set Forth in BMC 20.02

Flaherty moved and it was seconded that Ordinance 21-16 be adopted. Robling presented Ordinance 21-16.

Council comment:

There were no council questions.

Public comment:

There was no public comment.

There was no council comment.

Council comment:

The motion to adopt Ordinance 21-16 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-16 [8:27pm]

Flaherty moved and it was seconded that Ordinance 21-19 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 21-19 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Corrections Set Forth in BMC 20.05

Flaherty moved and it was seconded that Ordinance 21-19 be adopted. Robling presented the legislation.

Council comment:

There were no council questions.

Public comment:

There was no public comment.

Council comment:

There was no council comment.

The motion to adopt Ordinance 21-19 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 20-19 [8:32pm]

Flaherty moved and it was seconded that Ordinance 21-20 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 4, Nays: 0, Abstain: 5.

Ordinance 21-20 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Corrections Set Forth in BMC 20.06

Flaherty moved and it was seconded that Ordinance 21-20 be adopted. Robling presented the legislation.

Council comment:

Sgambelluri asked Robling if he could provide any data on how many projects would have been excluded from triggering a major review based on the proposed threshold change from thirty to fifty units.

Robling answered that from 2016 to the end of 2020, eleven sites would have been reviewed and only one of the eleven would have been excluded if the proposed threshold of 50 units would have been used.

Sgambelluri asked Robling if he felt confident that a similar pattern would continue in the future.

Robling answered they believed that would be true.

Piedmont-Smith asked for clarification on the end of the period that Robling used for the data.

Robling said that he looked at data through the end of December 2020.

There was no public comment.

Public comment:

There was no council comment.

Council comment:

The motion to adopt Ordinance 21-20 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-20 [8:39pm]

Flaherty moved and it was seconded that Ordinance 21-21 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 21-21 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Corrections Set Forth in BMC 20.07

Flaherty moved and it was seconded that Ordinance 21-21 be adopted. Robling presented the legislation.

Ordinance 21-21 (cont'd)

There were no council questions.

Council comment:

There was no public comment.

Public comment:

There was no council comment.

Council comment:

The motion to adopt Ordinance 21-21 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-21 [8:45pm]

Flaherty moved and it was seconded that Ordinance 21-17 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 4, Nays: 0, Abstain: 5.

Ordinance 21-17 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Corrections Set Forth in BMC 20.03

Flaherty moved and it was seconded that Ordinance 21-17 be adopted. Robling presented the legislation.

Smith asked Robling to clarify the term “building floor plate.”

Council comment:

Robling answered that building floor plate referred to the area the building took up on the ground.

Smith asked for further clarification.

Robling said it would be the walls you could see on the exterior of a building and everything contained within those walls.

Smith asked if included student housing.

Robling answered that it did.

Smith asked Robling to explain the meaning of “home occupation” and what the practical effect would be of changing the home occupation guideline from 15% to 50%.

Robling said certain defined businesses being operated within a home could now use up to 50% of the interior for business activities. There were certain rules that applied to running the business, as well as non-excluded uses that traditionally fell under commercial uses. It would only change the interior of the primary structure, not the exterior of the home.

Smith asked if that meant there would not be neon signs, for instance, outside of the residence.

Sims made a point of order that Smith had already asked the maximum number of questions which were afforded in this part of the meeting.

Rollo asked Robling to elaborate on Accessory Dwelling Units (ADUs) and specifically the interested party notifications.

Robling explained that the uses were by right and therefore there was no public hearing. Neighbors would only receive notification letters.

Rollo asked if the letter said there would be no hearing associated with the notification.

Robling explained the current letter did explicitly state that fact.

Mike Rouker, City Attorney, said legal notices mandated by city code or state law served specific purposes. A legal notice told the recipient that they had certain substantive legal rights and there was a certain procedure they would follow to exercise those rights. In the context of a conditional use approval, the legal notice served the purpose of notifying interested parties that they had the right to testify in front of the Board of Zoning Appeals about the matter. When a use was by right, the legal notice was confusing, expensive, and led to misunderstanding. He explained that residents would get

frustrated because they thought they had legal rights when they did not, despite it being stated in the letter. It was not a tool that mandated dialogue between people but rather created confusion. It would be very uncommon to have a legal notice required in the circumstance when there were no underlying rights.

Ordinance 21-17 (cont'd)

Council comment:

Rollo did not believe the letter should mandate dialogue but rather invite conversation and asked if the letter explicitly stated dialogue was mandated.

Rouker answered that the letter did not and the city did not require neighbors to advise each other of actions they were taking when there was no underlying legal obligation to do so.

Rollo asked why the administration was supportive of it previously.

Sims made a point of order that Rollo had exceeded his limit for questions if other council members were interested in taking a turn.

There were no questions from other council members so Sims allowed Rollo to continue his line of questioning.

Rollo asked why the administration was previously supportive of this practice but were not any longer.

Rouker answered that the administration was constantly learning from policies that were enacted and it did not see any purpose to this notice. The notice created confusion and frustration when the recipients discovered they had no way to oppose an ADU.

Rollo asked if Rouker noticed any positive outcomes from the notifications.

Rouker said he did not personally know of anything specific and perhaps the Planning Department could address the question.

Rollo asked how many negative outcomes came from the notification letters.

Eric Gruelich, Senior Zoning Planner from the Planning and Transportation Department, said that the notification letters were a carry-over from a time when ADU's were categorized as conditional use. Since they were currently categorized as a permitted use, the letter did not serve the purpose a notification normally would.

Rollo asked if Gruelich knew of any positive feedback received as a result of the notification letters.

Gruelich said he did not have any examples.

Piedmont-Smith moved and it was seconded to adopt Amendment 01 to Ordinance 21-17. Piedmont-Smith presented the amendment.

Amendment 01 to Ordinance 21-17

Amendment 01 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith and affects the use-specific standards that apply to the Student Housing or Dormitory use. The amendment provides an additional method by which the Student Housing or Dormitory use can be subject to alternative use-specific standards affecting the location and the building floor plate size. The amendment provides that the alternative standards would apply if *either* the affordable housing incentive or the sustainable development incentive had been earned, instead of only listing the affordable housing incentive as an option. The amendment is meant to increase the likelihood that the sustainable development incentive is utilized.

Scott Robinson, Director, Planning & Transportation Department, noted that staff accidentally omitted the sustainability development incentive when drafting changes the UDO and supported Amendment 01.

Amendment 01 to Ordinance 21-17 (cont'd)

There were no council questions.

Council comment:

There was no public comment.

Public comment:

There was no council comment.

Council comment:

The motion to adopt Amendment 01 to Ordinance 21-17 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 21-17 [9:10 pm]

Rollo moved and it was seconded to adopt Amendment 02 to Ordinance 21-17. Rollo presented Amendment 02.

Amendment 02 to Ordinance 21-17

Amendment 02 Synopsis: This amendment is sponsored by Cm. Rollo. It retains a use-specific standard applicable to accessory dwelling units (ADUs) in the existing UDO that would otherwise be eliminated by Ordinance 21-17. By ensuring that neighboring properties will continue to receive information about requested ADUs, it is the intent of the sponsor that dialogues between neighbors about such ADUs will occur more easily and regularly than if this provision were eliminated.

Sgambelluri asked for a theoretical example of the language, "any other information relevant to the petition required by the Director."

Council comment:

Grulich answered it could be general notification material, and basic information that was included with the building permit.

Sgambelluri asked if the petitioner was responsible for completing the notice.

Grulich answered that the Planning Department had a pre-made form used for ADUs that could be used.

Sgambelluri asked if the petitioner would be responsible for mailing.

Grulich answered that was correct and they would be required to give the Planning Department an affidavit confirming they had mailed it.

Rollo asked Grulich if the notification letter explicitly stated that there would be no public hearing associated with the building permit for an accessory dwelling unit.

Grulich commented it did not and simply informed the adjacent property owner about the application for the ADU.

Rollo responded that that might be why adjacent property owners became confused since ADU's are now a permitted use.

Smith asked Grulich if the letter could be modified to clarify those points.

Grulich answered that it could but another issue was the notification letter requirement caused an undue burden and slowed down the review of a by right permit. There was no legal obligation the letter satisfied.

Scott Robinson further clarified that staff followed the letter of the law with the UDO.

Mike Rouker added that it was unusual to require a legal notice to be sent to someone who had no legal rights. For other by right uses in the UDO, the city did not have this requirement.

Cathi Crabtree said it would be confusing to get a notification when there was no legal recourse for an adjacent property owner once they are notified. She spoke in opposition to the amendment. Lucas read a comment from Dave Askins from B Square Beacon, submitted via Zoom chat, asking when the EnerGov Citizen Self Service and the Energov Mailing Lists tool would be available for use by the public to be able to receive notifications about building permits and petitions for ADU's that were occurring in the city.

Amendment 02 to Ordinance 21-17 (cont'd)

Public comment:

Robinson stated that the Plan Commission studied the issue thoroughly and had voted 9-0 with staff's support to not support this amendment. He explained that the notification letter was a remnant from when ADUs were classified as conditional use. He also spoke about the status of the community development software which was a resident portal for the public to find out about ongoing projects at an address.

Council comment:

Rollo rebutted comments made by staff and said that the letter could be rewritten to eliminate confusion. Certain populations, such as the elderly or low income individuals, may not have access to computers, so a letter would be a courtesy. That was his reason for sponsoring the Amendment 02.

Piedmont-Smith expressed her opposition to the amendment since ADU's were by right.

Sgambelluri appreciated the thought behind Amendment 02 but it was not something that should be legislated.

Sims thanked Rollo for Amendment 02 and said that extending the courtesy would be an unnecessary burden on the time of staff and would have a fiscal impact. He understood the intent but disagreed it should be legislated.

Rollo appreciated the discussion of Amendment 02.

The motion to adopt Amendment 02 to Ordinance 21-17 received a roll call vote of Ayes: 1(Rollo), Nays: 8, Abstain: 0. FAILED

Vote to adopt Amendment 02 to Ordinance 21-17 [9:30 pm]

Piedmont-Smith moved and it was seconded to adopt Amendment 03 to Ordinance 21-17. Piedmont-Smith presented Amendment 03.

Amendment 03 to Ordinance 21-17

Amendment 03 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith and replaces a proposed use-specific standard addressing ground floor parking for the Student Housing or Dormitory use. The amendment would replace the proposed standard with the same ground floor parking standard proposed for the Dwelling, Multifamily use. This amendment addresses potential concerns about the feasibility of building structured parking on the ground floor of a multistory building if only 50% of the ground floor surface area could be parking.

