



City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 19 April 2023

Regular Session at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
REGULAR SESSION
WEDNESDAY | 6:30 PM
19 April 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/86882501865?pwd=WWJ2R2FOTzY5Q1BzN3JUL01oZm9adz09>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **APPROVAL OF MINUTES:**
 - A. 27 April 2022 – 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 23-04 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Technical Corrections Set Forth in BMC 20
 - B. Ordinance 23-05 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments And Updates Set Forth in BMC 20.03; 20.05; And 20.07
 - C. Ordinance 23-06 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.04
 - D. Ordinance 23-07 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.06

(over)

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

VII. LEGISLATION FOR FIRST READINGS

- A. Ordinance 23-08 – To Amend the Traffic Calming and Greenways Program Incorporated By Reference Into Title 15 (“Vehicles and Traffic”) of the Bloomington Municipal Code – Re: Amending the Traffic Calming and Greenways Program Incorporated by Reference into Bloomington Municipal Code Section 15.26.020

- B. Ordinance 23-09 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” Re: the Creation of a Joint City-County Human Rights Commission

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. Individuals 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.

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

Minutes for Approval

27 April 2022

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, April 27, 2022 at 6:30pm, Council President Susan Sandberg presided over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
April 27, 2022

Councilmembers present: Matt Flaherty (left at 9:00pm), Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Jim Sims, Ron Smith, Stephen Volan (arrived at 7:01pm)
Councilmembers present via Zoom: Sue Sgambelluri*
Councilmembers absent: none

ROLL CALL [6:32pm]

*Clerk's Note: In accordance with Indiana Code 5-14-1.5-3.5(i), Sgambelluri did not participate in the meeting.

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:32pm]

LEGISLATION FOR SECOND
READING AND RESOLUTIONS
[6:36pm]

Council continued the discussion on Resolution 22-09 from the April 20, 2022 Regular Session.

Resolution 22-09 – Resolution Proposing an Ordinance to Modify the Monroe County Local Income Tax Rate, Allocate the Additional Revenues to Economic Development and Cast Votes in Favor of the Ordinance

There was brief council discussion regarding the continued discussion.

Piedmont-Smith asked about a surplus balance on the city's Public Safety Local Income Tax (PSLIT) over the last six years.

Council questions:

Jeff Underwood, Controller, reminded council that the city received two pieces of PSLIT because it managed the Public Safety Answering Point (PSAP). The city received funding for PSAP first, and the remainder went to Monroe County, Ellettsville, Stinesville, and Bloomington, allocated between police and fire. He said that there was a surplus in the PSAP fund, and the city was meeting with the county, who also had a surplus, to recommend spending the two reserves over the next three to five years, to be adjusted on an annual basis. He said that it was estimated that there would be no surplus in the police and fire departments.

Piedmont-Smith asked for clarification on the surplus held by the city and county, regarding the city's management of PSAP.

Underwood said that dispatch was a city department, but was also a joint operation of the city and county. Indiana University (IU) had a separate center used as backup. Typically, city and county officials met and made recommendations to the dispatch policy board for voting, and then forwarded it to the subcommittee of the tax council, comprised of the four units of government, who then made a recommendation for approval of the budget.

Piedmont-Smith asked it was correct that the PSAP budget could not be spent on fire or police stations, and only for dispatch.

Underwood confirmed that was correct. Any remaining funds from the PSLIT, went to the four units of government.

Rollo asked for additional information about the Community Revitalization Enhancement District (CRED) funds and the potential to use it for a police or fire station.

Underwood referenced the statute that guided the CRED. There was the potential to use some of that funding depending on the criteria of the location and the redevelopment of a site. He explained

that all funding opportunities would be analyzed to maximize potential.

Rollo asked if there were geographical limitations.

Underwood confirmed there were and that the Tax Increment Financing (TIF) had more flexibility.

Rollo asked if the funds were transferable and since the funds were expiring, if that freed up the geographical limitations.

Underwood stated that they needed to be used directly until they expired but could be used differently once they expired.

Flaherty asked CRED's timeline for expiration and transferring.

Underwood said that the downtown CRED expired the previous year, and the Thompson District would expire on June 20, 2022.

Beth Cate, Corporation Counsel, confirmed that was her understanding.

Flaherty said that the downtown CRED was already eligible for closing and transferring the funds for another purpose.

Underwood confirmed that was correct.

Flaherty asked what was the original purpose and history of the CRED funds.

Underwood stated that he was not Controller when the original CRED was established. The last use was a funding agreement with Envisage allowing expansion and remodeling to attract employees. The last Thompson CRED funding usage was with Cook Pharmica, prior to the selling to Catalent, for expansion including employment and capital investments.

Smith asked if the city had a shortfall in the budget given the size of the proposal.

Underwood explained that part of the request was to provide additional operation funds, in public safety, and it was anticipated that without new revenue, there would be a budget shortfall of around \$3-5 million per year.

Sims asked for the approximate dollars in the CRED funds.

Underwood said there was approximately \$10 million in the Thompson CRED and \$6 million in downtown CRED.

Mayor John Hamilton thanked council for the good discussion. He said that the Local Income Tax (LIT) proposal was designed to create a stable, ongoing, and viable source of revenue for expenses including long range sustainable plans for public safety facilities. He said that while there were balances in some funds, it was important to maintain some reserves for flexibility and unseen needs. He noted the interest in spending down balances, but said that one time funds were important for unforeseen future events. It was not prudent to use it for ongoing expenses. Hamilton also noted the city's caution to maintain and preserve the fiscal conservative and strong approach to avoid layoffs and more.

Sandberg asked Chief Michael Diekhoff about staffing levels, social workers, and Downtown Resource Officers (DRO).

Diekhoff said that Bloomington Police Department's (BPD) budget was for one hundred and five officers but were down approximately twenty officers. Incentive packages, like signing bonuses, housing, and recruiting incentives would hopefully help with recruiting. The new contract had a significant pay increase to attract new recruits. There were three social workers who assisted but were not directly dispatched due to safety concerns. There were Community Service Specialists (CSS) who were responsible for minor incidents, like minor traffic accidents, extra patrols, and

Resolution 22-09 (cont'd)

more. He said BPD was down five CSSs and further explained gaps in staffing.

Rollo asked Underwood about the PSLIT and what the current share was for the year, what would be spent on fixed costs, and what was left over to apply to the capital plan.

Underwood stated that staff provided that information each year to council in the budget process. There was not enough funding for all requests for police and fire. He said there was about \$69 million worth of requests, but that there was usually about \$2-3 million per year. Typically, there were not left over funds. He described the process and timing, and clarified that it was guaranteed funding.

Rollo asked for specific numbers.

Underwood said he would find the numbers and share them.

Rosenbarger asked about new numbers for the east-west express transit line.

John Connell, General Manager of Bloomington Transit (BT), explained that the line had been reduced to \$1.75 million with BT contributing to offset the reduction in funding.

Rosenbarger asked if that was the only change in the line items.

Connell said that micro-transit was also reduced from \$1.4 to \$1.1 million which may require a hybrid approach with companies like Uber and Lyft.

Smith asked about the discussion with county about using the PSLIT to fulfill the raise in the police services contract.

Underwood clarified that the previous year was \$3.13 million. The agreement was to fund capital and equipment, and to eliminate the need to borrow equipment from other fire departments.

Smith said public safety was one of the most important priorities, based on some community feedback, and wondered if it made sense to focus on public safety funding.

Hamilton commented that in the 2016 PSLIT, there was a limitation for non-personnel costs. The understanding, with the administration, council, and the public, was to invest the \$1.25 million to keep the public safety departments up to date and safe. That was the reason it passed. He further explained the city's commitment to public safety as well as additional tax rate details regarding the PSLIT.

Smith asked for clarification on the different tax rates.

Underwood clarified that it was the difference of the distribution percentages and provided an example.

Rollo asked Underwood if he had the exact funds for the PSLIT.

Underwood stated that for the non-dispatch share, it was \$3.131 million the previous year.

Rollo asked if that could be discretionary, and could be applied to capital expenses in the ten-year plan for police and fire.

Underwood confirmed that was correct and the administration would make a recommendation on using those funds.

Rollo asked if the actual amount was \$4 million.

Underwood said that the balance at the end of 2021 PSLIT account was \$5.448 million. But that number did not include any encumbrances and was also split between dispatch, police, and fire. He did not anticipate an unencumbered balance for police and fire. Underwood stated that the city and county had agreed to maintain a four-month reserve in that account should there be any delays in the distribution of funds.

Rollo understood that there was about \$800,000 in reserve for dispatch.

Underwood said that seemed low to him.

Rollo summarized the discussion and the possible use for public safety in the PSLIT.

Volan understood that the PSLIT dollars for police and fire were primarily for capital improvements.

Underwood said that equipment was allowed and had been replaced.

Volan asked if all the funds had gone to equipment replacement.

Underwood stated that some may have gone to maintenance contracts or repair costs, but none had gone to personnel costs.

Volan asked Hamilton if departments were adequately caught up on the replacement schedule, or if PSLIT money should always be used for capital equipment replacement.

Hamilton said yes, and that the expected use of PSLIT was prudent to public safety equipment, replacement, maintenance, and upgrades. He provided examples. Some councilmembers had emphasized the need for greater investment in public safety during the budget hearings. There was not extra public safety funding.

Volan asked Fire Chief Jason Moore about non-equipment costs.

Moore explained the history of the fire department's equipment replacement. He said the PSLIT funds had been primarily reserved for equipment, and some facility improvements. He explained that spending down the reserves for one time projects would go against the perhaps fifty- to one hundred-year plan. He provided examples like increases in costs.

Piedmont-Smith asked about the surplus of \$5.4 million and if \$2 million was for dispatch, and the remaining was for police and fire.

Underwood said that it was more accurate to call it the cash balance, because there were encumbrances in those totals. He provided details on the reserve amounts for dispatch and for police and fire.

Piedmont-Smith asked for the end of year, unencumbered amount.

Underwood said it would be \$2.2 million dollars for dispatch.

Sandberg asked about the current capacity with the social worker program and if the PSLIT allowed expanding the program. She asked if it was more critical to expand the social work community resource program or to get the staffing levels up for patrol officers. She asked if deferments were possible.

Diekhoff said the most critical need was sworn officers. He said that the social work program was popular and important and their services and service hours could be increased. The most critical need was increasing the sworn officers because BPD was down twenty officers. He explained the difference between sworn officers and social workers in responding to calls.

Sandberg asked if there were still Downtown Resource Officers (DRO).

Diekhoff said that there were DROs but that staffing had been difficult to maintain.

Hamilton said that both social worker programs and sworn officers were needed. The administration was committed to address the needs. He noted that around the nation, there were progressive communities looking to enhance and strengthen the capacity of sworn officers, and to also facilitate stronger public safety with collaborative, accompanying services. The budget sought to fund both and not pick one over the other.

Sandberg agreed and recognized the value. She was concerned about current capacity with the new staff before increasing that

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staff. She contemplated ways of decreasing the Economic Development LIT (EDLIT) for other means of funding.

Volan commented on the two CREDs and asked for clarification on the expiration.

Hamilton pointed out that it was not ideal to invest CRED money in public safety and to instead have robust future investments with ongoing revenue.

Volan wondered if the CRED funds would be used in the district in which it was derived.

Hamilton stated that he was not entirely certain, but reiterated that it was ideal to keep reserves to respond to needs as they arise.

Volan said that his concern was that the CRED would expire and the money would flow into the General Fund. If the administration said that the CRED funds would be used for its intended purpose, he would be okay with \$3 million going to public safety, especially if it was in the CRED district.

Hamilton understood Volan's point that \$3 million could be used for public safety if the rest was committed to remain in the district. He said that had not been currently considered.

Rollo asked Underwood about the police budget for future raises and the new contract. He asked where future raises for both police and fire were anticipated.

Underwood commented on raises for all employees in order to be competitive and provided some details.

Hamilton added information regarding the increase in LIT funds allowing for moderate raises. He discussed additional factors like inflation which impacted raises.

Rollo asked for further clarification on raises for police and fire, and where the funding would come from.

Underwood clarified that in the request, there was \$1.5 million in the public safety fund for raises in the police department. There was another \$3 million in operational costs.

Rollo said that the \$1.5 million was to honor the new public safety agreement, but not future raises, and the additional \$3 million would be increases for all salaries in the city.

Underwood explained that the proposed police contract had increases in salary over the next four years. The LIT portion would cover that contract.

Rollo stated that he was looking further out than four years.

Rosenbarger commented on the discussion and details, and asked Hamilton what budget cuts made sense to the administration; a line item or a percentage. She asked if funding less than the \$1.75 million for the east-west transit line would negate it from being established.

Hamilton acknowledged the complexity of the discussion. He said staff had worked hard to identify the best steps forward. He referenced Connell's comments on the east-west transit line. He explained the impacts of council discussion and provided examples.

Christopher Emge commented on the proposal based on a survey of the Greater Bloomington Chamber of Commerce members.

Public comment:

Sherry Hillenburg spoke against taxes and it not being the appropriate time to raise taxes.

Peter Dorfman discussed his disdain for plexes and density in neighborhoods, especially using tax money.

Barbara Moss commented on the proposed new revenue, budget, and focusing on immediate projects and holding off on others.

Ed Bernstein also spoke against another tax but in favor of public safety funding.

Russ Skibo opposed the missing middle housing in the proposal.

Wendy Bernstein agreed with other public speakers and commented against “upzoning” and in favor of funding public safety.

Steve Layman said that it was necessary to pause the proposal and fully pay public safety.

Stephen Lucas read a comment submitted via Zoom chat from Renee [no last name] spoke against a tax increase.

C. Trzinka commented against a tax increase for missing housing.

Rollo asked if the PSLIT balances were transferrable to other funds.

Council comment:

Underwood said that they were not and had to be used for public safety and primarily dispatch.

Rollo asked if the funds had been used for land purchases.

Underwood stated that they had not.

Volan said that consistency from year to year was ideal, but council could not lock the funding aside from contracts. He asked staff about the public comments regarding the missing middle housing.

Hamilton responded that the proposal was not a strategy to support a plex program in neighborhoods. It was a housing program to support those experiencing near homelessness and deep poverty. He explained that 90% of respondents to the biannual city survey had expressed strong favor in supporting housing needs. He also commented on increasing workforce housing and home ownership. He provided examples like the new development of Hopewell. He reiterated that it was an overarching proposal for revenue earmarked for certain purposes including affordable housing.

John Zody, Director of Housing and Neighborhood Development (HAND) department, explained housing programs and funding from the city and county. Some programs were focused on making homelessness rare and non-repeating, rental housing, home ownership, and more. It was important to have more units in Bloomington for residents as well as keeping people in their current homes. HAND received federal funding to enhance capacity and for problem solving. New revenue would facilitate the capacity to assist residents in the city.

Volan asked how the proposal helped to leverage federal funding.

Zody explained that it helped in administering the federal funding. He listed programs like the Community Block Development Grant, administration of programs, physical improvement programs, home investment partnership program, affordable housing, and more.

Volan asked if more local dollars triggered additional federal dollars.

Zody confirmed that was correct, and that it was based on a formula that considered factors like population. He provided additional examples like Hopewell and the Arlington Park Drive development. He also commented on the rental market, and the ability to attract projects to the city, and not just low-income housing with tax credits. He referenced the 2020 housing study

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which indicated that Bloomington needed another 2592 housing units.

Sandberg asked for clarification on the term missing housing types and said that it did not mean a subsidy or incentive for additional density in neighborhoods.

Hamilton said that there were rumors but the city had no intent to revisit the concerns with zoning from the previous year. He provided the example of types of housing, like the eighteen unit cooperative living by Reverend Butler Park, and cohousing, or shared units with shared space. Hamilton provided more possible examples.

Zody added that affordable home ownership was elusive and that solving the missing housing was important as well as workforce housing of 80% Area Median Income (AMI).

Smith asked if language referring to missing housing could be changed if it bothered residents.

Hamilton said that if it was a problem the phrase could be edited.

Rollo asked Underwood about the 16% likely increase in property tax assessed values, and what the additional revenue would be.

Underwood said there were two elements to the property tax rate; the levy received by almost all units of government, which was capped at 5%. It was based on a seven-year rolling average of non-farm income and was not to exceed 5%. The quotient was provided by the state every year. He explained that the assessed value was the denominator on that equation, and if the assessed value grew more than the allowed value in the levy, then one's tax was reduced. He also explained tax caps. Growth in the assessed value helped keep the cap down which took away from an increase in the levy. Ultimately an increase in assessed value did not equate to an increase in revenues.

Rollo questioned the impact of the tax on individuals throughout the county, and he referenced an article in the Herald Times which claimed that there would be an extra \$430 in taxes after deductions.

Underwood confirmed that was relatively close.

Volan said that council had the opportunity to have a real discussion with possible rebuttals.

Rollo commented that the proposed tax had poor timing and was during an economic downturn with stagnant wages and inflation. He said that it was incumbent on council to ensure that other sources of revenue could be used for the expenditures. He stated that it was essential to honor the Fraternal Order of Police (FOP) contract, as well as new police station. He listed some potential options, as mentioned during council discussion. Rollo said it was necessary to further explore the transferrable funds from CRED, for example.

Rosenbarger stated that Resolution 22-09 was a good proposal and the explanation was robust and sufficient. She understood there would be compromises and what passed would be thoughtful. In Indiana, the only option was a regressive tax and not a progressive tax, which would be easier for the community. She wanted to ensure the funding would focus on making it easier for residents as well as safer. Public safety, climate preparedness, transit equity, quality of life, and essential city services were ideal to support and fund. She iterated that she was being very careful in considering the tax and while some residents had provided feedback, not all had. She provided problematic examples like residents needing to take a taxi

to and from medical appointments. Rosenbarger appreciated the feedback from community members.

Sims spoke about compromising for acceptable common ground. Feedback had varied with some saying they wanted zero taxes and others saying more was needed. He stated that all four buckets of funding had essential needs but not everything could be funded if the tax was reduced. He appreciated the innovative ideas like the proposed housing, and while he praised the current programs, he said he would like to see them grow. One example was the homebuyers class. He provided additional examples of things the city could do to reduce the cost of housing, and climate crisis mitigation. He said the goal should be to compromise since not all the projects could be completed. The additional LIT funds were needed, and the question was how much. He thanked his fellow councilmembers, staff, the administration, and the public.

Smith reviewed the proposed LIT and the annual \$18 million in funding it would bring. He commented on public safety, social equity, police salaries, climate mitigation, and other essential services. He wondered about the increase and if a LIT was needed at all. He supported raising the police salaries, and commented on the negotiation between the FOP and the city. Smith did not appreciate that it was put on council, via the LIT, to fulfill that negotiated contract. He said it would be a travesty to not honor the contract if the LIT did not pass, and that he felt backed into a corner. It was the mayor's and the city's responsibility to plan for personnel. He said the proposal was too broad, with many important projects. Smith commented on the exclusion of county government and said there needed to be additional conversations. He said he could not support the current LIT as proposed and that it needed to be more collaborative. He thanked everyone for their feedback.

Volan spoke about transit and comments from councilmembers that it was not useful to build something in the hope there would be users. He questioned that train of thought and used the Trades District garage as an example which was built under the assumption of private development along Maker Way, but it was the city building in that area. The LIT was no different than any other economic development project and the administration had done a good job in listing projects for the funding. He compared the reference to the proposed LIT being "eye-popping" with the \$10 million parking garage. The food and beverage tax was exceeding previous amounts amassed before the pandemic, and the streets and parking garages were not packed full. He commented on the most innovative transit route in the city's history and its importance, and questioned why anyone would vote against a project like the east-west, express transit route. Volan reiterated that BT matched funding 80:20 and the federal dollars that BT would receive with the local funding match. He said that transit helped increase the affordability of housing. He commented on the tax rate history in Indiana, the cost of providing city services, public safety funding, and more. He disagreed with the concept that the LIT was borrowing from the future. Volan said that when the county was willing to pay its share to extend transit routes to Ivy Tech, which was approximately \$200,000, then he would be more than willing to author legislation to offer BT services in select areas outside of the city which was restricted by city code. He said that would be a great way to collaborate. He spoke about the city's budgets in the past. He agreed with Rosenbarger in supporting the full LIT increase, and expected councilmembers to be very specific

Resolution 22-09 (cont'd)

in what they would cut, if the LIT was to be reduced. He asked his colleagues if they wanted to reduce the LIT because it was a tax increase, or because the projects were not worthy.

Piedmont-Smith said that the proposed LIT increase represented a very important new revenue stream. In order to uphold the quality of life in the city, it required more money than it did thirty years ago. She highlighted the opioid epidemic and homelessness as needing assistance from the community since the nineteen eighties when the mental health hospitals closed. The city surveys in the previous years indicated that the community supported that assistance. She also highlighted climate change and the urgent need on changing the way people lived. She explained that need went down to local governments and that the city needed to change the way it did business. She commented on the need to implement the Climate Action Plan and the feedback on how the money could be spent and provided examples. A new revenue source was necessary for long term, extended commitments for climate action. She agreed with Volan about the importance of transit, which was related to climate action. Having an easy and convenient transit system for choice riders was essential. She provided examples of potential additions to better transit routes. She supported the LIT increase but also foresaw compromise. She asked her colleagues how the city was going to lead climate action, and help people live in a more climate conscious way. Piedmont-Smith reiterated that public safety, housing, retaining and maintaining staff with increased salaries was incredibly important too.

Flaherty stated that he had shared his thoughts extensively on the proposal and looked forward to additional discussion. He noted that there would be no final action that evening as there was one councilmember absent.

Rollo appreciate the good discussion. He thought transit was very important and it met several aspects of sustainability like reducing greenhouse gases, road widening, and the ability to leverage federal funding. He referenced the bonds that were passed the previous week which were able to help address climate action. He spoke about inflation, household budgets, and increases in housing and food costs. The proposed LIT increase would disproportionately affect low-income households and that should be considered when raising taxes. He felt it was poor timing to raise taxes at the time. He commented that it was necessary to "tighten the city's belt" but that it was crucial to honor the FOP contract.

Volan appreciated the discussion. He referenced the line item in the proposal that would make up for the higher costs that departments were facing for supplies and equipment, due to inflation. He said that if the LIT was not passed, then there would need to be cuts in the 2023 budget. He urged councilmembers to be more specific about what they would propose cutting. He reiterated that the other taxing units, like the county, would be getting their own dedicated sums. The state set the restrictive terms and council was working under that guidance. He provided examples of restrictions set by the state. Volan commented on the investments that made the case for the LIT increase. He also spoke about housing, density, and transit. The discussion had highlighted the realization that Bloomington provided many essential services that needed to be funded appropriately.

Sandberg appreciated the discussion.

Rollo moved and it was seconded to postpone discussion of the legislation until the council’s Regular Session on May 04, 2022.

Resolution 22-09 (cont’d)

The motion to postpone received a roll call vote of Ayes: 7 (Flaherty left at 9:00pm), Nays: 0, Abstain: 0.

Vote to postpone [9:08pm]

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

ADJOURNMENT [9:08pm]

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 23-04 through **Ordinance 23-07** – Four proposals certified to the Council by the Plan Commission to amend the text of Title 20 of the Bloomington Municipal Code (BMC) entitled “Unified Development Ordinance” (UDO)

Background

On March 6, 2023, the Plan Commission considered four proposals brought forward by city planning staff to make various changes to the UDO (this Plan Commission meeting can be viewed online here: <https://catstv.net/m.php?q=12184>). The following table lists the four proposals and relevant information for each:

Council Ordinance #	Plan Com. Case #	Plan Com. Vote	Date certified to Council	90 days from certification
Ordinance 23-04 - Technical Corrections	ZO-04-23	9-0-0	March 15, 2023	June 13, 2023
Ordinance 23-05 - Chapter 3: Use Regulations Chapter 5: Subdivision Standards Chapter 7: Definitions	ZO-05-23	9-0-0	March 15, 2023	June 13, 2023
Ordinance 23-06 - Chapter 4: Development Standards & Incentives	ZO-06-23	8-0-0	March 15, 2023	June 13, 2023
Ordinance 23-07 - Chapter 6: Administration & Procedures	ZO-07-23	8-0-0	March 15, 2023	June 13, 2023

This memo addresses relevant procedures and considerations applicable to these four ordinances. Planning staff have prepared individual memos that explain the proposals, along with red-line amendments that show the proposed changes to the UDO in context.

Relevant Materials

- Ordinance 23-04 through Ordinance 23-07
- Certification forms from Plan Commission for each ordinance
- Attachment A & staff memo, including redline amendments showing changes proposed by each ordinance
- Tables summarizing changes for each ordinance



City of Bloomington Indiana

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Contacts

Scott Robinson, Director, Planning and Transportation Department, 812-349-3423,
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Jacqueline Scanlan, Development Services Manager, 812-349-3423,
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Summary

The administration is proposing text amendments to the city's Unified Development Ordinance ("UDO") as part of an effort to bring regular maintenance updates forward. These proposed changes follow an overhaul of the UDO that began several years ago. General information about the UDO, including the complete text of the current UDO, can be found here: <https://bloomington.in.gov/planning/udo>. For information about the Council's 2019 repeal and replacement of the UDO, please visit the following site: <https://bloomington.in.gov/council/plan-schedule>. Finally, councilmembers and the public can find the city's Comprehensive Plan online here: <https://bloomington.in.gov/planning/comprehensive-plan>.

A summary of the changes that each ordinance proposes is as follows:

- Ordinance 23-04 makes administrative, technical corrections to the UDO, including correcting misspellings, misplaced references, missing periods, and other formatting errors.
- Ordinance 23-05 includes administrative and substantive changes to Chapters 3, 5, and 7 of the UDO regarding use regulations, subdivision standards, and definitions. Changes include those required by state law regarding floodplain regulation administration and other changes that clarify existing provisions.
- Ordinance 23-06 addresses several administrative and substantive changes to Chapter 4 of the UDO regarding design standards and incentives. Changes vary widely from those that substantively alter design requirements to those that clarify existing provisions in an attempt to increase consistency, clarify existing practices, align code with state law, and consider future development in relation to city plans and policies.
- Ordinance 23-07 makes several substantive and administrative changes to Chapter 6 of the UDO regarding administration and procedures. The changes identified were made to clarify existing processes, alter the appeals process, and revise language to reflect current definitions in code.

For more information on the specific details regarding the proposed changes, please consult the staff memoranda (with tables of the proposed changes) for each ordinance.

Proposals to amend the text of the UDO are governed by state law under Indiana Code (IC) 36-7-4 in the "600 Series – Zoning Ordinance." As a threshold matter, state law provides that the purpose of the local planning and zoning laws are "to encourage units to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end:



1. that highway systems be carefully planned;
2. that new communities grow only with adequate public way, utility, health, educational, and recreational facilities;
3. that the needs of agriculture, forestry, industry, and business be recognized in future growth;
4. that residential areas provide healthful surroundings for family life; and
5. that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.”

Further, in considering UDO text amendments, both state and local codes require the legislative body to pay reasonable regard to:

1. the Comprehensive Plan;
2. current conditions and the character of current structures and uses in each district;
3. the most desirable use for which the land in each district is adapted;
4. the conservation of sensitive environmental features (a local criteria)
5. the conservation of property values throughout the jurisdiction; and
6. responsible development and growth.

Importantly, these are factors that a legislative body must *consider* when deliberating on zoning ordinance proposals. However, nothing in statute requires that the Council find absolute conformity with each of the factors outlined above. Instead, the Council is to take into consideration the entire constellation of the criteria, balancing the statutory factors. Notably, Indiana courts have found that comprehensive plans are guides to community development, rather than instruments of land-use control. A municipality must consider all factors and make a balanced determination. *Borsuk v. Town of St. John*, 820 N.E.2d 118 (2005).

IC 36-7-4-607 provides the following procedure that applies to a proposal to amend or partially repeal the text of the UDO:

- After the Plan Commission determines its recommendation on a proposal, it certifies the proposal to the Council with either a favorable recommendation, an unfavorable recommendation, or no recommendation. All four proposals sent to the Council received a favorable recommendation by the Plan Commission (votes listed above). The Council must consider these Commission recommendations before acting on the proposal.
- At the first regular meeting of the Council after the proposal is certified (or at any subsequent meeting within 90 days after the proposal is certified), the Council may adopt, reject, or amend the proposal. The Council must post and give notice at least 48 hours in advance of its intention to consider the proposal at a meeting.
- If the Council fails to act on a proposal that received a positive recommendation within 90 days after certification (deadlines listed above), the proposal would take effect as if it had been adopted (as certified) 90 days after certification.



City of Bloomington Indiana

City Hall | 401 N. Morton St. | Post Office Box 100 | Bloomington, Indiana 47402

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- Assuming the Council does act within the 90 days after a proposal is certified to it, the Council can adopt, reject or amend the proposal. If the Council amends or rejects a proposal, the Council must return that proposal to the Plan Commission along with a written statement of the reasons for the amendment or rejection. Doing so would start a 45-day period for the Plan Commission to consider the Council's amendment or rejection.
- If the Plan Commission approves of the Council's amendment or fails to act within 45 days, the ordinance would stand as passed by the Council. If the Plan Commission disapproves of the amendment or rejection, the Council's action on the original amendment or rejection stands only if confirmed by another vote of the Council within forty-five (45) days after the Plan Commission certifies its disapproval.

These detailed procedures may seem cumbersome, but are designed to ensure that there is a dialogue between the Plan Commission and the Council.

ORDINANCE 23-04

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE –
Re: Technical Corrections Set Forth in BMC 20**

WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and

WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”); and

WHEREAS, on December 18, 2019, the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and

WHEREAS, on January 14, 2020, the Mayor signed and approved Ordinance 19-24; and

WHEREAS, on April 15, 2020, the Common Council passed Ordinance 20-06 and Ordinance 20-07; and

WHEREAS, on April 18, 2020, the Unified Development Ordinance became effective; and

WHEREAS, on March 6, 2023, the Plan Commission voted to favorably recommend this amendment proposal to the Common Council, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, the Plan Commission certified this amendment proposal to the Common Council on March 15, 2023; and

WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council have paid reasonable regard to:

- 1) the Comprehensive Plan;
- 2) current conditions and character of current structures and uses in each district;
- 3) the most desirable use for which land in each district is adapted;
- 4) the conservation of property values throughout the jurisdiction; and
- 5) responsible development and growth; and

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

SECTION 1. Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance”, is amended.

SECTION 2. An amended Title 20, entitled “Unified Development Ordinance”, including other materials that are incorporated therein by reference, is hereby adopted. Said replacement ordinance consists of the following documents which are attached hereto and incorporated herein:

1. The Proposal forwarded to the Common Council by the Plan Commission with a favorable recommendation, consisting of:
 - (A) ZO-04-23 (“Attachment A”)
 - (B) Any Council amendments thereto (“Attachment B”)

SECTION 3. The Clerk of the City is hereby authorized and directed to oversee the process of consolidating all of the documents referenced in Section 2 into a single text document for codification.

SECTION 4. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this __ 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 petition contains corrections or clarifications in the UDO. These errors range from missing references to terminology correction to missing text to syncing references across the UDO. There are 19 amendments identified, some appearing multiple times in the code.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 23-04 is a true and complete copy of Plan Commission Case Number ZO-04-23 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 6, 2023.



Date: March 15, 2023

Scott Robinson, Secretary
Plan Commission

Received by the Common Council Office this 15th day of March, 2023.



Nicole Bolden, City Clerk

Appropriation Ordinance #	_____	Fiscal Impact Statement Ordinance #	_____	Resolution #	_____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No XX

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

Approval of case ZO-04-23 amends the Unified Development Ordinance (UDO), with technical corrections for scrivener's errors, punctuation, references, and/or citations, by the Bloomington Plan Commission. This ordinance is in accordance with Indiana Code 36-7-4-600.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

Case # ZO-04-23 Memo

To: Bloomington Common Council

From: Bloomington Plan Commission
Jackie Scanlan, AICP Development Services Manager

Date: March 15, 2023

Re: Text Amendments to Unified Development Ordinance

The Plan Commission heard case ZO-04-23 on March 6, 2023 and voted to send the petition to the Common Council with a positive recommendation with a vote of 9-0.

The Planning and Transportation Department proposes its annual update and amendment to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code. The last regular UDO Update process was completed in the Spring of 2022. This update is smaller scale than the larger update done in 2020 and is for regular maintenance of the code. Staff utilizes the UDO daily in our interactions with the public and other Departments, and has identified portions of the code that contain errors or that may benefit from amendment. No changes to the permitted uses or zoning districts are included in this update.

The proposal is divided into four (4) petitions. One petition is discussed below and is this Ordinance, 23-04:

1. ZO-04-23 | Technical Corrections

ZO-04-23 | Technical Corrections

This petition contains corrections or clarifications to the UDO. These range from missing periods, misspelled words, or misplaced references to syncing references across the UDO. There was a formatting error related to ‘vision clearance triangles’ and correction of that error is proposed. There are 19 amendments identified, some appearing multiple times in the code. These amendments are needed to provide accurate and clear language for use of the code, as well as to sync the code with itself.

Chapter 20.02: Zoning Districts

20.02.010 Zoning Districts Established

(a) Summary Table of Zoning Districts

The following zoning districts are established as shown in Table 02-1. All development shall comply with all other applicable regulations in this UDO including, without limitation, Chapter 20.03: (Use Regulations) and Chapter 20.04: (~~Development Standards & Incentives~~ ~~Development Standards & Incentives~~).

Table 02-1: Summary Table of Zoning Districts

Prior District Name	District Name
Residential	
RE – Residential Estate	R1 - Residential Large Lot [New]
RS - Residential Single-Family	R2 - Residential Medium Lot
RC - Residential Core	R3 - Residential Small Lot
---	R4 - Residential Urban [New]
RM - Residential Multifamily	RM - Residential Multifamily
RH - Residential High-Density Multifamily	RH - Residential High-Density Multifamily
MH - Manufactured/Mobile Home Park	RMH - Manufactured/Mobile Home Park
Mixed-Use	
---	MS - Mixed-Use Student Housing
CL - Commercial Limited	MN - Mixed-Use Neighborhood-Scale
CG - Commercial General	MM - Mixed-Use Medium-Scale
CA - Commercial Arterial	MC - Mixed-Use Corridor
BP - Business Park	ME - Mixed-Use Employment
IN - Institutional	MI - Mixed-Use Institutional
CD - Commercial Downtown	MD - Mixed-Use Downtown
MD - Medical	MH - Mixed-Use Healthcare
Nonresidential	
IG - Industrial General	EM - Employment
QY - Quarry	EM - Employment
---	PO – Parks and Open Space [New]
Planned Development District	
PUD - Planned Unit Development	PUD – Planned Unit Development
Overlay Zoning Districts	
CSO - Courthouse Square	DCO – Downtown Character Overlay DCO - Downtown Character Overlay
DCO - Downtown Core Overlay	
UVO - University Village Overlay	
DEO - Downtown Edges Overlay	
DGO - Downtown Gateway Overlay	
STPO - Showers Technology Park Overlay	
---	TRO – Transform Redevelopment Overlay [New]

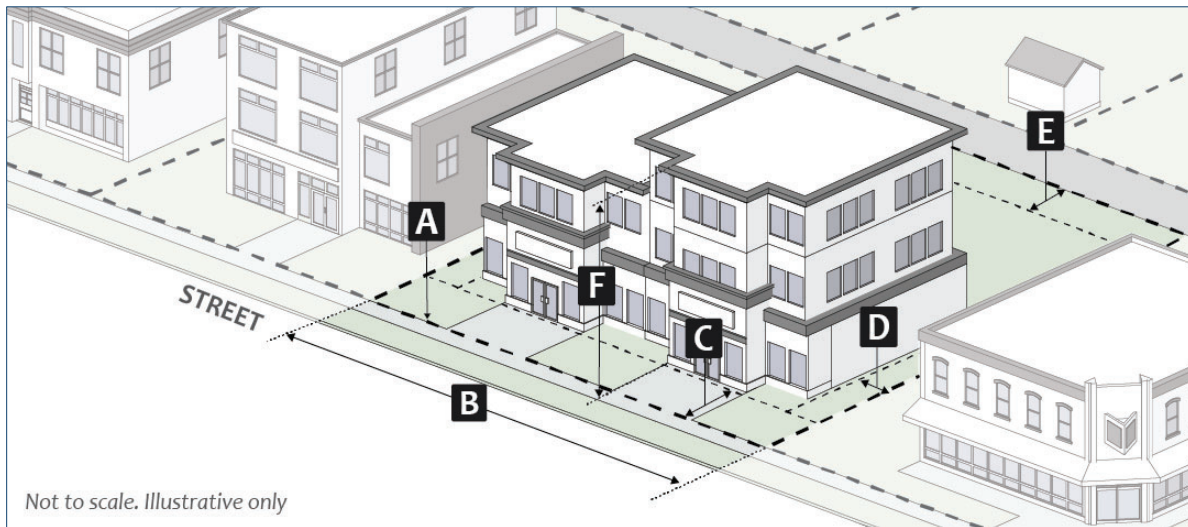


Figure 47: TRO Dimensional Standards

(5) Allowed Use Table Modifications**(A) Excluded Uses**

The following uses are prohibited within the TRO: Fraternity or sorority house; Opioid rehabilitation home, small; Crematory; Mortuary; Methadone treatment facility; Kennel; Country club; Sexually oriented business; Check cashing; Building supply store; Firearm sales; Pawn shop; Liquor or tobacco sales; Retail sales, big box; Vehicle fuel station; Student housing or dormitory.