Jacqueline Scanlan, Development Services Manager/Planning and Transportation Department, responded that the staff was in support of Amendment 03.

There were no council questions.

Council comment:

There were no questions from the public.

Public comment:

There were no council comments.

Council comment:

The motion to adopt Amendment 03 to Ordinance 21-17 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 03 to Ordinance 21-17 [9:36 pm]

Volan asked if he could ask a question of city staff before introducing Amendment 04 to Ordinance 21-17.

Amendment 04 to Ordinance 21-17

Parliamentarian Flaherty said that it was the discretion of the chair.

Volan asked Scanlan to display Table 03-4: Number and Size of Accessory Structures Permitted from Chapter 20:03: Use Regulation of the UDO. He asked a question about definitions under the column "Maximum Footprint". In the denser zones, he wondered why lesser maximum square footage limits were denoted.

Scanlan explained the table and detached ADU parameters in more detail.

Volan opted to not introduce Amendment 04 to Ordinance 21-17.

There were no council questions.

Council comment:

There were no questions from the public.

Public comment:

There were no council comments.

Council comment:

The motion to adopt Ordinance 21-17 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-17 as amended [9:50pm]

Flaherty moved and it was seconded that Ordinance 21-18 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 8, Nays: 1, Abstain: 0.

Ordinance 21-18 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code-Re: Corrections Set Forth in BMC 20.04

Flaherty moved and it was seconded that Ordinance 21-18 be adopted. Scanlan presented the legislation.

There were no council questions.

Council comment:

Volan moved and it was seconded to adopt Amendment 01 to Ordinance 21-18. Volan presented Amendment 01.

Amendment 01 to Ordinance 21-18

Amendment 01 Synopsis: This amendment is sponsored by Cm. Volan. It retains the existing parking maximum of 3.3 spaces per 1,000 sq. ft. GFA currently in the UDO that applies to medical clinics. This maximum aligns with many similar uses and is appropriate for the medical clinic use.

Rollo asked staff how many potential parking spaces the proposal would affect.

Council comment:

Scanlan said they did not have a projection for how many sites could be affected. The Planning Department tried to keep track of variances they received and identify trends, which staff felt this needed to be codified.

Rollo responded that he was trying to understand the difference between the proposal by the Planning Department and what was proposed in Amendment 01.

Scanlan said that staff tried to address competing needs but that it would be up to the council to make a decision between the proposals. The proposed particular use had demonstrated a need. Staff did not normally advocate for more parking but conceded that it was an issue in this case.

Greulich noted that the uses were still held to the same minimum landscaped area and maximum impervious surface coverage as every other commercial site. Additionally, the clients for the use were likely to need to use vehicles as transportation to and from the medical clinic. The Planning Department had to make variances for it in the past.

Amendment 01 to Ordinance 21-18 (cont'd)

Council comment:

Sandberg asked Scanlan about the likelihood of clinics requiring parking being built near the new hospital.

Scanlan responded that they anticipated the uses may increase in the area when the new hospital was completed.

Sgambelluri asked if the proposed designated parking spaces for medical clinics were total parking spaces for both staff and visitors of the clinic.

Scanlan answered yes.

There were no questions from the public.

Public comment:

Rollo said the use was unique so he would oppose Amendment 01.

Council comment:

Smith stated his opposition to Amendment 01 because clinics need extra parking spaces for patients.

Piedmont-Smith stated her opposition to Amendment 01 due to the nature of the use. She said she normally would be opposed to endorsing more surface parking and felt that bicycle parking should be required.

Volan expressed his understanding of the sympathies of his colleagues for patients but felt that increasing the number of parking spaces went against the city's Comprehensive Plan. He urged support of Amendment 01.

Sims stated his opposition to Amendment 01. He said city staff had identified a need and he felt that fewer parking spaces seemed to either penalize the employees or patients of medical clinics.

The motion to adopt Amendment 01 to Ordinance 21-18 received a roll call vote of Ayes: 1 (Volan), Nays: 8, Abstain: 0. FAILED

Vote to adopt Amendment 01 to Ordinance 21-18 [10:14 pm]

There were no questions from council.

Council comment:

There were no questions from the public.

Public comment:

There were no council comments.

Council comment:

The motion to adopt Ordinance 21-18 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-18 [10:17 pm]

Flaherty moved and it was seconded that Ordinance 21-22 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Ordinance 21-22 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Removal of Residential Estate (RE) and Amendment to Residential Large Lot (R1) Zoning Districts Set Forth in BMC 20.02, 20.03, 20.04, 20.05, 20.06, 20.07

Flaherty moved and it was seconded that Ordinance 21-22 be adopted. Robling presented the legislation.

Council comment:

There were no council questions.

There were no questions from the public.

Public comment:

There were no council comments.

Council comment:

The motion to adopt Ordinance 21-22 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-22 [10:22 pm]

LEGISLATION FOR FIRST READING [10:23 pm]

Flaherty moved and it was seconded that Ordinance 21-26 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

Ordinance 21-26- To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles And Traffic" - Re: Amending Chapter 15.37 (Residential Neighborhood Permit Parking) to add a penalty for using a residential neighborhood parking permit in an unauthorized manner; Section 15.37.080 (Proof of permit purchase required) to add a penalty for not displaying a neighborhood parking or visitor permit when parked in a residential neighborhood zone and adding that penalty to the list of Class G traffic violations; Section 15.37.100 (Replacement of permit) to require permit holders to report stolen permits to the police before receiving a free replacement; and Section 15.48.010 (General Provisions) to require people who have their cars towed after they have accumulated six or more unpaid parking citations to pay their unpaid citations before their car will be released to them

Sims referred Ordinance 21-26 to the Committee of the Whole to meet on April 28, 2021 at 6:30pm.

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT

Volan moved and it was seconded to cancel the work session scheduled for Friday, April 23. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

COUNCIL SCHEDULE [10:27pm]

Stephen Lucas reported that the Budget Advance meeting set for Tuesday, April 27, would be repurposed to hear a report regarding American Rescue Plan Act (ARPA) funds that the City might be receiving. The administration suggested that the Budget Advance meeting be moved to sometime in early June. Lucas said this would not require council action.

Sims asked for the time of the meeting.

Lucas said it would be held at 6 pm.

Flaherty moved and it was seconded to adjourn. The motion was approved by voice vote.

ADJOURNMENT [10:30pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ___ day of _____, 2022.

APPROVE:

ATTEST:

Susan Sandberg, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

For Approval

In Bloomington, Indiana on Wednesday, September 01, 2021 at 6:30pm, Council President Jim Sims presided over a Regular Session of the Common Council. This meeting was conducted electronically via Zoom.

COMMON COUNCIL
REGULAR SESSION
September 01, 2021

Councilmembers present via Zoom: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [6:33pm]

Flaherty moved and it was seconded to approve the minutes of September 20, October 21, November 04, and November 18, 2020. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES [6:37pm]

Sgambelluri announced her upcoming constituent meeting.

REPORTS

Piedmont-Smith announced her upcoming constituent meeting.

- COUNCIL MEMBERS [6:37pm]

Rollo announced his constituent meeting co-hosted with Sandberg.

Rosenbarger announced her upcoming constituent meeting.

Ryne Shadday, Chair of the Human Rights Commission (HRC), presented the HRC Annual Report and the 2020 award recipient, Cindy Stone.

- The MAYOR AND CITY OFFICES [6:41pm]

There were no council committee reports.

- COUNCIL COMMITTEES [6:54pm]

Jim Shelton spoke about the Court Appointed Special Advocates (CASA). He highlighted the upcoming trainings and provided details.

- PUBLIC [6:55pm]

There were no appointments to boards and commissions.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:00pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:02pm]

Flaherty moved and it was seconded that Resolution 21-26 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Resolution 21-26 - To Declare Support for the Global Abolition of Nuclear Weapons and the Back from the Brink Campaign [7:02pm]

Flaherty moved and it was seconded that Resolution 21-26 be adopted.

Piedmont-Smith presented Resolution 21-26 and highlighted the problems with nuclear war, solutions, "back from the brink" demands, and Bloomington's role. She thanked David Keppel and the Bloomington Peace Action Coalition (BPAC).

Flaherty thanked his cosponsors, local activists, and staff for their work on Resolution 21-26. He described recent nuclear threats, the destabilization affiliated with the climate crisis, and urged the council to support the legislation.

Rollo also thanked his cosponsors, local activists, and staff for their efforts in drafting Resolution 21-26. He highlighted some historical threats of nuclear war, as well as current alarms including nuclear war occurring by accident.

Resolution 21-26 (cont'd)

Piedmont-Smith mentioned that David Boulevard of the BPAC had created a longer slide show that would be shared with council and the public

There were no council questions.

Council questions:

David Keppel, Spokesperson for BPAC, thanked the council for their work and commented on the current climate chaos and political turbulence. He said it was too dangerous to have hair-trigger nuclear weapons and provided information and reasons for supporting Resolution 21-26.

Public comment:

Margaret Steiner said that the greatest existential threat was the use of nuclear weapons. She urged the council to pass Resolution 21-26.

Margaret Squires commented on the threat of nuclear war on Bloomington since it was likely on a strike list. She spoke in favor of Resolution 21-26.

Volan thanked the cosponsors of Resolution 21-26 and stated that he would support it.

Council comments:

Rollo referenced a recent article in the Washington Post regarding the United States' nuclear posture that illustrated the current, and extreme danger.

Piedmont-Smith thanked Mayor John Hamilton for signing the Mayor's for Peace declaration, as well as Back from the Brink and his support for the abolition of nuclear weapons.

Sims thanked Hamilton for his support for the Mayors for Peace declaration and Back from the Brink. He also thanked the sponsors and he believed that the other council members also strongly supported Resolution 21-26.

The motion to adopt Resolution 21-26 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 21-26 [7:26pm]

Sims stated that a copy of Resolution 21-26 would be sent to state and federal representatives.

Piedmont-Smith clarified that the legislation would only be sent to the federal delegations.

Flaherty moved and it was seconded that Ordinance 21-33 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 6, Nays: 0, Abstain: 1.

Ordinance 21-33 - Final Approval to Issue Economic Development Revenue Notes and Lend the Proceeds for the Renovation of Affordable Housing - Re: Crestmont Community, 1002 N. Summit Street, Bloomington, Indiana (Bloomington Rad II, LP, Petitioner) [7:28pm]

Flaherty moved and it was seconded that Ordinance 21-33 be adopted.

Larry Allen, Assistant City Attorney in the Legal department, highlighted the procedural mechanisms and referenced other similar projects. He discussed the statute, the Economic Development Commission (EDC) hearing, and the unanimous recommendation of the passing of Ordinance 21-33. He mentioned that Amber Skoby from the Bloomington Housing Authority (BHA) and Chris Cashman, attorney from Ice Miller, were available for questions.

Ordinance 21-33 (cont'd)

Chris Cashman stated that he served as bond counsel for the project.

Amber Skoby, Executive Director of BHA, commented on utilities and energy efficiency in the project and said there would be solar panels installed on thirty-five buildings with south-facing roofs. Utilities would be paid by the project and not tenants to promote housing security. Skoby stated that energy-efficient heating/cooling systems and on demand water heating would be installed.

Council questions:

Public comment:

There were no council questions.

Council comment:

Stephen Lucas, Council Attorney, read a Zoom chat message from Dave Askins from the BSquare Beacon asking if the security cameras were part of the Rental Assistance Demonstration (RAD) project.

Smith thanked everyone involved in the project for their work.

Sandberg asked about the security cameras being part of RAD.

Skoby stated it was not part of RAD and was funded by a safety and security grant via the Housing and Urban Development (HUD) and also included street lighting.

Piedmont-Smith also thanked Skoby and those involved in the project. The units were overdue for renovation and the energy efficiency improvements were ideal.

Vote to adopt Ordinance 21-33
[7:41pm]

Sims thanked the team for the work they do. He was pleased that Section 3 funds had been used. He highlighted the importance of having assisted women- and minority-owned businesses in the project.

The motion to adopt Ordinance 21-33 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-32 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 7, Nays: 0, Abstain: 0.

Ordinance 21-32 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District Re: The Thomas Smith House Historic District [7:42pm]

Flaherty moved and it was seconded to that Ordinance 21-32 be adopted.

John Zody, Director of the Housing and Neighborhood Development department, stated that he and Gloria Colom Braña were available to answer any questions.

There were no council questions.

Council questions:

There were no public comments:

Public comment:

Sims discussed the importance of the social and historical value of the house, which was a stop on the Underground Railroad.

Council comments:

The motion to adopt Ordinance 21-32 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-32 [7:48pm]

Flaherty moved and it was seconded that Ordinance 21-31 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 5, Nays: 0, Abstain: 2.

Ordinance 21-31 - To Amend the City of Bloomington Zoning Maps by Amending the District Ordinance and Preliminary Plan of the Curry PUD – Re: 105 S. Pete Ellis Drive (Curry Urban Properties, Petitioner) [7:49pm]

Flaherty moved and it was seconded to that Ordinance 21-31 be adopted.

Jackie Scanlan, Development Services Manager of the Planning and Transportation department, presented Ordinance 21-31 and summarized the amendment to the Planned Unit Development (PUD), including the request for three bedroom units and a change in the design. Additionally, development standard changes included setbacks, four-story height, and dwelling units per acre. She provided additional information including recommendations.

Rollo asked for clarification on traffic improvements.

Council questions:

Scanlan explained that the main goal of a traffic study was to see if a traffic light was warranted at the location.

Rollo asked if the entrance/exit of the parking garage was on Pete Ellis Drive.

Scanlan said it was on Longview.

Rollo asked where the traffic light might be.

Scanlan stated that it would be at the intersection of Pete Ellis and Longview.

Smith asked Scanlan to discuss Condition 11 and the Solar Reflectance Index (SRI) requirements.

Scanlan responded that it was part of the code requirement for cool and vegetative roofs which had to do with the reflectivity of the material to reduce heat effect. White roofing offset the heat effect and cooled the building.

Piedmont-Smith asked if there was a change to the workforce housing agreement.

Scanlan explained that it was the same agreement.

Flaherty moved and it was seconded to adopt Reasonable Condition 01B to Ordinance 21-31.

Reasonable Condition 01B to Ordinance 21-31

Reasonable Condition 01B Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty. It requires the developer to record a written commitment to cover at least 70% of the total roof surface with “cool” or vegetative material as set forth in the sustainability provisions of the UDO effective April 18, 2020 (Ordinance 19-24).

Flaherty presented Reasonable Condition 01B and provided reasoning for it.

Tom Jason stated that the petitioner was in agreement with Reasonable Condition 01B.

There were no public comments.

Public comment:

Flaherty thanked the petitioner for their willingness to work to meet the condition in the updated design, since some greenspace would be lost. He hoped it would be something that would continue with developments.

Reasonable Condition 01B to Ordinance 21-31 (cont'd)

Piedmont-Smith thanked Flaherty for Reasonable Condition 01B since it addressed councilmembers' concerns regarding the roofing.

The motion to adopt Reasonable Condition 01B to Ordinance 21-31 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Reasonable Condition 01B to Ordinance 21-31 [8:07pm]

Steve Akers appreciated that the workforce housing agreement remained and asked for clarification regarding the warranting of a traffic light. He commented on the exclusion of solar panels.

Public comment:

Piedmont-Smith asked about the solar panels because she believed that was included in what was initially approved in 2020.

Council comments:

Scanlan responded that all previous reasonable conditions carried forward. She did not recall that solar panels were a requirement but that it had been discussed and that it was potentially to be a part of Reasonable Condition 04.

Piedmont-Smith referenced a brief summary of reasonable conditions on Ordinance 21-31 including Reasonable Condition 06 requiring solar panels, Electric Vehicle charging stations, and design for retrofitting parking garage.

Scanlan confirmed Piedmont-Smith was correct and that in the current petition, that was listed under Number Thirteen from the Plan Commission's conditions. She explained the requirement.

Rollo asked how the traffic study would occur and how the need for a traffic light would be determined.

Scanlan said that it would look at the specific use, like typical trips of traffic per day based on density. There were thresholds that staff would use to see if a traffic light would be necessary. Other traffic studies had been done around the new hospital which was near the project. The information from traffic studies would be done by the petitioner and engineering staff would analyze all of the data to determine if a light was required.

Rollo asked if traffic counts would be used and if baseline data would be available.

Scanlan confirmed it would and explained that the study would have to be done before the building was built. She provided additional information including history of data.

Rollo asked if a traffic light would then also include pedestrian crosswalks and lights.

Scanlan affirmed that was correct.

Flaherty stated that a traffic light would be paid for by the petitioner unless an alternative arrangement was made with the city. He clarified that traffic was usually caused by sprawl rather than dense living like the petitioner was proposing. He asked for further clarification on who would pay for the traffic light.

Scanlan stated that the reason it was added as a condition was to address the concerns pertaining to traffic. She explained different scenarios that could occur and other contributing factors.

Smith thanked Rollo and Flaherty for their questions as he was considering those concerns too. He believed that a traffic light was going to be needed at the site.

Flaherty commented that the development that had three hundred and forty one bedrooms, in a transit-friendly, walkable, and bike-able area, was a sustainable way to live as opposed to sprawled developments and detached, single family homes in suburban subdivisions. The ability to live in the city, instead of commuting, reduced energy and carbon footprint. He considered how much land was used in surrounding neighborhoods of the project to house three hundred and forty one people as opposed to the parcel in the petition. He also commented on affordability, market rate development, and incentives. He pointed out that affordability and incentives could potentially raise the cost of moderate income housing a bit. Flaherty commented on the former K-Mart site. He was pleased with many aspects in Ordinance 21-31 including the updates. He thanked all who worked on the petition.

Ordinance 21-31 as amended
(cont'd)

Rollo asked about the longevity of the structure and if staff or the county, had questioned the petitioner about it.

Scanlan stated that staff had not.

Rollo said that part of something being sustainable included how long the structure would last. He felt that the former K-Mart site was a missed opportunity. With so many moving parts, like with the proposed development, a city architect needed to look at the aesthetics. It was difficult to determine the details in the review process. Rollo applauded the local traffic study, but a lot was happening in that area and a regional traffic study was needed. He encouraged staff to take that on.

Volan stated that a transit study was also necessary as a holistic consideration, and not just a parking or traffic study. He also commented on parking in the city.

Sims thanked Scanlan, the petitioner, the Plan Commission, and council. It was a successful, collaborative approach. He agreed that a transit study would be ideal, and suggested that the councilmember on the Plan Commission ask petitioners about the longevity of buildings.

The motion to adopt Ordinance 21-31 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-31 as amended [8:33pm]

LEGISLATION FOR FIRST
READING [8:35 pm]

Flaherty moved and it was seconded that Ordinance 21-34 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read Ordinance 21-34 by title and synopsis only.

Ordinance 21-34 - To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending BMC 2.04.420 (Motion to Adjourn or Recess) to Place Greater Limits on the Duration of Council Meetings That They May End at a Reasonable Hour [8:35pm]

Sims referred Ordinance 21-34 to the Committee of the Whole to meet on September 8, 2021 at 6:30pm.

ADDITIONAL PUBLIC COMMENT
[8:37pm]

There was no additional public comment.

Lucas reviewed the upcoming council schedule.

COUNCIL SCHEDULE [8:37pm]

Sims announced a Special Session of the council to meet on September 8, 2021 at 7:45pm. There was brief council discussion.

Rollo moved and it was seconded to adjourn the meeting. Sims adjourned the meeting.

ADJOURNMENT [8:41pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ___ day of _____, 2023.

APPROVE:

ATTEST:

Sue Sgambelluri, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

For Approval



MEMO FROM COUNCIL OFFICE ON:

Ordinance 23-02 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” Re: Transfer from Chapter 2.21 (Department of Law) to Chapter 2.23 (Community and Family Resources Department)

Synopsis

This ordinance amends Title 2 (“Administration and Personnel”) of the Bloomington Municipal Code (“BMC”) and comes forth at the request of the City Legal Department and of the Community and Family Resources Department. The ordinance moves the human rights ordinance from Chapter 2.21 of the BMC, “Department of Law” to Chapter 2.23 of the BMC, “Community and Family Resources Department;” and makes numerous technical changes for the sake of consistency and currentness.