(B) Permitted Uses

The following uses are permitted within the TRO: Dwelling, single-family (attached)*; Dwelling, duplex*; Dwelling, triplex*; Dwelling, fourplex*; Dwelling, multifamily**; Dwelling, live/work*; Restaurant**.

* = base zoning district use-specific standards apply

** = overlay use-specific standards apply only

(6) Use-Specific Standards

The lists of Permitted, Conditional, Accessory, Conditional Accessory, and Temporary uses listed in Table 3-1 (Allowed Use Table) are modified within the TRO as follows:

(A) Dwelling, Multifamily

- i. For structures with frontage along a street, identified in the ~~Transportation~~ Transportation Plan as Main Street, Shared Street, or General Urban, and structures along the B-Line Trail,

each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street, or the B-Line Trail.

- ii. Ground floor dwelling units with a front building wall facing a street shall be raised 2 to 5 feet above the sidewalk level.
- iii. Each dwelling unit shall have direct access to a covered balcony, patio, or porch with an average depth of at least 5 feet located adjacent to or overlooking a common open space, right-of-way, or B-Line Trail.
- iv. Any portions within the ground floor of a structure used for vehicular parking shall be located at least 20 feet behind the building facade facing a public street.

(B) Restaurant

- i. In the RM and RH zoning districts, the restaurant shall contain no more than 5,000 gross ~~squares~~ square feet of floor area.

(7) Access and Connectivity

(A) Driveways and Access

i. Alley Access:

A driveway accessing the street shall be prohibited if the side or rear setback is ~~adherent~~ adjacent via a platted alley.

ii. Surface Material:

Except for single-family, duplex, triplex, and fourplex uses, entrances and drives shall be constructed solely of permeable pavers.

(8) Parking and Loading

(A) Minimum Vehicle Parking Requirement:

Minimum vehicle parking ~~requirements~~ requirements shall not apply to developments in the TRO.

(B) Maximum Vehicle Parking Allowance:

i. Housing Living Uses:

Maximum vehicle parking allowance listed in Table 04-10: Maximum Vehicle Parking Allowance, shall apply to developments in the TRO except multifamily uses, which shall be limited to a maximum of 0.5 spaces per bedroom.

ii. All Other Uses:

The maximum vehicle parking allowance, listed in Table 04-10: Maximum Vehicle Parking Allowance, shall be reduced by 50% in the TRO.

(C) Surface Material:

Except for single-family, duplex, triplex, and fourplex residences and parking structures all vehicle parking shall be constructed solely of permeable pavers.

(9) Site and Building Design**(A) Street Lighting Plans Generally:**

- i. Pedestrian scaled street lighting shall be provided as approved by the Board of Public Works.
- ii. Pedestrian scaled street lighting shall not exceed 15 feet in height.

(B) Building Design**i. Exceptions**

1. Single-family, duplex, triplex, and fourplex dwellings shall not be subject to the architectural standards of this section 20.02.050(b). Such residential dwellings units shall be subject to the architectural standards of Section 20.04.070(d)(3) (Building Design).
2. Restoration and rehabilitation of structures designated as "Notable" or "Outstanding" on the City of Bloomington Survey of Historic Sites and Structures or those buildings in local historic districts shall not be subject to the architectural standards of this section 20.02.050(b). Such buildings shall be subject to the procedures outlined in Section 20.06.050(c) (Demolition Delay Permit) as required.

ii. Materials

All facades of a primary building shall consist of one or more of the following primary and secondary exterior finished materials:

1. Primary Exterior Finish Materials

- [a] Masonry;
- [b] Brick;
- [c] Natural Stone;
- [d] Transparent Glass;
- [e] Cementitious siding;
- [f] Precast concrete;
- [g] Metal (except corrugated);-or
- [h] Wood

Table 03-1: Allowed Use Table

P = permitted use, C = conditional use permit, A = accessory use, T = temporary use, Uses with an *= use-specific standards apply
Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use							Non-Residential		Use-Specific Standards	
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM		PO
Utility substation and transmission facility	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		20.03.030(f)(3)
Wind energy system, large												P*				P*		20.03.030(f)(4)
Wind energy system, small	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P*	P*	20.03.030(f)(5)
ACCESSORY USES																		20.03.030(g)(1)
Chicken flock	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		P*	20.03.030(g)(2)
Detached garage	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*								20.03.030(g)(3)
Drive-through										A*	A							20.03.030(g)(4)
Dwelling, accessory unit	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		A*	A*			20.03.030(g)(5)
Electric vehicle charging facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Greenhouse, noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Home occupation	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*			20.03.030(g)(6)
Outdoor retail and display									T*	T*	T*			T*		A*		20.03.030(g)(7)
Outdoor trash and recyclables receptacles					A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		20.03.030(g)(8)
Recycling drop-off, self-serve					A	A		A	A	A	A	A	A	A	A	A		
Swimming pool	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	20.03.030(g)(9)
TEMPORARY USES																		20.03.030(h)(1)
Book buyback								T*	T*	T*	T*		T*	T*				20.03.030(h)(2)
Construction support activities	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	20.03.030(h)(3)
Farm produce sales	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*			20.03.030(h)(4)
Real estate sales or model home	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*		20.03.030(h)(5)
Seasonal sales								T*	T*	T*	T*	T*	T*	T*				20.03.030(h)(6)
Special event	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*			T*	23.03.030(h)(7)

20.03.030 Use-Specific Standards

(a) Generally

- (1) The Use-Specific Standards listed in this Section 20.03.030 apply to those uses listed on the same line of Table 3-1, regardless of whether those uses are shown as Permitted, Conditional, Conditional Accessory, Accessory, or Temporary uses. These Use-Specific standards cannot be modified through the Conditional Use approval process in Section 20.06.050(b) (Conditional Use Permit), but relief may be granted through the Variance process in Section 20.06.080(b) (Variance).

- (2) Any of the uses listed as Household Living uses in [Table 03-1: Allowed Use Table](#), may be organized as cooperative housing, but shall be a permitted use or a conditional use only in those zoning districts where another Household Living use with the same layout and number of units would be allowed as a permitted use or conditional use, and shall be subject to those use-specific standards applicable to such Household Living use with the same layout and number of units. For example, a cooperative housing facility that meets the definition of “dwelling, multifamily” in terms of layout and number of units is a permitted use available only in those zoning districts where a “dwelling, multifamily” is a permitted use in [Table 03-1: Allowed Use Table](#), and is a conditional use available only in those zoning districts where a “Dwelling, multifamily,” is listed as a conditional use in [Table 03-1: Allowed Use Table](#), and is subject to those Use-specific standards applicable to a “dwelling, multifamily” in Section 20.03.030(b)(5).

(b) Residential Uses

(1) Dwelling, Single-Family (Detached)

- (A) In the RM, RH, MN, MM, MC, ME, and MH zoning districts, single-family detached dwelling units shall be permitted only on lots of record lawfully established before February 12, 2007.
- (B) Any legally established single-family dwelling that was established prior to the effective date of this UDO shall not be made non-conforming by adoption of this UDO.
- (C) Occupancy of a single-family detached dwelling unit is subject to the definition of “family” in Chapter 20.07: (Definitions).

(2) Dwelling, Single-Family (Attached)

(A) Access

- i. Each individual dwelling unit shall have a separate entrance facing the street frontage to which the building address is assigned. Buildings on corner lots may have entrances facing either street frontage.
- ii. Each dwelling shall have direct access to a street or alley.

(B) Design

In the R2 and R3 zoning districts, the maximum number of dwelling units allowed in one single-family attached structure shall be two, and each individual dwelling unit shall be located on a separate lot.

(C) Occupancy

Occupancy of single-family attached dwelling units is subject to the definition of “Family” in Chapter 20.07: (Definitions).

(3) Dwelling, Duplex

(A) Generally

- i. The property owner (or HAND registered agent) shall have no Notices of Violation on file in the Planning and Transportation Department for the prior three years at application.

(11) Group Care Home, FHAA (Small and Large) & Opioid Rehabilitation Home, (Small and Large)

- (A) Group homes for the exclusive use of citizens protected by the provisions of the federal Fair Housing Act Amendments of 1988 (FHAA), as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Indiana, may be established in any Residential zoning district or portion of a Mixed-Use zoning district or PD district that permits residential dwellings, provided that they meet the definition of “small” and “large” facilities in Chapter 20.07: Definitions) and are located in zoning districts where facilities of that size are allowed pursuant to Table 3-1, and subject to the licensing requirements of the state and the City of Bloomington.
- (B) In the MN and R4 zoning districts, group homes shall not be designed for or occupied by more than 20 residents living together.
- (C) No Group Care Home shall be located within 300 feet of any other Group Care Home.
- (D) No Opioid Rehabilitation Home shall be located within 300 feet of any other Opioid Rehabilitation Home.
- (E) Where minimum spacing is required by subsections (C) and (D) above, the distance shall be measured from the nearest property line of the property from which spacing is required to the nearest property line on which the group home will be located, using a straight line, without regard to intervening structures or public rights-of-way.

(12) Residential Rooming House

- (A) No residential rooming house shall contain more than four bedrooms, not including the living space occupied by the residential rooming house owner.
- (B) No bedroom occupied by a person other than the residential rooming house owner shall be rented for a period of less than 30 consecutive days.

(13) Student Housing or Dormitory**(A) Ground Floor Parking**

All portions within the ground floor of a structure used for vehicular parking shall be located at least 20 feet behind the building facade facing a public street. If there are multiple primary buildings on a site, this requirement only applies to the building closest to a public street.

(B) Location

In the RM, RH, MN, MM, MC, and MI zoning districts, each student housing or dormitory use shall be separated from any other student housing or dormitory use.

- i. By at ~~least 900~~ least 900 feet, as measured between the closest points on the two lots containing the student housing or dormitory uses, and
- ii. By at least 900 feet, as measured between the closest points of two or more residential or mixed use structures within one lot containing the student housing or dormitory use.

However, if either the affordable housing incentive codified at Section 20.04.110(c) or the sustainable development incentive codified at Section 20.04.110(d) has been earned, only the requirements of 20.03.030(b)(13)(B)(i) apply to each student housing or dormitory use in the RM, RH, MN, MM, MC, and MI zoning districts. If both the affordable housing incentive codified at Section 20.04.110(c) and the sustainable development incentive codified at Section 20.04.110(d), the separation requirements of

this section do not apply to each student housing or dormitory use in the RM, RH, MN, MM, MC, and MI zoning districts

(C) Building Floor Plate

- i. In the MN zoning district, the maximum building floor plate for a student housing or dormitory use shall be 2,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g) (~~Building Floor Plate~~ ~~Building Floor Plate~~). However if either the affordable housing incentive codified at Section 20.04.110(c) or the sustainable development incentive codified at Section 20.04.110(d) has been earned, the maximum building floor plate for a student housing or dormitory use in the MN zoning district shall be 3,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g). If both the affordable housing incentive codified at Section 20.04.110(c) and the sustainable development incentive codified at Section 20.04.110(d) have been earned, the maximum building floor plate of a student housing or dormitory use shall be 5,000 square feet per building.
- ii. In the RM and MD zoning districts, the maximum building floor plate for a student housing or dormitory use shall be 3,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g) (~~Building Floor Plate~~ ~~Building Floor Plate~~). However if either the affordable housing incentive codified at Section 20.04.110(c) or the sustainable development incentive codified at Section 20.04.110(d) has been earned, the maximum building floor plate for a student housing or dormitory use in the RM and MD zoning districts shall be 5,000 square feet per building , pursuant to the measurement standards in Section 20.04.020(g). If both the affordable housing incentive codified at Section 20.04.110(c) and the sustainable development incentive codified at Section 20.04.110(d) have been earned, the maximum building floor plate of a student housing or dormitory use shall be 10,000 square feet per building.
- iii. In the RH, MM, MC, and MI zoning districts, the maximum building floor plate for a student housing or dormitory use shall be 5,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g) (~~Building Floor Plate~~ ~~Building Floor Plate~~). However if either the affordable housing incentive codified at Section 20.04.110(c) or the sustainable development incentive codified at Section 20.04.110(d) has been earned, the maximum building floor plate for a student housing or dormitory use in the RH, MM, MC, and MI zoning districts shall ~~be 8,000~~ ~~be 8,000~~ square feet per building, pursuant to the measurement standards in Section 20.04.020(g). If both the affordable housing incentive codified at Section 20.04.110(c) and the sustainable development incentive codified at Section 20.04.110(d) have been earned, the maximum building floor plate of a student housing or dormitory use shall be 20,000 square feet per building.
- iv. In the MS zoning district, the maximum building floor plate for a student housing or dormitory use shall be 10,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g) (Building Floor Plate). However if either the affordable housing incentive codified at Section 20.04.110(c) or the sustainable development incentive codified at Section 20.04.110(d) has been earned, the maximum building floor plate for a student housing or dormitory use shall be 14,000 square feet per building, pursuant to the measurement standards in Section 20.04.020(g). If both the affordable housing incentive codified at Section 20.04.110(c) and the sustainable development incentive codified at Section 20.04.110(d) have

ii. Mixed-Use Districts

1. A Home Occupation in a Mixed-Use zoning district that meets all of the standards of this Section 20.03.030(g)(6) shall be treated as a single-family dwelling unit for purposes of site plan review.
2. A Home Occupation that does not meet the standards of this section shall be treated as a commercial use and subject to site plan review.

(E) Operator Residency Required

The operator of the Home Occupation shall reside in the dwelling unit.

(F) Maximum Number of Nonresident Employees

Any Home Occupation shall be permitted a maximum of one employee who does not reside in the dwelling unit.

(G) Maximum Floor Area

- i. For Home Occupations located within a primary structure no more than 50 ~~percent~~^{percent} of the total interior floor area of the dwelling unit may be used in connection with the Home Occupation.
- ii. If there is more than one Home Occupation being conducted within a dwelling unit, then all Home Occupations within the dwelling unit shall cumulatively use no more than 50 percent of the dwelling unit.
- iii. Area used for storage of material or products used in the Home Occupation shall be included in this calculation.
- iv. For Home Occupations located within an accessory structure no more than 840 square feet or the maximum square footage allowed for accessory structures permitted by Section 20.03.0309(g) (Accessory Uses and Structures), whichever is less may be used in connection with the Home Occupation.
- v. Exempted Uses are excluded from square footage limitations in Section 20.03.030 (g)(6)(A).

(H) Multiple Home Occupations

- i. More than one Home Occupation may be permitted within an individual dwelling unit.
- ii. Where multiple Home Occupations are conducted within an individual dwelling unit, the operations standards of this subsection shall be applied to the combined total of all Home Occupation activities, not to each Home Occupation individually.

(I) Residential Character

There shall not be any interior or exterior, structural or aesthetic alterations that change the residential character of the dwelling unit within which the Home Occupation operates.

(J) Location and Entrance

- i. The use of any attached or detached garage for a Home Occupation shall not interfere with the provision of any required off-street parking.

(K) Outdoor Display and Storage

Outdoor display of goods, materials, supplies, or equipment is prohibited.

(e) Setbacks

(1) Measurement

- (A) Setbacks referred to in this UDO shall be measured as stated in Chapter 20.07: (Definitions), under the term "setback" and "build-to range."
- (B) For private streets, setbacks shall be measured from the edge of the curb, easement, or right-of-way, whichever distance is greater.
- (C) Where existing right-of-way is wider than that proposed on the Transportation Plan, the setback shall be measured from the existing right-of-way.
- ~~(D)~~ For lots of record with no street frontage, a minimum building setback of 10 feet is required from the property line where access is gained.
- ~~(D)~~(E) The minimum front building facade at the build-to range percentage shall be determined by calculating the width of the principal building that is within the build-to range divided by the total width of the lot at the street frontage.

(2) Single-Family Attached and Multifamily Dwellings

- (A) Multifamily dwellings on one lot shall be construed as one structure for purpose of measuring setbacks.
- (B) For purposes of setback calculations for side-by-side single-family attached or multifamily dwellings, only those dwelling units that do not share a common wall with an adjacent unit (end units) shall observe the required side setback for the district.

(3) Exceptions to Setback Requirements

- (A) The setback exceptions established in Table 04-6 shall not authorize the encroachment of any development across property lines or into a public right-of-way.
- (B) Every part of a required setback shall be unobstructed from ground level to the sky, except as follows:

(4) Belt Courses

- (A) Building facades shall incorporate exterior horizontal belt course design elements for the building base, middle and cap through techniques such as copestone, dripstone, string course, water table, and/or plinth using natural stone or masonry.
- (B) Building facades shall incorporate exterior vertical banding techniques using natural stone or masonry to visually define building subdivisions of wall planes, modules, or building facade focal points.

(f) Universal Design

- (1) In multifamily residential buildings and student housing and dormitory buildings constructed after 4/18/2020 that contain more than 25 dwelling units, at least 20 percent of the dwelling units shall incorporate at least one entrance at grade level and not requiring any steps up or down or a ramp for entry.
- (2) In addition, one of the following additional elements of "universal design" is required:
 - (A) All interior doorways with at least 32-inch wide openings;
 - (B) At least one bathroom with 32-inch counter height;
 - (C) At least one bathroom with wall reinforcements for handrails; and/or
 - (D) All light switches installed between 44 and 48 inches in height.

(g) Solar Ready Building Design

All new construction of primary structures shall meet either (1) or (2) below:

1. Design building as solar or renewable energy ready and incorporate the following into the site plan:
 1. Roof load bearing specifications shall be sized to bear the weight of a solar installation;
 2. The roof should be oriented to maximize solar capacity and roof types shall be compatible with solar installation mounting;
 3. Non-solar rooftop equipment (HVAC systems, chimneys, vents) shall be placed to avoid shading of solar equipment and maximize the amount of continuous roof space;
 4. Electrical panels shall be sized to accommodate a future solar system and space shall be allocated in the utility room or outside for a solar DC-AC inverter; and
 5. Conduit for wiring shall be placed from the roof to the electrical panel.
2. Submit a completed *U.S. EPA Renewable Energy Ready Home Solar Site Assessment* or another approved solar-ready assessment is required.

Modifications to either 1 or 2 above can be approved by the Director of Planning and Transportation.

(C) Vehicular and Pedestrian Movement

Plant materials shall be located to avoid interference with vehicular and pedestrian movement and shall not project over sidewalks, paths, or trails below a height of eight feet. Plant materials shall not project over street curbs or pavement within rights-of-way or access easements below a height of 15 feet.

(D) Vision Clearance**~~i. Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Connectivity~~**

~~Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~Vision Clearance Triangle). Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Vision Clearance Triangle).~~

(E) Green Infrastructure

All green infrastructure facilities, including detention basins, bioswales, and raingardens shall be planted with only native seed and/or plugs.

(F) Installation Prior to Occupancy

All landscaping required by the approved site plan shall be installed and inspected prior to issuance of a recommendation for final occupancy, unless an extension is approved by the Planning and Transportation Department for weather-related or unique circumstances.

~~(E) Distribution~~

~~Required landscape shall be reasonably distributed in any areas of a site not covered by a structure, parking lot or required buffer yard. It is suggested that the required plantings be planted in clusters or irregular patterns, and that native grasses and herbaceous perennial species be used for ornamentation in addition to the required plantings.~~

(2) Plant Material Standards**(A) Live Plantings**

All plant material shall be living and healthy. Dead, diseased or artificial plants shall not be recognized as contributing to required landscape treatments.

(B) Species Identification

New plantings shall have species identification tags on the plant or paid purchase identification labels on the plants during the final inspection. A receipt with purchase order for plantings may be submitted prior to inspection in lieu of tags or labels on site.

(C) Prohibited Plant Species~~Invasive Plants~~

Species identified as invasive, detrimental, or noxious shall not be planted under any circumstances and will not be counted toward landscape requirements.

(D) Species Diversity

- i. On sites that require an aggregate total of 20 or more new trees, any given genus of tree shall be limited to a maximum of 2025 percent of the total number of newly planted trees on site.

Table 04-15: Permitted Interior Tree Species

Bold text indicates evergreen species

Common Name	Scientific Name
Canadian or Eastern Hemlock	<i>Tsuga Canadensis</i>
Medium <u>Interior</u> Trees - 25 feet to 45 feet at mature height	
<u>Southern Catalpa</u>	<u><i>Catalpa bignoniodes</i></u>
<u>Downy Hawthorn</u>	<u><i>Crataegus mollis</i></u>
<u>Persimmon</u>	<u><i>Diospyros virginiana</i></u>
American Holly	<i>Ilex opaca</i>
<u>River Birch</u>	<u><i>Betula nigra</i></u>
<u>Sassafras</u> <u>Sassafras</u>	<u><i>Sassafras albidum</i></u> <u><i>Sassafras albidum</i></u>
<u>American Arborvitae</u> <u>American Arborvitae</u>	<u><i>Thuja occidentalis</i></u> <u><i>Thuja occidentalis</i></u>
Small <u>Interior</u> Trees - Under 25 feet at mature height	
<u>Red Buckeye</u> <u>Pawpaw</u>	<u><i>Asimina triloba</i></u> <u><i>Aesulus pavia</i></u>
<u>Devil's Walking Stick</u> <u>Pagoda Dogwood</u>	<u><i>Cornus alternifolia</i></u> <u><i>Aralia spinosa</i></u>
<u>Persimmon</u> <u>Pawpaw</u>	<u><i>Diospyros virginiana</i></u> <u><i>Asimina triloba</i></u>
<u>Silverbell</u> <u>Pagoda Dogwood</u>	<u><i>Halesia carolina</i></u> <u><i>Cornus alterifolia</i></u>
<u>Wild Plum</u> <u>Down Hawthorn</u>	<u><i>Crataegus mollis</i></u> <u><i>Prunus Americana</i></u>
<u>Staghorn Sumac</u> <u>Silverbell</u>	<u><i>Halesia carolina</i></u> <u><i>Rhus typhina</i></u>
<u>American Plum</u>	<u><i>Prunus americana</i></u>
<u>Chickasaw Plum</u>	<u><i>Prunus angustifolia</i></u>
<u>Hoptree</u>	<u><i>Ptelia trifoliata</i></u>
<u>Dwarf Chinquapin Oak</u>	<u><i>Quercus prinoides</i></u>
<u>Winged Sumac or Shinig Sumac</u>	<u><i>Rhus copallina</i></u>
<u>Shining Sumac or Smooth Sumac</u>	<u><i>Rhus glabra</i></u>
<u>Staghorn Sumac</u>	<u><i>Rhus typhina</i></u>

Table 04-1516: Permitted Shrubs, Bushes and Hedges Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Indigo Bush</u>	<u><i>Amorpha fruticosa</i></u>
<u>Red Chokeberry</u> <u>Black Chokeberry</u>	<u><i>Aronia arbutifolia</i></u> <u><i>Aronia melanocarpa</i></u>
<u>Black Chokeberry</u> <u>New Jersey Tea</u>	<u><i>Aronia melanocarpa</i></u> <u><i>Ceanothus americanus</i></u>
<u>New Jersey Tea</u> <u>Buttonbush</u>	<u><i>Ceanothus americanus</i></u> <u><i>Cephalanthus occidentalis</i></u>
<u>Buttonbush</u> <u>American Hazelnut</u>	<u><i>Cephalanthus occidentalis</i></u> <u><i>Corylus Americana</i></u>
<u>Silky Dogwood</u> <u>Eastern Witch Hazel</u>	<u><i>Cornus amomum</i></u> <u><i>Hamamelis virginiana</i></u>
<u>Rough-leaved Dogwood</u> <u>Wild Hydrangia</u>	<u><i>Cornus drummondii</i></u> <u><i>Hydrangia arborescens</i></u>
<u>Gray Dogwood</u> <u>Inkberry</u>	<u><i>Cornus racemosa</i></u> <i>Ilex glabra</i>
<u>Red-Twig Dogwood</u> <u>Winterberry Holly</u>	<u><i>Cornus sericea</i></u> <u><i>Ilex verticillata</i></u>

Table 04-1516: Permitted Shrubs, Bushes and Hedges Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>American Hazelnut</u> <u>Virginia Sweetspire</u>	<u>Corylus americana</u> <u>Itea virginica</u>
<u>Eastern Witchhazel</u> <u>Juniper</u>	<u>Hamamelis virginiana</u> <u>Juniperus communis</u>
<u>Smooth Hydrangea</u> <u>Spicebush</u>	<u>Hydrangea arborescens</u> <u>Lindera benzoin</u>
<u>Golden St. John's wort</u> <u>Ninebark</u>	<u>Hypericum frondosum</u> <u>Physocarpus opulifolius</u>
<u>Possumhaw</u> <u>Shrubby Cinquefoil</u>	<u>Ilex decidua</u> <u>Potentilla</u>
<u>Inkberry</u> <u>Sand Cherry</u>	<u>Ilex glabra</u> <u>Prunus pumila</u>
<u>Winterberry Holly</u> <u>Fragrant Sumac</u>	<u>Ilex verticillata</u> <u>Rhus aromatica</u>
<u>Virginia Sweetspire</u> <u>Winged Sumac</u>	<u>Itea virginica</u> <u>Rhus copallina</u>
<u>Common Juniper</u> <u>Shinning Sumac</u>	<u>Juniperus communis</u> <u>Rhus glabra</u>
<u>Spicebush</u> <u>Virginia Rose</u>	<u>Lindera benzoin</u> <u>Rosa virginiana</u> , <u>Rosa setigera</u> , <u>Rosa palustris</u>
<u>Ninebark</u> <u>Pussy Willow</u>	<u>Physocarpus opulifolius</u> <u>Salix discolor</u>
<u>Sand Cherry</u> <u>Elderberry</u>	<u>Prunus pumila</u> <u>Sambucus canadensis</u>
<u>Fragrant Sumac</u> <u>Bladdernut</u>	<u>Rhus aromatica</u> <u>Staphylea trifolia</u>
<u>Prickly Gooseberry</u> <u>Coralberry</u>	<u>Ribes cynosbati</u> <u>Symphoricarpos orbiculatus</u>
<u>Swamp Rose</u> <u>Canadian Yew</u>	<u>Rosa palustris</u> <u>Taxus canadensis</u>
<u>Climbing Rose</u> <u>Highbush Blueberry</u>	<u>Rosa setigera</u> <u>Vaccinium corymbosum</u> , <u>Vaccinium vacillans</u>
<u>Virginia Rose</u> <u>Mapleleaf Viburnum</u>	<u>Rosa virginiana</u> <u>Viburnum acerifolium</u>
<u>Purple Flowering Raspberry</u> <u>Arrowwood</u>	<u>Rubus odoratus</u> <u>Viburnum dentatum</u>
<u>Pussy Willow</u> <u>Nannyberry</u>	<u>Salix discolor</u> <u>Viburnum lentago</u>
<u>American Black Elderberry</u> <u>Black Haw</u>	<u>Sambucus canadensis</u> <u>Viburnum prunifolium</u> , <u>Viburnum rufidulum</u>
<u>Bladdernut</u> <u>Prickly Ash</u>	<u>Staphylea trifolia</u> <u>Zanthoxylum americanum</u>
<u>Coralberry</u>	<u>Symphoricarpos orbiculatus</u>
<u>Canadian Yew</u>	<u>Taxus canadensis</u>
<u>Highbush Blueberry</u>	<u>Vaccinium corymbosum</u>
<u>Hillside Blueberry</u>	<u>Vaccinium pallidum</u>
<u>Mapleleaf Viburnum</u>	<u>Viburnum acerifolium</u>
<u>Arrowwood Viburnum</u>	<u>Viburnum dentatum</u>
<u>Nannyberry</u>	<u>Viburnum lentago</u>
<u>Blackhaw</u>	<u>Viburnum prunifolium</u>
<u>Rusty Blackhaw</u>	<u>Viburnum rufidulum</u>
<u>Prickly Ash</u>	<u>Zanthoxylum americanum</u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
Flowering Perennials	
<u>Purple giant hyssop</u>	<u><i>Agastache scrophulariaefolia</i></u>
<u>Nodding wild onion</u>	<u><i>Allium cernuum</i></u>
<u>Lead plant</u>	<u><i>Amorpha canescens</i></u>
<u>Bluestar</u>	<u><i>Amsonia tabernaemontana</i></u>
<u>Canada Anemone</u>	<u><i>Anemone canadensis</i></u>
<u>Thimbleflower</u>	<u><i>Anemone virginiana</i></u>
<u>Wild Columbine</u>	<u><i>Aquilegia canadensis</i></u>
<u>Pale Indiana Plantain</u>	<u><i>Arnoglossum atriplicifolium</i></u>
<u>Goatsbeard</u>	<u><i>Aruncus dioicus</i></u>
<u>Poke milkweed</u>	<u><i>Asclepias exaltata</i></u>
<u>Tall green milkweed</u>	<u><i>Asclepias hirtella</i></u>
<u>Swamp or Marsh Milkweed</u>	<u><i>Asclepias incarnata</i></u>
<u>Purple milkweed</u>	<u><i>Asclepias purpurascens</i></u>
<u>Showy milkweed</u>	<u><i>Asclepias speciosa</i></u>
<u>Prairie milkweed</u>	<u><i>Asclepias sullivantii</i></u>
<u>Common Milkweed</u>	<u><i>Asclepias syriaca</i></u>
<u>Butterflyweed</u>	<u><i>Asclepias tuberosa</i></u>
<u>Whorled milkweed</u>	<u><i>Asclepias verticillata</i></u>
<u>Spider milkweed</u>	<u><i>Asclepias viridis</i></u>
<u>Lindley's Heart-leaved Aster</u>	<u><i>Aster ciliolatum (Symphyotrichum ciliolatum)</i></u>
<u>Blue Wood Aster</u>	<u><i>Aster cordifolius</i></u>
<u>Heath Aster</u>	<u><i>Aster ericoides (Symphyotrichum ericoides)</i></u>
<u>Smooth Aster</u>	<u><i>Aster laevis</i></u>
<u>New England Aster</u>	<u><i>Aster novae-angliae (Symphyotrichum novae-angliae)</i></u>
<u>Aromatic Aster</u>	<u><i>Aster oblongifolius (Symphyotrichum oblongifolium)</i></u>
<u>Sky-blue Aster</u>	<u><i>Aster oolentangiensis (Symphyotrichum oolentangiensis)</i></u>
<u>Swamp Aster</u> <u>Canada Anemone</u>	<u><i>Aster puniceus (Symphyotrichum puniceum)</i></u> <u><i>Anemone canadensis</i></u>
<u>Short's Aster</u>	<u><i>Aster shortii (Symphyotrichum shortii)</i></u>
<u>Flat-topped Aster</u>	<u><i>Aster umbellatus (Doellingeria umbellata)</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>False White indigo</u>	<u><i>Baptisia alba</i></u>
<u>False Blue Indigo</u>	<u><i>Baptisia australis</i></u>
<u>False Yellow Indigo</u>	<u><i>Baptisia tinctoria</i></u>
<u>Downy wood mint</u>	<u><i>Blephilia ciliata</i></u>
<u>Hairy wood mint</u>	<u><i>Blephilia hirsuta</i></u>
<u>False chamomile or false aster</u> <u>Columbine</u>	<u><i>Boltonia asteroides</i></u> <u><i>Aquilegia canadensis</i></u>
<u>Clustered poppy mallow</u>	<u><i>Callirhoe triangulata</i></u>
<u>Marsh marigold</u>	<u><i>Caltha palustris</i></u>
<u>Tall bellflower</u>	<u><i>Campanula americana</i></u>
<u>White turtlehead</u>	<u><i>Chelone glabra</i></u>
<u>Pink Turtlehead</u>	<u><i>Chelone obliqua</i></u>
<u>Black cohosh</u>	<u><i>Cimicifuga racemosa</i></u>
<u>Lance-leaved coreopsis</u>	<u><i>Coreopsis lanceolata</i></u>
<u>Prairie coreopsis</u>	<u><i>Coreopsis palmata</i></u>
<u>Tall Coreopsis</u>	<u><i>Coreopsis tripteris</i></u>
<u>White prairie clover</u>	<u><i>Dalea candida</i></u>
<u>Purple prairie clover</u>	<u><i>Dalea purpureum</i></u>
<u>Larkspur</u>	<u><i>Delphinium tricornis</i></u>
<u>Pale purple coneflower</u>	<u><i>Echinacea pallida</i></u>
<u>Purple coneflower</u>	<u><i>Echinacea purpurea</i></u>
<u>Rattlesnake master</u>	<u><i>Eryngium yuccifolium</i></u>
<u>Common boneset</u>	<u><i>Eupatorium perfoliatum</i></u>
<u>Flowering spurge</u>	<u><i>Euphorbia corollata</i></u>
<u>Grass-leaved goldenrod</u>	<u><i>Euthamia graminifolia</i></u>
<u>Hollow Joe-Pye weed</u>	<u><i>Eutrochium fistulosum</i></u> (syn. <u><i>Eupatorium fistulosum</i></u>) <u><i>Eutrochium maculatum</i></u> (syn. <u><i>Eupatorium maculatum</i></u>)
<u>Spotted-Joe-Pyeweed</u>	<u><i>Eutrochium purpureum</i></u> (syn. <u><i>Eupatorium purpureum</i></u>)
<u>Purple Joe-Pye weed</u>	<u><i>Filipendula rubra</i></u>
<u>Queen of the prairie</u>	<u><i>Gentiana andrewsii</i></u>
<u>Bottle Gentian</u>	
<u>Wild Geranium</u> <u>Swamp or Marsh Milkweed</u>	<u><i>Geranium maculatum</i></u> <u><i>Asclepias incarnata</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Autumn Sneezeweed</u>	<u><i>Helenium autumnale</i></u>
<u>Woodland Sunflower</u>	<u><i>Helianthus divaricatus</i></u>
<u>Downy Sunflower</u>	<u><i>Helianthus mollis</i></u>
<u>Western Sunflower</u>	<u><i>Helianthus occidentalis</i></u>
<u>Stiff or Prairie Sunflower</u>	<u><i>Helianthus pauciflorus</i></u>
<u>False Sunflower</u>	<u><i>Heliopsis helianthoides</i></u>
<u>American alumroot</u>	<u><i>Heuchera americana</i></u>
<u>Prairie Alumroot</u>	<u><i>Heuchera richardsonii</i></u>
<u>Rose Mallow</u>	<u><i>Hibiscus laevis</i></u>
<u>Swamp Rose Mallow</u>	<u><i>Hibiscus moschuetos</i></u>
<u>Dwarf Crested Iris</u>	<u><i>Iris cristata</i></u>
<u>Blue Flag Iris</u>	<u><i>Iris virginica</i></u>
<u>Violet Lespedeza</u> <u>Common Milkweed</u>	<u><i>Lespedeza violacea</i></u> <u><i>Asclepias syriaca</i></u>
<u>Rough Blazingstar</u>	<u><i>Liatris aspera</i></u>
<u>Dwarf Blazingstar</u> <u>Butterflyweed</u>	<u><i>Liatris microcephala</i></u> <u><i>Asclepias tuberosa</i></u>
<u>Prairie Blazing Star</u>	<u><i>Liatris pycnostachya</i></u>
<u>Northern Blazingstar</u> <u>Smooth Aster</u>	<u><i>Liatris scariosa</i></u> <u><i>Aster laevis</i></u>
<u>Dense Blazingstar</u> , <u>Spiked Blazingstar</u> <u>Short's Aster</u>	<u><i>Liatris spicata</i></u> <u><i>Aster shortii</i></u>
<u>Cardinal Flower</u>	<u><i>Lobelia cardinalis</i></u>
<u>Downy Lobelia</u> <u>False Blue Indigo</u>	<u><i>Lobelia puberula</i></u> <u><i>Baptisia australis</i></u>
<u>Great Blue Lobelia</u> <u>Tall Coreopsis</u>	<u><i>Lobelia siphilitica</i></u> <u><i>Coreopsis tripteris</i></u>
<u>Virginia Bluebells</u> <u>Larkspur</u>	<u><i>Mertensia virginica</i></u> <u><i>Delphinium tricorne</i></u>
<u>Bergamot or Bee-balm</u> <u>Purple Coneflower</u>	<u><i>Monarda fistulosa</i></u> <u><i>Echinacea purpurea</i></u>
<u>Purple Prairie Clover</u> <u>Spotted Joe-Pye Weed</u>	<u><i>Petalostemum purpureum</i></u> <u><i>Eupatorium maculatum</i></u>
<u>Blue Phlox</u> , <u>Woodland Phlox</u> <u>Wild Geranium</u>	<u><i>Phlox divaricata</i></u> <u><i>Geranium maculatum</i></u>
<u>Summer Phlox</u> , <u>Tall Phlox</u> <u>Autumn Sneezeweed</u>	<u><i>Phlox paniculata</i></u> <u><i>Helenium autumnale</i></u>
<u>Obedient Plant</u>	<u><i>Physostegia virginiana</i></u>
<u>Jacob's Ladder</u>	<u><i>Polemonium reptans</i></u>
<u>Solomon's Seal</u>	<u><i>Polygonatum biflorum</i></u>
<u>Prairie Cinquefoil</u>	<u><i>Potentilla arguta</i></u>
<u>Hoary Mountain Mint</u>	<u><i>Pycnanthemum incanum</i></u>
<u>Hairy Mountain Mint</u>	<u><i>Pycnanthemum pilosum</i></u>
<u>Narrow-leaved Mountain Mint</u>	<u><i>Pycnanthemum tenuifolium</i></u>
<u>Virginia Mountain Mint</u> <u>Stiff or Prairie Sunflower</u>	<u><i>Pycnanthemum virginianum</i></u> <u><i>Helianthus pauciflorus</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Pinnate Prairie Coneflower</u> False Sunflower	<u><i>Ratibida pinnata</i></u> <i>Heliopsis helianthoides</i>
<u>Orange Coneflower</u> Violet Lespedeza	<u><i>Rudbeckia fulgida</i></u> <i>Lespedeza violacea</i>
<u>Rough Blazing Star</u>	<u><i>Liatris aspera</i></u>
<u>Green-Headed Coneflower</u> Prairie Blazing Star	<u><i>Rudbeckia laciniata</i></u> <i>Liatris pycnostachya</i>
<u>Sweet Susan Coneflower</u>	<u><i>Rudbeckia subtomentosa</i></u>
<u>Wild Petunia</u>	<u><i>Ruellia humilis</i></u>
<u>Blue Sage</u>	<u><i>Salvia azurea</i></u>
<u>Lyre-leaved Sage</u>	<u><i>Salvia lyrata</i></u>
<u>Late-flowering Figwort</u>	<u><i>Scrophularia marilandica</i></u>
<u>Downey Skullcap</u>	<u><i>Scutellaria incana</i></u>
<u>Heart-leaved Scullcap</u>	<u><i>Scutellaria ovata</i></u>
<u>Wild Stonecrop</u>	<u><i>Sedum ternatum</i></u>
<u>Wild Senna</u>	<u><i>Senna hebecarpa</i></u>
<u>Maryland Senna</u>	<u><i>Senna manilandica</i></u>
<u>Royal Catchfly</u>	<u><i>Silene regia</i></u>
<u>Fire Pink</u>	<u><i>Silene virginica</i></u>
<u>Rosinweed</u>	<u><i>Silphium integrifolium</i></u>
<u>Compass Plant</u>	<u><i>Silphium laciniatum</i></u>
<u>Cup Plant</u>	<u><i>Silphium perfoliatum</i></u>
<u>Cutleaf Prairie Dock</u>	<u><i>Silphium pinnatifidum</i></u>
<u>Prairie Dock</u>	<u><i>Silphium terebinthinaceum</i></u>
<u>Whorled Rosinweed</u>	<u><i>Silphium trifoliatum</i></u>
<u>Blue-eyed Grass</u>	<u><i>Sisyrinchium angustifolium</i></u>
<u>Solomon's Plume</u> Dense Blazing Star	<u><i>Smilacina racemosa</i></u> <i>Liatris spicata</i>
<u>Cardinal Flower</u>	<u><i>Lobelia cardinalis</i></u>
<u>Blue-stemmed Goldenrod</u>	<u><i>Solidago caesia</i></u>
<u>Zig-zag Goldenrod</u>	<u><i>Solidago flexicaulis</i></u>
<u>Tall Goldenrod</u>	<u><i>Solidago gigantean</i></u>
<u>Early Goldenrod</u> Great Blue Lobelia	<u><i>Solidago juncea</i></u> <i>Lobelia siphilitica</i>
<u>Grey Goldenrod</u>	<u><i>Solidago nemoralis</i></u>
<u>Swamp Goldenrod</u>	<u><i>Soldago patula</i></u>
<u>Stiff Goldenrod</u>	<u><i>Solidago rigida</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Rough-leaved Goldenrod</u>	<u><i>Solidago rugosa</i></u>
<u>Showy Goldenrod</u>	<u><i>Solidago speciosa</i></u>
<u>Indian Pink</u> <u>Virginia Bluebells</u>	<u><i>Spigelia marilandica</i></u> <u><i>Mertensia virginica</i></u>
<u>Bergamot or Bee balm</u>	<u><i>Monarda fistulosa</i></u>
<u>Purple Prairie Clover</u>	<u><i>Petalostemum purpureum</i></u>
<u>Celandine Poppy</u> <u>Blue Phlox</u>	<u><i>Stylophorum diphyllum</i></u> <u><i>Phlox divaricata</i></u>
<u>Ohio Spiderwort</u>	<u><i>Tradescantia ohiensis</i></u>
<u>Virginia Spiderwort</u>	<u><i>Tradescantia virginiana</i></u>
<u>Bellwort or Merrybells</u>	<u><i>Uvularia grandiflora</i></u>
<u>Blue Vervain</u>	<u><i>Verbena hastata</i></u>
<u>Hoary Vervain</u>	<u><i>Verbena stricta</i></u>
<u>Yellow Wingstem</u>	<u><i>Verbesina alternifolia</i></u>
<u>Smooth Ironweed</u>	<u><i>Vernonia fasciculata</i></u>
<u>Missouri Ironweed</u>	<u><i>Vernonia missurica</i></u> <u><i>Phlox paniculata</i></u>
<u>Summer Phlox</u>	
<u>Culver's Root</u>	<u><i>Veronicastrum virginicum</i></u>
<u>Golden Alexander</u> <u>Obedient Plant</u>	<u><i>Zizia aurea</i></u> <u><i>Physostegia virginiana</i></u>
<u>Yellow Coneflower</u>	<u><i>Ratibida pinnata</i></u>
<u>Orange Coneflower</u>	<u><i>Redbeckia fulgida</i></u>
<u>Black-Eyed-Susan</u>	<u><i>Rudbeckia hirta</i></u>
<u>Green-Headed-Coneflower</u>	<u><i>Rudbeckia laciniata</i></u>
<u>Sweet Coneflower</u>	<u><i>Rudbeckia subtomentosa</i></u>
<u>Stiff Goldenrod</u>	<u><i>Solidago rigida</i></u>
<u>Blue-stemmed Goldenrod</u>	<u><i>Solidago caesia</i></u>
<u>Grey Goldenrod</u>	<u><i>Solidago nemoralis</i></u>
<u>Royal Catchfly</u>	<u><i>Silene regia</i></u>
<u>Fire Pink</u>	<u><i>Silene virginica</i></u>
<u>Celandine Poppy</u>	<u><i>Stylophorum diphyllum</i></u>
<u>Coralberry</u>	<u><i>Symphoricarpos orbiculatus</i></u>
<u>Culver's Root</u>	<u><i>Veronicastrum virginicum</i></u>
<u>Violet</u>	<u><i>Viola sororia</i></u>
Ground Covers	

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Canada Anemone</u>	<u>Anemone canadensis</u>
<u>Pussytoes</u>	<u>Antennaria plantaginifolia</u>
<u>Wild Ginger</u>	<u>Asarum canadense</u>
<u>Purple poppy malow</u> Canada Anemone	<u>Callirhoe involucrate</u>
	<u>Anemone canadensis</u>
Wild Ginger	<u>Asarum canadense</u>
<u>Common Oak Sedge or Pennsylvania Sedge</u>	<u>Carex pensylvanica</u>
<u>Palm Sedge</u>	<u>Carex muskingumensis</u>
<u>Common Oak Sedge</u>	<u>Carex pensylvanica</u>
<u>Wild Strawberry</u> Running Strawberry Bush	<u>Fragaria virginiana</u> Euonymus obovatus
<u>Dwarf Crested Iris</u> Wild Strawberry	<u>Iris cristata</u> Fragaria virginiana
<u>Creeping Juniper</u>	<u>Juniperus horizontalis</u>
<u>Golden Ragwort</u>	<u>Packera aurea</u>
<u>Roundleaf Ragwort</u> Dwarf Crested Iris	<u>Packera obovata</u> Iris cristata
<u>Cleft Phlox</u>	<u>Phlox bifida</u>
<u>Creeping Phlox</u> Creeping Juniper	<u>Phlox subulata</u> Juniperus horizontalis
<u>Partridge Berry</u> Creeping Phlox	<u>Mitchella repens</u> Phlox subulata
<u>Wild Stonecrop</u> Partridge Berry	<u>Sedum ternatum</u> Mitchella repens
<u>Violet</u> Wild Stonecrop	<u>Viola sororia</u> Sedum ternatum
<u>Foam Flower</u>	<u>Tiarella cordifolia</u>
Vines	
Wooly Douchman's Pipe	<i>Aristolochia tomentosa</i>
Crossvine	<i>Bignonia capreolata</i>
Trumpet Creeper	<i>Campsis radicans</i>
Virgin's Bower (native clematis)	<i>Clematis virginiana</i>
Virginia Creeper	<i>Parthenocissus quinquefolia</i>
<u>Yellow Passionflower</u>	<u>Passiflora lutea</u>
Ferns	
Maidenhair Fern	<i>Adiantum pedatum</i>
Lady Fern	<i>Athyrium filix-femina</i>
Giant Wood Fern or Goldie's Fern	<i>Dryopteris goldiana</i>
Evergreen Shield Fern	<i>Dryopteris marginalis</i>
Ostrich Fern	<i>Matteuccia struthiopteris</i>
<u>Sensitive Fern</u>	<u>Onoclea sensibilis</u>
Cinnamon Fern	<i>Osmunda cinnamomea</i>
<u>Royal Fern</u>	<u>Osonda regalis</u>
Christmas Fern	<i>Polystichum acrostichoides</i>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
Graminoids Grasses	
<u>Big Bluestem</u>	<u><i>Andropogon gerardii</i></u>
<u>Broomsedge</u>	<u><i>Andropogon virginicus</i></u>
<u>Side-Oats Gramma</u>	<u><i>Bouteloua curtipendula</i></u>
<u>Oak Sedge</u>	<u><i>Carex albicans</i></u>
<u>Yellow Fox Sedge</u>	<u><i>Carex annectens</i></u>
<u>Appalachian Sedge</u>	<u><i>Carex appalachia</i></u>
<u>Plains Oval Sedge</u>	<u><i>Carex brevior</i></u>
<u>Fringed Sedge</u>	<u><i>Carex crinita</i></u>
<u>Crested Sedge</u>	<u><i>Carex cristatella</i></u>
<u>Blue Wood Sedge</u>	<u><i>Carex flaccosperma</i></u>
<u>Gray's Sedge</u>	<u><i>Carex grayii</i></u>
<u>Hop Sedge</u>	<u><i>Carex lupulina</i></u>
<u>Palm Sedge</u>	<u><i>Carex muskingumensis</i></u>
<u>Pennsylvania Sedge</u>	<u><i>Carex pennsylvanica</i></u>
<u>Seersucker Sedge</u>	<u><i>Carex plantaginea</i></u>
<u>Eastern Star Sedge or Straight-Styled Wood Sedge</u>	<u><i>Carex radiata</i></u>
<u>Lanced-fruited, or Broom Sedge</u>	<u><i>Carex scoparia</i></u>
<u>Short's Sedge</u>	<u><i>Carex shortiana</i></u>
<u>Brown Fox Sedge</u> <u>Big Bluestem</u>	<u><i>Carex vulpinoidea</i></u> <u><i>Andropogon gerardii</i></u>
<u>Indian Seaoats or River Oats</u>	<u><i>Chasmanthium latifolium</i></u>
<u>Tufted Hair Grass</u>	<u><i>Deschampsia caespitosa</i></u>
<u>Canada Wild Rye</u> <u>Side-Oats Gramma</u>	<u><i>Elymus canadensis</i></u> <u><i>Bouteloua curtipendula</i></u>
<u>Bottlebrush Grass</u>	<u><i>Elymus hystrix</i></u>
<u>Silky Wild rye</u> <u>Indian Seaoats</u>	<u><i>Elymus villosus</i></u> <u><i>Chasmanthium latifolium</i></u>
<u>Virginia Wild Rye</u>	<u><i>Elymus virginicus</i></u>
<u>Purple Love Grass</u>	<u><i>Eragrostis spectabilis</i></u>
<u>Soft Rush</u>	<u><i>Juncus effuses</i></u>
<u>Torrey's Rush</u> <u>Bottlebrush Grass</u>	<u><i>Juncus torreyi</i></u> <u><i>Elymus hystrix</i></u>
<u>Virginia Wild Rye</u>	<u><i>Elymus virginicus</i></u>
<u>Switchgrass</u>	<u><i>Panicum virgatum</i></u>
<u>June Grass</u>	<u><i>Koeleria macrantha</i></u>
<u>Little Bluestem</u>	<u><i>Schizachyrium scoparium</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Dark Green Bulrush</u>	<u><i>Scirpus atrovirens</i></u>
<u>Woolgrass</u>	<u><i>Scirpus cyperinus</i></u>
<u>Georgia Bulrush</u>	<u><i>Scirpus georgianus</i></u>
<u>Indian grass</u>	<u><i>Sorghastrum nutans, syn. Andropogon nutans</i></u>
<u>Prairie Cordgrass</u> <u>Switch Grass</u>	<u><i>Spartina pectinata</i></u> <u><i>Panicum virgatum</i></u>
<u>Prairie Dropseed</u> <u>Little Bluestem</u>	<u><i>Sporobolus heterolepis</i></u> <u><i>Schizachyrium scoparium</i></u>
<u>Prairie Dropseed</u>	<u><i>Sporobolus heterolepis</i></u>

(e) Prohibited Plant Species

Species identified in [Table 04-18: Prohibited Plant Species](#) [Table 04-17: Prohibited Plant Species](#) are considered unacceptable and shall not be planted because of invasive characteristics, weak wood, and/or abundant litter.

Table 04-1817: Prohibited Plant Species+* = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) [C 15-16-7](#)*+ = Indiana detrimental plants (INDNR) [C 15-16-8](#) ^ = Indiana terrestrial plant rule [\(312 IAC 18-3-25\)](#)@ = Indiana multiflora rose and purple loosestrife restrictions [\(312 IAC 18-3-13\)](#)# = Indiana control of kudzu rule [\(312 IAC 18-3-16\)](#)

Common Name	Scientific Name
Prohibited Invasive Trees	
<u>Hedge Maple</u>	<u><i>Acer campestre</i></u>
<u>Amur Maple</u>	<u><i>Acer ginnala</i></u>
<u>Norway Maple</u>	<u><i>Acer platanoides</i></u>
<u>Sycamore Maple</u> <u>Amur Maple</u>	<u><i>Acer pseudoplatanus</i></u> <u><i>Acer ginnala</i></u>
<u>Tree-of-Heaven</u>	<u><i>Ailanthus altissima</i></u> ^
<u>Mimosa</u> <u>Norway Maple</u>	<u><i>Albizia julibrissin</i></u> <u><i>Acer platanoides</i></u>
<u>Black Alder</u>	<u><i>Alnus glutinosa</i></u> ^
<u>Kousa Dogwood</u>	<u><i>Cornus kousa</i></u>
<u>Cornelian Cherry Dogwood</u> <u>Tree-of-Heaven</u>	<u><i>Cornus mas</i></u> <u><i>Ailanthus altissima</i></u>
<u>Russian Olive</u> <u>Black Alder</u>	<u><i>Elaeagnus angustifolia</i></u> <u><i>Alnus glutinosa</i></u>
<u>Autumn Olive</u>	<u><i>Elaeagnus umbellata</i></u> ^
<u>Hardy Rubber Tree</u> <u>Russian Olive</u>	<u><i>Eucommia ulmoide</i></u> <u><i>Elaeagnus angustifolia</i></u>
<u>Glossy Buckthorn</u>	<u><i>Frangula alnus</i></u> ^
<u>Golden Raintree</u>	<u><i>Koelreuteria paniculata</i></u>
<u>Chinaberry Tree</u> <u>Autumn Olive</u>	<u><i>Melia azedarach</i></u> <u><i>Elaeagnus umbellata</i></u>
<u>White Mulberry</u> <u>Glossy Buckthorn</u>	<u><i>Morus alba</i></u> ^ <u><i>Frangula alnus</i></u>

Table 04-1847: Prohibited Plant Species

~~+~~ = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) C 15-16-7)

~~*~~ = Indiana detrimental plants (INDNR) C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
Princess Tree White Mulberry	<i>Paulownia tomentosa</i> <i>Morus alba</i>
Sawtooth Oak Princess Tree	<i>Quercus acutissima</i> <i>Paulownia tomentosa</i>
Amur Cork Tree Sawtooth Oak	<i>Phellodendron amurense</i> ^ <i>Quercus acutissima</i>
Callery Pear and all cultivars Amur Cork Tree	<i>Pyrus calleryana</i> <i>Phellodendron amurense</i>
European or Common Buckthorn and all cultivars Callery Pear and all cultivars	<i>Rhamnus cathartica</i> ^ <i>Pyrus calleryana</i>
Glossy or Smooth Buckthorn and all cultivars European or Common Buckthorn and all cultivars	<i>Rhamnus frangula</i> ^ <i>Rhamnus cathartica</i>
Buckthorn Tallhedge and all cultivars including 'Fineline' Glossy or Smooth Buckthorn and all cultivars	<i>Rhamnus frangula columnaris</i> ^ <i>Rhamnus frangula</i>
Black Locust Buckthorn Tallhedge and all cultivars	<i>Robinia pseudoacacia</i> <i>Rhamnus frangula columnaris</i>
Siberian Elm	<i>Ulmus pumila</i> ^
Japanese Zelkova Black Locust	<i>Zelkova serrata</i> <i>Robinia pseudoacacia</i>
Siberian Elm	<i>Ulmus pumila</i>
Prohibited Plants with Poor <u>or Nuisance</u> Characteristics	
Box Elder	<i>Acer negundo</i>
Silver maple	<i>Acer saccharinum</i>
Ragweed	<i>Ambrosia artemisiifolia</i>
Giant Ragweed	<i>Ambrosia trifida</i>
Tropical Milkweed	<i>Asclepias curassavica</i>
European White Birch	<i>Betula pendula</i>
Poison Hemlock	<i>Conium maculatum</i> L.
Ash	<i>Fraxinus</i> species
Ginkgo (female only)	<i>Ginkgo biloba</i>
Giant Hogweed <u>or Giant Cow Parsnip or Wild Parsnip</u>	<i>Heracleum mantegazzianum</i>
Rice Cutgrass	<i>Leersia oryzoides</i>
Flowering Crabapple	<i>Malus</i>
Heavenly Bamboo	<i>Nandina domestica</i>
Wild Parsnip	<i>Pastinaca sativa</i>
American Elm	<i>Ulmus Americana</i>
Poison Ivy	<i>Toxicodendron radicans</i>
Poison Sumac	<i>Toxicodendron vernix</i>
Stinging Nettle	<i>Urtica dioica</i>
Burning Nettle	<i>Urtica urens</i>
Prohibited Invasive Herbaceous Perennials <u>and Forbs</u>	
Japanese Chaff Flower	<i>Achyranthes japonica</i> ^

Table 04-1847: Prohibited Plant Species

+‡ = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) C 15-16-7)

*+ = Indiana detrimental plants (INDNR) C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Wild Garlic and Wild Onion</u> <u>Japanese Chaff Flower</u>	<u>Alliums spp.</u> <u>Achyranthes japonica</u>
<u>Garlic Mustard</u>	<u>Alliaria petiolata</u> ^
<u>Smooth Pigweed</u>	<u>Amaranthus hybridus</u> +
<u>Palmer Amaranth or carelessweed</u>	<u>Amaranthus palmeri</u> +
<u>Powell Amaranth</u>	<u>Amaranthus powellii</u> +
<u>Rough Pigweed</u>	<u>Amaranthus retroflexus</u> +
<u>Common Waterhemp</u>	<u>Amaranthus rudis</u> +
<u>Tall Waterhemp</u> <u>Wild Garlic and Wild Onion</u>	<u>Amaranthus tuberculatus</u> + <u>Alliums spp.</u> *
<u>Mugwort</u>	<u>Artemisia vulgaris</u> ^
<u>Italian Arum</u>	<u>Arum italicum</u>
<u>Narrowleaf Bittercress</u> <u>Garlic Mustard</u>	<u>Cardamine impatiens</u> <u>Alliaria petiolata</u>
<u>Spiny Plumeless Thistle</u> <u>Mugwort</u>	<u>Carduus acanthoides</u> ^ <u>Artemisia vulgaris</u>
<u>Cornflower or Bachelor's Button</u> <u>Spiny Plumeless Thistle</u>	<u>Centaurea cyanus</u> <u>Carduus acanthoides</u>
<u>Russian Knapweed</u> <u>Cornflower or Bachelor's Button</u>	<u>Centaurea repens</u> <u>Centaurea cyanus</u>
<u>Spotted Knapweed</u> <u>Russian Knapweed</u>	<u>Centaurea stoebe</u> ^ <u>Centaurea repens</u> *
<u>Canada Thistle</u> <u>Spotted Knapweed</u>	<u>Cirsium arvense</u> *+ <u>Centaurea stoebe</u>
<u>Bull Thistle</u> <u>Canada Thistle</u>	<u>Cirsium vulgare</u> ^ <u>Cirsium arvense</u> *+
<u>Poison Hemlock</u>	<u>Conium maculatum</u> +
<u>Marestail or Horsetail</u>	<u>Conyza canadensis</u> +
<u>Queen Anne's Lace</u> <u>Bull Thistle</u>	<u>Daucus carota</u> <u>Cirsium vulgare</u>
<u>Grecian Foxglove</u> <u>Poison Hemlock</u>	<u>Digitalis lanata</u> <u>Conium maculatum</u>
<u>Teasel</u> <u>Grecian Foxglove</u>	<u>Dipsacus fullonum ssp. sylvestris</u> ^ <u>Digitalis lanata</u>
<u>Cutleaf Teasel</u> <u>Teasel</u>	<u>Dipsacus laciniatus</u> ^ <u>Dipsacus fullonum ssp. Sylvestris</u>
<u>Leafy Spurge</u> <u>Cutleaf Teasel</u>	<u>Euphorbia virgata</u> ^ <u>Dipsacus laciniatus</u>
<u>Mulberry weed, Hairy Crabweed</u>	<u>Fatoua villosa</u>
<u>Giant Hogweed</u> <u>Leafy Spurge</u>	<u>Heracleum mantegazzianum</u> <u>Euphorbia virgata</u>
<u>Dame's Rocket</u> <u>Giant Hogweed</u>	<u>Hesperis matronalis</u> ^ <u>Fallopia japonica</u>
<u>Meadow Fleabane or British Yellowhead</u>	<u>Inula britannica</u>
<u>Korean Lespedeza</u>	<u>Kummerowia stipulacea</u>
<u>Striate Lespedeza</u> <u>Dame's Rocket</u>	<u>Kummerowia striata</u> <u>Hesperis matronalis</u>
<u>Perennial Peppergrass</u> <u>Meadow Fleabane or British Yellowhead</u>	<u>Lepidium draba</u> ^ <u>Inula britannica</u>
<u>Pepperweed</u> <u>Perennial Peppergrass</u>	<u>Lepidium latifolium</u> ^ <u>Lepidium draba</u> *

Table 04-1847: Prohibited Plant Species

+‡ = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner[C 15-16-7])

*+ = Indiana detrimental plants (INDNR[C 15-16-8]) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Bicolor Lespedeza</u> <u>Pepperweed</u>	<u>Lespedeza bicolor</u> <u>Lepidium latifolium</u>
<u>Sericea Lespedeza</u> <u>Bicolor Lespedeza</u>	<u>Lespedeza cuneata</u> ^ <u>Lespedeza cuneata</u>
<u>Purple Loosestrife</u> <u>Sericea Lespedeza</u>	<u>Lythrum salicaria</u> @ <u>Lespedeza cuneata</u>
<u>White Sweet Clover</u>	<u>Melilotus alba</u>
<u>Yellow Sweet Clover</u> <u>Purple Loosestrife</u>	<u>Melilotus officinalis</u> <u>Lythrum salicaria</u> *
<u>Star of Bethlehem</u> <u>Sweet Clover</u>	<u>Ornithogalum umbellatum</u> <u>Melilotus alba</u> , <u>M. officinalis</u>
<u>Lesser Celandine</u>	<u>Ranunculus ficaria</u>
<u>Beefsteak Plant</u> <u>Star of Bethlehem</u>	<u>Perilla frutescens</u> <u>Ornithogalum umbellatum</u>
<u>Japanese Knotweed</u> <u>Lesser Celandine</u>	<u>Polygonum cuspidatum</u> , <u>Reynoutria japonica</u> , <u>Fallopia japonica</u> ^ <u>Ranunculus ficaria</u>
<u>Giant Knotweed</u> <u>Japanese Knotweed</u>	<u>Reynoutria sachalinensis</u> ^ <u>Polygonum cuspidatum</u>
<u>Bohemian Knotweed</u>	<u>Reynoutria x bohemica</u> ^
<u>Bouncing Bet</u> <u>Giant Knotweed</u>	<u>Saponaria officinalis</u> <u>Reynoutria sachalinensis</u>
<u>Perennial Sowthistle</u>	<u>Sonchus arvensis</u>
<u>Spreading Hedge Parsley</u>	<u>Torilis arvensis</u>
<u>Japanese Hedge Parsley</u> <u>Bohemian Knotweed</u>	<u>Torilis japonica</u> <u>Reynoutria x bohemica</u>
<u>Black Swallow-Wort</u> <u>Perennial Sowthistle</u>	<u>Vincetoxicum nigrum</u> ^ <u>Sonchus arvensis</u> *
<u>Pale Swallow-Wort</u> <u>Black Swallow-wort</u>	<u>Vincetoxicum rossicum</u> ^ <u>Vincetoxicum nigrum</u>
<u>Pale Swallow-wort</u>	<u>Vincetoxicum rossicum</u>
Prohibited Invasive Graminoidsses	
<u>Quackgrass</u>	<u>Agropyron repens</u>
<u>Giant Reed</u> <u>Quackgrass</u>	<u>Arundo donax</u> <u>Agropyron repens</u> *
<u>Small Carpgrass</u> <u>Giant Reed</u>	<u>Arthraxon hispidus</u> ^ <u>Arundo donax</u>
<u>Smooth Brome</u> <u>Small Carpgrass</u>	<u>Bromus inermis</u> <u>Arthraxon hispidus</u>
<u>Tall Fescue and all cultivars</u>	<u>Festuca elatior</u>
<u>Cogon grass</u> , <u>Japanese Blood Grass</u> <u>Smooth Brome</u>	<u>Imperata cylindrica</u> <u>Bromus inermis</u>
<u>Japanese Stiltgrass</u> <u>Tall Fescue and all cultivars</u>	<u>Microstegium vimineum</u> ^ <u>Festuca elatior</u>
<u>Maiden Grass</u> <u>Japanese Stiltgrass</u>	<u>Miscanthus sinensis</u> <u>Microstegium vimineum</u>
<u>Reed Canary Grass</u> <u>Maiden Grass</u>	<u>Phalaris arundinacea</u> ^ <u>Miscanthus sinensis</u>
<u>Common Reed Grass</u>	<u>Phragmites australis</u> ^
<u>Ravenna Grass</u>	<u>Saccharum ravennae</u>
<u>Tall Fescue</u> <u>Reed Canary Grass</u>	<u>Schedonorus arundinaceus</u> <u>Phalaris arundinacea</u>
<u>Columbus Grass</u> <u>Common Reed Grass</u>	<u>Sorghum x almum</u> <u>Parodi</u> *+ <u>Phragmites australis</u>
<u>Shattercane</u> <u>Columbus Grass</u>	<u>Sorghum bicolor</u> *+ <u>Sorghum almum</u> <u>Parodi</u> *
<u>Johnson Grass or Sorghum Almum</u> <u>Shattercane</u>	<u>Sorghum halepense</u> *+ <u>Sorghum bicolor</u> *+

Table 04-1847: Prohibited Plant Species

+* = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) C 15-16-7)

*+ = Indiana detrimental plants (INDNR) C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Yellow Groove Bamboo Johnson Grass or Sorghum</u> <u>Alum</u>	<u>Phyllostachys aureosulcata Sorghum halepense</u> *+
<u>Yellow Groove Bamboo</u>	<u>Phyllostachys aureosulcata</u>
Prohibited Invasive Vines and Groundcovers	
<u>Porcelain Berry</u>	<u>Ampelopsis brevipedunculata</u>
<u>Oriental Bittersweet</u>	<u>Celastrus orbiculatus</u> ^
<u>Asiatic Bittersweet Oriental Bittersweet</u>	<u>Celastrus scandens Celastrus orbiculatus</u>
<u>Sweet Autumn Clematis Asiatic Bittersweet</u>	<u>Clematis terniflora Celastrus scandens</u>
<u>Field Bindweed Sweet Autumn Clematis</u>	<u>Convolvulus arvensis</u> ^ <u>Clematis terniflora</u>
<u>Crown Vetch Field Bindweed</u>	<u>Coronilla varia</u> ^ <u>Convolvulus arvensis</u> *
<u>Black Swallow-Wort Crown Vetch</u>	<u>Cynanchum nigrum, syn. Vincetoxicum nigrum</u> ^ <u>Coronilla varia</u>
<u>Pale Swallow-Wort Black Swallow-Wort</u>	<u>Cynanchum rossicum</u> ^ <u>Cynanchum nigrum, syn. Vincetoxicum nigrum</u>
<u>Potato Vine Pale Swallow-Wort</u>	<u>Dioscorea batatas Cynanchum rossicum</u>
<u>Chinese Yam Potato Vine</u>	<u>Dioscorea oppositifolia</u> ^ <u>Dioscorea batatas</u>
<u>Purple Winter Creeper Chinese Yam</u>	<u>Euonymus fortunei</u> ^ <u>Dioscorea oppositifolia</u>
<u>Creeping Charlie Purple Winter Creeper</u>	<u>Glechoma hederacea Euonymus fortunei</u>
<u>English Ivy Creeping Charlie</u>	<u>Hedera helix Glechoma hederacea</u>
<u>Japanese Hops</u>	<u>Humulus japonicus</u> ^
<u>Yellow Archangel English Ivy</u>	<u>Lamium galeobdolon Hedera helix</u>
<u>Japanese Honeysuckle Japanese Hops</u>	<u>Lonicera japonica</u> ^ <u>Humulus japonicus</u>
<u>Creeping Jenny or Moneywort Japanese Honeysuckle</u>	<u>Lysimachia nummularia Lonicera japonica</u>
<u>Mile-A-Minute Weed or Mile-A-Minute Vine Creeping Jenny or Moneywort</u>	<u>Polygonum perfoliatum</u> ^, <u>Persicaria perfoliata</u> ^ <u>Lysimachia nummularia</u>
<u>Kudzu Mile-A-Minute Weed</u>	<u>Pueraria montana lobata</u> # <u>Polygonum perfoliatum</u>
<u>Bur Cucumber</u>	<u>Sicyos angulatus</u> *+
<u>Vetch Kudzu</u>	<u>Vicia cracca Pueraria montana lobata</u>
<u>Periwinkle or Myrtle Bur Cucumber</u>	<u>Vinca minor Sicyos angulatus</u> *+
<u>Wisteria Periwinkle or Myrtle</u>	<u>Wisteria sinensis Vinca minor</u>
<u>Wisteria</u>	<u>Wisteria sinensis</u>
Prohibited Invasive Shrubs	
<u>Black Alder</u>	<u>Alnus glutinosa</u> ^
<u>Japanese Barberry Black Alder</u>	<u>Berberis thunbergii</u> ^ <u>Alnus glutinosa</u>
<u>Butterfly Bush Japanese Barberry</u>	<u>Buddleia davidii Berberis thunbergii</u>
<u>Burning Bush Butterfly Bush</u>	<u>Euonymus alatus Buddleia davidii</u>

Table 04-1847: Prohibited Plant Species

+* = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) (C 15-16-7)

*+ = Indiana detrimental plants (INDNR) (C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
Blunt-Leaved Privet Burning Bush	<i>Ligustrum obusifolium</i> ^ <i>Euonymus alatus</i>
Common Privet Blunt-leaved Privet	<i>Ligustrum vulgare</i> ^ <i>Ligustrum obusifolium</i>
Bush or Amur Honeysuckle Common Privet	<i>Lonicera maackii</i> ^ <i>Ligustrum vulgare</i>
Morrow's Honeysuckle Bush or Amur Honeysuckle	<i>Lonicera morowii</i> ^ <i>Lonicera maackii</i>
Tatarian Honeysuckle Morrow's Honeysuckle	<i>Lonicera tatarica</i> ^ <i>Lonicera morowii</i>
Bell's Honeysuckle	<i>Lonicera x bella</i> ^
Heavenly Bamboo, Sacred bamboo Tatarian Honeysuckle	<i>Nandina domestica</i> <i>Lonicera tatarica</i>
Jetbead	<i>Rhodotypos scandens</i> ^
Bristly Locust Bell's Honeysuckle	<i>Robinia hispida</i> <i>Lonicera x bella</i>
Multiflora Rose Jetbead	<i>Rosa multiflora</i> @ <i>Rhodotypos scandens</i>
Wineberry Multiflora Rose	<i>Rubus phoenicolasius</i> <i>Rosa multiflora</i> *
Japanese Spirea or Japanese Meadowsweet Wineberry	<i>Spiraea japonica</i> <i>Rubus phoenicolasius</i>
Atlantic Poison Oak Japanese Spirea	<i>Toxicodendron pubescens, syn. Rhus pubescens</i> <i>Spiraea japonica</i>
European Highbush Cranberry Atlantic Poison Oak	<i>Viburnum opulus var. opulus</i> <i>Toxicodendron pubescens, syn. Rhus pubescens</i>
Poison Sumac	<i>Toxicodendron vernix, syn. Rhus vernix</i>
European Highbush Cranberry	<i>Viburnum opulus v. opulus</i>

(f) Street Trees

(1) Number

The minimum number of required street trees to be planted shall be one large canopy tree for every 30 feet of property that abuts a public right-of-way. If medium or small trees are allowed, two medium or small trees can be substituted for each large canopy tree. A minimum of one canopy tree shall be planted per 40 feet of property that abuts a public right-of-way or 20 feet for small trees under overhead utility lines.

(2) Type

Street tree species shall be subject to approval by the City's Urban Forester based on hardiness, seasonal appearance, and contribution to shading and cooling.

(3) Location

(A) Freeway/Expressway

Street trees along a limited-access highway shall be planted within 15 feet of the property line that abuts the limited-access highway. No trees shall be planted in the right-of-way.

(B) Arterial, Collector, Local or Private Street

Street trees along an arterial, collector, local, or private street shall be planted in a minimum five-foot wide tree plot between the sidewalk and the curb. If a tree plot is not available, then the street trees shall be planted within the front yard immediately adjacent to the street. Street trees planted within the front yard shall not count towards other landscaping requirements.