Relevant Materials

- [Ordinance 23-02](#)
- Joint staff memo from Beth Cate, Corporation Counsel, and Beverly Calendar-Anderson, CFRD Director
- Chapter 2.23 as Modified by the Proposed [Ordinance 23-02](#) (Redline)

Summary

[Ordinance 23-02](#) amends Title 2 of the Bloomington Municipal Code to shift the rights and responsibilities of the Human Rights Commission from the Legal Department to the Community and Family Resources Department (CFRD). The changes come at the request of the Legal Department and CFRD.

The administration originally intended this ordinance to also reflect the creation of a joint city-county Human Rights Commission with Monroe County, a proposal that was previewed at a Council Work Session on November 2, 2022. However, the City and County are still in the process of discussing the details of this arrangement. A proposal on this topic may come to Council at a later date, in the form of a resolution to approve a city-county interlocal agreement and an ordinance to further amend Title 2.

History:

The City of Bloomington Human Rights Commission (Commission) was first established as the Human Relations Commission by [Ordinance 65-02](#), amended by [Ordinance 68-15](#), and was later renamed and reorganized by both [Ordinance 70-37](#) and [Ordinance 83-6](#), the latter of which both created the City’s Department of Law and housed the Human Rights Commission within this Department under Bloomington Municipal Code (BMC) Sections [2.21.000](#) & [2.21.010](#).



Amendments to Code:

This ordinance changes the Bloomington Municipal Code in two ways: (1) the code itself moves from 2.21 (Legal) to 2.23 (CFRD) and specifies the continued involvement of the Legal Department where necessary; and (2) makes stylistic and grammatical changes.

Language to Effectuate Movement from Legal Department to CFRD:

The ordinance proposes updates to the Municipal Code to reflect the movement of the Commission from the Department of Law to CFRD. Legal Department oversight will still be required to accomplish some of the legal tasks specific to the Commission's duties, like determining whether probable cause exists to believe that discrimination has occurred. This type of oversight will be similar to that given to all City boards and commissions. The rest of the Commission's duties that are non-legal in nature will be overseen by CFRD. The bulk of the ordinance simply moves currently existing code from one Chapter within Title 2 to another.

Stylistic/Grammatical Changes:

Additional proposed changes to the code are also stylistic and grammatical in nature, including insertion of Oxford commas; capitalization of city, county, and state authorities; and alphabetization of definitions. Other, more significant stylistic changes that should not affect the substance of the code include the use of more inclusive pronoun language ("they" and "their" instead of "he" and "his"); the reorganization and separation of various sections for improved clarity and comprehension; and the deletion of legally outdated language—in the most pertinent example, the word "transvestite," among several other outdated identity terms, was removed from the list of excluded categories from the definition of "disability" and replaced with generalized language that the word "disability" does not include categories excluded by state or federal law. A redline is included in the packet materials to highlight all of these changes.

Contact

Beth Cate, Corporation Counsel, beth.cate@bloomington.in.gov, 812-349-3426

Beverly Calender-Anderson, CFRD Director, andersb@bloomington.in.gov, 812-349-3430

Michael Shermis, Special Projects Coordinator, shermism@bloomington.in.gov, 812-349-3471

ORDINANCE 23-02

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
"ADMINISTRATION AND PERSONNEL"**

Re: Transfer from Chapter 2.21 (Department of Law) to Chapter 2.23 (Community and Family Resources Department)

WHEREAS, the City of Bloomington created the Bloomington Human Rights Commission through adoption of Ordinance 70-37 in 1970; and

WHEREAS, the City wishes to transfer the educational activities and primary investigative work of the Human Rights Commission from the Legal Department to the Community and Family Resources Department, to expand human rights education and community engagement on human rights and integrate it with other CFRD activities while retaining appropriate legal support for the Commission's functions; and

WHEREAS, the City wishes to correct various typos and make several stylistic changes to the code governing the Human Rights Commission for the sake of clarity, consistency, and currency;

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

SECTION 1. The following sections of the Bloomington Municipal Code shall be deleted in their entirety from Chapter 2.21, entitled "Department of Law" without any replacement:

Section 2.21.010, entitled "Human Rights Commission — Establishment;"
Section 2.21.020, entitled "Public policy and purpose;"
Section 2.21.030, entitled "Definitions;"
Section 2.21.040, entitled "Appointments;"
Section 2.21.050, entitled "Qualifications;"
Section 2.21.060, entitled "Rules and regulations;"
Section 2.21.070, entitled "Powers and duties;"
Section 2.21.080, entitled "Educational programs;"
Section 2.21.090, entitled "Relationship with Civil Rights Commission;"
Section 2.21.095, entitled "Housing discrimination — Definitions;"
Section 2.21.097, entitled "Housing discrimination — Exemptions;"
Section 2.21.098, entitled "Hate crime statistics;" and
Section 2.21.099, entitled "Complaints of housing status discrimination."

SECTION 2. The following sections are hereby added to Chapter 2.23 of the Bloomington Municipal Code, entitled "Community and Family Resources Department," which shall read as follows and be reflected in the table of contents for this chapter:

2.23.100 Human Rights Commission — Establishment.

There is hereby established within the Community and Family Resources Department pursuant to Section 2.23.110.

2.23.110 Public policy and purpose.

It is the public policy of the City that it does not discriminate in the provision or implementation of its programs or services on the basis of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran. It is the public policy of the City to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property, including, but not limited to: housing, and to eliminate segregation or separation based on race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

It is also against the public policy of the City and a discriminatory practice for an employer to discriminate against a prospective employee on the basis of status of a veteran by:

(1) Refusing to employ an applicant for employment on the basis that the applicant is a veteran of the armed forces of the United States; or

(2) Refusing to employ an applicant for employment on the basis that the applicant is a member of the Indiana National Guard or member of a reserve component.

The practice of denying these rights to persons because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the City, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is the purpose of this section.

It is also the public policy of the City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

It is hereby declared to be contrary to the public policy of the City and an unlawful practice to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, status as a veteran, or familial status.

It is also the public policy of the City of Bloomington to prohibit discrimination against or harassment of individuals, including employees, independent contractors, volunteers, interns, and any others doing sanctioned work for the City. Any such individual who believes she, he, or they have been discriminated against or harassed by a City employee has a right to bring a complaint to the attention of City officials, who will investigate the complaint promptly and take appropriate action. All contracts with the City shall include a clause explaining this right.

2.23.120 Definitions.

As used in this chapter unless the context clearly requires otherwise:

(1) "Acquisition of real property" means the sale, rental, lease, sublease, construction or financing, including negotiations and other activities or procedures incident thereto, of:

(A) Any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters;

(B) Any building, structure, or portion thereof, or any improved or unimproved land utilized, or designed or intended for utilization, for business, commercial, or industrial or agricultural purposes; or

(C) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(2) "Affirmative action" means those acts which the commission deems necessary to assure compliance with the City human rights ordinance.

(3) "Ancestry" refers to both the country from which a person's ancestors came and the citizenship of a person's ancestors.

(4) "Commission" means the Human Rights Commission hereinafter created.

(5) "Commission attorney" means the City attorney, or such assistants of the City attorney as may be assigned to the commission, or such other attorney as may be engaged by the commission or voluntarily lend their services to the commission.

(6) “Compensation” or “compensatory damages” means actual damages, except that damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions, or fringe benefits.

(7) “Complainant” means any individual charging on their own behalf to have been personally aggrieved by a discriminatory practice or the commission attorney, a member of the Human Rights Commission, or the commission director charging that a discriminatory practice was committed against a person, other than themselves, or a class of people in order to vindicate the public policy of the State as defined in Indiana Code 22-9-1-2, and the public policy of the City as defined in Section 2.23.110.

(8) “Complaint” means any written grievance filed by a complainant with the commission director. The original shall be signed and verified before a notary public or another person duly authorized by law to administer oaths and take acknowledgments. Notarial service shall be furnished by the City without charge.

(9) “Consent agreement” means a formal agreement entered into in lieu of adjudication.

(10) “Disability” means with respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person’s major life activities; (ii) a record of having an impairment described in subdivision (i) above; or (iii) being regarded as having an impairment described in subdivision (i) above. “Disability” shall not include circumstances exempted from the definition of “disability” or “disabled” under federal and state law.

(11) “Discriminatory practice” means the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran; or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran or the promotion or assistance of segregation or separation in any manner on the basis of the above categories; provided, it shall not be a discriminatory practice for an employment agency to refer for employment any individual, or a joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in such program on the basis of their religion, sex, or national origin in those particular instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; further provided, that it shall not be a discriminatory practice for a person to refuse to rent for occupancy as living quarters any space in an owner-occupied multiple dwelling structure on the basis of sex.

(12) “Educational institution” includes all public and private schools and training centers, except that the term does not include any state agency as defined in subsection (27) of this section.

(13) “Employee” includes any person employed by another for wages or salary; provided, that it shall not include any individual employed by their parents, spouse, or child.

(14) “Employer” includes any person employing six or more employees within the City, except that the term does not include a not-for-profit corporation or association organized exclusively for fraternal or religious purposes; nor any school, educational or charitable religious institution owned or conducted by, or affiliated with, a church or religious institution; nor any exclusively social club, corporation, or association that is not organized for profit; nor the City or any department thereof; nor any State agency as defined in subsection (27) of this section.

(15) “Employment agency” includes any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(16) “Gender identity” means a person’s actual or perceived gender-related attributes, self-image, appearance, expression, or behavior, whether or not such characteristics differ from those traditionally associated with the person’s assigned sex at birth.

(17) “Housing status” means the type of housing in which an individual resides, whether publicly or privately owned, or the status of not having a fixed residence, whether actual or perceived.

(18) “Labor organization” includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for formal mutual aid or protection in relation to employment.

(19) “Lending institution” means any bank, building or loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in making or guaranteeing loans secured by real estate or an interest therein.

(20) “National origin” refers to both the country from which a person came and the citizenship of the person.

(21) “Owner-occupied multiple-dwelling structure” includes only structures in which the owner of the premises actually resides, containing not more than three separate dwelling units, apartments, rooms, or portions of the building designed or intended for occupancy as living quarters.

(22) “Person” includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, cooperatives, legal representatives, trustees in bankruptcy, trustees, receivers, any subdivision of the state, and other organized groups of persons.

(23) “Public accommodation” means any establishment which offers its services, facilities, or goods to the general public.

(24) “Respondent” means one or more persons against whom a complaint is filed under this chapter, and whom the complainant alleges has committed or is committing a discriminatory practice.