(C) ~~Proximity of Adjacent Street Trees~~ Separation

The spacing between adjacent street trees shall be no less than 10 feet from the center of one tree to the next, and no more than 40 feet. ~~Street trees shall be planted no more than 30 feet apart, from the center of one tree to the next, except that street trees with separation exceeding 30 feet may be approved by the Planning and Transportation Department because of site constraints, such as utility or driveway location.~~

(D) Tree Grates

Street trees may be planted in a minimum five foot by five-foot tree pit covered with an ADA compliant cast iron grate to maintain a flush grade with adjacent sidewalks.

(E) Planting

All street trees shall be planted, stabilized, and mulched according to this UDO and the Administrative Manual.

(~~E~~)(F) Vision Clearance

~~i. Street trees shall be planted outside the vision clearance triangle as defined in Section 20.04.050(c)(4) (Connectivity)~~

~~ii. Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~iii.i. Vision Clearance Triangle), Street trees shall be planted outside the vision clearance triangle, as defined in Section 20.04.050(c)(4) (Vision Clearance Triangle), or within that portion of the vision clearance triangle behind the sidewalk.~~

~~iv.ii. Low-branching species shall not be allowed within 50 feet of an intersection.~~

~~v.iii. Locations for street trees within 50 feet of an intersection shall be approved by the City Engineering Department.~~

~~vi.iv. Street trees shall be located a minimum of 10 feet from a driveway cut, traffic control sign, or streetlight, and a minimum of three feet from a fire hydrant.~~

(4) MD District**(A) Generally**

Street trees shall be planted in a minimum five foot by five-foot tree pit covered with an ADA compliant cast iron grate to maintain a flush grade with adjacent sidewalks, subject to approval by the Transportation and Traffic Engineer.

(B) Alternatives

The following street tree planting methods may be used in lieu of the five foot by five-foot grate, subject to approval by the Transportation and Traffic Engineer.

- i. Street trees may be planted in a minimum five-foot-wide grassed tree plot area; or
- ii. Street trees may be planted in a large curbed planting area.

(3) **Buffer Yard Types**

Required buffer yards shall be installed according to the following standards:

Table 04-1918: Required Buffer Yard Types

Buffer Yard Treatment	Buffer Type		
	Type 1	Type 2	Type 3
Minimum width setback [1]	10 feet	15 feet	20 feet
Deciduous trees	1 tree every 30 linear feet	1 tree every 25 linear feet	1 tree every 20 linear feet
Evergreen trees	No requirement	2 trees every 25 linear feet	(see below)
Other	No requirement	No requirement	Any one of the following: 1 evergreen tree every 10 linear feet; or A 6-foot opaque fence; or A stone/brick wall; or A 5-foot tall undulating berm planted with shrubs

Notes:

[1] The buffer yard setback is measured from the property line along the boundary between the subject and adjoining properties, ~~and shall be provided in addition to the required building and parking setbacks required by this UDO.~~

(4) **Buffer Yard Requirements**

Buffer yards shall be required by the developing use pursuant to ~~Table 04-19: Required Buffer Yards.~~

Table 04-20: Required Buffer Yards

Developing Site Property Zoning District	Adjacent Zoning District							
	R1/R2/R3/R4	RMH	RM/RH	MS	MN	MD	MM/MC	ME/MI/MH/EM
RMH	2							
RM/RH	1	1						
MS	2	2						
MN	1	1						
MD	1	1						
MM/MC	2	2	2	2	2	1		
ME/MI/MH/EM	3	3	2	2	2	1	1	

Notes:

[1] ~~The uses Dwelling, single-family (attached); Dwelling, single-family (detached); Dwelling, duplex; Dwelling, triplex; and Dwelling, fourplex do not have to provide a buffer yard, even if on the 'Developing Site'.~~

Table 04-19: Required Buffer Yards

Developing Use	Adjacent Use Type or Category			
	Single-family detached, duplex, triplex, or fourplex	Multifamily or single-family attached	Mixed-use, commercial, or institutional	Employment
Single-family detached, duplex, triplex, and fourplex		4	3	3
Multifamily and single-family attached	4		2	3

(j) MD District Landscaping

(1) Interior Plantings

Any areas of a site not covered by a structure, parking lot, or required buffer yard shall be planted with the following:

- (A) A minimum of one canopy tree per 500 square feet. Open areas less than 10 feet in width may substitute ornamental trees for required canopy trees.
- (B) A minimum of eight shrubs per 500 square feet. One ornamental tree may be substituted for every four shrubs; however, substitution shall not exceed 50 percent of the required shrubs.
- (C) Shrubs and ornamental trees along foundation walls of structures shall be planted no closer than two feet and eight feet respectively from the foundation wall.

(2) Parking Lot Perimeter Plantings

See Section 20.04.080(h)(1).

(3) Parking Lot Landscape Bumpouts, Islands, and Endcaps

See Section 20.04.080(h)(2).

(k) Mixed-Use and Nonresidential Landscaping

(1) Interior Plantings

The minimum landscape area on a site, as established in Section 20.04.020 (Dimensional Standards) or areas not covered by an impervious surface or required buffer yard shall be planted with the following:

- (A) A minimum of nine large canopy trees, three evergreen trees, and three medium or small canopy trees per acre. A minimum of 75 percent of the required trees shall be canopy trees.
- (B) A minimum of 27 shrubs per acre. One ornamental tree may be substituted for every four shrubs; however, substitution shall not exceed 50 percent of the required shrubs.
- (C) Shrubs and ornamental trees along foundation walls of structures shall be planted no closer than two feet and eight feet respectively from the foundation wall.

(2) Parking Lot Perimeter Plantings

See Section 20.04.080(h)(1).

(l) Vacant Lot Landscaping

(1) Applicability

Except for lots where the primary land use is urban agriculture, vacant lots with frontage on a public street shall be subject to the requirements of this Section 20.04.080(l).

(2) Timing

Landscaping or ground cover shall be installed as required in Section 20.04.080(l)(3) on the lot where demolition activity has occurred within 180 days after the issuance of a demolition permit, unless:

- (A) The City Planning and Transportation Department has granted an extension of time due to the need for more time to complete demolition activities or due to the presence of seasonal or inclement weather; or

(C) Through Lots

On through lots where the structure has two front building walls, one frontage shall be considered a secondary front building wall.

- i. Fences and walls along the front setback of the front building wall shall comply with Section 20.04.080(n)(3)(A).
- ii. Fences and walls greater than four feet in height, along the lot frontage of the secondary front building wall, when adjacent to a local street or secondary collector street, shall meet the building setback.
- iii. Fences and walls greater than four feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least 10 feet from the property line.
- iv. The portion of fences up to and between the build to line/building setback line and the secondary front building wall that exceed five feet in height, shall, by use of voids and solids via latticework or other similar techniques, be of open construction. This portion of the fence shall be constructed of materials widely accepted in the fence industry for permanent open-topped fencing.
- v. Where no primary structure exists on the parcel, fences and walls shall not exceed four feet in height, except as provided in Subsection (1)(G) above.

(4) Fence and Wall Design**(A) Prohibitions**

Except in the EM zoning district, the following shall be prohibited from use as a component of a fence or wall:

- i. Barbed wire;
- ii. Security wire;
- iii. Sharpened top spikes;
- iv. Electrified wires; and
- v. Other similar elements or materials.

(B) Orientation

Fences and walls shall present the nonstructural face outward towards adjacent parcels and any adjacent public right-of-way.

(C) Vision Clearance

~~i. **Fences and walls shall meet all vision clearance standards in Section 20.04.050(c)(4) (Connectivity)**~~

~~Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~Vision Clearance Triangle). Fences and walls shall meet all vision clearance standards in Section 20.04.050(c)(4) (Vision Clearance Triangle).~~

(3) Roofs

On the roof of a structure, or extending above the eave, roof line or parapet of a building, except that signs may be located on the vertical portion of a mansard roof if no vertical wall space is available on the wall space associated with that tenancy or occupancy below.

(4) Vision Clearance Triangle

~~Within a vision clearance triangle as specified in Section 20.04.050(c)(4) (Vision Clearance Triangle).~~

~~Within a vision clearance triangle as specified in Section 20.04.050(c)(4) (Connectivity~~

~~Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~Vision Clearance Triangle).~~

(4)(5) Miscellaneous

On any traffic control signs, highway construction signs, fences, utility poles, street signs, trees or other natural objects.

(g) General Design Standards

Unless otherwise stated in this UDO, the following standards apply to all signs.

(1) Freestanding Signs

All freestanding signs shall comply with the following standards:

(A) Setback

All freestanding signs shall be set back a minimum of two feet from the proposed right-of-way line or outside of the required clear zone of a public sidewalk, whichever is greater, unless specifically approved by the City's Transportation and Traffic Engineer.

(B) Mounting

All freestanding signs shall be permanently affixed to the ground.

(C) Base

Sign bases shall conform to the following standards:

- i. Sign bases shall have an aggregate width of at least 40 percent of the total horizontal width of the sign; or have supports that are less than 25 percent of the vertical height of the sign.
- ii. The base and exposed foundation of all freestanding signs shall be covered with a finished material such as brick, stone, metal, or wood.

(D) Cap

A decorative cap may extend up to 18 inches above the height limit specified in this Section 20.04.100. The decorative cap shall have no identifying text, images, or identifying traits.

(E) Landscaping

- i. For any new freestanding sign, a landscaped area located around the entire base of a freestanding sign is required.
- ii. The landscaped area shall contain materials consisting of shrubs, spread no greater than three feet on center, and densely planted perennial ground cover.
- iii. The landscaped area shall be greater than or equal to the freestanding sign face area.

- (D) Temporary signs shall not exceed 16 square feet in area per side;
- (E) Freestanding temporary signs shall not exceed six feet in height; and
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted for a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

(j) MS, MM, MC, ME, MI, MH, EM, and PO District Sign Standards

(1) Applicability

This sign standards section applies to the MS, MM, MC, ME, MI, MH, EM, and PO zoning districts.

(2) Wall Signs

The following standards shall apply to wall signs for individual uses or tenants within a multi-tenant center:

(A) Allowance

i. Individual Nonresidential Uses

The cumulative square footage of all wall signs shall not exceed one and one-half square feet per lineal foot of primary facade facing a public or private street.

ii. Multi-tenant ~~Nonresidential~~ Center

The cumulative square footage of all wall signs for any individual tenant shall not exceed one and one-half square feet per lineal foot of the tenant's facade width facing either a public or private street or facing a parking area if no street frontage is adjacent. For purposes of this Section 20.04.100(j), only one facade of the building may be used to measure the sign allowance, with the exception of corner locations in multi-tenant buildings, which shall be permitted to use the side facade as additional facade width.

iii. Size Limits

No use shall be limited to less than 30 square feet of wall signage. Uses with less than 200,000 square feet of building area shall not be permitted to exceed 300 square feet of wall signage. Uses with 200,000 square feet or more of building area shall not be permitted to exceed 400 square feet of wall signage.

(B) Maximum Projection

Except an awning sign, no part of a wall sign shall project more than 12 inches from the wall or face of the building to which it is attached.

(C) Location

Wall signs for individual tenants within a multi-tenant nonresidential center shall be located on a wall of the tenant's lease space.

(D) Multi-tenant Nonresidential Centers

In addition to other wall signs permitted in this Section 20.04.100(j)(2), multi-tenant nonresidential centers shall be permitted a single wall sign not exceeding 20 square feet in area.

- vii. Signs shall not be placed within the right-of-way of the B-Line Trail. Sandwich board signs for properties with frontage along the trail shall be placed within the setback between the building and the trail right-of-way.

20.04.110 Incentives

(a) Applicability

These affordable housing and sustainable development incentives are available to all development, except for Student Housing or Dormitory projects located in the MD zoning ~~district~~-district.

(b) General Standards

The following standards apply to all projects seeking the affordable housing or sustainable development incentives in this Section 20.04.110.

(1) Neighborhood Transition Standards

- (A) All projects abutting a property in the R1, R2, R3, or R4 zoning district shall comply with the neighborhood transition standards established in Section 20.04.070(d)(5) (Neighborhood Transition Standards ~~Neighborhood Transition Standards~~).
- (B) Where a primary structure's maximum height incentive is in conflict with the neighborhood transition standards established in Section 20.04.070(d)(5) (Neighborhood Transition Standards ~~Neighborhood Transition Standards~~), the neighborhood transition standards shall govern. The petitioner may request relief from the neighborhood transition standards in accordance with the development standards variance procedure pursuant to Section 20.06.080(b) (Variance).

(2) Waiver of Fees

- (A) When a petition qualifies for one or more of the incentives in this Section 20.04.110, filing fees for the Plan Commission and/or Board of Zoning Appeals shall be waived.
- (B) When a petition that qualifies for one or more of the incentives in this Section 20.04.110 has been approved by the decision-making body:
- i. Fees associated with right-of-way excavation permits for the project shall be waived; and
 - ii. Sewer hook-on fees for the project may be waived or reduced by the utilities service board.

(3) Administration

- (A) A petition for these development incentives shall be included with a petition for development approval.
- (B) Projects that qualify for the affordable housing incentive and/or the sustainable development incentive established in Section 20.04.110: (Incentives), shall have the site plan portion of the petition processed as a minor (rather than major) site plan, except when the project is adjacent to a lot in the R1, R2, R3, or R4 zoning districts or contains more than 50 dwelling units.
- (C) Staff shall determine if the project is eligible to receive incentives and if it satisfies the criteria established in this Section 20.04.110.

ii. Tier 1 Projects

Projects that meet the Tier 1 affordability standards may increase the primary structure height by one floor of building height, not to exceed 12 feet, beyond the maximum primary structure height established for the zoning district where the project is located, as identified in Section 20.04.020 (Dimensional Standards).

iii. Tier 2 Projects

Projects that meet the Tier 2 affordability standards may increase the primary structure height by two floors of building height, not to exceed 24 feet, beyond the maximum primary structure height established for the zoning district where the project is located, as identified in Section 20.04.020 (Dimensional Standards).

iv. Sustainable Development Bonus

1. Tier 1 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet.
2. Tier 2 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet. The additional floor of building height granted under this subsection (iv)(2) shall be limited to 50 percent of the building footprint area of primary structure, and that additional floor shall be set back at least 10 feet further ~~than that~~ the lower floors of the building.

(6) Other Standards

The following standards shall apply to all affordable housing projects seeking incentives under this section 20.04.110(c).

(A) Agreement Required

Petitioners shall enter into an affordable housing program or agreement administered by the federal, state, or local governments, or an organization approved by those governments to ensure that no person shall sell, rent, purchase, or lease an affordable housing unit created pursuant to this Section 20.04.110(c)(5) except to income-eligible households and in compliance with the provisions of this section.

(B) Advertising Requirement

Proof that the income eligible units will be marketed and leased similar to the market-rate units is required before occupancy can be issued.

(C) Location

- i. All affordable units constructed or rehabilitated under this Section 20.04.110(c)(5) shall be located either on site or within 1,320 feet of the project site. Required affordable dwelling units shall not be located in less desirable locations than market-rate units and shall not, on average, be less accessible to public amenities, such as open space, than the market rate units.

Table 04-2120: Minimum Solar Reflectance Index (SRI)

	Slope	Initial SRI	Aged SRI
Low-sloped roof	≤ 2:12	82	64
Steep-sloped roof	> 2:12	39	32

3. Vegetated Roof

Install a vegetated roof on at least 70 percent of the total roof surface using native or adapted plant species. Vegetated roofing shall comply with ASTM E2400-06: Standard Guide for Selection, Installation, and Maintenance of Plants for Green Roof Systems.

4. Combination Roof

Install a combination solar energy, cool roof and vegetated roof, with each portion meeting the applicable standards in subsections 1, 2, and 3 above, and together covering at least 70 percent of the roof surface.

v. Building Efficiency

Design the project to achieve improved building energy performance beyond the minimum required building code standards by:

1. Demonstrating that the project qualifies for a minimum of 17 points from the LEED v4.1 BD+C Optimize Energy Performance credit; or
2. Demonstrating that the project qualifies for a minimum of 100 points from the Assessing Energy Performance standards, as provided in Section 3.3.1.1 of the Green Globes for New Construction v1.5 Technical Reference Manual.

(B) Option 2

Projects seeking the sustainable development incentives established in Section 20.04.110(d)(3) shall submit proof that the project is being reviewed and expects to receive certification by the following verified third-party sustainability programs:

- i. Silver Certification by the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system;
- ii. Silver Certification by the Home Innovation National Green Building Standard (NGBS) Green Certified rating system;
- iii. Petal Certification by the International Living Future Institute Living Building Challenge (LBC) rating system; or
- iv. Three Green Globes Certification by the Green Building Initiative (GBI) Green Globes Certification rating system;
- v. Another verified third-party sustainability program producing equal or greater sustainability benefits to at least one of the programs listed in subsections (i.) through (iv.) above, as determined by the Planning and Transportation Director.

- (F) The Plan Commission may approve alternative setback standards in order to create a zero-lot line development plat, subject to the following standards:
- i. The petitioner shall request a zero-lot line development designation with the primary plat;
 - ii. All individual units shall be placed on an individual lot; and
 - iii. All units shall have individual utility service.

(f) Monuments and Markers

(1) Installation of Monuments and Markers

All monument and marker improvements shall be installed per 865 IAC 1-12-18.

(2) Centerline Monuments

Monuments conforming to 865 IAC 1-12-18(a)(2) shall be set on street centerlines at the beginning and end of curves and at the intersection of centerlines. When it is not practical to set a centerline monument in accordance with 865 IAC 1-12-18(a)(2), a centerline monument conforming to 865 IAC 1-12-18(a)(3) shall be set.

(3) Reporting

Upon completion of the development, as-built drawings shall be submitted showing where monuments and markers were placed. This shall be accompanied by an affidavit from the surveyor certifying that the monuments and markers are still accurately in place, and were not removed, moved, or buried such that they do not accurately denote surveyed lines or cannot be easily located.

(g) Open Space

(1) Generally

- (A) All residential developments shall have a percentage of the land set aside for open space.
- (B) Subdivisions shall provide the minimum required open space per Table 05-5: Subdivision Development Standards.

(2) Common Areas

In addition to easements required by Subsection ~~20.05.040~~~~20.07.080(b)~~: Easements, the following environmental features shall be placed within Common Areas on the plat:

- (A) Karst Features: All karst features and their required buffer zones that have a total area of one-half (0.5) acre or greater.
- (B) Riparian Buffers: All riparian buffers defined as Streamside or Intermediate Zones.
- (C) Floodways: All areas within regulatory floodways.
- (D) Wetlands: All delineated wetlands and required wetland buffer areas.
- (E) Forested Areas: All contiguous areas of tree cover totaling one (1) acre or greater that are required to be preserved.

(3) Site Features that Qualify as Open Space

The following features count toward the minimum open space requirements as described:

(A) Conservation Areas

Any required preservation/conservation area shall count toward open space requirements.

(B) Man-made Water Features

Any man-made water feature (including retention facilities) shall count toward minimum open space if it supports aquatic life and provides native habitat as follows:

i. Surface Area

A surface area at normal pool elevation of at least 32,670 square feet (0.75 acres); and

ii. Perimeter Access

1. A buffer area around the full circumference of the water feature of at least 50 feet from the top of bank shall be available as open space.
2. This open space shall be planted and maintained as wildlife habitat. This includes use of native (no more than 20 percent lawn grass) species including prairie grasses and/or tree planting.

(C) Dry Detention Facilities

Man-made stormwater detention facilities (dry) shall count toward the minimum open space if they meet the following standards:

i. Area

The facility shall have at least 10,890 square feet of flat bottom (0.25 acres).

ii. Depth

The man-made depth of the detention facility shall not exceed four feet from top of bank.

iii. Slope

The man-made slopes within the detention facility shall not exceed a ~~four to~~four to one ratio.

iv. Perimeter Access

1. A buffer area around the full circumference of the facility of at least 25 feet from the top of bank shall be available as open space.
2. This open space (facility and buffer area) shall be planted and maintained as usable area. This includes use of prairie grasses, native species, native ground cover, or lawn grass. Tree planting shall not be within the basin area or on the slopes of the bank.

(D) Regulated Floodplain

The regulated floodplain of any stream, regulated drain, or river shall count toward the open space requirements.

(E) Other

Other common areas set aside to meet open space requirements.

(h) Storm Water

(1) Applicability

All proposed subdivisions submitted for approval, under the provisions of this UDO, shall provide for the collection and management of all surface water drainage.

(7) Arterial Frontages**(A) Residential**

All residential subdivisions shall be designed so that no residential lot directly borders an arterial level street unless those lots use alley access, an access street, or obtain access from a street other than an arterial and provide a buffer to screen the visual impacts of homes along arterial level streets.

i. Alley Access

Individual single-family (attached and detached), duplex, triplex, or fourplex residential lots may directly front arterial streets if rear alleys ~~are used~~ are used for all lots fronting the arterial street.

1. Front setbacks for these lots shall be increased to a minimum of 40 feet from the proposed right-of-way indicated on the Transportation Plan.
2. Alleys shall be constructed to standards of Section 20.05.050(j)(6).

ii. Access Street

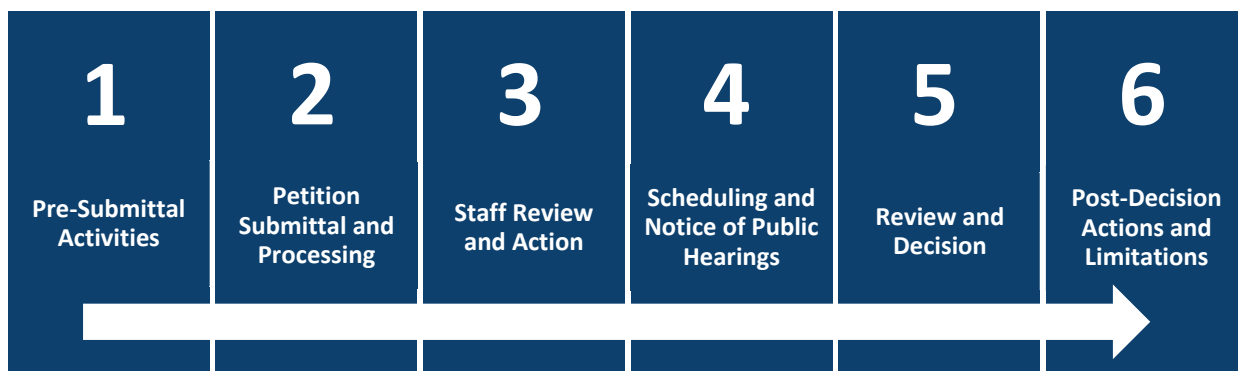
Individual single-family (attached and detached), duplex, triplex, or fourplex residential lots may front arterial level streets if an access street is used.

1. This access street must be separated from the proposed right-of-way indicated on the Transportation Plan by a grass strip of at least 20 feet in width.
2. (An access street shall be designed to accommodate two-way traffic.
3. An access street shall be designed to generally run parallel to the arterial level street.
4. Access streets shall be placed within additional right-of-way or an access easement.
5. Access streets shall be paved to a minimum width established in the most recent Transportation Plan for that street type.
6. In addition to the required pedestrian facility along the arterial level street, a sidewalk five feet in width shall be installed adjacent to the residential lots on the access street.
7. Access streets must provide two points of ingress/egress to the arterial street if they give access to 10 or more residential lots or if they exceed 500 feet in length.
8. No more than two ingress/egress points are permitted for an access street.

iii. Buffer

Through lots may be used with the rear of the lots facing the arterial level street if a buffer is established between the residential lots and the arterial level street and such buffer is maintained as common area through a recorded easement.

1. The buffer shall be a minimum of 30 feet in width measured from the proposed right-of-way indicated on the Transportation Plan.
2. The buffer shall include one of the following features:
 - [a] A solid wall or combination of walls a minimum of three feet in height, combined with landscaping sufficient to achieve a nonlinear, dense buffer of evergreen and deciduous trees, that together equal to at least 75 percent of the subdivision's lineal frontage along an arterial street.



(b) Pre-Submittal Activities

(1) Pre-Submittal Meeting

(A) Purpose

The pre-submittal meeting is intended to provide an opportunity for the petitioner to meet with city staff to review the zoning classification of the site, the regulatory ordinances and materials, the procedures, and examine the proposed use and development of the property. The staff shall aid and advise the petitioner in preparing the petition and supporting documents as necessary. This meeting shall take place on or prior to the pre-submittal meeting deadline as listed on the schedule of meeting dates.

(B) Applicability

A pre-submittal meeting shall be required as indicated in Table 06-1: Summary Table of Review Procedures.

(C) Procedure

The petitioner shall submit a request for a pre-submittal meeting to Planning and Transportation Department staff.

(D) Effect

Any information or discussions held at the pre-submittal meeting shall not be binding on the city or the petitioner. Discussions of potential conditions or commitments to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition or commitment to an approval.

(2) Development Review Committee (DRC) Meeting

(A) Purpose

The Development Review Committee (DRC) meeting is intended to provide an opportunity for city staff from several departments to discuss details and potential impacts of the proposed project, and to establish points of contact. The staff shall advise the petitioner in preparing the petition and supporting documents as necessary. The ~~petitioner or~~ petitioner or petitioner's representative is required to attend the DRC meeting.

(9) Authorization of Site Inspection

By submitting a petition, the petitioner is authorizing city staff to inspect the subject property being considered for development at any reasonable time to obtain the information required for review of compliance with this UDO.

(10) Examination of Petition and Other Documents

Upon reasonable request, and during normal business hours, any person may examine a petition and materials submitted in support of, or in opposition to, a petition ~~in the~~ the Planning and Transportation Department office.

(d) Staff Review and Action

(1) Referral to Staff and Review Agencies

The Planning and Transportation Director shall distribute the complete petition to appropriate staff and appropriate review agencies, per the Administrative Manual.

(2) Petition Routing**(A) Referral to Plan Commission**

- i. If Table 06-1: Summary Table of Review Procedures authorizes staff or the Plat Committee to make a decision, and the Planning and Transportation Director determines that the application is unusually complex or raises potentially unique or serious impacts on the city or the surrounding neighborhoods, the Planning and Transportation Director may, refer the petition to the Plan Commission for decision pursuant to the same criteria that the staff or the Plat Committee would have been required to apply to that petition.
- ii. In cases where the Planning and Transportation Director refers the decision to the Plan Commission, all applicable noticing requirements per Section 20.06.040(e) (~~Scheduling and Notice of Public Hearings~~ Scheduling and Notice of Public Hearings) shall apply.

(B) Referral to Board of Zoning Appeals

- i. If Table 06-1: Summary Table of Review Procedures authorizes the Hearing Officer to make a decision, and the Hearing Officer determines that the application is unusually complex or raises potentially unique or serious impacts on the city or the surrounding neighborhoods, the Hearing Officer may refer the decision to the Board of Zoning Appeals for a decision pursuant to the same criteria that the Hearing Officer would have been required to apply to that decision.
- ii. In cases where the Hearing Officer refers the decision to the Board of Zoning Appeals, all applicable noticing requirements per Section 20.06.040(e) (~~Scheduling and Notice of Public Hearings~~ Scheduling and Notice of Public Hearings) shall apply.

iv. Creation or expansion of any vehicular parking area.

(B) Activities Exempt from Site Plan Review

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

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

(C) Thresholds for Minor and Major Site Plan Review

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

i. Minor Site Plan Review

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

1. A change in use that involves or requires site improvements;
2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section ~~20.06.050(a)(2)(C)(ii)~~ **Error! Reference source not found.**;
3. Development that contains 20,000 square feet or less of new non-residential gross floor area;
4. Development that contains 50 dwelling units or less;
5. ~~Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;~~
6. The alteration of any vehicular parking area;
7. Petitions for a ~~permit and/or certificate of zoning compliance for grading~~ permit where site improvements are required; or
8. Projects that qualify for affordable housing incentives and/or sustainable development incentives established in Section 20.04.110 (Incentives), provided that, if located adjacent to one or more lots in an R1, R2, R3, or R4 district or such project does not contain more than 75 dwelling units.

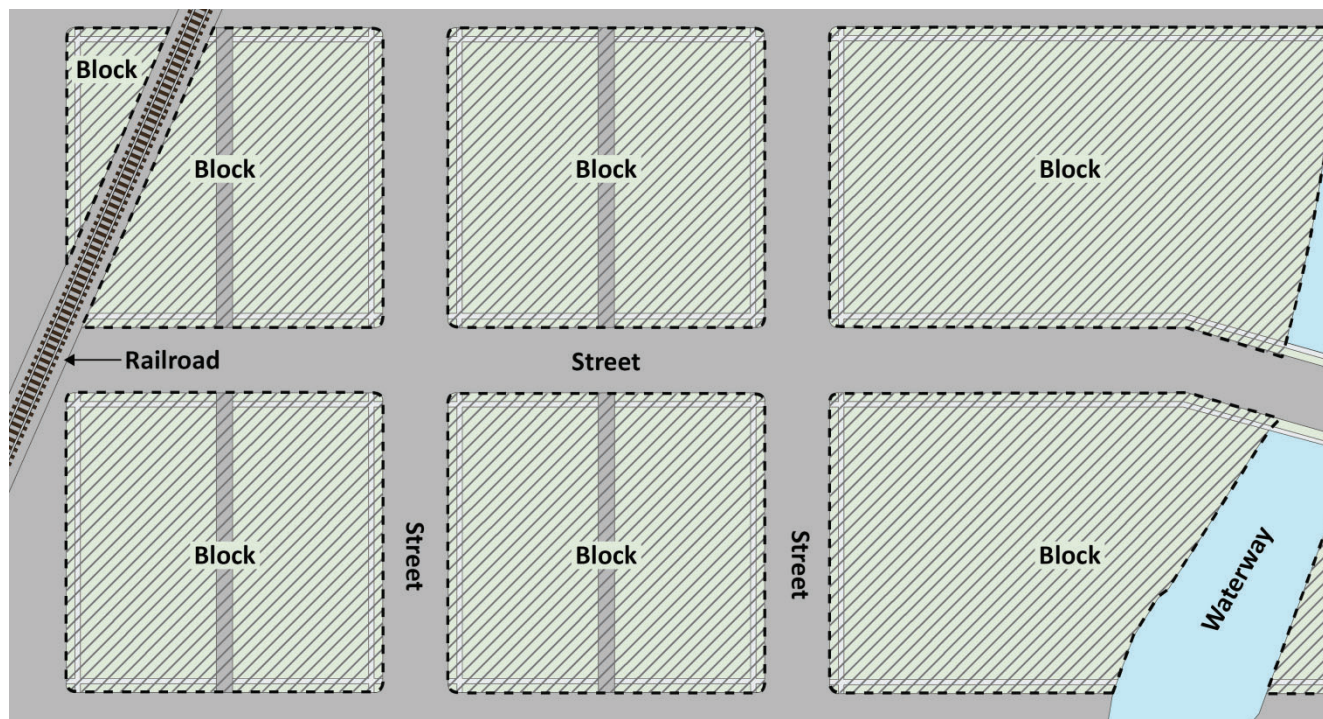


Figure 5: Block Definition

Block face

That portion of a block adjacent and parallel to the abutting public street and normally extending from one intersecting street to another.

Board of Zoning Appeals (BZA)

The City of Bloomington advisory Board of Zoning Appeals or any division or designee thereof.

Book Buyback

A use or business that purchases used higher education books.

Bottled Gas Storage or Distribution

A facility that engages in the holding and transportation of bottled gas products.

Brewpub, Distillery, or Winery

A commercial use that brews ales, beers, meads, distilled drinks, wines, and/or similar beverages on site and serves those beverages on site. Off-site sales are permitted as an accessory use.

Buffer Yard

An area adjacent to side and rear property lines, measured perpendicularly from adjacent property lines, intended to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffer yards also help to maintain existing vegetation, to block or reduce noise, glare or other emissions and to maintain privacy. ~~Buffer yards are in addition to (separate from) rear or side setbacks.~~

Building**Building (Generally)**

Lot Line, Side

Any lot line that is not a front lot line or a rear lot line.

Lot of Record

A lot that was created by subdivision, the plat of which has been approved as required by applicable city and state law and recorded in the Office of the Monroe County Recorder; or a parcel of land, the bounds of which have been legally established by a separate deed and duly recorded in the Office of the Monroe County Recorder. "Legally established" means not in violation of any city or state subdivision regulations existing at the time the lot was established by deed. Also, a parcel described by a single deed containing more than one metes and bounds description shall be one lot of record unless the parcels described by such separate descriptions have, in the past, been lawfully established parcels of record with separate deeds.

Lot Width

The horizontal distance between side lines measured along a line that is parallel to the front lot line. For lots with existing buildings, the lot width shall be measured at the front building wall of the primary building. For newly created lots, the lot width shall be measured at the minimum required setback distance from the front lot line.

Lot, Corner

A lot having at least two adjacent sides that abut for their full length along streets. Both such lot lines shall be considered front lot lines for the purposes of determining setbacks.

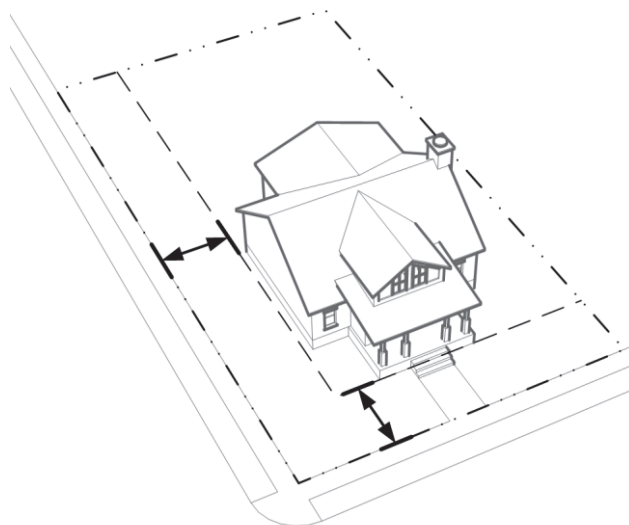


Figure 7: Corner Lot Definition

Lot, Interior

Any lot, the side property line of which abuts the rear property line of one or more lots, and that is not separated by an alley or any other public right-of-way.

~~{insert lot graphic here}~~

Lot, Lawful Nonconforming

Any lot of record that does not conform with one or more provisions of this UDO, but that lawfully existed upon the effective date of the provisions of this UDO with which the lot does not conform.

Mixed Tenant Center

~~A structure that contains more than one use or more than one tenant.~~

Mobile Home Park

See "Manufactured Home Park."

Monopole

A single, self-supporting vertical pole used to support telecommunications equipment, with no guy wire anchors or lattice, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

Mortuary

An establishment where the deceased are physically prepared for final interment.

Mosque

See "Place of Worship."

Motel

See "Hotel or Motel."

Motor Vehicle

Any self-propelled vehicle that requires state license plate registration to be used on public roads and highways, including any non-motorized attachments, such as, but not limited to, trailers or other conveyances that are connected to or propelled by the actual motorized portion of the vehicle.

Multi-tenant Center

A group of separate buildings with multiple tenants, operating under a common name or management; a single building containing multiple uses where there are specific exterior entrance ways for individual uses; or a group of uses on separate but adjoining properties that request treatment as a multiuse complex.

Multi-tenant Nonresidential Center, Large-scale

A group of two or more retail establishments, managed as a unit, sharing a common site, parking area and entrances, and having a gross floor area of one hundred thousand square feet or greater.

Multiuse Path

A hard-surface pathway physically separated from the street by a tree plot, located within the public right-of-way, and designed for bicyclists, pedestrians, and other non-motorized traffic.

Multi-use Trail

A hard-surface, off-road pathway used by bicyclists, pedestrians, and other nonmotorized traffic typically located within or along a greenway.

Mural

A painting on the side of a building, wall, or structure; or a painting on the ground or the ceiling of a building or structure. A mural that does not function as a sign is not regulated by the Unified Development Ordinance. Murals that function as a sign are regulated in the Unified Development Ordinance as a wall sign.

MUTCD

The Manual on Uniform Traffic Control Devices.

A facility designed for and occupied by nine or more residents living together.

Orchard or Tree Farm, Commercial

A group of trees grown for either home or commercial use where products are sold on site or transported to market.

Outdoor Retail and Display

The outdoor sale and display area of retail goods, produce, plants, handcrafts, and the like conducted on the same lot or parcel as the principal business with which such activities are associated.

Outline Plan

The name for PUD district ordinance text and PUD preliminary plans under the Bloomington Zoning Ordinance effective 1973-1995. See "Preliminary Plan, PUD" or "PUD district ordinance."

Outlot

A lot of record in a subdivision, nonresidential center or Planned Unit Development that is adjacent to a (public or private) street, roadway or frontage road, and is intended for an additional and separate building or buildings within the development.

Owner

Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be developed under these regulations, or their legal representative.

Parapet

That portion of a wall that extends above the roof line.

Parcel

See "Lot."

Park

A parcel of land available to the public for passive and/or active recreation and is maintained and governed by the Bloomington parks board.

~~Parking Garage/Structure~~

~~A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade, with those levels being either open or enclosed.~~

Parking Space

Space within a public or private parking area for the storage of one passenger automobile or commercial vehicle under a one and one-half ton capacity.

Partial Demolition

The complete or substantial removal or destruction of any exterior portion of a structure, which shall include but not be limited to:

- 1) Complete or substantial removal or destruction of a porch, wing, cupola, addition, or similar feature; or

Sign, Awning

A wall sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Sign, Freestanding

A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures or supports; and not attached to or dependent for support from any building.

Sign, Lawful Nonconforming

Any sign lawfully existing at the time of the enactment of any provision of this UDO, or any amendment thereto, with which the sign does not comply.

Sign, Multi-tenant

An identification sign for a commercial site with multiple tenants, displaying the names of each tenant on the site.

Sign, Permanent

A sign attached to a building or structure and that is made of materials intended for long-term use.

Sign, Portable

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels.

Sign, Projecting

A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

Sign, Public

A sign erected by or on the order of a public officer in the performance of a public duty, such as signs to promote safety, no trespassing, or traffic signs; signs to indicate transit stops; memorial plaques; or signs of historic interest.

Sign, Sandwich Board

A movable sign not secured or attached to the ground or surface upon which it is located and constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member.

Sign, Temporary

Any sign that is not permanently anchored or secured to a building and not having supports or braces permanently secured to the ground, including but not limited to: banners, pennants, or advertising displays including portable signs that are intended to be displayed for a limited period of time.

Sign, Tenant Panel

Individual panels on a multi-tenant sign advertising one specific business within the center.

Sign, Wall

A sign attached to and/or integral with the exterior wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of the exterior wall and that does not project more than 12 inches from the exterior wall surface.

Unified Development Ordinance (UDO)

This entire document as approved and with any subsequent amendments. The Unified Development Ordinance includes both the zoning ordinance, authorized by the Indiana Code 36-7-4-600 Series and the subdivision control ordinance, authorized by the Indiana Code 36-7-4-700 Series.

University

See "School, College or University."

Urban Agriculture, Noncommercial

The cultivation of food and/or horticultural crops, composting, aquaponics, aquaculture and/or hydroponics. Such use may include the production and sale of food products from food grown on the premises.

Noncommercial urban agriculture may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. This definition includes gardens, container gardens, edible landscapes, residential greenhouses, herb gardens, rooftop gardens, berry patches, vegetable gardens and other similar activities. Urban agriculture uses shall not include the raising of animals, except as permitted elsewhere in the Bloomington Municipal Code.

Use

The purposes for which land, a building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Use, Abandonment of

The relinquishment of property or a cessation of the use of property for a continuous period of twelve months by the owner.

Use, Accessory

An activity that is conducted or located on the same zoning lot as the primary building or use served, except as may be specifically provided elsewhere in this UDO; is clearly and customarily incidental to, subordinate in purpose to, and serving the primary use; and is either in the same ownership as the primary use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of the primary use.

Use, Change In

Includes, for any portion of a building (excluding individual tenant space in a single building multi-tenant center), structure, or lot:

- 1) Any change from a residential use to a nonresidential use;
- 2) Any change from a nonresidential use to multifamily use;
- 3) Any change from one residential land use to another;
- 4) Any increase in the number of dwelling units;
- 5) Any establishment of a use on a previously unused site, or the inclusion of a new use in addition to an existing use;
- 6) Any use which requires a conditional use approval;
- 7) Any change from a single-tenant to a multi-tenant centersite or building;

Chapter	Citation	Current Language	Proposed Language	Synopsis	Difficulty	Type of Change
Whole Document		Multiple Spell Check or Grammar Corrections	Removed extra periods, added parentheses, removed spaces, etc.		easy	typo
	2 20.02.010(a) Table 02-1		Remove first DCO - Downtown Character Overlay label that is next to CSO district in the District Name column	Minor formatting fix	easy	Revision
	3 20.03.030(g)(6)(G)(i)	i. For Home Occupations located within a primary structure no more than 50 percent of the total interior floor area of the dwelling unit may be used in connection with the Home Occupation.	i. For Home Occupations located within a primary structure no more than 50 perfect percent percent of the total interior floor area of the dwelling unit may be used in connection with the Home Occupation.	Fixes typo of "perfect" that should say "percent".	easy	typo
	4 Table Names	Chapter 4 Table Labels	Correcting Tables 04-15 through 04-20	There are two tables with the same title in the current UDO. Updating table numbers and references throughout the code.	easy	typo
	4 20.04.020(e)(1)(D)	For lots of record with no street frontage, a minimum building setback of 10 feet is required from the property line where access is gained. The minimum front building façade at the build-to range percentage shall be determined by calculating the width of the principal building that is within the build-to range divided by the total width of the lot at the street frontage.	(D) For lots of record with no street frontage, a minimum building setback of 10 feet is required from the property line where access is gained. (E) The minimum front building façade at the build-to range percentage shall be determined by calculating the width of the principal building that is within the build-to range divided by the total width of the lot at the street frontage.	This should be two separate sections	easy	clarification
	4 20.04.070(f)(1)	(1) In multifamily residential buildings and student housing and dormitory buildings constructed after 4/18/2020 that contain more than 25 dwelling units, at least 20 percent of the dwelling units shall incorporate at least one entrance at grade level and not requiring any steps up or down or a ramp for entry.	(1) In multifamily residential buildings and student housing and dormitory buildings constructed after 4/18/2020 that contain more than 25 dwelling units, at least 20 percent of the dwelling units shall incorporate at least one entrance at grade level and not requiring any steps up or down or a ramp for entry.	Typo in spelling of "after"	easy	typo
	4 20.04.080(c)(1)(D)	Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) Connectivity Where properties have adjacent street or drive stubs intended for connection, these stubs shall be extended and connected on the developing property. Vision Clearance Triangle).	(D) Vision Clearance: Landscape material shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Vision Clearance Triangle).	Formatting error and misplaced text	easy	typo
	4 20.04.080(f)(3)(E)(i) and (ii) and (iii) and (iv)	i. Street trees shall be planted outside the vision clearance triangle as defined in Section 20.04.050(c)(4) (Connectivity ii. Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property. iii. Vision Clearance Triangle), or within that portion of the vision clearance triangle behind the sidewalk.	Sections (i), (ii), (iii) have misplaced text. Should read as follows- i. Street trees shall be placed outside the vision clearance triangle as defined in Section 20.04.050(c)(4) (Vision Clearance Triangle), or within that portion of the vision clearance triangle behind the sidewalk.	Formatting error and misplaced text	easy	typo
	4 20.04.090(n)(4)(C)	Fences and walls shall meet all vision clearance standards in Section 20.04.050(c)(4) (Connectivity Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property. (Vision Clearance Triangle).	Section marked as #5 has several formatting issues and misplaced text. Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property. (Vision Clearance Triangle): (C) Vision Clearance: Fences and walls shall meet all vision clearance standards in Section 20.04.050(c)(4) (Vision Clearance Triangle).	Formatting error and misplaced text	easy	typo
	4 20.04.100(f)(4)	(4) Vision Clearance Triangle (5) Within a vision clearance triangle as specified in Section 20.04.050(c)(4) (Connectivity Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property. Vision Clearance Triangle).	(4) Vision Clearance Triangle (5) Within a vision clearance triangle as specified in Section 20.04.050(c)(4) (Connectivity Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property. Vision Clearance Triangle).	Formatting error and misplaced text	easy	typo
	4 20.04.100(j)(2)(A)(ii)	Multi-tenant Nonresidential Center	Multi-tenant Nonresidential Center	Syncs with defined term	easy	clarification

4	20.04.110(c)(5)(B)(iv)(2)	1. Tier 2 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet. The additional floor of building height granted under this subsection (iv)(2) shall be limited to 50 percent of the building footprint area of primary structure, and that additional floor shall be set back at least 10 feet further that the lower floors of the building.	1. Tier 2 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet. The additional floor of building height granted under this subsection (iv)(2) shall be limited to 50 percent of the building footprint area of primary structure, and that additional floor shall be set back at least 10 feet further that than the lower floors of the building.	Typographical error	easy	typo
5	20.05.050(g)(2)	In addition to easements required by Subsection 20.07.080(b): Easements, ...	In addition to easements required by Section 20.07.080(b) 20.05.040 (Easements), ...	Corrects citation left over from old UDO	easy	typo
6	20.06.050(a)(2)(C)(i)(2)	2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section Error! Reference source not found.;	Formatting error is causing citation not to show. Citation should be Section 20.06.050(a)(2)(C)(ii)	Formatting error	easy	typo
7	20.07.010	Buffer Yard- An area adjacent to side and rear property lines, measured perpendicularly from adjacent property lines, intended to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffer yards also help to maintain existing vegetation, to block or reduce noise, glare or other emissions and to maintain privacy. Buffer yards are in addition to (separate from) rear or side setbacks.	Buffer Yard- An area adjacent to side and rear property lines, measured perpendicularly from adjacent property lines, intended to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffer yards also help to maintain existing vegetation, to block or reduce noise, glare or other emissions and to maintain privacy. Buffer yards are in addition to (separate from) rear or side setbacks.	Goes along with other amendment to language within Table 04-18 to remove the stacked setback requirement.	medium	revision
7	20.07.010	Parking garage/structure- A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade, with those levels being either open or enclosed.	Parking garage/structure- A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade, with those levels being either open or enclosed.	Duplicate of definition of 'vehicle parking garage'.	easy	revision
7	20.07.010	Sign, Awning: A sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.	Sign, Awning: A wall sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.	Adds language identifying awning signs as a type of wall sign so that they are included in the amount of wall signage allowed.	easy	clarification
7	20.07.010	Use, Change In	7) Any change from a single-tenant to a multi-tenant site center or building;	Changes word "site" to "center" to match the defined term of "multi-tenant center"	easy	Clarification
7	20.07.010	"Mixed Tenant Center"	Delete from definition section.	This term is not used in the UDO.	easy	Clarification

ORDINANCE 23-05

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE –
Re: Amendments and Updates Set Forth in BMC 20.03; 20.05; and 20.07**

WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and

WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”); and

WHEREAS, on December 18, 2019, the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and

WHEREAS, on January 14, 2020, the Mayor signed and approved Ordinance 19-24; and

WHEREAS, on April 15, 2020, the Common Council passed Ordinance 20-06 and Ordinance 20-07; and

WHEREAS, on April 18, 2020, the Unified Development Ordinance became effective; and

WHEREAS, on March 6, 2023, the Plan Commission voted to favorably recommend this amendment proposal to the Common Council, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, the Plan Commission certified this amendment proposal to the Common Council on March 15, 2023; and

WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council have paid reasonable regard to:

- 1) the Comprehensive Plan;
- 2) current conditions and character of current structures and uses in each district;
- 3) the most desirable use for which land in each district is adapted;
- 4) the conservation of property values throughout the jurisdiction; and
- 5) responsible development and growth; and

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

SECTION 1. Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance”, is amended.

SECTION 2. An amended Title 20, entitled “Unified Development Ordinance”, including other materials that are incorporated therein by reference, is hereby adopted. Said replacement ordinance consists of the following documents which are attached hereto and incorporated herein:

1. The Proposal forwarded to the Common Council by the Plan Commission with a favorable recommendation, consisting of:
 - (A) ZO-05-23 (“Attachment A”)
 - (B) Any Council amendments thereto (“Attachment B”)

SECTION 3. The Clerk of the City is hereby authorized and directed to oversee the process of consolidating all of the documents referenced in Section 2 into a single text document for codification.

SECTION 4. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this __ 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 petition contains amendments related to use regulations in Chapter 3, subdivision standards in Chapter 5, and definitions in Chapter 7 of the UDO. There are 61 amendments identified.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 23-05 is a true and complete copy of Plan Commission Case Number ZO-05-23 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 6, 2023.



Date: March 15, 2023

Scott Robinson, Secretary
Plan Commission

Received by the Common Council Office this 15th day of March, 2023.



Nicole Bolden, City Clerk

Appropriation Ordinance #	_____	Fiscal Impact Statement Ordinance #	_____	Resolution #	_____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No XX

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

Approval of case ZO-05-23 amends the Unified Development Ordinance (UDO), with amendments and updates to use-specific standards, by the Bloomington Plan Commission. This ordinance is in accordance with Indiana Code 36-7-4-600.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

Case # ZO-05-23 Memo

To: Bloomington Common Council

From: Bloomington Plan Commission
Jackie Scanlan, AICP Development Services Manager

Date: March 15, 2023

Re: Text Amendments to Unified Development Ordinance

The Plan Commission heard case ZO-05-23 on March 6, 2023 and voted to send the petition to the Common Council with a positive recommendation with a vote of 9-0, as amended. The Plan Commission voted to remove the proposed changes to 20.03.010(e)(1) in order to have time for additional information to be gathered and discussion.

The Planning and Transportation Department proposes its annual update and amendment to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code. The last regular UDO Update process was completed in the Spring of 2022. This update is smaller scale than the larger update done in 2020 and is for regular maintenance of the code. Staff utilizes the UDO daily in our interactions with the public and other Departments, and has identified portions of the code that contain errors or that may benefit from amendment. No changes to the permitted uses or zoning districts are included in this update.

The proposal is divided into four (4) petitions. One petition is discussed below and is this Ordinance, 23-05:

1. ZO-05-23 | Chapter 3: Use Regulations; Chapter 5: Subdivision Standards; Chapter 7: Definitions

ZO-05-23 | Chapter 3: Use Regulations; Chapter 5: Subdivision Standards; Chapter 7: Definitions

This petition contains amendments for Chapter 3 related to use-specific standards for uses allowed in the code. The amendments relate to changes to rules for vehicle fuel stations, outdoor storage, self-storage facility design, and the process for ADU paperwork when no building permit is required. The amendment for Chapter 5 deals with clarifying how to regulate existing structures involved on land that is being subdivided or otherwise altered. The Chapter 7 amendments are related to clarifying how to define basement, footprint, average surface grade, and landscape area in line with how they are currently regulated. Excluding the change over of individual tenants in multitenant centers from requiring site improvements is also included. The remainder of the Chapter 7 changes are definitions that are required by the State of Indiana for floodplain regulation administration. There are a total of 8 amendments in Chapter 3, 1 in Chapter 5, and 52 in Chapter 7. The changes are necessary for various reasons. Those unrelated to the floodplain are largely needed to further clarify existing provisions, so that administration

of the code is more straightforward. The floodplain changes are a requirement to sync our regulations with the State floodplain regulations.

1. The accessory structure is located, designed, and intended to serve only the needs of the park; and
2. The establishments located within the accessory structure present no visible evidence of their business nature to areas outside the park.

ii. Maximum Number

Each manufactured home or mobile home is allowed no more than one accessory structure in addition to a carport or garage.

iii. Maximum Cumulative Area

The total area of all accessory structures, including the area of detached or attached garages or carports, shall not exceed 10 percent of the dwelling site.

(D) Infrastructure

Infrastructure shall be installed in accordance with Indiana Code 16-41-27-1 et seq., Rule 410 IAC 6-6 and their subsequent amendments, the State Board of Health requirements, and the requirements of this UDO.

(10) Fraternity or Sorority House

~~(A) If a fraternity or sorority house that has previously been officially recognized by and has maintained active affiliation with a college or university within which the residents are enrolled is no longer recognized by and/or no longer has an active affiliation with that college or university, the owner or operator of the facility may submit a petition to the City to nevertheless be treated as a fraternity or sorority house under this UDO.~~

~~(B) The process to make the petition referred to in subsection (A), and the process for City review and decision on the petition, shall be pursuant to Section 20.06.080(b): *Variance*.~~

~~(C) The criteria used by the City to make a decision on the application referred to in subsection (A) shall be those listed in paragraph 20.06.080(b)(3)(E)i.1: *General Approval Criteria*, plus the following additional criterion:~~

- ~~i. The behavior of the residents of the facility has not caused a nuisance or disturbance to the surrounding community, as evidenced by the fact that:

 - ~~1. No complaint or criminal charge based on resident behavior resulting in injury or death, or a felony has been documented during the previous three years; and~~
 - ~~2. No more than one complaint or criminal charge regarding the residents' behavior not involving injury or death or a felony has been documented during each of the previous three years, or if more than one such complaint or criminal charge has been filed during any one of the previous three years, the owner or operator of the facility has given the City adequate assurances that similar behavior will not occur at the facility in the future.~~~~

(11) Artist Studio or Workshop

In the R1, R2, R3, and R4 zoning districts:

- (A) The artist studio shall be accessory to a residential use.
- (B) No retail activity shall be permitted in association with the artist studio.
- (C) No display of art pieces for public viewing, such as within a gallery, shall be permitted.
- (D) Use of the artist studio shall be limited to the production of art by the resident of the home in which the studio is located.

(12) Office

In the MH zoning district, only office uses performing services related to the medical or health care industries are permitted.

(13) Equipment Sales and Rental

- (A) Outdoor display of equipment for sale or rental shall only be permitted in the MC and EM zoning districts.
- (B) In the MC zoning district, all outdoor display of merchandise shall be contained on an improved surface such as asphalt, concrete, or pavers.
- (C) Any outdoor display area shall not block ADA-accessible parking areas, parking lot access aisles, or sidewalk areas, and shall not reduce the number of parking spaces below any minimum requirement for the use in this UDO.

(14) Vehicle Fuel Station

- (A) In the MM, MD, and ME zoning districts, the use shall be limited to a total of four metered fuel dispenser units. For the purpose of this section, each hose shall count as one fuel dispenser unit.
- (B) In the MM, MD, and ME zoning districts, major overhaul, body and fender work, upholstery, welding and spray painting shall be prohibited as an accessory use of a vehicle fuel station.
- (C) In the MM, MD, MC, and ME zoning districts, all activities other than vehicle fueling shall be conducted within a completely enclosed building.
- (D) In the MM, MD, MC, and ME zoning districts, no outdoor storage of automobile parts, discarded tires, or similar materials shall be permitted.
- (E) Outdoor storage of more than three wrecked or temporarily inoperable vehicles awaiting repairs shall be prohibited.
- (F) All structures including fuel canopies shall be similar in appearance to the surrounding development with respect to architectural style, color, and materials. ~~In the ME zoning district:
i. All structures including fuel canopies shall be similar in appearance to the surrounding development with respect to architectural style, color, and materials;~~

- (G) Fuel canopies shall be located to the side or rear of properties to minimize visual impact from public streets; ~~and~~
- (H) At least 50 percent of the total number of dispenser units shall provide alternative fuels including, but not limited to biodiesel, electricity, majority ethanol blend, hydrogen or natural gas.

(15) Vehicle Impound Storage

Vehicle impound storage lots shall be screened with a solid fence or wall at between eight and 10 feet in height and shall provide at least one tree and three shrubs per 10 linear feet of fencing to minimize the visual impact of the use on surrounding properties, public streets, and public open spaces. Required plantings shall be located on the side of the fence closest to abutting properties.

(16) Vehicle Parking Garage

- A. In the MD-CS, MD-DC, MD-UV, MD-DG, and MD-ST Downtown Character Overlays, a freestanding primary use vehicle parking garage, or a parking garage that is attached to but not located within the building envelope of a structure containing another primary use shall require conditional use permit approval pursuant to Section 20.06.050(b) (Conditional Use Permit).
- B. In all districts, if exterior facades of a parking garage structure are not covered with residential or commercial spaces, then the following design elements shall all be included:
 - a. Exterior facades shall utilize a punched-out window design with a minimum of 2' solid space between openings and defined lintels and sills that utilize different finishing material than adjacent facade.
 - b. The building shall be designed so that the presence of parked vehicles is not visible.
 - c. A minimum of one pedestrian entrance with required entrance detailing is required per street frontage.
 - d. A minimum of 25% of each facade facing a public street shall incorporate public art, planter boxes, or similar elements.

(17) Vehicle Repair, Major or Minor

- (A) All major overhaul, body and fender work, upholstery and welding, and spray painting shall be conducted within a completely enclosed building.
- (B) No outdoor storage of automobile parts, discarded tires, or similar materials shall be permitted.
- (C) Outdoor storage of more than three wrecked or temporarily inoperable vehicles awaiting repairs shall be prohibited.

(18) Vehicle Wash

Where a car wash facility is located adjacent to a Residential zoning district, the following restrictions shall apply:

- (A) The hours of operation for automated car wash facilities shall be limited to between 7:00 a.m. and 10:00 p.m.
- (B) Automated audio warnings (e.g., beepers), instructions and other audio recordings associated with the car wash facility are not permitted.

(e) Employment Uses

(1) Storage, Outdoor**(A) Parking of Vehicles**

All outdoor parking of vehicles in all zoning districts shall comply with the following standards:

- i. Vehicles and trailers shall not be stored or parked on an unimproved surface.
- ii. Stored or parked vehicles shall not block, impede, or otherwise encroach upon a sidewalk.
- iii. Stored or parked vehicles shall not be used for other purposes, including, but not limited to, living quarters, or storage of materials.

(B) Screening

Primary use outdoor storage yards shall be screened with a solid fence or wall at between eight and ten feet in height and shall provide at least one tree and three shrubs per 10 linear feet of fencing to minimize the visual impact of the use on surrounding properties, public streets, and public open spaces. Required plantings shall be located on the side of the fence closest to abutting properties.

(C) Prohibited Storage Materials

In all zoning districts ~~where this use is allowed~~, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

(D) Shipping Containers and Portable Storage Units

Shipping containers, cargo containers, and portable on-demand storage units may not be used for long-term storage, and may only be located on a lot or parcel:

- i. To provide storage for construction projects during the period of an approved construction project on the same lot or parcel; or
- ii. During the process of being loaded or unloaded, the duration of which may not exceed 72 consecutive hours.

(2) Storage, Self-Service

- (A) All storage shall be kept within an enclosed building, except recreation or other oversized vehicles, which shall be stored only in exterior areas screened from view from any street frontage.
- (B) Only storage of goods and materials are allowed in self-storage rental spaces. The use of storage spaces to conduct or operate a business is prohibited.
- (C) The use of power tools, paint sprayers, or the servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances, and other similar equipment within a storage unit is prohibited.
- (D) The storage of hazardous materials is prohibited.
- (E) Security fencing shall not include razor wire or barbed wire.
- (F) Where the site is adjacent to a Residential zoning district or a portion of a PUD zoning district designated for single-family residential uses:
 - i. Loading docks are prohibited on the side of the facility facing the residentially zoned land;

- ii. A permanent screen shall be required along all property boundaries and shall conform to landscaping and screening requirements in Section 20.04.080(m) (~~Screening~~);
- iii. Public access shall only be permitted between 6:00 a.m. and 10:00 p.m.
- (G) ~~If the facility is located in an MN, MM or MD district, a~~All storage shall be contained within a fully enclosed structure that:
 - i. Is at least a two-story structure with a defined use on the upper floor(s) and if storage units are provided on the upper floors, then access to the units shall be from interior hallways.
 - ii. Does not have any garage doors or access doors to any storage unit facing any public street, park, or open space, unless the doors are screened from all visible public streets, parks, and open spaces.

(3) Gravel, Cement, or Sand Production, or Quarry

Each facility shall be screened with a solid fence or wall between eight and 10 feet in height and shall provide at least one tree and three shrubs per 10 linear feet of fencing to minimize the visual impact of the use on surrounding properties, public streets, and public open spaces. Required plantings shall be located on the side of the fence closest to abutting properties.

(f) Utilities and Communication

(1) Communication Facility

(A) Purpose

These standards are intended to provide sensible and reasonable development standards that comply with the requirements of state and federal law for public and private telecommunication service and to:

- i. Maximize the use of any communication facilities in order to reduce the total number of facilities needed to serve the communications needs of the area;
- ii. Minimize the adverse, undesirable visual effects of communication facilities; and
- iii. Provide for the reasonable location of communication facilities in the city.

(B) Compliance with State Law

i. Eligible Petitioners

All communication facilities shall comply with the standards of Indiana Code § 8-1-32.3-19.

ii. New Communication Facilities

Petitions for new communication facilities shall comply with the standards of Indiana Code § 8-1-32.3-20.

iii. Modifications to Existing Communication Facilities

Modifications of existing antennas, communication towers and communication equipment shall comply with Indiana Code § 8-1-32.3-21.

(C) Co-Location

If co-location is not possible, a sworn statement shall be submitted documenting why co-location on an existing communication tower cannot meet the petitioner's requirements. Such statement must demonstrate that co-location of communication facilities on an existing communication tower is not a viable option because co-location:

(3) Detached Garage Design

- (A) For detached garages accessory to residential uses, exposed or corrugated metal facades are not permitted. The exterior finish building materials used for a detached garage shall comply with the standards in Section 20.04.070(d)(3)(B) (Materials).
- (B) Detached garages and carports shall be located a minimum of 10 feet behind the primary structure's front facade and five feet from side and rear property lines, except for exceptions listed in Section 20.04.020(e)(3) (Exceptions to Setback Requirements).

(4) Drive-Through

- (A) In the MM district, all uses, except for financial institutions shall be limited to one drive-through bay. Financial institutions shall be allowed up to three drive-through bays.
- (B) In the MC district, all uses, except for financial institutions shall be limited to two drive-through bays. Financial institutions shall be allowed up to three drive-through bays.

(5) Dwelling, Accessory Unit**(A) Purpose**

These accessory dwelling unit ("ADU") standards are intended to permit the creation of legal ADUs that are compatible with residential neighborhoods while also adding housing options for the City's workforce, seniors, families with changing needs, and others for whom ADUs present an affordable housing option.

(B) Generally

- i. This use shall be accessory to a single-family or duplex dwelling that is the principal use on the same lot or parcel.
- ii. Not more than one ADU may be located on one lot.
- iii. ADUs shall not contain more than two bedrooms.
- iv. No more than one family, as defined in Chapter 20.07: (Definitions), shall reside in one accessory dwelling unit; provided, however, that units lawfully in existence prior to the effective date of the ordinance from which this section derives where the number of residents located in one accessory dwelling unit lawfully exceed that provided by the definition of family in Chapter 20.07: (Definitions), may continue to be occupied by the same number of persons as occupied the accessory dwelling unit on that effective date. For purposes of this section, attached ADUs with internal access that were approved under this ordinance shall be considered one dwelling unit.
- v. A request for an ADU shall be required to submit a separate site plan petition with the Planning and Transportation Department if no building permit is processed for the ADU.

(C) Utilities

All ADUs shall be connected to the public water main and sanitary sewer that are adjacent to the property on which the ADU is located, per City of Bloomington Utilities' Rules and Regulations or Construction Specifications. Where water or sanitary sewer mains are not adjacent to the property and the primary dwelling on the lot uses a septic system, the ADU may use the septic system in compliance with Monroe County Health Department Standards.

(c) Generally

- (1) In planning for the development of areas within the jurisdiction of the Plan Commission, the owner and petitioner shall make every effort to assure that the proposed project will be accomplished in agreement with the intent and purpose of the Comprehensive Plan.
- (2) The proposed development shall also be consistent with the property's zoning classification and shall result in a project that is harmonious with the environmental character of the property as well as the overall community of the City of Bloomington.
- ~~(2)(3)~~ Existing buildings, structures, parking areas, or improvements that require a setback and are on lots involved in either a subdivision or an exempted adjustment of lot lines listed in 20.06.060(a)(2)(B) do not have to meet setback standards related to existing property lines that do not change. The setback standards of this UDO shall apply for all newly created lot line locations.

(d) Specific Standards for Subdivision Types

In addition to the standards in this Section 20.05.050 (Subdivision Design Standards), each subdivision type defined in 20.05.030 (~~Subdivision Types~~ ~~Subdivision Types~~) shall comply with the specific standards summarized in Table 05-5: Subdivision Development Standards below.

Table 05-5: Subdivision Development Standards

	IS	CS	TD	CI
Applicable base zoning districts	All base zoning districts	All base zoning districts	R2, R3, R4, RM, RH, MS, MN, MM	MS, MN, MM, MC, ME, MI, MD, MH, and EM
Parent tract size (minimum)	None	5 acres	3 acres	None
Parent tract size (maximum)	3 acres	None	None	None
Open space required (minimum) [1]	Not required	50%	5%	None
Block length (maximum)	Not required	1,760 feet	800 feet	1,320 feet
Cul-de-sac length (minimum)	Not permitted	Not permitted	Not permitted	200 feet
Cul-de-sac length (maximum)	Not permitted	Not permitted	Not permitted	600 feet
Transportation facilities	Required to meet Transportation Plan guidance			
On-street parking [2]	Not required	RE zone: not permitted R1 zone: not required R2 zone: not required	Required on at least one side of all streets	Not required
Lots served by alleys (minimum percentage)	Not required	Not permitted	67%	Not required
Tree plot width (minimum)	Per Transportation Plan	5 feet [3]	Residential areas: 7 feet Mixed-use/nonresidential areas: 0 feet, tree grates required	Per Transportation Plan
Sidewalk/multiuse path width (minimum)			Residential areas: 5 feet Mixed-use/nonresidential areas: 8 feet	

Abutting

Bordering or touching, such as sharing a common lot line. Lots that are separated by a street, right-of-way, or platted alley are not abutting.

Accessory Dwelling Unit (ADU)

See "Dwelling, Accessory Unit."

ADA

The Americans with Disabilities Act.

Addition (to an existing structure)

Any walled and roofed expansion of the perimeter of a structure. For purposes of floodplain regulations, any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.~~Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction. For purposes of floodplain regulations, any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall.~~

Adjacent Property

Any property that physically touches a given property. For the purposes of this UDO, properties across a public right-of-way are also considered adjacent.

Affordable Housing

Residential developments with a recorded restriction that requires the housing for a certain minimum number of years to be rented or owned by qualified very low and low-income households.

Agriculture

See "Crops and pasturage." And "Urban Agriculture, Noncommercial."

Alley

A right-of-way through or partially through a block, intended for secondary vehicular access to the rear or side of properties. However, where vehicle access from the street is not permitted or not possible, an alley may provide primary vehicle access.

Alteration of a Watercourse

For purposes of floodplain regulations, means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

Amenity Center

A building or facility owned or operated by a corporation or homeowners association intended for a place of meeting, social, cultural, educational, or recreational purposes, to which membership or residency in a specific development or neighborhood is required for participation. Examples may include communal areas, swimming pools, health club facilities, media rooms, or the like.

Apartment

See "Dwelling, Multifamily."

Appeal

For purposes of floodplain regulations, a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Architectural Features

Ornamentation or decorative features attached to or protruding from an exterior wall.

Area of Shallow Flooding

For purposes of floodplain regulations, a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard

For purposes of floodplain regulations, is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

Art Gallery, Museum, or Library

A facility or area that is open to the public and is intended for the display, appraisal, purchase, sale, loan, of art books, paintings, sculpture, or other works of original art that have architectural, artistic, cultural, literary, historical, or scientific value. Accessory uses can include meeting rooms or cafes.

Art, Public

A visual work of art that is permanently displayed in a way that it is visible from a public place, street or way. The work of art may include but need not be limited to sculptures, murals, monuments, frescoes, fountains, stained glass, or ceramics.

Artist Studio or Workshop

A facility that includes work or teaching space for one or more artists, artisans, or musicians.

Assisted Living Facility

A facility combining housing, supportive services, personalized assistance, and health care, designed to respond to the individual needs of those who need help with activities of daily living, such as dressing, grooming and bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration, but do not require hospitalization. An "assisted living facility" does not contain equipment for surgical care or for treatment of disease or injury and does not include "nursing or convalescent home."

Awning

A roof-like cover intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or parapet of a structure over a window, walk, door, or a similar feature.

Balcony

An architectural appurtenance located above the first floor that is either entirely unenclosed or covered only by a roof or railing.

Banner

A sign with characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing.

Bar or Dance Club

A facility open to the public and characterized by live or televised entertainment, dancing or the serving of alcoholic beverages. Food or packaged alcoholic beverages may be sold but are generally accessory to the primary use.

Base Flood

For purposes of floodplain regulations, means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Base Flood Elevation (BFE)

The water surface elevation of the base flood in relation to a specific datum, usually the North American Vertical Datum of 1988. The elevation of the one-percent annual chance flood.

Basement**Basement (Generally)**

In all other contexts, that portion of a building that is partly or wholly below grade, as measured four feet from the exterior of the foundation wall, regardless of whether the interior space is finished or unfinished. A basement shall be counted as a story for determining building setbacks and number of stories if the front exterior wall of the basement facing a street is not completely below grade and each side of the foundation wall facing the side yard is less than 50 percent covered by grade.

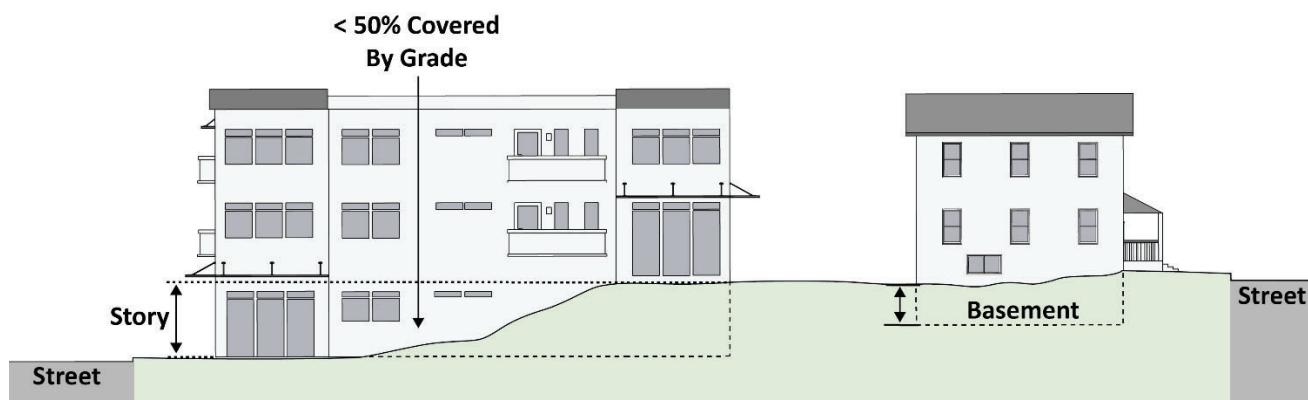


Figure 4: Basement Definition

Basement (Floodplain Regulations)

For purposes of floodplain regulations, that portion of a structure having its floor sub-grade (below ground level) on all sides.

Bay Window

A large window or series of windows projecting from the outer wall of a building and forming a recess within and that does not extend to the ground on the exterior.

Bed and Breakfast

Means a single-family detached dwelling where transient lodging and meals are provided for compensation, that does not meet the definition of a "Hotel or Motel," or "Residential Rooming House."

Berm

A man-made, formed, earth mound of definite height and width used for landscaping and screening purposes, the intent of which is to provide a transition between uses of differing intensity or to screen uses from sight.

Best Available Flood Layer

For the purposes of floodplain regulations, means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Bicycle Parking Facility, Class I

Long-term parking facilities that provide a high level of security for long durations (day, overnight, or longer). Class I facilities can include individual lockers, racks in an enclosed, lockable room, or racks or lockers in an indoor area always visible to employees.

Bicycle Parking Facility, Class II

Short-term parking facilities that provide medium level security for relatively short durations (usually two hours or less). These facilities often include stands or racks and allow a user to secure a bicycle frame and one or both wheels to the facility with a lock.

Bike Lane

A portion of the street that has been designated and designed for the exclusive use of bicycles with distinct signage and pavement markings.

Block

Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead-end street.

For all other contexts, any structure having a roof supported by columns, walls or air pressure.

Building (Floodplain Regulations)

For purposes of floodplain regulations, see "Structure."

Building, Prefabricated

For purposes of floodplain regulations, a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Building Base

The street level portion of a building facade. The building base is typically one or two stories tall in height and contains such features as display windows, kick plates, pedestrian entrances and a sign band.

Building Cap

The uppermost portion of a building facade. The building cap is typically located above the uppermost windows and contains a cornice that is integrated with the roof form and downspouts/gutters for stormwater diversion.