(25) “Sex,” as it is applied to segregation or separation in this chapter, shall apply to all types of employment, education, public accommodations, and housing; provided, that it shall not be a discriminatory practice to maintain separate restrooms or dressing rooms; and that it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its members or to classify or refer for employment any individual, or for any employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any such program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and that it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one sex only.

(26) “Sexual orientation” means an individual’s identity or practice as a lesbian woman, gay male, bisexual person, or heterosexual person, whether actual or perceived.

(27) “State agency” means every office, officer, board, commission, council, department, division, bureau, committee, fund, agency, and without limitation by reason any enumeration herein, every other instrumentality of the state of Indiana, every hospital, every penal institution, and every other institutional enterprise and activity of the state of Indiana, wherever located; the universities supported in whole or in part by state funds; and the judicial department of the state of Indiana. “State agency” does not mean counties, county departments of public welfare, cities, towns, townships, school cities, school towns, school townships, school districts or other municipal corporations, political subdivisions, or units of local government.

(28) “Veteran” means:

- (A) A veteran of the armed forces of the United States;
- (B) A member of the Indiana National Guard; or
- (C) A member of a reserve component.

2.23.130 Appointments.

The seven members of the Human Rights Commission shall be appointed four by the Mayor, three by the Common Council.

2.23.140 Qualifications.

Members of the Human Rights Commission shall be representative of the community and shall be City residents.

2.23.150 Rules and regulations.

The Commission may adopt rules and regulations, both procedural and substantive, to effectuate the purpose of this chapter and to make more specific the procedures deemed necessary for orderly and equitable compliance with this section.

New rules, regulations, and guidelines may be adopted by the Commission after a public hearing by a majority vote of the Commission.

The rules, regulations, and guidelines of the Commission shall be available to the public at the office of the Community and Family Resources Department.

2.23.160 Powers and duties.

The commission shall have the following powers and duties:

(1) To create subcommittees and advisory committees as in its judgment will aid in effectuating the purpose of this section.

(2) To issue such publications and such results of investigation and research as in its judgment will tend to minimize or eliminate discrimination because of race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, veteran status, or familial status.

(3) To investigate complaints filed with the commission. Complaints of discrimination shall be received and investigated by the commission director. A complaint shall be sufficiently complete so as to reflect properly the name and address and/or other contact information of the complainant; the name and address of the respondent against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates and places of the alleged discriminatory practice; if it is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred; and a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action. No complaint shall be valid unless filed within one-hundred-eighty (180) days from the occurrence of the alleged discriminatory practice, or from the date of the termination of a published and meaningful grievance procedure provided by a respondent employer or labor union; provided, that complaints filed only with the Equal Employment Opportunity Commission shall be deemed to have been filed simultaneously with the Human Rights Commission for purposes of measuring the one-hundred-eighty (180) day limitation, as long as the complaint is otherwise within the commission's jurisdiction; provided, further, that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the Human Rights Commission concerning any of the matters alleged in such complaint; provided, further, that the commission shall have no jurisdiction over the State or any of its agencies, or over the City or any of its departments. After a complaint is scheduled for a public hearing, the commission shall make reasonable efforts to conciliate all issues raised during the investigation of the case.

(4) To determine jointly with an attorney from the legal department whether probable cause exists to believe that discrimination in violation of the Bloomington Municipal Code Section 2.23.100 et seq. occurred. A probable cause commissioner shall be assigned to each complaint filed on the date it is filed and shall participate jointly with the director and assist in the investigation of the complaint. The director, after consultation with the attorney from the legal department, shall make a written recommendation of cause or no cause setting forth relevant facts and applicable legal authority to submit it to the designated probable cause commissioner. The commissioner shall review the director and legal department's joint recommended finding, and shall make a written determination of cause or no cause setting forth the relevant facts and applicable law. The probable cause

commissioner shall follow applicable legal standards set forth by the director and attorney in making the determination.

(5) To schedule complaints for public hearings upon a determination of probable cause. When the recommendation after the investigation is no probable cause, the complainant shall be furnished a copy of the findings of no probable cause and recommendation and shall be given ten days to make a written request, with the reasons therefore, to the chairperson of the commission for review of the finding. Upon the receipt of the request for review, the chairperson or designee shall review the request and the decision of the reviewing commissioner regarding probable cause shall be final. Whenever a commissioner reviews a decision at the request of a complainant, such commissioner shall be disqualified from any further participating in that case, except as a witness at a public hearing on the complaint.

(6) To prevent any person from discharging, expelling, or otherwise discriminating against any other person because they filed a complaint or testified in any hearing before the commission or in any way assisted in any matter under investigation.

(7) To issue a temporary emergency order against any person requiring such person to do an act preserving the possibility of a remedy for a complaint or to refrain from doing an act damaging the possibility of a remedy during the investigation of the complaint; provided, however:

(A) That no emergency order shall be issued unless a time and place for hearing on the temporary order is designated in the order;

(B) That the hearing on the temporary emergency order shall be held within ten days following the issuance of the temporary order, unless contained by the commission at the request of the respondent. At such hearing, the complainant shall show that a failure to continue the temporary order would damage their remedy. The commission shall thereupon weigh the comparative hardship to the complainant and respondent and issue a decision continuing or terminating the temporary emergency order, pending final disposition of the complaint. The respondent may waive said hearing without prejudice to the defense of the matters charged in the complaint, in which case the temporary order shall remain in effect pending final disposition of the complaint;

(C) The commission may by rule provide for issuance of its temporary order by a majority of the commission, and it may compel compliance with any such temporary order by bringing in Monroe Circuit Court or other appropriate court for prohibitory or mandatory injunction showing that such person is subject to the court's jurisdiction, resides or transacts business within the county in which the proceeding is brought, and that such an injunction is necessary to protect the complainant's rights under this chapter until their complaint is resolved through conciliation or public hearing.

(8) To reduce the terms of conciliation agreed to by the parties in writing, to be called a consent agreement, which the parties and a majority of the commissioners shall sign. When so signed, the consent agreement shall have the same effect as a cease and desist order pursuant to subsection (10) of this section. If the commission determines that a party to the consent agreement is not complying with it, the commission may obtain enforcement of the consent agreement in a Monroe Circuit Court or other appropriate court upon showing that the party is not complying with the consent agreement, and the party is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(9) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take testimony of any person under oath and require the production for examination of all books and papers relating to any matter under investigation or in question before the commission. The commission may make rules governing the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena or temporary emergency order issued pursuant to this section shall be a breach of this chapter and such person shall be liable to a penalty therefore, if adjudged by the Monroe Circuit Court or

other appropriate court, of the payment of a penalty not to exceed three hundred dollars. Each penalty shall be deposited in the general fund of the City; provided, however, that the payment of such a penalty by a party shall not impair the commission's ability to grant affirmative relief and compensatory damages to the complainant, should justice so require.

(10) To state its findings of fact after hearing which statement shall be made in a written opinion containing both the findings of fact and the principles of law applied. All written opinions shall be compiled and maintained as public record and, in making decisions, the commission shall give due consideration to its prior decisions which may be applicable. If a majority of the commissioners who hear the case finds that a person has engaged in unlawful discriminatory practice, the commission shall cause to be served on the person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action necessary to effectuate the purposes of this section.

2.23.170 Duties upon a finding of discrimination.

If unlawful discrimination is found in the area of employment, an order shall be issued requiring the respondent to take such affirmative action the commission may deem necessary to assure justice, including but not limited to hiring, reinstatement, and upgrading of employees or people deprived of employment, with or without compensatory damages to which the complainants would have been entitled had they not been deprived of equal opportunity, meaning wages, salary, or commissions. When an employer has been found to have committed a discriminatory practice in employment by failure to employ an applicant on the basis that the applicant is a veteran, the order to restore the veteran's losses may include placing the veteran in the employment position with the employer for which the veteran applied.

If unlawful discrimination is found in the area of housing or acquisition of real property, an order may be issued requiring a respondent to take affirmative action, including but not limited to renting, selling, or leasing to a person deprived of equal opportunity. Compensation for the denial of equal opportunity shall be allowed within the discretion of the commission.

If unlawful discrimination is found in the area of public accommodation, an order shall be issued requiring respondent to take affirmative action, including but not limited to providing services, goods, or access to property, reinstatement of membership, reinstatement of membership, posting of notice that a facility is a public accommodation, with or without compensatory damages for a complainant's being denied equal opportunity.

If unlawful discrimination is found in the area of education, an order may be issued requiring a respondent to take affirmative action, including, but not limited to, a review and revision of school boundaries, revision of teaching aids and materials, human relations training for personnel recruitment of minority people for professional staff, with or without compensatory damages to which the complainant would have been entitled except for the denial of equal opportunity.

If upon all the evidence, the commission finds that a person has not engaged in any such unlawful practice or violation of this section, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to such person.

Judicial review of such cease and desist order, or other final order, or other affirmative action or damages as referred to in this chapter may be obtained by filing in the Monroe Circuit Court or other appropriate court. The scope of review shall be in accordance with the provisions set out in Indiana Code 4-21.5-1 et seq. If no proceeding to obtain judicial review is instituted within thirty calendar days from the receipt of notice by a person that such order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of such order in the Monroe Circuit Court or other appropriate court upon showing that such person is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought, or may request the commission attorney or attorney representing the complainant to seek enforcement.

2.23.180 Affirmative Action by City Contractors.

All contractors doing business with the City, except those specifically exempted by regulations promulgated by the human rights commission and approved by the common council, shall take affirmative action to ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran. Affirmative action shall include but not be limited to the issuance of a statement of policy regarding equal employment and its communication to all personnel involved in recruitment, hiring, training, assignment, and promotion; notification of all employment sources of company policy and active efforts to review the qualifications of all applicants regardless of religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran; recruiting in the minority group community for employees; and establishing an internal system of reporting concerning equal employment, recruiting, hiring, training, upgrading, and the like.

Each such contractor shall submit to the human rights commission a written proposal concerning the affirmative action it proposes to take, which proposal must be approved prior to its entering a contract with the City. Said proposal shall be limited to measures similar to those which the City is required to take in its affirmative action with regard to its own employees, as established by the mayor's office and as specified by resolution of the common council.

Each such contractor shall also submit to the human rights commission its policy prohibiting harassment in the workplace. The policy must include a definition of harassment, the name or title of the individual(s) designated to receive and investigate complaints, and a statement that the contractor will not retaliate against an employee for complaining about harassment.

All contracting agencies of the City or any department thereof shall include in all contracts hereafter negotiated or renegotiated by them a provision obliging the contractor to take affirmative action to ensure that the applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran.

Such contracts shall provide further that breach of the obligation to take affirmative action shall be a material breach of the contract for which the City shall be entitled, at its option:

- (A) To cancel, terminate, or suspend the contract in whole or in part;
- (B) To declare the contractor or vendor ineligible for further City contracts;
- (C) To recover liquidated damages of a specified sum.

2.23.190 Educational programs.

In order to eliminate prejudice among the various groups in the City and to further goodwill among such groups, the commission may prepare educational programs designed to emphasize and remedy the denial of equal opportunity because of a person's religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran, its harmful effects, and its incompatibility with the principles of equality.

2.23.200 Relationship with Civil Rights Commission.

The commission may enter into a working relationship with the Indiana Civil Rights Commission to perpetuate the mutual objectives set forth in this chapter and the Indiana Civil Rights Law.

2.23.210 Housing discrimination.

This section applies only to cases alleging housing discrimination.

(a) Definitions.

- (1) "Familial status" means one or more individuals (who have not obtained the age of eighteen years) being domiciled with a parent or another person having legal custody of

such individual(s) or the written permission of such parent or other person. The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(2) “Dwelling” means any building, structure, or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building structure or part of a building or structure that is occupied as, or designed or intended for occupancy by one or more families.

(3) “To rent” includes to lease, to sublease, to let or otherwise grant for consideration the right to occupy the premises not owned by the occupant.

(4) “Discriminatory housing practice” includes: (A) practices prohibited by Section 2.23.120(11) of this code, (B) refusing to rent to an individual or family on the basis of familial status, (C) refusing to allow a tenant with a disability, as defined by Section 2.23.120(10), to make reasonable modifications of the rented premises at the tenant’s expense if such modifications are necessary to afford the tenant full enjoyment of the premises. The landlord may, where it is reasonable to do so, condition permission for the modification(s) on the tenant’s agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may require the tenant to acquire any necessary permits and to perform the modifications in a workmanlike standard. (D) Refusing to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a tenant with a disability, as that term is defined by Section 2.23.120(10), equal opportunity to use and enjoy a dwelling.

(b) Exemptions.

(1) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(2) Nothing in this section shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons. Nor shall anything in this section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(3) Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(4) Nothing in this section regarding familial status applies with respect to housing for older persons, as defined below. As used in this section, “housing for older persons” means housing:

(A) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development designed and operated to assist elderly persons (as defined in the state or federal program); or

(B) Intended for, and solely occupied by, persons sixty-two years of age or older; or

(C) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit if the following requirements are met: (i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing

opportunities for older persons; and (ii) that at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and (iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(5) Nothing in this section applies to the following:

(A) The sale or rental of a single-family house sold or rented by an owner if: (i) The owner does not own more than three single-family houses at any one time or own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of, more than three single-family houses at any one time; and (ii) The house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, agent, or salesperson licensed under state law.

(B) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

2.23.220 Hate crime statistics.

The Bloomington Human Rights Commission may collect data and issue reports on the incidence of hate crimes in the City. Hate crimes include verbal or physical abuse directed at individuals or groups because of their religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran.

2.23.230 Complaints of housing status discrimination.

In complaints of discrimination on the basis of housing status discrimination, the commission's authority shall typically be limited to voluntary investigations and voluntary mediation.

SECTION 3. If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall be in effect after its passage by the Common Council and approval of the Mayor, any required publication, and, as necessary, other promulgation in accordance with the law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

NICOLE BOLDEN, Clerk,
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 2 (“Administration and Personnel”) of the Bloomington Municipal Code (“BMC”) and comes forth at the request of the City Legal Department and of the Community and Family Resources Department. The ordinance moves the human rights ordinance from Chapter 2.21 of the BMC, “Department of Law” to Chapter 2.23 of the BMC, “Community and Family Resources Department” and makes numerous technical changes for the sake of consistency and currentness.



Memorandum

TO: Members of the City of Bloomington Common Council

FROM: Beth Cate, Corporation Counsel
Beverly Calender-Anderson, Director, Community and Family Resources Department

RE: Ordinance 23-02 moving the Human Rights Commission from the Legal Department to the Community and Family Resources Department, and making minor other updates

DATE: January 19, 2023

The Bloomington Human Rights Ordinance is currently located within the Legal Department's section of the Bloomington Municipal Code, BMC 2.21.010. The City's Human Rights Commission is currently staffed by a Human Rights Director/Assistant City Attorney and by an Administrative Assistant within the Legal Department. The Director/Attorney has historically spent about half of their time on HRC work; the Administrative Assistant has spent about 65% of their time on HRC work.

The HRC has the following central responsibilities: resolving complaints of discrimination, ensuring compliance with the Code's affirmative action requirements for City contractors, providing human rights education, and publishing annual data on hate crimes and bias incidents occurring within the City.

Resolving complaints includes speaking to individuals who feel they have been illegally discriminated against, investigating the allegations in the complaint, researching the legal and policy issues raised by the allegations, making determinations as to whether the Human Rights Ordinance was violated, and negotiating settlements. The HRC's educational activities have historically included publishing a monthly human rights newsletter, developing and maintaining the commission's website, giving talks to the community, sponsoring an annual essay/art contest for area students, and participating in the Fourth of July parade. An HRC contracts compliance officer (historically, the assistant city attorney supporting the HRC) reviews bidder affirmative action plans, and the Commission's contracts compliance committee hears appeals from contractors whose plans are found to be deficient or nonexistent.

The Legal Department and the Community and Family Resources Department agree that CFRD is a more natural home for the HRC, including the human rights director's position and the City's human rights educational and public outreach activities. We believe the better allocation of City resources involves CFRD taking the lead on human rights education and integrating that with existing programming and community engagement, and having the Legal Department focus on providing necessary legal support to investigations and Commission proceedings. CFRD already heads, and closely collaborates with the Legal Department on, the City's compliance and community engagement efforts with respect to the rights of persons living with mental or physical disabilities. The code changes proposed by Ordinance 23-02 would use this same approach with the rest of the City's human rights work under the Bloomington Municipal Code.

Accordingly, the proposed ordinance moves the Human Rights Ordinance from BMC 2.21, Department of Law, to BMC 2.23, Community and Family Resources Department. An Assistant City Attorney will continue to provide legal advice to the commission, just as city attorneys provide legal advice to all city boards and commissions, and will continue to serve as the commission's contracts compliance officer. For 2023, the Legal Department will also continue to provide Administrative Assistant support to the HRC while CFRD develops capacity to absorb those functions beginning in 2024.

Besides moving the HRC to CFRD, Ordinance 23-02 makes some minor editorial changes for clarity and consistency, moves some definitions to make the list alphabetical, and eliminates some outdated language in the definition of "disability."

As the Legal Department previously indicated to the Council, the County has approached the City to suggest creating a joint city/county HRC. Under this proposal, the City would investigate human rights complaints that arise in the unincorporated areas of the County. In return, the County would contribute substantially to the salary of the HRC staff. Because negotiations with the County have not yet concluded, Ordinance 23-02 does not include changes to create a joint Bloomington/Monroe County Human Rights Commission. We anticipate bringing a separate ordinance with those changes, and a corresponding interlocal agreement with the County, before the Council once the negotiations are concluded. The County would enact corresponding changes to its own human rights ordinance (the substantive provisions of that ordinance are identical to those of the City's Human Rights Ordinance).

CHAPTER 2.23 AS MODIFIED BY THE PROPOSED ORDINANCE 22-39 (Redline)

red underlined text = proposed additions

~~red strikethrough~~ = proposed deletions

Chapter 2.23 – COMMUNITY AND FAMILY RESOURCES DEPARTMENT

Sections:

~~2.21.010~~2.23.100 Human Rights Commission — Establishment.

There is hereby ~~created~~established within the ~~Department of Law~~Community and Family Resources Department a Human Rights Commission pursuant to ~~Section 2.21.020~~ Section 2.23.110.

~~2.21.020~~2.23.110 Public policy and purpose.

It is the policy of the Ceity that it does not discriminate in the provision or implementation of its programs and services on the basis of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran. It is the public policy of the Ceity to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property, including, but not limited to: housing, and to eliminate segregation or separation based on race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

It is also against the public policy of the City and a discriminatory practice for an employer to discriminate against a prospective employee on the basis of status as a veteran by:

- (1) Refusing to employ an applicant for employment on the basis that the applicant is a veteran of the armed forces of the United States; or
- (2) Refusing to employ an applicant for employment on the basis that the applicant is a member of the Indiana National Guard or member of a reserve component.

The practice of denying these rights to persons because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the Ceity, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran is the purpose of this section.

It is also the public policy of the Ceity to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

It is hereby declared to be contrary to the public policy of the Ceity and an unlawful practice to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, ~~or~~ status as a veteran, or familial status.

It is also the public policy of the City of Bloomington to prohibit discrimination against or harassment of individuals, including employees, independent contractors, volunteers, interns, and any others doing sanctioned work for the Ceity. Any such individual who believes she, he,

or they have been discriminated against or harassed by a Ceity employee has a right to bring a complaint to the attention of Ceity officials, who will investigate the complaint promptly and take appropriate action. All contracts with the Ceity shall include a clause explaining this right.

2.21.0302.23.120 Definitions.

As used in this chapter unless the context clearly requires otherwise:

(1) "Acquisition of real property" means the sale, rental, lease, sublease, construction or financing, including negotiations and other activities or procedures incident thereto, of:

(A) Any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters;

(B) Any building, structure, or portion thereof, or any improved or unimproved land utilized, or designed or intended for utilization, for business, commercial, or industrial or agricultural purposes; or

(C) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(2) "Affirmative action" means those acts which the commission deems necessary to assure compliance with the Ceity human rights ordinance.

(3) "Ancestry" refers to both the country from which a person's ancestors came and the citizenship of a person's ancestors.

(4) "Commission" means the Human Rights Commission hereinafter created.

(5) "Commission attorney" means the Ceity attorney, or such assistants of the Ceity attorney as may be assigned to the commission, or such other attorney as may be engaged by the commission or voluntarily lend ~~his~~ their services to the commission.

(6) "Compensation" or "compensatory damages" means actual damages, except that damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions, or fringe benefits.