Building Code

The Indiana Building Code, which establishes and controls the standards for constructing all forms of permanent structures and related matters.

Building Middle

The area of the facade of a building between the base and the cap. This area includes evenly spaced and similarly sized windows, as well as balconies and other architectural features.

Building or Structure, Accessory

Means a subsidiary or auxiliary building or structure located on the same zoning lot with the primary building or structure and that is customarily incidental to the primary building or structure or to the primary use of the land. This includes, but is not limited to, Automated Teller Machines (ATMs) and automated ice dispensers.

Building or Structure, Attached

A building or structure that is structurally connected to another structure by a foundation, wall, bridge, or roof line, or appears to be connected. Carports, garages, porch awnings, and the like are considered attached structures and must abide by all regulations pertaining to primary structures.

Building or Structure, Detached

A building or structure that has no structural connection with the primary building or structure or any other building or structure.

Building or Structure, Enclosed

A building or structure that is fully enclosed on all sides by solid walls and a roof that are integral parts of the building and are distinguished from the side or top surfaces of the contents of the building or structure.

Building or Structure, Lawful Nonconforming

Any building or structure that does not comply with one or more provisions of this UDO, but that lawfully existed upon the effective date of the provisions of this UDO with which the building or structure does not comply.

Building or Structure, Primary

A building or structure in which is conducted any primary use that is a permitted use of the lot on which it is located.

Density

A unit of measurement describing the number of dwelling units per measured acre. This UDO may regulate density by establishing the permitted number of units per acre or the amount of land, measured in square feet or acres, required per individual unit on the resulting lots.

Development**Development (Generally)**

In all other contexts, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining, excavation, landfill or land disturbance, or any change in use, or alteration or extension of the use of land.

Development (Floodplain Regulations)

For purposes of floodplain ~~management regulations~~, any man-made change to improved or unimproved real estate including but not limited to:

- 1) construction, reconstruction, or placement of a structure or any addition to a structure;
- 2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- 3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- 4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- 5) ~~mining, dredging, filling, grading, excavation, or drilling operations;~~
- 5) ~~6) construction and/or reconstruction of boat lifts, docks, piers, or seawalls;~~
- 6) ~~7) construction and/or reconstruction of bridges or culverts;~~
- 7) ~~8) storage of materials; or~~
- 8) ~~9) any other activity that might change the direction, height, or velocity of flood or surface waters.~~

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Development Plan, PUD

The name for PUD final plans under the Bloomington Zoning Ordinance effective 1973-1995. See "Final Plan, PUD."

Development Standards

Means height, bulk, density, environmental performance standards, and other standards for development as set forth in this UDO, including landscaping, parking, and other required improvements, excluding those provisions that specifically regulate the use of property.

Diameter at Breast Height (DBH)

The diameter of an existing tree trunk or the cumulative diameter of multiple trunks measured four and one-half feet or 54 inches above natural grade.

Display Window

A window of a store facing onto the street that is used to display merchandise or signage. Display windows typically include a kick plate and are not typically double-hung windows.

Elevated Structure

For purposes of floodplain regulations, a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation Certificate

For purposes of floodplain regulations, a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information, certified statement that verifies a structure's elevation information. This certification must be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

Emergency Program

For purposes of floodplain regulations, the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Enclosed Area

For purposes of floodplain regulations, (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure Below the Lowest Floor

For the purposes of floodplain regulations, see "Lowest Floor" and "Enclosed Area."

Enlargement

The expansion of any use or structure into or onto any portion of a structure or lot not previously occupied by said use or structure or increase in any physical dimension of a structure. Also, expansion of a use into any structure floor area not previously occupied by said use. Enlargement includes expansion of a principal use into floor area previously used as an accessory use, such as expansion of residential living area into a basement, attic or garage not previously used as living area.

EPA

United States Environmental Protection Agency.

Equipment Sales or Rental

An establishment engaged in the display, sale, and rental of equipment, tools, supplies, machinery or other equipment used for commercial, industrial, or construction enterprises, such as, but not limited to, trucks, trailers, semi-tractor trailers, farm equipment, bulldozers, cranes, backhoes, rollers, loaders, or lifts. This use includes the selling of manufactured homes that are not intended to be used on the same lot on which they are sold and the sale of farm-specific vehicles such as tractors, tillers, farm trailers, back hoes, graders, boom lifts, and front-end loaders, but not including "Vehicle Sales or Rental."

Erosion

The general process by which soils are removed by flowing surface or subsurface water, or by wind, ice or gravity.

- 3) A group of people whose right to live together is protected by the federal Fair Housing Act Amendments of 1988, and/or the Bloomington Human Rights Ordinance, as amended and interpreted by the courts, including but not limited to persons that are pregnant.
- 4) In the R1, R2, R3, and R4 zoning districts, and in single-family residential portions of Planned Unit Developments, a group of no more than three adults, and their dependent children, living together as a single housekeeping unit in a dwelling unit.
- 5) In all other zoning districts, "family" also includes a group of no more than five adults and their dependent children, living together as a single housekeeping unit in a dwelling unit.
- 6) A group of people who are shareholders in the same cooperative corporation that owns a facility meeting the definition of cooperative housing in which no more than two adults per bedroom occupy the facility.

Farm Produce Sales

The seasonal selling or offering for sale at retail directly to the consumer of fresh fruits, vegetables, flowers, herbs, or plants, processed food stuffs and products such as jams, honey, pickled products, sauces, and baked goods, where the vendors are generally individuals who have raised the produce or have taken the same or other goods on consignment for retail sales.

Farmer's Market

An occasional or periodic market held in an open area or structure where groups of individual sellers offer for sale to the public items such as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on site.

FCC

United States Federal Communications Commission.

FEMA

~~The United States~~ Federal Emergency Management Agency.

FHA

The Fair Housing Act.

Fill

For floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Final Plan, PUD

The detailed construction drawings for all or part of a Planned Unit Development.

Financial Institution

A federal or State-regulated facility that provides financial and banking services to individuals and businesses. These services may include deposit banking and closely related functions such as making loans, investments, and fiduciary activities. The term does not include "check cashing," except where separately permitted. Accessory uses may include automatic teller machines and offices.

Findings of Fact

The written findings of an approving body as required by Indiana Code 36-7-4-707 for subdivisions of land, Indiana Code 36-7-4-915 for actions of the Board of Zoning Appeals, and Indiana Code 36-7-4-1406 for site plans.

Firearm Sales

A business in which at least 10% of the gross floor area is used for or 10% of sales revenues are earned from, the wholesale or retail sale of firearms and ammunition, the repair of firearms, or the creation or fitting of special barrels, stocks, or trigger mechanisms for firearms. This does not include "Pawn Shop."

Fitness Center

Means a facility where members or nonmembers use equipment or space for the purpose of physical exercise, improved circulation or flexibility, and/or weight control. Facilities and activities can include running, jogging, aerobics, weightlifting, court sports, whirlpools, saunas, massage rooms, yoga, karate, dance and swimming, as well as locker rooms, showers, and lockers. This use includes but is not limited to fitness training studios, exercise facilities, gymnasiums, and health clubs.

- 1) "Fitness Center, Large" is a facility with more than 7,500 square feet of gross floor area.
- 2) "Fitness Center, Small" is a facility with up to 7,500 square feet of gross floor area.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from ~~the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.:~~

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e. mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood Boundary and Floodway Map (FBFM)

~~An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.~~

Flood Hazard Area

For the purpose of floodplain regulations, areas subject to the one percent (1%) annual chance flood. (See "Special Flood Hazard Area")

Flood Insurance Rate Map (FIRM)

An ~~The~~ official map of ~~the~~ community, on which ~~FEMA~~ the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. ~~A~~ FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS)

The official hydraulic and hydrologic report provided by ~~FEMA~~the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the ~~FIRM~~ flood insurance rate maps, flood boundary and floodway maps, and the water surface elevation of the base flood.

Flood Prone Area

Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

Flood Protection Grade (FPG)

~~The BFE plus two (2) feet at any given location in the SFHA. For sites within a SFHA designated as "Zone AO," the BFE is equivalent to the flood depth specified on the Flood Insurance Rate Map, measured from the highest adjacent grade. If no flood depth is specified, two feet is used as the minimum depth. (See "Freeboard")~~The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

Floodplain or Flood Prone Area

~~Any land area susceptible to being inundated by water from any source. (See "Flood")~~The channel proper and the areas adjoining wetlands, lakes or watercourses that have been or may in the future be covered by the regulatory flood. The floodplain includes the floodway and the fringe districts.

Floodplain Administrator

~~The Planning and Transportation Director.~~

Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations

This UDO and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing)

A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing Certificate

A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. ~~This certification must be issued by a Registered Professional Engineer or Architect.~~

Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. ~~stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.~~

Floodway Fringe

~~Those portions of the floodplain outside the floodway.~~

Food Production or Processing

A facility that produces or processes food for human consumption and certain related products. This use includes but is not limited to commercial bakeries; dairy products processing; fats and oil product processing; fruit and vegetable canning, preserving, and related processing; grain mill products and by-products; meat, poultry, and seafood canning, curing, and by-product processing; and miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

Footprint

The area of a lot or site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In buildings or structures with no walls, the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

Foundation

The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts, or frost walls.

Fraternal Organization

See "Club or Lodge."

Fraternity or Sorority House

A building or portion of a building used for sleeping accommodations, with or without accessory common rooms and cooking and eating facilities, for groups of students where the students living in the building are enrolled at the same college or university, are active members of the same fraternity or sorority, and the fraternity or sorority has been officially recognized by and maintains active affiliation with the college or university. This use shall also include a building or portion of a building in which individual rooms or apartments are leased to individuals, regardless of the ownership of the building, provided that the students living in the building are enrolled at the same college or university, are active members of the same fraternity or sorority, and the fraternity or sorority has been officially recognized by and maintains active affiliation with the college or university.

Freeboard

A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe or Flood Fringe

The portion of the floodplain lying outside the floodway.

Front Building Wall

The building elevation that fronts on a public street, public parking lot, private parking lot available to the general public, or pedestrian walk where customer access to a structure is available.

Frontage, Building

Those building elevations that face upon either a road or parking area between the building and the road.

Frontage, Lot

The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

Functionally Dependent Use

For the purposes of floodplain regulation, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Funeral Home

See "Mortuary."

Garage

A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

Garage, Detached

A detached accessory building in which the sole use is the storage of vehicles and other incidental personal possessions of the premises.

Geographic Information System (GIS)

A computer system that stores and links non-graphic attributes or geographically referenced data with graphic map features to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

Glare

The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Service Facility

A facility owned, operated, or occupied by any level of government to provide a governmental service, but not including offices for the provision of governmental services or facilities for any government operation separately defined in this UDO.

Grade (Surface), Average Finished

The midpoint between the highest exposed finished grade and lowest exposed finished grade as measured a minimum of 4' from the exterior building façade.

Grade, Finished

The final grade of a plan that conforms to the approved plan.

Grade, Natural

For floodplain management purposes, the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

Home Occupation

An activity or occupation carried on within a dwelling or approved residential accessory structure by members of the family occupying the dwelling and where the use of the home as an occupation shall be incidental and subordinate to the use of the home as a dwelling, unless this UDO states that the activity or occupation is not treated as a Home Occupation.

Hospital

An acute healthcare establishment providing accommodations, facilities and services on a continuous 24-hour basis with overnight (meaning between twelve midnight and five a.m.) beds and services for persons suffering from illness, injury or conditions requiring medical services. The term "Hospital" does not include "Nursing or Convalescent Home," "Medical Clinic," or "Methadone Treatment Facility," or "Opioid Rehabilitation Facility" except where separately permitted.

Hotel or Motel

An establishment in which lodging is provided and offered to the public for compensation, for periods of time not exceeding thirty days and that is commonly known as a hotel or motel in the community in which it is located. This use customarily provides services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture. This use may provide ancillary uses such as conference and meeting rooms, restaurants, bars, gift shops, and recreational facilities. The term "Hotel or Motel" does not include "Residential Rooming House," or "Bed and Breakfast," except where separately permitted.

HPC

The City of Bloomington Historic Preservation Commission.

Hydrologic and Hydraulic Engineering Analysis

For the purposes of floodplain regulations, analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

IBC

Indiana Building Code.

IC

Indiana Code.

IDEM

Indiana Department of Environmental Management.

IESNA

Illuminating Engineering Society of North America.

Impervious Surface

Any surface artificially covered or hardened so as to prevent or impede the percolation or absorption of water into the ground, including but not limited to asphalt, concrete, roofing material, brick, plastic, gravel, or swimming pools.

Impervious Surface Coverage

The area of the lot covered by the following shall be included in the calculation of impervious surface coverage in all districts:

- 1) Primary buildings;
- 2) Accessory buildings, parking garages, carports, and utility and storage sheds;
- 3) Porches, stairways, elevated walkways, paved areas, or areas otherwise covered with impervious surface; and
- 4) Parking areas and driveways, regardless of surfacing materials unless an alternative pervious paving system is approved by the Planning and Transportation Director.

Increased Cost of Compliance (ICC)

For purposes of floodplain regulations, the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Indiana State Historic Architectural and Archaeological Research Database

The Indiana State Historic Architectural and Archaeological Research Database, as the same may be amended from time-to-time, created by and/or administered by the State of Indiana's Division of Historic Preservation and Archaeology.

International Code Council-Evaluation Service (ICC-ES) Report

A document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

Invasive Species

A nonnative or alien plant whose introduction does, or is likely to, cause economic or environmental harm, or harm to human health. A plant is regarded as invasive if it has been introduced by human action to a location, area, or region where it did not previously occur naturally, becomes capable of establishing a breeding population in the new location without further intervention by humans, and spreads widely throughout the new location.

ITE

Institute of Transportation Engineers.

Jail or Detention Facility

A facility established by a law enforcement agency for the detention of adult or juvenile persons while being processed for arrest or detention, awaiting trial, or for punishment and/or counseling as a result of sentencing by a court of jurisdiction for criminal or antisocial behavior.

Karst

A type of geology with distinctive characteristics of relief and drainage arising from the solution of soluble bedrock by natural waters, and in which the drainage is underground in solutionally enlarged fissures and conduits. Karst features may include but not be limited to sinkholes, springs, solution valleys, underground rivers, caverns, disappearing streams, towers, grikes, and conical hills.

Karst, Compound

Any two or more karst features where the last closed contour of the features is located within one hundred feet of each other. The outer boundary of the compound karst feature shall be drawn by connecting the last closed contour of each individual karst feature with a tangential line.

Karst, Subsurface

Karst features expressed under the ground surface.

Karst, Surface

Karst features expressed on the ground surface.

Kennel

An establishment where any person engages in a business involving boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling dogs, cats or other domestic animals.

Land Disturbing Activity

Any man-made change of the land surface including removing vegetative cover, removal of trees, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and landscape modifications.

Landscape Area

That portion of a site that is required to be planted with landscape. Areas on the top of buildings, walls, in planters, or other similar areas do not count as landscape area, for the purpose of minimum landscape area requirements.

Landscape

Any combination of vegetation, such as trees, shrubs, ground cover, thickets or grasses, that are planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control. Landscape may include structural features, such as fences, terraces, arbors, sculptures, fountains, and other appurtenances.

LEED Green Building Rating System

The most recent version of the leadership in energy and environmental design (LEED) commercial green building rating system, or other related LEED rating system, approved by the U.S. Green Building Council.

Length, Block

The distance as measured along the street centerline between intersecting streets.

Length, Cul-de-sac

The distance as measured along the street centerline between the intersecting street and the center point of the cul-de-sac bulb.

Letter of Final Determination (LFD)

A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC)

A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories: They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

1. Conditional Letter of Map Revision (CLOMR) means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
2. Conditional Letter of Map Revision Based on Fill (CLOMR-F) means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
3. Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a building or land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4. Letter of Map Amendment Out as Shown (LOMA-OAS) means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
5. Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- 4.6. Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

Letter of Map Amendment (LOMA)

An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR)

An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F)

An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lighting

Any fixed source of light emanating from a man-made device, including but not limited to incandescent mercury vapor, metal halide, or sodium lamps, spotlights, streetlights, or construction and security lights.

Lighting Fixture, Full-Cutoff

Lighting that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Liquor or Tobacco Sales

An establishment that predominantly sells tobacco products or alcoholic beverages for off-premises consumption. This does not include "Retail Sales" (of any size) or "Grocery or Supermarket" in which tobacco products or alcoholic beverages make up a minority of the sales of the store.

Lot, Through

A lot having a pair of opposite lot lines along two more or less parallel public streets and that is not a corner lot.

Lot, Zoning

A single tract of land, located within a single block that is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot may or may not coincide with a lot of record.

Low- and Moderate-Income Housing

Residential housing units that serve individuals, households, or families with annual incomes less than 80 percent of the Area Median Income. These housing units would qualify under Section 20.04.110(c)(2) (Eligibility) for Tier 2 affordable housing incentives.

Lowest Adjacent Grade

For purposes of floodplain regulations, the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest Floor

For ~~purposes of~~ floodplain ~~management purposes~~ regulations, the lowest elevation described among the following:

- 1) The ~~top of the~~ lowest floor of a building level of the structure.
- 2) The ~~top of the~~ basement floor.
- 3) The ~~top of the~~ garage floor, if the garage is the lowest level of the structure connected to the building.
- 4) The ~~top of the~~ first floor of a structure elevated on pilings or pillars.
- 5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
- ~~5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:~~
- ~~6) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;~~
- ~~7) The total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and~~
- ~~8) Such enclosed space shall be usable solely for the parking of vehicles and building access.~~

National Flood Insurance Program (NFIP)

The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929

As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

Native Species

Naturally occurring, indigenous plants within the City of Bloomington. Native species are adapted to the soil and climate in which they live and have evolved defenses to many diseases and pests.

Nature Preserve

Areas with environmental resources intended to remain in a predominately natural or undeveloped state to provide resource protection or passive recreation.

New Construction

For ~~purposes of~~ floodplain ~~purposes~~ regulations, any structure for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.~~the community's first floodplain ordinance.~~

New Manufactured Home Park or Subdivision

For purposes of floodplain regulations, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

Night Club

See "Bar or Dance Club."

Non-Boundary River Floodway

The floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88)

As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Nursing or Convalescent home

An extended or intermediate care establishment licensed by the State of Indiana, that maintains and operates continuous day and night facilities providing room and board, personal services and skilled nursing care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. Such home does not contain equipment for surgical care or for the treatment of injury. This definition includes "rest home."

Obstruction

For purposes of floodplain regulations, includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Office

A facility in which business, professional, administrative and/or clerical activities are conducted, including but not limited to insurance agencies, architects, lawyers, engineers, real estate offices, government offices, motor vehicle licensing branches, post offices, radio/TV stations, research centers, social services, testing laboratories, advertising agencies, travel agencies, abstract and title agencies or insurance companies, and stockbrokers. This use does not include "Medical Clinic," "Methadone Treatment Facility," or "Opioid Rehabilitation Facility." Accessory uses may include cafeterias, health and exercise facilities, or other amenities primarily for the use of employees in the firm or building.

Official Zoning Map

A map of the City of Bloomington, Indiana, that legally delineates the boundaries of zoning districts as they apply to the properties within the City. There is only one Official Zoning Map, and it is kept up to date by the Plan Commission and the Planning and Transportation Director.

One-Percent Annual Chance Flood

The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. ~~Any flood zone that begins with the letter A is subject to the one-percent annual chance flood.~~ See "Regulatory Flood."

Open Space

An area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. Open space may include nature areas; streams and floodplains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yards, patio areas, or land scheduled for future development.

Opioid Rehabilitation Facility

A facility, clinic, or office engaged in treating or counseling patients for reduction and management of opiate use, which may but need not include treatments involving medication, and where patients do not receive housing or overnight accommodation.

Opioid Rehabilitation Home

A dwelling where persons are living together, with or without staff, as a single housekeeping unit providing care, supervision, or treatment to reduce dependence or maintain independence of opioid drugs. An Opioid Rehabilitation Home is subject to the protections of the federal Fair Housing Act Amendments of 1988, as defined in that Act and interpreted by the courts, as they apply to citizens in drug addiction treatment programs, and by any similar legislation of the State of Indiana,

Opioid Rehabilitation Home, Small

Opioid Rehabilitation Home, Small is a facility designed for and occupied by eight or less residents living together.

Opioid Rehabilitation Home, Large

or from any side of the building that faces a street, that side of the porch must be open, and the side(s) that faces the street must not be more than 50 percent enclosed (except for removable screens, or screen doors).

Preliminary Plan, PUD

A drawing or map made to measurable scale upon which is presented a description and definition of the way in which the design requirements of the Planned Unit Development are to be met.

Premises

See "Property."

Preschool

See "School, Public or Private."

Preservation Area

Sites with environmental resources intended to be preserved in their natural state.

Primary School

See "School, Public or Private."

Principally Above Ground

For purposes of floodplain regulations, at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Property

A lot, parcel, tract, or plot of land and the improvements thereon.

Proposal

Any new construction, including accessory structures of at least eight hundred forty square feet, or any building addition larger than ten percent of the gross floor area of a structure.

Public Improvements

The erection, construction, alteration, operation, or maintenance of facilities serving the public interest that may include but is not limited to storm drainage facilities, streets, highways, parkways, sidewalks, pedestrian-ways, transportation corridors, trees, lawns, landscaping, parking areas, lot improvements, or utilities.

Public Place

Any area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

Public Safety and Nuisance

For purposes of floodplain regulations, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public Way

Any street, alley, channel, tunnel, bridge, easement, right-of-way, or other way that is dedicated or granted for public use.

Retail Sales

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. This use does not include any form of retail sales or other use listed separately in Table 3-2.

Retail Sales, Small

A facility or establishment with up to 5,000 square feet of gross floor area.

Retail Sales, Medium

A facility or establishment with between 5,001 and 10,000 square feet of gross floor area.

Retail Sales, Large

A facility or establishment with between 10,001 and 60,000 square feet of gross floor area.

Retail Sales, Big Box

A facility or establishment with more than 60,000 square feet of gross floor area.

Retention Facilities

Facilities dedicated to the permanent on-site maintenance of stormwater.

Right-of-way

A strip of land reserved for, occupied, or intended to be occupied by transportation facilities, public utilities, or other special public uses that may include sidewalks, bicycle or pedestrian pathways, streets, alleys, or other public thoroughfares, or buffers adjacent to same. Right-of-way may be held in the form of easement or fee.

Riparian Buffer

Wooded or vegetated areas along creeks, streams, rivers, or designated regulated drains. The area on each bank designated as a riparian area shall be no wider than the average width of the creek, stream or river at normal flow elevation, but be no less than ten feet in width from the top of banks.

Riverine

For the purposes of floodplain regulations, means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road

See "Street."

Rules of Procedure

The rules which govern how a decision-making body conducts meetings and reaches its conclusions.

Salvage or Scrap Yard

A facility, usually outdoors, where waste or scrap materials are bought, sold, exchanged, collected, salvaged, stored, baled, packed, disassembled, or handled, including, but not limited to, motor vehicles or parts thereof, used lumber, household garbage, inoperable machinery or appliances, scrap iron and other metals, paper, plastics, glass, rags or tires. Where such materials are a by-product of a permitted use, such activity shall be considered "outdoor storage," as defined and permitted separately in this UDO.

Sand Production

See "Gravel, Cement, or Sand Production."

The line that defines the depth of the required front yard measured from the front property line to a regulated structure. The front setback shall be measured from the proposed right-of-way as indicated on the Transportation Plan except that the front setback adjacent to a street classified as Neighborhood Residential in the Transportation Plan shall be measured from the existing right-of-way. The front setback shall be parallel with the street right-of-way line. For individual building sites in the RMH zoning district, the front setback is measured from the edge of pavement of the interior streets. For corner lots, the front setback shall apply to all frontages adjacent to a street right-of-way.

Setback, Front Smallest

The smallest existing front setback of the primary residential structures abutting and along the same block face as the subject property. For corner lots, the smallest front setback of the abutting primary residential structures on both block faces may be used to determine the average front setback.

Setback, Parking

The line that defines the minimum distance that any area used for vehicle parking spaces shall be separated from the street right-of-way. The parking setback shall be parallel with the street right-of-way line.

Setback, Rear

The line that defines the width or depth of the required rear yard. The rear setback line shall be parallel with the property line.

Setback, Side

The line that defines the width or depth of the required side yard. The side setback line shall be parallel with the property line.

Sexually Oriented Business

Any establishment, whether conducted permanently or intermittently, that primarily engages in the business of offering a service or product, for sale, display, exhibition, or viewing, that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. This includes but is not limited to adult bookstores, adult cabarets, adult motion picture theaters, adult novelty stores, adult video arcades, bathhouses, and lingerie modeling studios.

Sheet Flow Area

For the purposes of floodplain regulations, see "area of shallow flooding".

Shrub

A woody plant that is usually greater than three feet but less than twenty feet in height that generally exhibits spreading stems and a bushy appearance.

Sidewalk

A hard-surface pathway within the street right-of-way that is designated for the exclusive use of pedestrian traffic.

Sign

Any display or device placed on a property in any fashion that can be seen from a public place or a public right-of-way that is designed, intended, or used to convey any identification, message or information other than an address number.

Sign Height

The vertical distance measured from either the ground at the base of the sign or from the crown of an adjacent street to the highest point of the sign or sign structure, whichever is greater.

Sign, Window

Any sign or advertising device affixed to the interior or exterior of a window or placed immediately behind a window frame so as to be seen from persons outside the building.

Site Plan

A map of a site, drawn accurately to scale, showing existing and proposed features of the site including but not limited to buildings and other structures, circulation, grading, trees, and landscaping, sufficient for the review required in this UDO. A "site plan" shall serve as the development plan regulated by the Indiana Code 36-7-4-1400 Series.

Site, Lawful Nonconforming

A site used and/or developed such that the site does not conform with one or more development standards contained in this UDO, but where such nonconformity and such use and/or development lawfully existed upon the effective date of the provisions of this UDO with which the site does not conform.

Solar Collector, Ground or Building Mounted

A system of panels, wiring, and related equipment used to transform direct solar energy into thermal, chemical, or electrical energy that is mounted either to the ground or to a building.

Solid Waste Disposal Facility

For the purposes of floodplain regulation, any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Event

A temporary use on public or private property that is not excluded from regulation by this UDO and is not listed as a separate Temporary Use by this UDO. This use includes but is not limited to fundraising activities, educational, historic, religious, and patriotic displays or exhibits, circuses, amusements, outdoor concerts, festivals, revivals, street fairs, outdoor arts and crafts fairs, and other organized community events.

Special Exception

A process under the Bloomington Zoning Ordinance effective 1973-1995 whereas a use that is so designated may be approved by the Board of Zoning Appeals if it meets special conditions.

Special Flood Hazard Area (SFHA)

For the purposes of floodplain regulation, synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the City subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Insurance Studies as Zones A, AE, AH, AO, A1 30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse, subject to inundation by the regulatory flood. The SFHAs within the City of Bloomington are generally identified as such on the Monroe County and Incorporated Area Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

Storage, Self-Service

A building or group of buildings consisting of individual, self-contained units that are leased to individuals, organizations, or businesses for self-service storage of personal property.

Story

The portion of a building intended for human occupancy included between the upper surface of a floor and the upper surface of the next floor above or the roof, ignoring atriums and other features that extend vertically more than 15 feet. For single-family, duplex, triplex, and fourplex uses, any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

Stream, Intermittent

A stream that flows during certain times of the year when smaller upstream waters are flowing and when groundwater provides enough water for stream flow. Runoff from rainfall or other precipitation supplements the flow of an intermittent stream, also called a seasonal stream. During dry periods, such streams may not have flowing surface water, but they do have a discernable stream bed. Larger seasonal streams are more common in dry areas. An artificial drainageway (made by humans) is not an intermittent stream.

Stream, Perennial

A year-round stream that typically has water flowing in it year-round. Most of the water comes from smaller upstream waters or groundwater while runoff from rainfall or other ~~precipitation is~~ precipitation is supplemental.

Street

A public thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that has been constructed to public street standards.

Street Lighting Plan

A site plan showing the location and type of streetlights to be installed including type of fixture and bulb type.

Street, Stub

A street intended to be extended in conjunction with the subdivision and development of adjacent unplatted land.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams, or girders; or any change in the footprint or increase in the size of living space. Structural alterations also include substantial roofing and siding work when repairs are made to the structure beneath.

Structure**Structure (Generally)**

In all other contexts, anything constructed or erected that requires location on the ground or attachment to something having a location on the ground, including but not limited to buildings, sheds, detached garages, mobile homes, manufactured homes, above-ground storage tanks, freestanding signs, and other similar items.

Structure (Floodplain Regulations)

For purposes of floodplain regulations, a walled and roofed building, including a gas or liquid storage tank, structure that which is principally above ground ~~and is enclosed by walls and a roof~~. The term includes ~~a gas or liquid storage tank,~~ a manufactured home, as well as a prefabricated building. ~~The term~~ It also includes recreational vehicles ~~to be~~ installed on a site for more than 180 consecutive days.

Structure, Accessory**Structure, Accessory (Generally)**

See "Building or Structure, Accessory."

Structure, Accessory (Floodplain Regulations)

For purposes of floodplain regulations, a structure with a floor area 400 square feet or less that is ~~located~~ on the same parcel of property as ~~the~~ principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

1. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
2. Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
3. The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
 - b. Structures used by the public, such as a place of employment or entertainment; and,
 - ~~a.c.~~ Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples includes, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled). Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Structure, Historic

For purposes of floodplain regulations, any structures ~~that is~~ individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- ~~1.4.~~ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Student Housing or Dormitory

A multiple-family dwelling designed primarily as housing for, or likely to be occupied by, unmarried undergraduate or post-graduate students, including but not limited to:

- 8) Any use that differs from the previous use of a building or land, as determined by subheadings in [Table 03-1: Allowed Use Table](#) or where the new use differs substantially in the amount of required parking, traffic generation, number or frequency of customers/users, hours of operation, or other similar aspects of the use; and
- 9) Any establishment of a new use after a previous use has been abandoned, as defined by this UDO.

Use, Conditional

See "Conditional use."

Use, Establishment of

The initiation of a new use on a property or the initiation of a use on a property where the previous use has been discontinued; or, reestablishment of a prior conforming use that has been discontinued for a period of twelve months or more.

Use, Individual Nonresidential

A use and building that is located either on an outlot or not part of a larger commercial building that contains more than one business.

Use, Lawful Nonconforming

Any use of land or structure that does not conform with one or more provisions of this UDO, but that lawfully existed upon the effective date of the provisions of this UDO with which the use does not conform.

Use, Permitted

A use that may be lawfully established in a particular zoning district provided it conforms to all applicable requirements, regulations and standards.

Use, Temporary

Any use that is established only for a fixed period of time, which must be discontinued upon the expiration of the time limit provided in this UDO, and that does not involve the construction or alteration of any permanent structure as distinguished from the same uses when permitted in full compliance with all applicable zoning, site plan, construction, and permit requirements. Temporary uses shall include uses conducted from tents, trailers, and other temporary structures not erected under the state and city permit processes for permanent buildings. The term "temporary use" shall not include events sponsored by the public on park, right-of-way, or other public lands.

Utility Substation and Transmission Facility

An assemblage of equipment for purposes other than energy generation or use, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of the general public; provided that in residential districts an electric substation shall not include rotating equipment, storage of materials, trucks or repair facilities, housing of repair crews, or office or place of business.

Variance, Development Standards

A specific approval to deviate from the development standards (such as height, bulk, area) that this UDO otherwise prescribes, granted pursuant to Indiana Code 36-7-4-918.5.

Variance, Floodplain

For purposes of floodplain regulations, ~~a~~ grant of relief from the requirements of ~~the floodplain regulations~~ [this ordinance consistent with the variance conditions herein, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.](#)

Vehicle Wash

A facility for washing, cleaning, drying and waxing of passenger vehicles, recreational vehicles, or other light duty equipment. A car wash may be self-service or full service.

Veterinary Clinic

An establishment where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. This use does not include a "Kennel," and overnight boarding of animals shall only be permitted when incidental to such medical treatment and limited to short periods of time.

Violation

For purposes of floodplain regulations, the failure of a structure or other development to be fully compliant with the ordinance floodplain regulations. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Vision Clearance Triangle

An area of unobstructed vision at street intersections between two and one-half and nine feet above the gutter line and within a triangular area at the street corner, which area is bounded by the street property lines of the corner lot. The vision clearance triangle leg length shall be as specified in the most current edition of the Policy on Geometric Design of Highways and Streets published by the American Association of State Highway Transportation Officials (AASHTO).

Walled and Roofed

For the purposes of floodplain regulations, a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

Watercourse

For purposes of floodplain regulations, a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wetland

Those areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal circumstances, do support, a prevalence of vegetation specifically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. For the purpose of this definition, a wetland must have one or more of the following attributes:

- 1) At least periodically, the land supports hydrophytes;
- 2) The substrate is predominately undrained hydric soil;
- 3) The substrate is nonsoil and is saturated with water or covered by shallow water at least some time during the year.

Wetland, Jurisdictional

Any wetland under the jurisdiction of the state or federal government.

Wind Energy System, Large

A facility or equipment that converts wind energy into electrical power for the primary purpose of sale, resale, or off-site use and that has an output rating greater than 100 KW.