(7) "Complainant" means any individual charging on ~~his~~ their own behalf to have been personally aggrieved by a discriminatory practice or the commission attorney, ~~or a member of the Human Rights Commission, commissioner to the Bloomington Human Rights Commission or the commission director~~ charging that a discriminatory practice was committed against a person, other than ~~himself~~ themselves, or a class of people in order to vindicate the public policy of the Sstate as defined in Indiana Code 22-9-1-2, and the public policy of the Ceity as defined in Section ~~2.23.1102.21.020~~.

(8) "Complaint" means any written grievance filed by a complainant with the ~~legal department~~ commission director. The original shall be signed and verified before a notary public or another person duly authorized by law to administer oaths and take acknowledgments. Notarial service shall be furnished by the ~~legal department~~ City without charge.

(9) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(10) "Disability" means with respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person's major life activities; (ii) a record of having an impairment described in subdivision (i) above; or (iii) being regarded as having an impairment described in subdivision (i) above. "Disability" shall not include circumstances exempted from the definition of "disability" or "disabled" under federal and state law.

~~(10)~~(11) "Discriminatory practice" means the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran; or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran or the promotion or assistance of segregation or separation in any manner on the basis of the above categories; provided, it shall not be a discriminatory practice for an employment agency to refer for employment any individual, or a joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in such program on the basis of ~~his~~ their religion, sex, or national origin in those particular instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; further provided, that it shall not be a discriminatory practice for a person to refuse to rent for occupancy as living quarters any space in owner occupied multiple dwelling structure on the basis of sex.

~~(11)~~(12) "Educational institution" includes all public and private schools and training centers, except that the term does not include any state agency as defined in subsection ~~(275)~~ of this section.

~~(12)~~(13) "Employee" includes any person employed by another for wages or salary; provided, that it shall not include any individual employed by ~~his~~ their parents, spouse, or child.

~~(13)~~(14) "Employer" includes any person employing six or more employees within the Ceity, except that the term does not include a not-for-profit corporation or association organized exclusively for fraternal or religious purposes; nor any school, educational or charitable religious institution owned or conducted by, or affiliated with, a church or religious institution; nor any exclusively social club, corporation, or association that is not organized for profit; nor the Ceity or any department thereof; nor any State agency as defined in subsection ~~(275)~~ of this section.

~~(14)~~(15) "Employment agency" includes any person undertaking with or without compensation to procure, recruit, refer, or place employees.

~~(15)~~ "Disabled" means

~~(A) With respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person's major life activities; (ii) a record of having an impairment described in subdivision (i) above; or (iii) being regarded as having an impairment described in subdivision (i) above.~~

~~(B) The term "disabled" does not include the following: current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)), homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, compulsive gambling, kleptomania, pyromania or psychoactive substance use disorders resulting from current illegal use of drugs.~~

(16) "Gender identity" means a person's actual or perceived gender-related attributes, self-image, appearance, expression, or behavior, whether or not such characteristics differ from those traditionally associated with the person's assigned sex at birth.

(17) "Housing status" means the type of housing in which an individual resides, whether publicly or privately owned, or the status of not having a fixed residence, whether actual or perceived.

~~(16)~~(18) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for mutual aid or protection in relation to employment.

~~(17)~~(19) "Lending institution" means any bank, building ~~and or~~ loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in making or guaranteeing loans secured by real estate or an interest therein.

(18)(20) "National origin" refers to both the country from which a person came and the citizenship of the person.

(19)(21) "Owner-occupied multiple-dwelling structure" includes only structures in which the owner of the premises actually resides, containing not more than three separate dwelling units, apartments, rooms, or portions of the building designed or intended for occupancy as living quarters.

(20)(22) "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, cooperatives, legal representatives, trustees in bankruptcy, trustees, receivers, any subdivisions of the state, and other organized groups of persons.

(21)(23) "Public accommodation" means any establishment which offers its services, facilities, or goods to the general public.

(22)(24) "Respondent" means one or more persons against whom a complaint is filed under this chapter, and whom the complainant alleges has committed or is committing a discriminatory practice.

(23)(25) "Sex," as it is applied to segregation or separation in this chapter, shall apply to all types of employment, education, public accommodations, and housing; provided, that it shall not be a discriminatory practice to maintain separate restrooms or dressing rooms; and that it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its members or to classify or refer for employment any individual, or for any employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any such program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and that it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one sex only.

(24)(26) "Sexual orientation" means an individual's identity or practice as a lesbian woman, gay male, bisexual person, or heterosexual person, whether actual or perceived.

(25)(27) "State agency" means every office, officer, board, commission, council, department, division, bureau, committee, fund, agency, and without limitation by reason of any enumeration herein, every other instrumentality of the state of Indiana, every hospital, every penal institution, and every other institutional enterprise and activity of the state of Indiana, wherever located; the universities supported in whole or in part by state funds; and the judicial department of the state of Indiana. "State agency" does not mean counties, county departments of public welfare, cities, towns, townships, school cities, school towns, school townships, school districts or other municipal corporations, political subdivisions, or units of local government.

~~(26) "Gender identity" means a person's actual or perceived gender-related attributes, self-image, appearance, expression or behavior, whether or not such characteristics differ from those traditionally associated with the person's assigned sex at birth.~~

~~(27) "Housing status" means the type of housing in which an individual resides, whether publicly or privately owned, or the status of not having a fixed residence, whether actual or perceived.~~

(28) "Veteran" means:

- (A) A veteran of the armed forces of the United States;
- (B) A member of the Indiana National Guard; or
- (C) A member of a reserve component.

2.23.1302.21.040 Appointments.

The seven members of the Human Rights Commission shall be appointed four by the Mayor, three by the Common Council.

2.21.0502.23.140 Qualifications.

Members of the Human Rights Commission shall be representative of the community and shall be Ccity residents.

2.21.0602.23.150 Rules and regulations.

The Commission may adopt rules and regulations, both procedural and substantive, to effectuate the purpose of this chapter and to make more specific the procedures deemed necessary for orderly and equitable compliance with this section.

New rules, regulations, and guidelines may be adopted by the Commission after a public hearing by a majority vote of the Commission.

The rules, regulations, and guidelines of the Commission shall be available to the public at the office of the ~~legal department~~Community and Family Resources Department.

2.21.0702.23.160 Powers and duties.

The commission shall have the following powers and duties:

- (1) To create subcommittees and advisory committees as in its judgment will aid in effectuating the purpose of this section.
- (2) To issue such publications and such results of investigation and research as in its judgment will tend to minimize or eliminate discrimination because of race, religion, color, sex, national origin, ancestry, ~~or~~ disability, sexual orientation, gender identity, housing status, veteran status, or familial status.
 - (A) ~~To determine jointly with the legal department whether probable cause exists to believe that discrimination in violation of Bloomington Municipal Code Section 2.21.010 et seq. occurred. A probable cause commissioner shall be assigned to each complaint filed on the date it is filed and shall participate jointly with the legal department and assist in the investigation of the complaint. The legal department shall make a written recommendation of cause or no cause setting forth relevant facts and applicable legal authority and submit it to the designated probable cause commissioner. The commissioner shall review the legal department's recommended finding, and shall make a written determination of cause or no cause setting forth the relevant facts and applicable law. The probable cause commissioner shall follow applicable legal standards as set forth by the legal department in making the determination.~~
- (3) ~~To schedule complaints for public hearings upon a determination of probable cause. When the recommendation after the investigation is no probable cause, the complainant shall be furnished a copy of the findings of fact and recommendations and shall be given ten days to make a written request, with the reasons therefore, to the chairperson of the commission for review of the finding. Upon the receipt of the request for review, the chairperson or their designee shall review the request and the decision of the reviewing commissioner regarding probable cause shall be final. Whenever a commissioner reviews a decision at the request of a complainant, such commissioner shall be disqualified from any further participation in that case, except as a witness at a public hearing on the complaint.~~

(3) To investigate complaints filed with the commission. Complaints of discrimination shall be received and investigated by the ~~legal department~~commission director. ~~To be acceptable to the legal department, a~~ complaint shall be sufficiently complete so as to reflect properly the name and address and/or other contact information of the complainant; the name and address of respondent against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates and places of the alleged discriminatory practice; if it is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred; and a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action. No complaint shall be valid unless filed within one-hundred-eighty (180) days from the occurrence of the alleged discriminatory practice, or from the date of the termination of a published and meaningful grievance procedure provided by a respondent employer or labor union; provided, that complaints filed only with the Equal Employment Opportunity Commission shall be deemed to have been filed simultaneously with the ~~legal department~~ Human Rights Commission for purposes of measuring the one-hundred-eighty (180) day limitation, as long as the complaint is otherwise within the ~~legal department's commission's~~ jurisdiction; provided, further, that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the ~~city legal department~~ Human Rights Commission concerning any of the matters alleged in such complaint; provided, further, that the ~~legal department~~commission shall have no jurisdiction over the ~~S~~state or any of its agencies, or over the ~~C~~city or any of its departments. After a complaint is scheduled for a public hearing, the ~~legal department~~commission shall make reasonable efforts to conciliate all issues raised during the investigation of the case.

(4) To determine jointly with an attorney from the legal department whether probable cause exists to believe that discrimination in violation of the Bloomington Municipal Code Section 2.23.100 et seq. occurred. A probable cause commissioner shall be assigned to each complaint filed on the date it is filed and shall participate jointly with the director and assist in the investigation of the complaint. The director, after consultation with the attorney from the legal department, shall make a written recommendation of cause or no cause setting forth relevant facts and applicable legal authority to submit it to the designated probable cause commissioner. The commissioner shall review the director and legal department's joint recommended finding, and shall make a written determination of cause or no cause setting forth the relevant facts and applicable law. The probable cause commissioner shall follow applicable legal standards set forth by the director and attorney in making the determination.

(5) To schedule complaints for public hearings upon a determination of probable cause. When the recommendation after the investigation is no probable cause, the complainant shall be furnished a copy of the findings of no probable cause and recommendation and shall be given ten days to make a written request, with the reasons therefore, to the chairperson of the commission for review of the finding. Upon the receipt of the request for review, the chairperson or designee shall review the request and the decision of the reviewing commissioner regarding probable cause shall be final. Whenever a commissioner reviews a decision at the request of a complainant, such commissioner shall be disqualified from any further participating in that case, except as a witness at a public hearing on the complaint.

~~(4)~~(6) To prevent any person from discharging, expelling, or otherwise discriminating against any other person because ~~he, she, or they~~ filed a complaint or testified in any hearing before the commission or in any way assisted in any matter under investigation.

~~(5)~~(7) To issue a temporary emergency order against any person requiring such person to do an act preserving the possibility of a remedy for a complaint or to refrain from doing an act damaging the possibility of a remedy during the investigation of the complaint; provided, however:

(A) That no emergency order shall be issued unless a time and place for hearing on the temporary order is designated in the order;

(B) That the hearing on the temporary emergency order shall be held within ten days following the issuance of the temporary order, unless contained by the commission at the request of the respondent. At such hearing, the complainant shall show that a failure to continue the temporary order would damage ~~his~~ their remedy. The commission shall thereupon weigh the comparative hardship to the complainant and respondent and issue a decision continuing or terminating the temporary emergency order, pending final disposition of the complaint. The respondent may waive said hearing without prejudice to ~~the his~~ defense of the matters charged in the complaint, in which case the temporary order shall remain in effect pending final disposition of the complaint;

(C) The commission may by rule provide for issuance of its temporary order by a majority of the commission, and it may compel compliance with any such temporary order by bringing in ~~any circuit or superior court~~ Monroe Circuit Court or other appropriate court for prohibitory or mandatory injunction upon showing that such person is subject to the court's jurisdiction, resides or transacts business within the county in which the proceeding is brought, and that such injunction is necessary to protect the complainant's rights under this chapter until ~~his~~ their complaint is resolved through conciliation or public hearing.

~~(6)~~(8) To reduce the terms of conciliation agreed to by the parties in writing, to be called a consent agreement, which the parties and a majority of the commissioners shall sign. When so signed, the consent agreement shall have the same effect as a cease and desist order pursuant to subsection ~~(8)~~(10) of this section. If the commission determines that a party to the consent agreement is not complying with it, the commission may obtain enforcement of the consent agreement in ~~a circuit or superior court~~ Monroe Circuit Court or other appropriate court upon showing that the party is not complying with the consent agreement, and the party is subject to the commission's jurisdiction, and resides or transacts business within the county in which the petition for enforcement is brought.

~~(7)~~(9) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take testimony of any person under oath and require the production for examination of all books and papers relating to any matter under investigation or in question before the commission. The commission may make rules governing the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena or temporary emergency order issued pursuant to this section shall be a breach of this chapter and such person shall be liable to a penalty therefore, if adjudged by the ~~circuit or superior court~~ Monroe Circuit Court or other appropriate court, of the payment of a penalty not to exceed three hundred dollars. Each penalty shall be deposited in the general fund of the City; provided, however, that the payment of such penalty by a party shall not impair the commission's ability to grant affirmative relief and compensatory damages to the complainant, should justice so require.

~~(8)~~(10) To state its findings of fact after hearing which statement shall be made in a written opinion containing both the findings of fact and the principles of law applied. All written opinions shall be compiled and maintained as public record and, in making decisions, the commission shall give due consideration to its prior decisions which may be applicable. If a majority of the commissioners who hear the case finds that a person has engaged in unlawful discriminatory practice, the commission shall cause to be served on the person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action necessary to effectuate the purposes of this section.

2.23.170 Duties upon a finding of discrimination.

If unlawful discrimination is found in the area of employment, an order shall be issued requiring the respondent to take such affirmative action the commission may deem necessary to assure justice, including but not limited to hiring, reinstatement, and upgrading of employees or people deprived of employment, with or without compensatory damages to which the complainants would have been entitled had they not been deprived of equal opportunity, meaning wages, salary, or commissions. When an employer has been found to have committed a discriminatory practice in employment by failure to employ an applicant on the basis that the applicant is a veteran, the order to restore the veteran's losses may include

placing the veteran in the employment position with the employer for which the veteran applied.

If unlawful discrimination is found in the area of housing or acquisition of real property, an order may be issued requiring a respondent to take affirmative action, including but not limited to renting, selling, or leasing to a person deprived of equal opportunity. Compensation for the denial of equal opportunity shall be allowed within the discretion of the commission.

If unlawful discrimination is found in the area of public accommodation, an order shall be issued requiring respondent to take affirmative action, including but not limited to providing services, goods, or access to property, reinstatement ~~of~~ membership, reinstatement ~~of~~ membership, posting of notice that a facility is a public accommodation, with or without compensatory damages for a complainant's being denied equal opportunity.

If unlawful discrimination is found in the area of education, an order may be issued requiring a respondent to take affirmative action, including, but not limited to, a review and revision of school boundaries, revision of teaching aids, and materials, human relations training for personnel recruitment of minority people for professional staff, with or without compensatory damages to which the complainant would have been entitled except for the denial of equal opportunity.

If upon all the evidence, the commission finds that a person has not engaged in any such unlawful practice or violation of this section, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the ~~said~~ complaint as to such person.

Judicial review of such cease and desist order, or other final order, or other affirmative action or damages as referred to in this chapter may be obtained by filing in the ~~county circuit or superior courts~~ Monroe Circuit Court or other appropriate court. The scope of review shall be in accordance with the provisions set out in Indiana Code 4-21.5-1 et seq. If no proceeding to obtain judicial review is instituted within thirty calendar days from the receipt of notice by a person that such order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of such order in ~~circuit or superior court~~ the Monroe Circuit Court or other appropriate court upon showing that such person is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought, or may request the ~~city attorney,~~ commission attorney, or attorney representing the complainant to seek enforcement.

2.23.180 Affirmative Action by City Contractors. ~~Affirmative Action by City Contractors.~~

All contractors doing business with the Ccity, except those specifically exempted by regulations promulgated by the human rights commission and approved by the common council, shall take affirmative action to ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran. Affirmative action shall include but not be limited to the issuance of a statement of policy regarding equal employment and its communication to all personnel involved in recruitment, hiring, training, assignment, and promotion; notification of all employment sources of company policy and active efforts to review the qualifications of all applicants regardless of religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran; recruiting in the minority group community for employees; and establishing an internal system of reporting concerning equal employment, recruiting, hiring, training, upgrading and the like.

Each such contractor shall submit to the human rights commission a written proposal concerning the affirmative action it proposes to take, which proposal must be approved prior to its entering a contract with the Ccity. Said proposal shall be limited to measures similar to those which the Ccity is required to take in its affirmative action with regard to its own employees, as established by the mayor's office and as specified by resolution of the common council.

Each such contractor shall also submit to the human rights commission its policy prohibiting harassment in the workplace. The policy must include a definition of harassment, the name or title of the individual(s) designated to receive and investigate complaints, and a statement that the contractor will not retaliate against an employee for complaining about harassment.

All contracting agencies of the Ceity or any department thereof shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor to take affirmative action to ensure that the applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran.

Such contracts shall provide further that breach of the obligation to take affirmative action shall be a material breach of the contract for which the Ceity shall be entitled, at its option:

- (A) To cancel, terminate, or suspend the contract in whole or in part;
- (B) To declare the contractor or vendor ineligible for further Ceity contracts;
- (C) To recover liquidated damages of a specified sum.

2.21.0802.23.190 Educational programs.

In order to eliminate prejudice among the various groups in the Ceity and to further goodwill among such groups, the commission may prepare educational programs designed to emphasize and remedy the denial of equal opportunity because of a person's religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran, its harmful effects, and its incompatibility with the principles of equality.

2.21.0902.23.200 Relationship with Civil Rights Commission.

The legal department commission may enter into a working relationship with the Indiana Civil Rights Commission to perpetuate the mutual objectives set forth in this chapter and the Indiana Civil Rights Law.

2.21.0952.23.210 Housing discrimination—Definitions.

This section applies only to cases alleging housing discrimination.5

(a) Definitions:

- (1) "Familial status" means one or more individuals (who have not obtained the age of eighteen years) being domiciled with a parent or another person having legal custody of such individual(s) or the written permission of such parent or other person. The protections against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of eighteen years.
- (2) "Dwelling" means any building, structure, or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building structure or part of a building or structure that is occupied as, or designed or intended for occupancy by one or more families.
- (3) "To rent" includes to lease, to sublease, to let or otherwise to grant for consideration the right to occupy the premises not owned by the occupant.

(4) "Discriminatory housing practice" includes: (A) practices prohibited by ~~Section 2.21.030(10)~~2.23.120(11) of this code, (B) refusing to rent to an individual or family on the basis of familial status, (C) refusing to allow a tenant with a disability, as defined by ~~Section 2.21.030(15)~~2.23.120(10), to make reasonable modifications of the rented premises at the tenant's expense if such modifications are necessary to afford the tenant full enjoyment of the premises. The landlord may, where it is reasonable to do so, condition permission for the modification(s) on the tenant's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may require the tenant to acquire any necessary permits and to perform the modifications in a workmanlike standard. (D) Refusing to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a tenant with a disability, as that term is defined by ~~Section 2.23.120(10)~~2.21.030(15), equal opportunity to use and enjoy a dwelling.

~~2.21.097 Housing discrimination—Exemptions.~~

~~This section applies only to cases alleging housing discrimination.~~

(b) Exemptions.

~~(1a)~~ Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

~~(2b)~~ Nothing in this section shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this ~~ordinance section~~ prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

~~(3e)~~ Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

~~(4d)~~ Nothing in this section regarding familial status ~~applies~~ with respect to housing for older persons, as defined below. As used in this section, "housing for older persons" means housing:

~~(A1)~~ Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development designed and operated to assist elderly persons (as defined in the state or federal program); or

~~(B2)~~ Intended for, and solely occupied by, persons sixty-two years of age or older; or

~~(C3)~~ Intended and operated for occupancy by at least one person fifty-five years of age or older per unit if the following requirements are met: ~~(iA)~~ the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and ~~(iiB)~~ that at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and ~~(iiiC)~~ the publication of, and adherence to, policies and procedures which

demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(5e) Nothing in this section applies to the following:

(A+) The sale or rental of a single-family house sold or rented by an owner if:
(iA) The owner does not ~~(i)~~ own more than three single-family houses at any one time; or ~~(h)~~ own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of 3 more than three single-family houses at any one time; and (iiB) The house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, agent, or salesperson licensed under state law.

(B2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

2.21.0982.23.220 Hate crime statistics.

The Bloomington Human Rights Commission may collect data and issue reports on the incidence of hate crimes in the Ccity. Hate crimes include verbal or physical abuse directed at individuals or groups because of their religion, race, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, housing status, or status as a veteran.

2.21.0992.23.230 Complaints of housing status discrimination.

In complaints of discrimination on the basis of housing status discrimination, the commission's authority shall typically be limited to voluntary investigations and voluntary mediation.