Chapter	Citation	Current Language	Proposed Language	Synopsis	Difficulty	Type of Change
CHAPTER 3						
3	20.03.030(b)(10)	Fraternity or Sorority House	Remove Use Specific Standards	The standards are now moot, so should be removed.	easy	revision
3	20.03.030(d)(14)(F)	In the ME zoning district	In the ME zoning district	Removing the heading, so that the regulations are for all zoning districts.	easy	revision
3	20.03.030(d)(14)(F)(i)	(i) All structures including fuel canopies shall be similar in appearance to the surrounding development with respect to architectural style, color, and materials;	(F) (i) -All structures including fuel canopies shall be similar in appearance to the surrounding development with respect to architectural style, color, and materials;	Modifies applicability standards so this applies to all zoning districts	easy	revision
3	20.03.030(d)(14)(F)(ii)	(ii) Fuel canopies shall be located to the side or rear of properties to minimize visual impact from public streets; and	(G)(ii) Fuel canopies shall be located to the side or rear of properties to minimize visual impact from public streets; and .	Modifies applicability standards so this applies to all zoning districts	easy	revision
3	20.03.030(d)(14)(F)(iii)	(iii) At least 50 percent of the total number of dispenser units shall provide alternative fuels including, but not limited to biodiesel, electricity, majority ethanol blend, hydrogen or natural gas.	(H)(iii) At least 50 percent of the total number of dispenser units shall provide alternative fuels including, but not limited to biodiesel, electricity, majority ethanol blend, hydrogen or natural gas.	Modifies applicability standards so this applies to all zoning districts	easy	revision
3	20.03.030(e)(1)(C)	Prohibited Storage Materials: In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.	Prohibited Storage Materials: In all zoning districts where this use is allowed , except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.	Clarifying that outdoor storage of those particular materials is only allowed in MI.	easy	revision
3	20.03.030(e)(2)(G)	(A) If the facility is located in an MN, MM or MD district, all storage shall be contained within a fully enclosed structure that:	(A) If the facility is located in an MN, MM or MD district , all storage shall be contained within a fully enclosed structure that:	Revises this language to make this standard applicable in all zoning districts	easy	revision
3	20.03.030(g)(5)(B)(v)	i. A request for an ADU shall be required to submit a separate site plan petition with the Planning and Transportation Department.	i. A request for an ADU shall be required to submit a separate site plan petition with the Planning and Transportation Department if no building permit is processed for the ADU.	Added that those ADUs that are getting building permits do not need separate site plan review.	easy	revision
CHAPTER 5						
5	20.05.050(c)	New language	(3) Existing buildings, structures, parking areas, or improvements that require a setback and are on lots involved in either a subdivision or an exempted adjustment of lot lines listed in 20.06.060(a)(2)(B) do not have to meet setback standards related to existing property lines that do not change. The setback standards of this UDO shall apply for all newly created lot line locations.	Adds new language to reflect situations where an existing developed lot is being subdivided.	easy	Revision
CHAPTER 7						
7	20.07.010	Basement- In all other contexts, that portion of a building that is partly or wholly below grade, as measured four feet from the exterior of the foundation wall, regardless of whether the interior space is finished or unfinished. A basement shall be counted as a story for determining building setbacks if the front exterior wall of the basement facing a street is not completely below grade and each side of the foundation wall facing the side yard is less than 50 percent covered by grade.	Basement- In all other contexts, that portion of a building that is partly or wholly below grade, as measured four feet from the exterior of the foundation wall, regardless of whether the interior space is finished or unfinished. A basement shall be counted as a story for determining building setbacks and number of stories if the front exterior wall of the basement facing a street is not completely below grade and each side of the foundation wall facing the side yard is less than 50 percent covered by grade.	Removes the language limiting this to determining setbacks only, since this can also come into play when the number of stories is determined.	easy	revision
7	20.07.010	Footprint The area of a lot or site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.	Footprint The area of a lot or site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls . In buildings or structures with no walls , the building footprint shall be the area under the horizontal projection of the roof.	Clarify definition of footprint to align accessory structure regulations and interpretation	easy	Clarification
7	20.07.010	New language/section	Grade (Surface), Average finished- The midpoint between the highest exposed finished grade and lowest exposed finished grade as measured a minimum of 4' from the exterior building facade.	Adds definition for this existing term and specifies the measuring point is the midpoint of the highest and lowest exposed grade and not an average.	easy	new

7	20.07.010	Landscape Area- That portion of a site that is required to be planted with landscape.	Landscape Area- That portion of a site that is required to be planted with landscape. Areas on the top of buildings, walls, in planters, or other similar areas do not count as landscape area, for the purpose of minimum landscapa area requirements.	Clarifies the requirements for areas that count toward minimum landscape area.	easy	revision
7	20.07.010	Use, Change In: Includes, for any portion of a building, structure, or lot:	Use, Change In: Includes, for any portion of a building (excluding individual tenant space in a single building multi-tenant center) , structure, or lot:	Clarifies current definition to specifically state that the changeout of a tenant space in a single building multi-tenant center is not a change in use that would trigger site improvements. Reflects previous interpretations.	easy	Clarification
Floodplain Definitions						
7	20.07.010	Addition (to an existing structure)- Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction. For purposes of floodplain regulations, any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall.	Addition (to an existing structure)- means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.		easy	revision
7	20.07.010	Addition (to an existing structure)- Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction. For purposes of floodplain regulations, any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall.	Addition (to an existing structure)- Any walled and roofed expansion of the perimeter of a structure. For the purposed of floodplain regulations, any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.	Clarifying addition in a non-floodplain context, which is currently unclear.	easy	revision
7	20.07.010	New definition for floodplain regulations	Alteration of a watercourse- means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.		easy	New
7	20.07.010	Appeal -For purposes of floodplain regulations, a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.	Appeal- means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.		easy	revision
7	20.07.010	New definition for floodplain regulations	Area of special flood hazard- is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.		easy	New
7	20.07.010	Base Flood -For purposes of floodplain regulations, the flood having a one percent chance of being equaled or exceeded in any given year.	Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.		easy	Revision
7	20.07.010	Base Flood Elevation (BFE) The elevation of the one-percent annual chance flood.	Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.		easy	Revision
7	20.07.010	New definition for floodplain regulations	Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.		easy	New

7	20.07.010	Floodplain Administrator The Planning and Transportation Director.	Delete, no longer a defined term		easy	Revision
7	20.07.010	Floodproofing Certificate A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be issued by a Registered Professional Engineer or Architect.	Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.		easy	Revision
7	20.07.010	Floodway The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.	Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.		easy	Revision
7	20.07.010	Floodway Fringe Those portions of the floodplain outside the floodway.	Delete		easy	Revision
7	20.07.010	New definition for floodplain regulations	Fringe or Flood Fringe is the portion of the floodplain lying outside the floodway.		easy	Revision
7	20.07.010	New definition for floodplain regulations	Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.		Easy	New
7	20.07.010	Structure, historic: For purposes of floodplain regulations, any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.	Structure, historic (Floodplain regulations) means any structure that is: (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.		Easy	Revision
7	20.07.010	New definition for floodplain regulations	Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.		easy	New

7	20.07.010	New definition for floodplain regulations	<p>International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.</p>		easy	New
7	20.07.010	<p>Letter of Map Change (LOMC) A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below: Letter of Map Amendment (LOMA) An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA. Letter of Map Revision (LOMR) An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations. Letter of Map Revision Based on Fill (LOMR-F) An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.</p>	<p>Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:</p> <p>(1) Conditional Letter of Map Revision (CLOMR) means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.</p> <p>(2) Conditional Letter of Map Revision Based on Fill (CLOMR-F) means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.</p> <p>(3) Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a building or land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.</p> <p>(4) Letter of Map Amendment Out as Shown (LOMA-OAS) means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.</p> <p>(5) Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.</p> <p>(6) Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.</p>		easy	revision

7	20.07.010	New definition for floodplain regulations	Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.		Easy	New
7	20.07.010	Special Flood Hazard Area (SFHA) Those lands subject to inundation by the regulatory flood. The SFHAs within the City of Bloomington are generally identified as such on the Monroe County and Incorporated Area Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.	Special Flood Hazard Area (SFHA) , synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the City subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Insurance Studies as Zones A, AE, AH, AO, A1 30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.		Easy	Revision
7	20.07.010	Structure, Accessory (Floodplain Regulations)- For purposes of floodplain regulations, a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.	Structure, Accessory (Floodplain Regulations)- Accessory Structure means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation. (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof. (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses. (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP: a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence; b. Structures used by the public, such as a place of employment or entertainment; and, c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples includes, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).	New State definition	easy	revision

ORDINANCE 23-06

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE –
Re: Amendments and Updates Set Forth in BMC 20.04**

WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and

WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”); and

WHEREAS, on December 18, 2019, the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and

WHEREAS, on January 14, 2020, the Mayor signed and approved Ordinance 19-24; and

WHEREAS, on April 15, 2020, the Common Council passed Ordinance 20-06 and Ordinance 20-07; and

WHEREAS, on April 18, 2020, the Unified Development Ordinance became effective; and

WHEREAS, on March 6, 2023, the Plan Commission voted to favorably recommend this amendment proposal to the Common Council, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, the Plan Commission certified this amendment proposal to the Common Council on March 15, 2023; and

WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council have paid reasonable regard to:

- 1) the Comprehensive Plan;
- 2) current conditions and character of current structures and uses in each district;
- 3) the most desirable use for which land in each district is adapted;
- 4) the conservation of property values throughout the jurisdiction; and
- 5) responsible development and growth; and

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

SECTION 1. Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance”, is amended.

SECTION 2. An amended Title 20, entitled “Unified Development Ordinance”, including other materials that are incorporated therein by reference, is hereby adopted. Said replacement ordinance consists of the following documents which are attached hereto and incorporated herein:

1. The Proposal forwarded to the Common Council by the Plan Commission with a favorable recommendation, consisting of:
 - (A) ZO-06-23 (“Attachment A”)
 - (B) Any Council amendments thereto (“Attachment B”)

SECTION 3. The Clerk of the City is hereby authorized and directed to oversee the process of consolidating all of the documents referenced in Section 2 into a single text document for codification.

SECTION 4. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this __ 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 petition contains amendments in Chapter 4 related to design requirements for uses in the UDO. There are 55 amendments identified.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 23-06 is a true and complete copy of Plan Commission Case Number ZO-06-23 which was given a recommendation of approval by a vote of 8 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 6, 2023.



Date: March 15, 2023

Scott Robinson, Secretary
Plan Commission

Received by the Common Council Office this 15th day of March, 2023.



Nicole Bolden, City Clerk

Appropriation Ordinance #	_____	Fiscal Impact Statement Ordinance #	_____	Resolution #	_____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No XX

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

Approval of case ZO-06-23 amends the Unified Development Ordinance (UDO), with amendments and updates related to design requirements for uses, by the Bloomington Plan Commission. This ordinance is in accordance with Indiana Code 36-7-4-600.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

Case # ZO-06-23 Memo

To: Bloomington Common Council

From: Bloomington Plan Commission
Jackie Scanlan, AICP Development Services Manager

Date: March 15, 2023

Re: Text Amendments to Unified Development Ordinance

The Plan Commission heard case ZO-06-23 on March 6, 2023 and voted to send the petition to the Common Council with a positive recommendation with a vote of 8-0, as amended. The Plan Commission voted to remove the proposed changes to Table 04-10 in order to have time for additional information to be gathered and discussion.

The Planning and Transportation Department proposes its annual update and amendment to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code. The last regular UDO Update process was completed in the Spring of 2022. This update is smaller scale than the larger update done in 2020 and is for regular maintenance of the code. Staff utilizes the UDO daily in our interactions with the public and other Departments, and has identified portions of the code that contain errors or that may benefit from amendment. No changes to the permitted uses or zoning districts are included in this update.

The proposal is divided into four (4) petitions. One petition is discussed below and is this Ordinance, 23-06:

1. ZO-06-23 | Chapter 4: Development Standards & Incentives

ZO-06-23 | Chapter 4: Development Standards & Incentives

This petition deals with amendments of details related to design requirements for uses. These amendments vary greatly. The amendments clarify that I-69 is not a front for design purposes; extend a provision for front entry to all R1-R4 districts; require access from an alley for almost all residential districts, as well as the mixed-use downtown district if an improved alley is present; clarify standards for the affordable housing incentives; alter architectural requirements in the mixed-use and some residential districts; alter screening requirements of electrical equipment on an alley; alter signage requirements for drive-through uses; clarify existing signage language to match practice; reword some language for clarity; exempt City of Bloomington signage from sign standards; as well as clarify front setbacks for additions on nonconforming structures. The amendments also add the required State of Indiana Floodplain Management language. (Some of the formatting for this section is not quite right, but the content is accurate.) The amendments also address a number of landscaping issues such as entirely new species tables (The formatting of the tables is not quite right, but the content is accurate.); updating street tree allowances and requirements; excluding the use of plastic netting; clarifying that native plantings

are required in green infrastructure facilities; altering the percentage allowances to improve diversity; altering buffer yard requirements for clarity; clarifying parking lot landscaping requirements; and improving the processes for verifying the installation of landscape plans. There are 55 amendments identified. These changes are important for various reasons. Some help align future development with City Plans and policies, some clarify existing practice related to development regulation, and some improve the regulations related to ease of use as well as improved outcomes. Revising the landscaping section to align the priorities of various departments is an important part of increasing consistency of regulation across the City.

Table 04-6: Authorized Exceptions to Setback Requirements

DU = dwelling unit

Type of Exception	Extent of Exception
Air conditioners (ground)	Up to 5 feet if screened by a fence, wall, or appropriate landscaping.
Air conditioners (window)	Up to 30 inches.
Architectural features	Up to 18 inches.
Awnings, balconies, canopies, patios, and steps	Up to 6 feet.
Bay windows, chimneys, eaves,	Up to 3 feet.
Decks	Up to 6 feet into the side or rear setback provided that no deck is closer than 2 feet to a side property line.
Fire Escapes	Up to 6 feet into side and rear setbacks.
Front Entry	For <u>existing primary structures in the R1, and R2, R3, and R4</u> zoning districts, an entry or covered front addition a maximum of 6 feet deep and with a width not to exceed one-third the width of the primary facade of the structure.
Accessible ramps	Exempt from all setback requirements.
Satellite dishes	Up to 5 feet into the front setback and no closer than one foot to the side and rear property lines.
Detached garages or carports	Where a rear alleyway provides access to a detached garage or carport, the setback from the property line that runs parallel to the alleyway to the detached garage or carport may be reduced to three feet.
Additions to existing primary structures	For single-family, duplex, and triplex structures, additions to <u>the first floor footprint of existing primary structures</u> may use existing side or rear setbacks already established on the lot, provided that the gross floor area of the existing structure is not increased by more than 50 percent. In no case shall the setback be less than 10 feet (rear) or 4 feet (side). <u>Vertical additions to existing primary structures may utilize existing front setbacks provided that the existing structure is equal to, or has a greater front setback than, the median front setback of abutting residential structures.</u>

(C) Where this UDO establishes a maximum setback from the front property line, that maximum setback may be increased by up to five feet to accommodate access required by the Americans with Disabilities Act, utility or access easements, or to prevent encroachment of building projections over the public right-of-way.

~~(D)~~ For parking and building setback purposes, Interstate 69 is not considered a front.

(4) Through Lots

On a through lot, the Planning and Transportation Director shall determine which lot line shall be deemed the front lot line based on the existing and/or proposed building orientation of surrounding lots. Through lots adjacent to an arterial street shall comply with the standards established in 20.05.050(j)(7)(A)iii (Buffer).

(f) Building Height

(1) Measurement

Maximum building heights are expressed in both overall dimension and the number of stories, where applicable.

(D) Tracking

Each site shall have sediment control devices or crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Such areas shall be maintained at sufficient size and thickness throughout the duration of the construction activity on site. Any sediment that leaves the site is a violation of this UDO.

(E) Drain Inlet Protection

All storm inlets shall be protected with best management practices meeting accepted design criteria, standards and specifications.

(F) Sediment Control

Sediment shall be controlled and contained on site, and control measures shall prevent damage to existing vegetation or pavement.

(G) Ground Cover

Vacant land held for development shall be planted with grass or other vegetative ground cover that complies with Section 20.04.080(l) (~~Vacant Lot Landscaping~~ Vacant Lot Landscaping).

(H) Inspection

All erosion control measures shall be installed by the developer and inspected and approved by the City Planning and Transportation Department before land-disturbing activity may take place. Where applicable, developers shall follow their self-monitoring inspection program throughout construction as outlined in Bloomington Municipal Code Section 10.21.070(r).

(I) Finished Grade

Disturbed areas that are at finished grade with installed utilities shall be permanently seeded or mulched within seven days.

(J) Unfinished Grade

Areas that have undergone land-disturbing activities and are not yet at finished grade, and that have no construction activity for 15 days or more, shall be established with temporary vegetation, seed, and/or straw, or other measures approved by the City.

(K) Soil Stockpiles

All soil stockpiles shall be protected by erosion control barriers and areas that remain inactive for seven days or more shall be seeded, covered, or protected.

(L) Plastic Netting

Under no circumstances shall plastic netting or mesh be used on site for any type of permanent landscaping or erosion control.

(L)(M) Single-Family Lots

Single-family lots that remain inactive for 15 days or more shall be established with temporary vegetation.

(5) Steep Slopes

The maximum slope on which buildings may be constructed shall be 12 percent. No disturbance shall occur on any slope greater than 12 percent, measured as described in Section 20.04.020 (Dimensional Standards).

(6) Redundant Stormwater Quality Measures

Sites greater than one acre shall incorporate redundant stormwater runoff quality mitigation measures. The ongoing maintenance of these measures shall be ensured through a binding, recordable commitment that provides for all the following:

- (A) Periodic third-party inspection and report;
- (B) A homeowner's association with financing capability;
- (C) City authorization to order maintenance;
- (D) City authorization to seek injunctive relief;
- (E) City authorization to perform necessary maintenance and charge the homeowner's association for such work; and
- (F) Provisions, meeting the standards of the administrative manual, for responsibility of individual lot owners in the event the owners' association fails or refuses to perform.

20.04.040 Floodplain

(a) Purpose

The flood hazard areas of the City of Bloomington are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;

- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible;
- (12) Meet community participation requirements of the National Flood Insurance Program;
- (13) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (14) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (15) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (16) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (17) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

This section is intended to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by establishing standards that:

- ~~(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;~~
- ~~(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;~~
- ~~(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;~~
- ~~(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands; and~~
- ~~(6) Make federal flood insurance available for structures and their contents in the City by fulfilling the requirements of the National Flood Insurance Program.~~

(b) Applicability

- (1) This Section 20.04.040 (Floodplain) shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the City of Bloomington, Indiana including any additional areas of special flood hazard annexed by the City of Bloomington, Indiana.
- (2) No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this UDO and other applicable regulations.
- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this UDO and other applicable regulations.
- ~~(1) This Section 20.04.040 (Floodplain) shall apply to all special flood hazard areas (SFHAs) and known flood-prone areas within the jurisdiction of the City.~~
- ~~(2) No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this UDO and other applicable regulations.~~

- ~~(3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this UDO and other applicable regulations.~~

(c) General Standards

(1) Basis for Establishing ~~Regulatory Flood Data~~ **the Areas of Special Flood Hazard**

~~This UDO's protection standard is the regulatory flood. The best available regulatory flood data is listed below.~~

- ~~(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City, delineated as an "AE Zone" on the Flood Insurance Study dated December 17, 2010 and the Flood Insurance Rate Map dated December 17, 2010 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of the City of Bloomington, Indiana and the corresponding Flood Insurance Rate Maps (FIRM) dated December 17, 2010 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.~~
- ~~(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City, delineated as an "A Zone" on the Flood Insurance Study dated December 17, 2010 and the Flood Insurance Rate Map, dated December 17, 2010, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.~~
- ~~(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.~~
- ~~(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.~~
- ~~(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the City shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study dated December 17, 2010 and the corresponding Flood Insurance Rate Map December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.~~

- ~~(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the City, delineated as an "A Zone" on the City of Bloomington, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.~~
- ~~(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.~~
- ~~(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.~~

(2) Permit Required Establishment of Floodplain Development Permit

~~A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard as established in Section 20.06.050(d).~~

~~A floodplain development permit shall be required prior to the commencement of any development activities in areas of special flood hazard as established in Section 20.06.050(d) (Floodplain Development Permit).~~

(3) Compliance

~~(A) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.~~

~~(B) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.~~

~~(C) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.~~

(4) Abrogation and Greater Restrictions

~~This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~

~~(3)~~(5) **Conflicting Provisions**~~Discrepancy between Mapped Floodplain and Actual Ground Elevations~~

- ~~(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profile or table of still water elevations shall govern.~~
- ~~(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.~~
- ~~(C) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.~~
- ~~(A) This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~
- ~~(B) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.~~
- ~~(C) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.~~
- ~~(D) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.~~

~~(4)~~(6) **Interpretation**

- (A) In the interpretation and application of this ordinance all provisions shall be:
- i. Considered as minimum requirements;
 - ii. Liberally construed in favor of the governing body; and
 - iii. Deemed neither to limit nor repeal any other powers granted under state statutes.

~~(7)~~ **Warning and Disclaimer of Liability**

~~The degree of flood protection required by this UDO is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this UDO does not create any liability on the part of the City of Bloomington, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this UDO or any administrative decision made lawfully thereunder.~~

~~(8)~~ **Penalties for Violation**~~Warning and Disclaimer of Liability~~

~~Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City.~~

(A) The City shall inform the owner that any such violation is considered a willful at to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(B) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

The degree of flood protection required by this UDO is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this UDO does not create any liability on the part of the City of Bloomington, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this UDO or any administrative decision made lawfully thereunder.

(d) Administration

(1) Designation of Administrator

The Common Council of the City of Bloomington hereby appoints the Planning Director (or their designee) to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(2) Floodplain Development Permit and Certification Requirements

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(A) Application Stage.

- i. A description of the proposed development;
- ii. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- iii. A legal description of the property site;
- iv. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed

including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;

- v. A site development plan showing existing and proposed development locations and existing and proposed land grades;
- vi. verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- vii. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE. Elevation should be in NAVD 88;
- viii. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;
- ix. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
- x. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
- xi. Plans showing how any proposed structure will be anchored to resist flotation or collapse;
- xii. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;
- xiii. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See Section 20.04.040(d)(3)(H) and Section 20.04.040(d)(5) for additional information.)
- xiv. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(B) Finished Construction.

- i. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
- ii. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- iii. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

(3) Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (A) Enforce the provisions of this ordinance.
- (B) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (C) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (D) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (E) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (F) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- (G) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
 - i. Verify and document the market value of the pre-damaged or pre-improved structure;

- ii. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
 - iii. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
 - iv. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Section 20.04.040(e) of this ordinance are required.
- (H) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
 - (I) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 20.04.040(e)(2)(A), 20.04.040(e)(2)(C)(i), and Section 20.04.040(e)(2)(D) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
 - (J) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if Section 20.04.040(d)(3)(I) is applicable.
 - (K) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - (L) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 20.04.040(d)(2).
 - (M) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 20.04.040(d)(2).
 - (N) Make on-site inspections of projects in accordance with Section 20.04.040(d)(4).
 - (O) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
 - (P) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
 - (Q) Provide information, testimony, or other evidence as needed during variance hearings.
 - (R) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Section 20.04.040(d)(4).

- (S) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with Section 20.04.040(d)(4).
- (T) Coordinate map maintenance activities and associated FEMA follow-up in accordance with Section 20.04.040(d)(5).
- (U) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (V) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(4) Administrative Procedures

- (A) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- (B) Stop Work Orders.
 - i. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - ii. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (C) Revocation of Permits.
 - i. The floodplain administrator may revoke a permit or approval, issued under the provisions of this ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - ii. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.
- (D) Floodplain Management Records.
 - i. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map

Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.

- ii. These records shall be available for public inspection at the City of Bloomington Planning and Transportation Department.

(E) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(5) Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Bloomington's flood maps, studies and other data identified in Section 20.04.040(c)(1) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(A) Requirement to Submit New Technical Data

- i. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- ii. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

iii. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.

iv. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(B) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City of Bloomington Planning and Transportation Department Director and may be submitted to FEMA at any time.

(C) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the Bloomington have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Bloomington's Flood Insurance Rate Map accurately represent Bloomington's boundaries, include within such notification a copy of a map of Bloomington suitable for reproduction, clearly showing the new corporate limits or the new area for which Bloomington has assumed or relinquished floodplain management regulatory authority.

(e) Provisions for Flood Hazard Reduction

All development shall comply with the provisions of this Section ~~20.04.040(e)~~20.04.040(d). Petitions for new or revised subdivisions shall also comply with the standards in Section 20.05.050(c).

(1) Conditional Uses

The following are conditional uses in the floodway fringe, subject to approval under Section 20.06.050(b) (Conditional Use Permit).

- (A) Transportation facilities, including, but not limited to, bridges, streets or drives;
- (B) Any other flood-tolerant or open space uses, such as storage of materials not subject to flood damage that do not contain hazardous pollutants;
- (C) Parking lots constructed solely of permeable pavers;
- (D) Recreational equipment; and
- (E) Buildings/structures.

(2) Floodplain Status Standards

(A) Standards for Identified Floodways (Riverine)

Located within SFHAs, established in Section 20.04.040(c)(1), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit,

construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- i. If the site is in a regulatory floodway as established in Section 20.04.040(c)(1), the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- ii. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- iii. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- iv. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Section 20.04.040(d)(5)(A). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- v. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
- vi. For all projects involving channel modifications or fill (including levees) the City shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(B) Standards for Identified Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(C) Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

i. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

ii. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

(D) SFHAs not Identified on a Map

- i. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent

plans and specifications, to the Indiana Department of Natural Resources for review and comment.

- ii. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- iii. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

~~(2)~~(3) **General Standards**

In all areas of special flood hazard, the following provisions are required:

- (A) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (B) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (C) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;
- (D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (E) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

- (H) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;
- (I) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (J) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (K) Drainage paths must be provided to guide floodwaters around and away from proposed structures to be constructed on slopes in areas of shallow flooding, designated as Zone AO or Zone AH on the FIRM.
- (L) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.

(4) Specific Standards

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in Section 20.04.040(c)(1), the following provisions are required:

(A) Building Protection Requirement. In addition to the general standards described in Section 20.04.040(e)(3) structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- i. Construction or placement of a residential structure;
- ii. Construction or placement of a non-residential structure;
- iii. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;
- iv. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);

- v. Installing a manufactured home on a new site or a new manufactured home on an existing site;
- vi. Installing a travel trailer or recreational vehicle on a site for more than 180 days;
- vii. Reconstruction or repairs made to a repetitive loss structure; and (optional)
- viii. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance. (optional)

(B) Residential Construction.

- i. New construction or substantial improvement of any residential structures shall meet provisions described in Section 20.04.040(e)(2) and Section 20.04.040(e)(3).
- ii. In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(C)(v). Should fill be used to elevate a structure, the standards of 20.04.040(e)(4)(B)(vi) must be met.
- iii. In Zone AH, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(B)(v). Should fill be used to elevate a structure, the standards of Section 20.04.040(e)(B)(vi) must be met. Drainage paths must be provided to guide floodwaters around and away from proposed structures to be constructed on slopes.
- iv. In Zone AO, new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet (2') greater than the flood depth specified on the FIRM above the highest adjacent grade. If no flood depth is specified, the community shall use two feet as the minimum depth. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(B)(v). Should fill be used to elevate a structure, the standards of Section 20.04.040(e)(4)(B)(vi) must be met. Drainage paths must be provided to guide floodwaters around and away from proposed structures to be constructed on slopes.
- v. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - 1. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood

openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:

- a. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
 - b. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - c. Doors and windows do not qualify as openings;
 - d. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - e. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device. (optional)
2. The floor of such enclosed area must be at or above grade on at least one side.
- vi. A residential structure may be constructed on fill in accordance with the following
1. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
 2. Fill shall extend 5 feet beyond the foundation of the structure before sloping below the BFE;
 3. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;
 4. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties;
 5. Fill shall be composed of clean granular or earthen material. (optional)

- i. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(C) Non-Residential Construction.

- i. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in Section 20.04.040(e)(2) and applicable general standards described in Section 20.04.040(e)(3).
- i. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(C)(v). Should fill be used to elevate a structure, the standards of Section 20.04.040(e)(4)(C)(vi) must be met.
- ii. In Zone AH, new construction or substantial improvement of any non-residential structure (excludes accessory structures) shall have the lowest floor, including basement, elevated at least to the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(C)(v). Should fill be used to elevate a structure, the standards of Section 20.04.040(e)(4)(C)(vi) must be met. Drainage paths must be provided to guide floodwaters around and away from proposed structures to be constructed on slopes.
- iii. In Zone AO, new non-residential construction or substantial improvements of any non-residential structure (excludes accessory structures) shall either:
- iv. Have the lowest floor, including basement, elevated at least two feet (2') greater than the flood depth number specified on the FIRM (If no flood depth number is specified, two feet shall be used as the flood depth.) above the highest adjacent grade. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 20.04.040(e)(4)(C)(v). Should fill be used to elevate a structure, the standards of Section 20.04.040(e)(4)(C)(vi) must be met. Drainage paths must be provided to guide floodwaters around and away from proposed structures to be constructed on slopes; or
- vi. Be floodproofed to an elevation at least two (2') greater than the flood depth number specified on the FIRM (If no flood depth number is specified, two feet shall be used as the flood depth.) above the highest adjacent grade.

vii. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

1. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:

a. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);

b. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;

c. Doors and windows do not qualify as openings;

d. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

e. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device. (optional)

2. The floor of such enclosed area must be at or above grade on at least one side.

viii. A nonresidential structure may be constructed on fill in accordance with the following:

1. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;

2. Shall extend 5 feet beyond the foundation of the structure before sloping below the BFE;

3. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;

4. Shall not adversely affect the flow of surface drainage from or onto neighboring properties;

5. Shall be composed of clean granular or earthen material. (optional)

ix. A nonresidential structure may be **floodproofed** in accordance with the following:

1. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.

2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

x. A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(D) Manufactured Homes and Recreational Vehicles.

i. These requirements apply to all manufactured homes to be placed on a site in the SFHA:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 20.04.040(e)(4)(B)(v).

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings. (optional)

i. Recreational vehicles placed on a site in the SFHA shall either:

1. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or

2. Meet the requirements for "manufactured homes" as stated earlier in this section.

(E) Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- i. Shall have a floor area of 400 square feet or less;
- ii. Use shall be limited to parking of vehicles and limited storage;
- iii. Shall not be used for human habitation;
- iv. Shall be constructed of flood resistant materials;
- v. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- vi. Shall be firmly anchored to prevent flotation;
- vii. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
- viii. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 20.04.040(e)(4)(C)(iii); and
- ix. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(F) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- i. Shall have open sides (having not more than one rigid wall);
- ii. Shall be anchored to prevent flotation or lateral movement;
- iii. Shall be constructed of flood resistant materials below the FPG;
- iv. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG;
- v. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(G) Above Ground Gas or Liquid Storage Tanks.

Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Section 20.04.040(e)(4)(C).

(5) Standards for Subdivision and Other New Developments

(A) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In all areas of special flood hazard where base flood elevation data area not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.

(E) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders). (optional)

(F) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds. (optional)

(6) Standards for Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

The following standards apply to all SFHAs and known flood-prone areas:

- ~~(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.~~
- ~~(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.~~
- ~~(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.~~
- ~~(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.~~
- ~~(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.~~
- ~~(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~
- ~~(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~
- ~~(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.~~
- ~~(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this UDO.~~
- ~~(J) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

 - ~~i. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.~~
 - ~~ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.~~
 - ~~iii. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.~~
 - ~~iv. The fill or structure shall not obstruct a drainage way leading to the floodplain.~~
 - ~~v. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.~~~~

- vi. ~~The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.~~
- vii. ~~Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this UDO.~~

~~(3) Structures Within SFHAs~~

~~(A) Generally~~

~~All structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:~~

- i. ~~Construction or placement of any structure having a floor area greater than 400 square feet.~~
- ii. ~~Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50 percent of the value of the existing structure (excluding the value of the land).~~
- iii. ~~Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50 percent of the market value of the structure (excluding the value of the land) before damage occurred.~~
- iv. ~~Installing a travel trailer or recreational vehicle on a site for more than 180 days.~~
- v. ~~Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.~~
- vi. ~~Reconstruction or repairs made to a repetitive loss structure.~~

~~(B) Residential Structures~~

~~New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 20.04.040(d)(2)(D).~~

~~(C) Non-Residential Structures~~

~~New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 20.04.040(d)(2)(D). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:~~

- ~~i. A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in 20.06.020(f)(2)(L).~~
- ~~ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.~~

(D) ~~Elevated Structures~~

- ~~i. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.~~
- ~~ii. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

 - ~~1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).~~
 - ~~2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.~~
 - ~~3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~
 - ~~4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~
 - ~~5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.~~
 - ~~6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.~~
 - ~~7. Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate Section 20.04.040(d)(2)(D). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded, along with the deed, in the Office of the Monroe County Recorder.~~
 - ~~8. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the Office of the Monroe County Recorder.~~~~

(E) Structures Constructed on Fill

A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- i. The fill shall be placed in layers no greater than one foot deep before compacting to 95 percent of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
- ii. The fill shall extend at least 20 feet beyond the foundation of the structure before sloping below the BFE.
- iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.
- iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- v. The top of the lowest floor including basements shall be at or above the FPG.
- vi. Fill shall be composed of clean granular or earthen material.

(F) Standards for Manufactured Homes and Recreational Vehicles

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- i. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
 1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 20.04.040(d)(2)(D).
 3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- ii. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. ~~Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 20.04.040(d)(2)(D).~~
3. ~~Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.~~
- iii. ~~Recreational vehicles placed on a site shall either:~~
 1. ~~Be on site for less than 180 days;~~
 2. ~~Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or~~
 3. ~~Meet the requirements for "manufactured homes" as stated in this section.~~

(G) ~~Accessory Structures~~

~~Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:~~

- i. ~~Shall not be used for human habitation.~~
- ii. ~~Shall be constructed of flood resistant materials.~~
- iii. ~~Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.~~
- iv. ~~Shall be firmly anchored to prevent flotation.~~
- v. ~~Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.~~
- vi. ~~Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 20.04.040(d)(2)(D).~~

(H) ~~Above Ground Gas or Liquid Storage Tanks~~

~~All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.~~

(4) ~~Critical Facilities~~

~~Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.~~

(5) ~~Identified Fringe~~

~~If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this UDO have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.~~

~~(6) SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes~~**~~(A) Drainage Area Upstream of the Site is Greater than One Square Mile~~**

- ~~i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.~~
- ~~ii. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.~~
- ~~iii. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 20.04.040(d) have been met.~~

~~(B) Drainage Area Upstream of the Site is Less than One Square Mile~~

- ~~i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.~~
- ~~ii. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 20.04.040(d) have been met.~~

~~(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.~~

~~(7) Flood Prone Areas~~

~~All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required by this UDO.~~

(F) Improved Alley Access in the R1, R2, R3, and R4, RM, and MD Districts

~~In the R3 and R4 zoning district, a~~ driveway accessing the street shall be prohibited if the side or rear setback is accessible via an improved alley. Required parking spaces pursuant to Section 20.04.060 (Parking and Loading), shall be accessed directly from the adjacent alley.

(3) Driveway and Access Design**(A) Generally**

- i. The City Planning and Transportation Department shall determine curb radii and other construction standards for all entrances based on the smallest design vehicle possible and to still accommodate the most common vehicle and occasional larger vehicles with appropriate encroachments, and whether an acceleration lane, deceleration lane, or passing blister is required.
- ii. Driveways shall not impede the flow of drainage. Where driveway culverts are necessary to accommodate drainage, the culvert pipe size shall be determined by a licensed engineer to prevent flooding.

(B) Driveway Pavement Widths**i. Single-Family, Duplex, Triplex, and Fourplex Residential Uses**

The width of a driveway between the required front building setback and the street shall not exceed 18 feet.

ii. All Other Uses

No entrance or drive located in the front yard of a property shall exceed the following pavement widths for two-way traffic (if one-way, the measurements shall be one-half of the below requirements):

1. 24 feet if from a nonresidential use onto an arterial or collector street. The City Engineer may authorize a 34-foot entrance to accommodate heavy truck use.
2. 24 feet if from a nonresidential use onto a local street.
3. 24 feet if from a mixed-use multifamily residential use onto any type of street.

(C) Surface Material

- i. Unless specifically stated otherwise in this UDO, all entrances and drives shall be asphalt, concrete, or other material approved by the city.
- ii. The Planning and Transportation Director may approve structurally engineered, permeable parking pavers for entrances and drives provided these areas are intended for low intensity or intermittent vehicular use and pavers are designed and used to mitigate the negative environmental impacts of impervious surfaces.
- iii. Areas using permeable pavers shall not be counted in impervious surface calculations.
- iv. For new development, all driveway aprons onto a street shall be constructed of concrete.
- v. Enlargement or modification of an existing driveway shall require the driveway apron to be surfaced with asphalt or concrete.
- vi. Drive cuts shall ramp to meet the pedestrian and/or bicycle facility in order to keep the pedestrian and/or bicycle facility at the same grade, unless approved by the Transportation and Traffic Engineer due to site elevation constraints.

- iii. In a shared parking arrangement, each property shall provide a minimum of 60 percent of the individual parking requirements provided in Table 04-9: Minimum Vehicle Parking Requirements. In no case shall the total combined parking spaces be less than 120 percent of the greater individual parking requirement.
- iv. Any property using shared parking facilities shall be located within 600 feet of such parking facility, using established sidewalks and crosswalks where available.

(B) Shared Parking Agreement

The property owner seeking leased spaces shall provide a recordable zoning commitment to the Planning and Transportation Department stating that in the case where leased spaces are no longer available, that an adequate parking alternative will be provided.

(2) Proximity to Transit

Except for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, the minimum parking required for development within one-quarter mile, measured radially in a straight line, of a fixed transit station shall be reduced from those shown in Table 04-9: Minimum Vehicle Parking Requirements by 15 percent.

(3) Affordable and Senior Housing

The minimum number of required vehicle parking spaces for multifamily residential structures shall be reduced by 35 percent if:

- (A) The multifamily residential structure qualifies for the affordable housing incentives pursuant to Section 20.04.110 (Incentives); or
- (B) A minimum of 75 percent of the dwelling units are restricted for lease or sale by persons 65 years of age or older.

(4) On-Street Parking

Any on-street parking space in which more than one-half of the area of the parking space abuts the subject property, may be counted toward the minimum number of required vehicle parking spaces on a one-to-one basis, subject to the following:

- (A) On-street parking may not be used to meet the minimum off-street parking requirements for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses;
- (B) On-street parking that is subject to residential parking permit restrictions or other time restrictions shall not be used to meet any minimum vehicle parking requirements for any use;
- (C) Each on-street parking space may only be counted once toward the parking requirements of the abutting lot, regardless of the number of individual buildings or tenants on the lot.
- (D) On-street parking spaces shall be available for general public use at all times. No signage or actions limiting general public use of on-street spaces shall be permitted.
- (E) No development or use approved with an on-street parking credit shall be considered nonconforming if the on-street parking is later removed by City action and the remaining off-street vehicle parking does not meet the minimum off-street parking requirements of this chapter.

- iv. No park strip shall be used for parking unless otherwise approved by the City Planning and Transportation Department based on considerations of pedestrian and traffic safety, visual appearance, and buffering.
- v. All parking shall comply with parking landscape standards in Section 20.04.080 (Landscaping, Buffering, and Fences).
- vi. For single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, Parking shall be prohibited within the setback between the street and the building except on a driveway that meets the provisions of this Section 20.04.060.
- vii. No commercial vehicles or trailers shall be parked overnight at a residence unless that home is occupied by the business owner or employee.

(B) In the R1, R2, R3, R4, RM, ~~and RH~~, and MD Districts

- i. Parking for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses shall be prohibited within the required front building setback between the street and the building except on a single drive not exceeding 18 feet in width.
- ii. In cases where the side or rear setback area is accessible via an improved alley, no front yard drive or parking shall be permitted. In the R1, R2, R3, and R4 districts, the required parking area shall directly access the alley and be limited to 20 feet in depth and 20 feet in width. Depth of required parking areas may exceed 20 feet if leading to a vehicular entrance of a detached garage or carport. In the MD, RM, and RH districts, the required parking area shall directly access the alley ~~and be limited to 40 feet in depth and 20 feet in width~~. Determinations of whether an alley allows for safe access shall be made by the City Planning and Transportation Department.
- iii. For lots at the corner of a street and the alley, the driveway on the alley shall be setback 15' from the intersection of the street and the alley.

(3) Dimensions of Parking Spaces and Drive Aisles

All on-site parking and maneuvering areas shall be constructed according to the following minimum dimensional standards and per Table 04-11:

- (A) All parking aisles shall terminate with a bump-out for turnaround maneuverability.

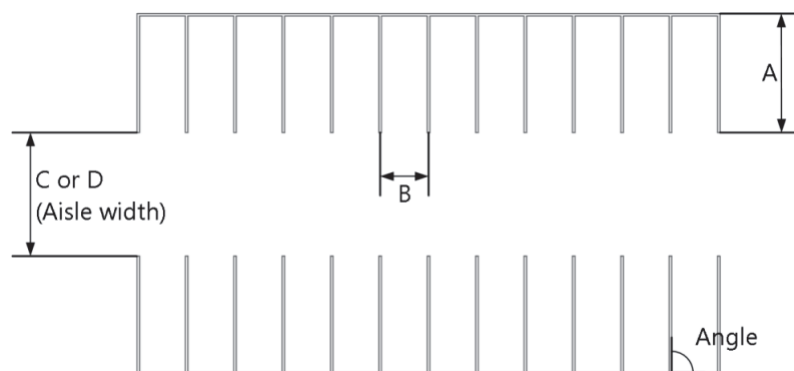


Figure 51: Illustrative Scale and Character

3. Downtown Gateway; and
4. Showers Technology.

(d) Building Design

(1) Third-Party Review

The Planning and Transportation Director may retain an independent third-party consultant to review any proposed building design in order to assist with review of compliance with the standards in this 20.04.070(d). Where the decision on an application is made by the Plan Commission or City Council (as shown in Table 06-1), the consultant may offer alternative compliant design option(s) that addresses each element of building design addressed in this 20.04.070(d). The body making the final decision on the application may approve some or all of the suggested design options if it determines that the suggested option:

- (A) Significantly enhances the visual appeal of the building;
- (B) Significantly enhances the perceived quality of the building facades visible from public streets;
- (C) Creates no adverse impacts on surrounding properties beyond those that would be permitted if the standards in this 20.04.070(d) were applied; and
- (D) Strengthen the public-private interaction at the street level.

(2) Mixed-Use and Nonresidential

(A) Applicability

The following standards shall apply to parcels in the MN, MM, MC, MS, ME, MI, and MH zoning districts.

(B) Exceptions

Single-family detached, duplex, triplex, and fourplex dwellings shall not be subject to the architectural standards of this Section 20.04.070(d)(1). Such residential dwelling units shall be subject to the architectural standards in Section 20.04.070(d)(3).

(C) Materials

All facades of a primary building shall consist of one or more of the following primary and secondary exterior finish materials:

i. Primary Exterior Finish Materials

1. Cementitious siding;
2. Masonry;
3. Brick;
4. Natural stone;
5. Precast concrete;
6. Split-faced block; and/or
7. Transparent glass.

ii. Secondary Exterior Finish Materials

1. Wood;
2. EIFS; ~~or~~

3. Metal panel or siding (minimum 26 gauge) factory fabricated and finished system with smooth, embossed, or consistent rib pattern and concealed fasteners(except corrugated); or
4. Other products that replicate the appearance and durability of the above materials, as approved by the staff.

(D) Exterior Facades

All facades of a primary building shall incorporate three or more of the following design elements in each module to avoid blank, uninterrupted walls, except that buildings less than 40 feet in width shall incorporate a minimum of two of the design elements. every A module can be a maximum of 40 feet in width. to avoid blank, uninterrupted walls.:

- i. Awning or canopy that extends at least 24 inches from the building face;
- ii. Change in building facade height in relation to the adjacent modules of a -(minimum of five feet of difference, except that buildings 25 feet or less in height may utilize a minimum of two feet of difference);
- iii. A regular pattern of transparent glass constituting a minimum of 50 percent of the total wall/facade area of the first-floor facade/elevation facing a street;
- iv. Wall elevation recesses and/or projections, the depth that are at least three percent of the horizontal width of the building facade.

(E) Patterns

All facades of a primary building visible from any roadway shall contain the following color and texture changes:

- i. Facades shall consist of at least one primary and one secondary color.
- ii. At least one of these elements, either texture or color, shall repeat horizontally across the facade.
- iii. Variations in texture and color elements shall repeat vertically a minimum of every 30 feet.

(F) Eaves and Roofs

Buildings with sloped roofs (those greater than 3:12 pitch) visible from any roadway shall contain overhanging eaves, extending no less than two feet past the supporting walls. Flat roofs (those less than 3:12 pitch) shall include a parapet on supporting walls.

(G) 360-Degree Architecture

Those sides of a building that are not visible from the street frontage shall have a finished facade that is similar to the visible facades in terms of materials and architectural detailing.

(H) Primary Pedestrian Entry

- i. One primary pedestrian entrance shall be provided for every facade facing a street.
- ii. On corner or through lots, the facade facing the higher classified street shall have the primary pedestrian entrance. For purposes of this section, I-69 shall not be used as the higher classified street.
- iii. The pedestrian entry shall contain at least three of the following architectural details:
 1. Pilasters, change in building mass, or a distinct facade module projections;
 2. Public art display;

3. Prominent building address, building name, and enhanced exterior light fixtures, such as wall sconces or light covers;
4. Raised corniced entryway parapet; or
5. ~~Buttress and arched entry~~ Recessed or framed sheltered element of at least 3 feet in depth to protect pedestrians from weather;
- 5-6. Integral planters or wing walls that incorporate landscaping or seating.

(I) Windows on Primary Facades

All first-story windows on the primary facade of a primary structure shall be transparent and shall not make use of dark tinting or reflective glass.

(J) Anti-Monotony Standards

In the case of new construction of multifamily units, any development containing more than three individual buildings shall incorporate the following variations to break up monotony in design:

- i. Differences in rooflines;
- ii. Differences in building footprint;
- iii. Differences in the number of floors per building.

(K) Street Addresses

- i. Street address displays shall consist of Arabic numerals (e.g., 1, 2, 3...) no less than eight inches in height. For multifamily uses, the address display shall a minimum of five inches and a maximum of 10 inches in height.
- ii. Street address displays shall be placed above all exterior entrances visible from a public street, private drive, or parking lot.
- iii. All street addresses shall contrast with the color of the surface on which they are mounted, shall consist of reflective materials, and shall be clearly visible and identifiable from the street.

(3) Residential

(A) Applicability

The following standards shall apply to the construction, expansion, addition, or alteration of any building in the R1, R2, R3, R4, RM, RH and RMH zoning districts.

(B) Materials

Primary exterior finish building materials used on residential dwellings shall consist of any of the following:

- i. Horizontal lap siding (e.g., vinyl, cementitious, wood);
- ii. V-grooved tongue-and-groove siding;
- iii. Wood-grained vertical siding materials in a board-and-batten or reverse batten pattern;
- iv. Cedar or other wood materials
- v. Stucco, plaster, or similar systems (excluding EIFS);
- vi. Stone;

- vii. Split face block, ground face block, or brick;
- viii. Cast or cultured stone;
- ix. Cast in place concrete;
- x. Earthen structural materials;
- ~~x-xi. Metal panel or siding (minimum 26 gauge) factory fabricated and finished system with smooth, embossed, or consistent rib pattern and concealed fasteners(except corrugated);~~
or
- ~~xi-xii.~~ Other materials that replicate the look and durability of the above materials, as approved by the staff.

(C) Minimum Coverage

Exterior finish building materials listed above, or a combination of such materials, shall extend from roofline to within six inches of finished grade.

(D) Foundations

All buildings shall be placed on permanent foundations.

(E) Roofs

- i. For attached and detached single-family dwellings, duplex, triplex, fourplex, and multifamily dwelling units that have sloped roofs, the roof shall consist of shingles, shakes, tile, standing-seam metal, or V-grain metal. Additions to attached or detached single-family dwelling units may use flat roofs (less than a 3:12 roof pitch).
- ii. Primary structures larger than 1,000 square feet of gross floor area may use a flat roof (less than 3:12 roof pitch) with a parapet and shall comply with any applicable standards established in Subsection 20.03.030: *Use-Specific Standards*.

(F) Rain Gutters and Downspouts

Rain gutters and downspouts are required.

(G) Uniform Architecture

When the rear or side facade of a newly constructed building is adjacent to a street, the architecture of these facades shall be made to match that of the front facade. Such matching shall occur through use of similar materials, window/doorway openings, variation in rooflines, or fenestration.

(H) Patterns

In the case of new construction of multifamily units in the RM and RH zoning districts, all facades of a primary building visible from any roadway shall contain the following color and texture changes:

- i. Facades shall consist of at least one primary and one secondary color.
- ii. At least one of these elements, either texture or color, shall repeat horizontally across the facade.
- iii. Variations in texture and color elements shall repeat vertically a minimum of every 30 feet.

(I) Primary Pedestrian Entry

In the case of new construction of multifamily units in the RM and RH zoning districts, the following standards shall apply:

- i. One primary pedestrian entrance shall be provided for every facade facing a street.
- ii. On corner or through lots, the facade facing the higher classified street shall have the primary pedestrian entrance. For purposes of this section, I-69 shall not be used as the higher classified street.
- iii. The pedestrian entry shall contain at least three of the following architectural details:
 1. Pilasters, change in building mass, or a distinct facade module projections;
 2. Public art display;
 3. Prominent building address, building name, and enhanced exterior light fixtures such as wall sconces or light coves;ting;
 4. Raised corniced entryway parapet; or
 5. Recessed or framed sheltered element of at least 3 feet in depth to protect pedestrians from weather;
 6. Integral planters or wing walls that incorporate landscaping or seating.
 5. ~~Buttress and arched entry.~~

(J) Exterior Facades

In the case of new construction of multifamily units in the RM and RH zoning districts, all facades of a primary building shall incorporate three or more of the following design elements in each module to avoid blank, uninterrupted walls, except that buildings less than 40 feet in width shall incorporate a minimum of two of the design elements. every A module can be a maximum of 40 feet in width. to avoid blank, uninterrupted walls:

- i. Awning or canopy;
- ii. Change in building facade height in relation to the adjacent modules of a minimum of five feet of difference, except that buildings 25 feet or less in height may utilize a minimum of two feet of difference; -(minimum of five feet of difference);
- iii. A regular pattern of transparent glass constituting a minimum of 50 percent of the total wall/facade area of the first-floor facade/elevation facing a street for nonresidential uses
- ~~iii-iv.~~ A regular pattern of transparent glass constituting a minimum of 30 percent of the total wall/façade area of the first-floor façade/elevation facing a street for residential uses;
- v. Wall elevation recesses and/or projections, the depth that are at least three percent of the horizontal width of the building ~~facade~~façade;
- ~~iv-vi.~~ Projecting porches, balconies, or entry stoops at relevant elevations..

(K) Anti-monotony Standards

In the case of new construction of multifamily units, any development containing more than three individual buildings shall incorporate the following variations to break up monotony in design:

- i. Differences in rooflines;
- ii. Differences in building footprint;

20.04.080 Landscaping, Buffering, and Fences

(a) Purpose

The landscaping standards are intended to improve Bloomington's vegetated environment and foster development that will protect and preserve the appearance, character, health, safety and welfare of the community. Additionally, the standards are intended to foster an aesthetically pleasing development that will protect and improve Bloomington's biodiversity and the ecological services provided by native species and ecosystems. Trees, vegetation, fences, walls, and other landscape elements are essential components of a project. These components act to enhance the visual quality of developments, screen land uses, and better integrate the built and natural environments.

(b) Applicability

Compliance with this Section 20.04.080 shall be required pursuant to Section 20.04.010 (Applicability) or the specific applicability criteria established in Sections 20.04.080(l) and 20.04.080(n).

(c) General Landscaping

(1) Placement of Landscape Materials

(A) Rights-of-way and Easements

It shall be the responsibility of the property owner to install and maintain landscape material in rights-of-way or easements, where such improvements are permitted. Plant species shall be approved by either the City or the easement holder.

(B) Utility Infrastructure

- i. Trees shall be located to avoid significant interference with overhead or underground utilities, including lateral connections.
- ~~ii. Trees shall be planted at least 10 feet from sanitary sewer, water service lines, and natural gas lines.~~
- ii. Large canopy trees shall be planted at least 10 feet from public sanitary sewer, water service lines, and natural gas lines. Medium and small trees shall be planted at least 5 feet from public sanitary sewer, water service lines, and natural gas lines, except that medium and small trees planted less than 5 feet from public sanitary sewer, water service lines, and natural gas lines may be approved by the Planning and Transportation Director.
- iii. A tree ~~crown~~canopy may project over a right-of-way or easement.
- iv. All landscape plans shall also be reviewed by the utilities department to ensure that there are no conflicts between proposed landscape and utility lines.
- v. Where utility lines pass overhead of a tree plot, ~~medium or~~ small trees may be used with approval of the Urban Forester.
- ~~v. Where utility lines or tree plot widths are an impediment to planting large, canopy trees in a tree plot, the Urban Forester may approve medium or small trees.~~

(C) Vehicular and Pedestrian Movement

Plant materials shall be located to avoid interference with vehicular and pedestrian movement and shall not project over sidewalks, paths, or trails below a height of eight feet. Plant materials shall not project over street curbs or pavement within rights-of-way or access easements below a height of 15 feet.

(D) Vision Clearance**~~i. Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Connectivity~~**

~~Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~Vision Clearance Triangle). Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Vision Clearance Triangle).~~

(E) Green Infrastructure

All green infrastructure facilities, including detention basins, bioswales, and raingardens shall be planted with only native seed and/or plugs.

(F) Installation Prior to Occupancy

All landscaping required by the approved site plan shall be installed and inspected prior to issuance of a recommendation for final occupancy, unless an extension is approved by the Planning and Transportation Department for weather-related or unique circumstances.

~~(E) Distribution~~

~~Required landscape shall be reasonably distributed in any areas of a site not covered by a structure, parking lot or required buffer yard. It is suggested that the required plantings be planted in clusters or irregular patterns, and that native grasses and herbaceous perennial species be used for ornamentation in addition to the required plantings.~~

(2) Plant Material Standards**(A) Live Plantings**

All plant material shall be living and healthy. Dead, diseased or artificial plants shall not be recognized as contributing to required landscape treatments.

(B) Species Identification

New plantings shall have species identification tags on the plant or paid purchase identification labels on the plants during the final inspection. A receipt with purchase order for plantings may be submitted prior to inspection in lieu of tags or labels on site.

(C) Prohibited Plant Species~~Invasive Plants~~

Species identified as invasive, detrimental, or noxious shall not be planted under any circumstances and will not be counted toward landscape requirements.

(D) Species Diversity

- i. On sites that require an aggregate total of 20 or more new trees, any given genus of tree shall be limited to a maximum of 2025 percent of the total number of newly planted trees on site.

~~ii. To improve pollinator habitat, at least 25 percent of planted areas shall include native flowering and nectar producing plant species.~~

~~iii.ii.~~ Where shrubs are required to be planted, up to 15 percent of the total number of required shrubs may be substituted ~~with with perennial forb species, graminoids, flowering perennials, grasses,~~ or ferns. This does not apply to shrubs required as part of a landscape buffer requirement per Section 20.04.080(g). Any ~~flowering perennials, grasses, or ferns~~ substituted plants used toward parking lot perimeter requirements shall be ~~of~~ species that typically grow to be at least four feet in height, and shall be maintained in accordance with Section 20.04.120(b) (Landscaping).

(E) New Planting Sizes

The following minimum sizes shall apply to all required plant material:

i. Deciduous Trees

All newly planted deciduous trees shall be at least two-inch caliper.

ii. Evergreen Trees

All newly planted evergreen trees shall be at least six feet in height.

iii. Shrubs

Shrubs shall be at least three-gallon container size and a minimum of 18 inches in height.

(F) Substitution

i. Public Art

The Planning and Transportation Department may allow up to five percent of the minimum landscape area requirement to be replaced with public art. Public art shall not replace required buffer yard landscaping as required by Section 20.04.080(g) or required parking lot landscaping required by Section 20.04.080(h) and shall not count towards impervious surface area on the lot.

ii. Existing Vegetation

1. The City Planning and Transportation Department may permit the substitution of required landscape with existing vegetation provided that the existing vegetation is in good health and quality and is found on the permitted plant list in this UDO.
2. Vegetation preserved to meet the requirements of Section 20.04.030(i), (Tree and Forest Preservation), may be substituted for required landscaping, provided it meets the requirements of Section ~~20.04.080(c)(2)~~ 20.04.080(c)(3).
3. Existing vegetation listed in Section 20.04.080(d), shall be credited towards required landscaping based on the following values:

[a] Deciduous Trees

A credit of one tree per every four inches DBH of an existing qualified deciduous tree is earned. No single existing tree shall count towards more than four individual required trees.

[b] Evergreen Trees

A credit of one tree per every 12 feet in height of an existing qualified evergreen tree is earned. No single existing tree shall count towards more than three individual required trees.

[c] **Shrubs**

A credit of one shrub per every one existing qualified shrub is earned.

(G) Ground Cover

- i. Turf grass and other vegetative ground cover shall be used for all landscaped areas, except that parking lot bumpouts, islands, endcaps smaller than 324 square feet, and areas within 12 inches of a building foundation may use decorative mulch or stone.
- ii. Except as provided in Section 20.04.080(c)(2)(G)(i), decorative mulch or stone shall not be used as groundcover except one foot beyond the dripline of shrubbery and shall be no more than six feet in diameter surrounding trees.

(3) Tree Protection

- (A) Any existing trees intended to be preserved and counted toward minimum landscape requirements shall be protected during the entire duration of construction.
- (B) Construction activities shall be prohibited within the tree protection zone, a three-foot minimum radius surrounding the dripline of the tree.
- (C) No equipment or supply storage, equipment movement, rest or picnicking area, or any land disturbing activities shall be allowed in the tree protection zone.

(4) Alternatives Authorized

A reduction in the count, configuration, or location of required landscaping materials may be allowed when alternatives are justified by site or development conditions. The petitioner shall provide justification for the use of alternatives and shall demonstrate how compliance with the standard(s) from which a deviation is sought will be achieved to the maximum extent practicable.

(A) Conditions that may justify approval of an alternative landscape plan include:

- i. Unique lot size or configuration;
- ii. The presence of existing utility or other easements; or
- iii. Preservation of natural vegetation.

(B) ~~Alternative Landscape Plan Approval Criteria: The City Planning and Transportation Department may approve alternative landscape plans that do not meet the specific requirements stated in this Section 20.04.080, when the petitioner demonstrates and the City Planning and Transportation Department determines that the alternatives meet all of the following criteria: The City Planning and Transportation Department may approve alternative landscape plans that do not meet the specific requirements stated in this Section 20.04.080, when the petitioner demonstrates and the City Planning and Transportation Department determines that the alternatives meet all of the following criteria:~~

- i. Are consistent with the purposes of this Section 20.04.080;
- ii. Do not include invasive vegetation included in an adopted city, county, or state list of prohibited or invasive species;
- iii. Provide equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
- iv. Provide equal or superior visual appearance of the property when viewed from a public right-of-way.

(d) Permitted Plant Species

All plant material shall be selected from this Section 20.04.080(d). Substitutions to the list shall be submitted to the City Planning and Transportation Department for approval.

(1) Street Trees

Trees suitable for planting along public streets and highways, ~~parking lots~~, and in locations where low maintenance and hardy constitution are required are established in Table 04-14: Permitted Street Tree.

(2) Interior Trees

Trees suitable for the interior of a site are established in Table 04-15: Permitted Interior Tree Species. Permitted street tree species listed in ~~Table 04-14: Permitted Street Tree Species~~ ~~Table 04-14: Permitted Street Tree Species~~ may also be used, as interior trees, except the parenthesized trees, which are prohibited for interior trees.

(3) ~~Shrubs, Bushes, and Hedges~~

~~Plants, bushes, and hedges~~ Shrubs suitable for individual, screen, biohedge uses, up to 12 feet at mature height are established in ~~Table 04-16: Permitted Shrub Species~~ ~~Table 04-15: Permitted Shrubs, Bushes and Hedges Species.~~

(4) ~~Herbaceous Perennial Plants~~ Forbs

Forbs, or flowering, nongrassy H ~~herbaceous perennial~~ plants suitable for infill, aesthetics, and cover are established in ~~Table 04-15: Permitted Herbaceous (Forb) Flowering Perennial Plant Species~~ ~~Table 04-16: Permitted Herbaceous Perennial Plant Species.~~

Table 04-14: Permitted Street Tree Species

Bold text indicates evergreen species | Parentheses indicates prohibited as an interior tree

Common Name	Scientific Name
Large Street Trees - 45 feet or more at mature height	
<u>Sugar Hackberry</u>	<u><i>Celtis laevigata</i></u>
<u>Hackberry</u> Sugar Hackberry	<u><i>Celtis occidentalis</i></u> <i>Celtis laevigata</i>
<u>Thornless Honeylocust</u> Hackberry	<u><i>Gleditsia triacanthos var. inermis</i></u> <i>Celtis occidentalis</i>
<u>Kentucky Coffee Tree</u> Thornless Honeylocust	<u><i>Gymnocladus dioica</i></u> <i>Gleditsia triacanthos inermis</i>
<u>Tulip Tree</u> Kentucky Coffee Tree	<u><i>Liriodendron tulipifera</i></u> <i>Gymnocladus dioica</i>
<u>Blackgum or Tupelo</u> Tulip Tree	<u><i>Nyssa sylvatica</i></u> <i>Liriodendron tulipifera</i>
<u>Sycamore</u> Blackgum or Tupelo	<u><i>Platanus occidentalis</i></u> <i>Nyssa sylvatica</i>

Table 04-14: Permitted Street Tree Species

Bold text indicates evergreen species | Parentheses indicates prohibited as an interior tree

Common Name	Scientific Name
<u>(London Planetree) Sycamore</u>	<u>(Platanus x acerfolia) Platanus occidentalis</u>
<u>White Oak London Planetree</u>	<u>Quercus alba Platanus x acerfolia</u>
<u>Swamp White Oak White Oak</u>	<u>Quercus bicolor Quercus alba</u>
<u>Scarlet Oak Swamp White Oak</u>	<u>Quercus coccinea Quercus bicolor</u>
<u>Shingle Oak Scarlet Oak</u>	<u>Quercus imbricaria Quercus coccinea</u>
<u>Overcup Oak Shingle Oak</u>	<u>Quercus lyrata Quercus imbricaria</u>
<u>Bur Oak Overcup Oak</u>	<u>Quercus macrocarpa Quercus lyrata</u>
<u>Chestnut Oak Bur Oak</u>	<u>Quercus montana Quercus macrocarpa</u>
<u>Chinkapin Oak or Chinquapin Oak</u>	<u>Quercus muehlenbergii</u>
<u>Willow Oak Blackjack Oak</u>	<u>Quercus phellos Quercus marilandica</u>
<u>Red Oak Chinkapin Oak</u>	<u>Quercus rubra Quercus muhlenbergii</u>
<u>Shumard Oak Red Oak</u>	<u>Quercus shumardii Quercus rubra</u>
<u>Post Oak Shumard Oak</u>	<u>Quercus stellata Quercus shumardii</u>
<u>Black Oak Post Oak</u>	<u>Quercus velutina Quercus stellata</u>
<u>Bald Cypress Black Oak</u>	<u>Taxodium distichum Quercus velutina</u>
<u>Basswood or American Linden Bald Cypress</u>	<u>Tilia americana Taxodium distichum</u>
<u>American Elm Basswood or American Linden</u>	<u>Ulmus Americana (resistant cultivars) Tilia americana</u>
<u>Elm</u>	<u>Ulmus</u>
Medium Street Trees - 25 feet to 45 feet at mature height	
<u>Downy Serviceberry</u>	<u>Amelanchier arborea</u>
<u>River Birch</u>	<u>Betula nigra</u>
<u>American Hornbeam or Blue Beech River Birch</u>	<u>Carpinus caroliniana Betula nigra</u>
<u>Yellowwood Downy Serviceberry</u>	<u>Cladrastis kentukea Amelanchier arborea</u>
<u>Hop Hornbeam or Ironwood</u>	<u>Ostrya virginiana</u>
<u>Sourwood American Hornbeam or Blue Beech</u>	<u>Oxydendrum arboretum Carpinus caroliniana</u>
<u>Blackjack Oak Yellowwood</u>	<u>Quercus marilandica Cladrastis lutea</u>
<u>(Crimson Spire Oak)</u>	<u>(Quercus robur x Q. alba 'Crimschmidt')</u>
<u>(Regal Prince Oak) Hop Hornbeam or Ironwood</u>	<u>(Quercus robur 'Fastigiata' x Q. bicolor 'Long') Ostrya virginiana</u>
<u>Regal Prince Oak</u>	<u>Quercus x warei</u>
<u>Crimson Spire Oak</u>	<u>Quercus</u>
Small Street Trees - Under 25 feet at mature height	
<u>Apollo Maple</u>	<u>Acer saccharum 'Barrett Cole'</u>
<u>Shadblow Serviceberry Apollo Maple</u>	<u>Amelanchier canadensis Acer saccharum "Barrett Cole"</u>
<u>Allegheny Serviceberry Shadblow Serviceberry</u>	<u>Amelanchier laevis Amelanchier canadensis</u>
<u>(Apple Serviceberry hybrids) Allegheny Serviceberry</u>	<u>(Amelanchier x grandiflora) Amelanchier laevis</u>
<u>Eastern Redbud Apple Serviceberry hybrids</u>	<u>Cercis canadensis Amelanchier x grandiflora</u>

Table 04-14: Permitted Street Tree Species

Bold text indicates evergreen species | Parentheses indicates prohibited as an interior tree

Common Name	Scientific Name
Flowering Dogwood	<i>Cornus florida</i>
(Smoke Tree) Eastern Redbud	(<i>Continus obovatus</i>) <i>Cercis canadensis</i>
Thornless Cockspur Hawthorn Flowering Dogwood	<i>Crataegus crus-galli</i> <i>Cornus florida</i>
Washington Hawthorn Thornless Cockspur Hawthorn	<i>Crataegus phaenopyrum</i> <i>Crataegus crus-galli</i>
Green Hawthorn Washington Hawthorn	<i>Crataegus viridis</i> <i>Crataegus phaenopyrum</i>
Green Hawthorn	<i>Crataegus viridis</i>

Table 04-15: Permitted Interior Tree Species

Bold text indicates evergreen species

Common Name	Scientific Name
Large Interior Trees - 45 feet or more at mature height	
Black Maple	<i>Acer nigrum</i> (now a subspecies of <i>acer saccharum</i>)
Red Maple	<i>Acer rubrum</i>
Sugar Maple	<i>Acer saccharum</i>
Yellow Buckeye	<i>Aesculus flava</i> (formally <i>A. octandra</i>)
Ohio Buckeye Ohio Buckeye	<i>Aesculus glabra</i> <i>Aesculus glabra</i>
Bitternut Hickory Yellow Buckeye	<i>Carya cordiformis</i> <i>Aesculus octandra</i>
Pignut Hickory	<i>Carya glabra</i>
Northern Pecan Bitternut Hickory	<i>Carya illinoensis</i> <i>Carya cordiformis</i>
Shellbark Hickory Pignut Hickory	<i>Carya laciniosa</i> <i>Carya glabra</i>
Shagbark Hickory Shellbark Hickory	<i>Carya ovata</i> <i>Carya laciniosa</i>
Mockernut Hickory Shagbark Hickory	<i>Carya tomentosa</i> <i>Carya ovata</i>
Northern Catalpa	<i>Catalpa speciosa</i>
American Beech Mockernut Hickory	<i>Fagus grandfolia</i> <i>Carya tomentosa</i>
Black Walnut Northern Catalpa	<i>Juglans nigra</i> <i>Catalpa speciosa</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Sweetgum Black Walnut	<i>Liquidambar styraciflua</i> <i>Juglans nigra</i>
Cucumber Tree	<i>Magnolia acuminata</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
White Pine Cucumber Tree	<i>Pinus strobus</i> <i>Magnolia acuminata</i>
Virginia Pine White Pine	<i>Pinus virginiana</i> <i>Pinus strobus</i>
Black Cherry Virginia Pine	<i>Prunus serotina</i> <i>Pinus virginiana</i>
Chestnut Oak	<i>Quercus prinus</i>
Black willow Black Cherry	<i>Salix nigra</i> <i>Prunus serotina</i>
Canadian or Eastern Hemlock Chestnut Oak	<i>Tsuga canadensis</i> <i>Quercus prinus</i>

Table 04-15: Permitted Interior Tree Species

Bold text indicates evergreen species

Common Name	Scientific Name
Canadian or Eastern Hemlock	<i>Tsuga Canadensis</i>
Medium <u>Interior</u> Trees - 25 feet to 45 feet at mature height	
<u>Southern Catalpa</u>	<u><i>Catalpa bignoniodes</i></u>
<u>Downy Hawthorn</u>	<u><i>Crataegus mollis</i></u>
<u>Persimmon</u>	<u><i>Diospyros virginiana</i></u>
American Holly	<i>Ilex opaca</i>
<u>River Birch</u>	<u><i>Betula nigra</i></u>
<u>Sassafras</u> <u>Sassafras</u>	<u><i>Sassafras albidum</i></u> <u><i>Sassafras albidum</i></u>
<u>American Arborvitae</u> <u>American Arborvitae</u>	<u><i>Thuja occidentalis</i></u> <u><i>Thuja occidentalis</i></u>
Small <u>Interior</u> Trees - Under 25 feet at mature height	
<u>Red Buckeye</u> <u>Pawpaw</u>	<u><i>Asimina triloba</i></u> <u><i>Aesulus pavia</i></u>
<u>Devil's Walking Stick</u> <u>Pagoda Dogwood</u>	<u><i>Cornus alternifolia</i></u> <u><i>Aralia spinosa</i></u>
<u>Persimmon</u> <u>Pawpaw</u>	<u><i>Diospyros virginiana</i></u> <u><i>Asimina triloba</i></u>
<u>Silverbell</u> <u>Pagoda Dogwood</u>	<u><i>Halesia carolina</i></u> <u><i>Cornus alterifolia</i></u>
<u>Wild Plum</u> <u>Down Hawthorn</u>	<u><i>Crataegus mollis</i></u> <u><i>Prunus Americana</i></u>
<u>Staghorn Sumac</u> <u>Silverbell</u>	<u><i>Halesia carolina</i></u> <u><i>Rhus typhina</i></u>
<u>American Plum</u>	<u><i>Prunus americana</i></u>
<u>Chickasaw Plum</u>	<u><i>Prunus angustifolia</i></u>
<u>Hoptree</u>	<u><i>Ptelia trifoliata</i></u>
<u>Dwarf Chinquapin Oak</u>	<u><i>Quercus prinoides</i></u>
<u>Winged Sumac or Shinig Sumac</u>	<u><i>Rhus copallina</i></u>
<u>Shining Sumac or Smooth Sumac</u>	<u><i>Rhus glabra</i></u>
<u>Staghorn Sumac</u>	<u><i>Rhus typhina</i></u>

Table 04-1516: Permitted Shrubs, Bushes and Hedges Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Indigo Bush</u>	<u><i>Amorpha fruticosa</i></u>
<u>Red Chokeberry</u> <u>Black Chokeberry</u>	<u><i>Aronia arbutifolia</i></u> <u><i>Aronia melanocarpa</i></u>
<u>Black Chokeberry</u> <u>New Jersey Tea</u>	<u><i>Aronia melanocarpa</i></u> <u><i>Ceanothus americanus</i></u>
<u>New Jersey Tea</u> <u>Buttonbush</u>	<u><i>Ceanothus americanus</i></u> <u><i>Cephalanthus occidentalis</i></u>
<u>Buttonbush</u> <u>American Hazelnut</u>	<u><i>Cephalanthus occidentalis</i></u> <u><i>Corylus Americana</i></u>
<u>Silky Dogwood</u> <u>Eastern Witch Hazel</u>	<u><i>Cornus amomum</i></u> <u><i>Hamamelis virginiana</i></u>
<u>Rough-leaved Dogwood</u> <u>Wild Hydrangia</u>	<u><i>Cornus drummondii</i></u> <u><i>Hydrangia arborescens</i></u>
<u>Gray Dogwood</u> Inkberry	<u><i>Cornus racemosa</i></u> <i>Ilex glabra</i>
<u>Red-Twig Dogwood</u> <u>Winterberry Holly</u>	<u><i>Cornus sericea</i></u> <u><i>Ilex verticillata</i></u>

Table 04-1516: Permitted Shrubs, Bushes and Hedges Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>American Hazelnut</u> <u>Virginia Sweetspire</u>	<u>Corylus americana</u> <u>Itea virginica</u>
<u>Eastern Witchhazel</u> <u>Juniper</u>	<u>Hamamelis virginiana</u> <u>Juniperus communis</u>
<u>Smooth Hydrangea</u> <u>Spicebush</u>	<u>Hydrangea arborescens</u> <u>Lindera benzoin</u>
<u>Golden St. John's wort</u> <u>Ninebark</u>	<u>Hypericum frondosum</u> <u>Physocarpus opulifolius</u>
<u>Possumhaw</u> <u>Shrubby Cinquefoil</u>	<u>Ilex decidua</u> <u>Potentilla</u>
<u>Inkberry</u> <u>Sand Cherry</u>	<u>Ilex glabra</u> <u>Prunus pumila</u>
<u>Winterberry Holly</u> <u>Fragrant Sumac</u>	<u>Ilex verticillata</u> <u>Rhus aromatica</u>
<u>Virginia Sweetspire</u> <u>Winged Sumac</u>	<u>Itea virginica</u> <u>Rhus copallina</u>
<u>Common Juniper</u> <u>Shinning Sumac</u>	<u>Juniperus communis</u> <u>Rhus glabra</u>
<u>Spicebush</u> <u>Virginia Rose</u>	<u>Lindera benzoin</u> <u>Rosa virginiana</u> , <u>Rosa setigera</u> , <u>Rosa palustris</u>
<u>Ninebark</u> <u>Pussy Willow</u>	<u>Physocarpus opulifolius</u> <u>Salix discolor</u>
<u>Sand Cherry</u> <u>Elderberry</u>	<u>Prunus pumila</u> <u>Sambucus canadensis</u>
<u>Fragrant Sumac</u> <u>Bladdernut</u>	<u>Rhus aromatica</u> <u>Staphylea trifolia</u>
<u>Prickly Gooseberry</u> <u>Coralberry</u>	<u>Ribes cynosbati</u> <u>Symphoricarpos orbiculatus</u>
<u>Swamp Rose</u> <u>Canadian Yew</u>	<u>Rosa palustris</u> <u>Taxus canadensis</u>
<u>Climbing Rose</u> <u>Highbush Blueberry</u>	<u>Rosa setigera</u> <u>Vaccinium corymbosum</u> , <u>Vaccinium vacillans</u>
<u>Virginia Rose</u> <u>Mapleleaf Viburnum</u>	<u>Rosa virginiana</u> <u>Viburnum acerifolium</u>
<u>Purple Flowering Raspberry</u> <u>Arrowwood</u>	<u>Rubus odoratus</u> <u>Viburnum dentatum</u>
<u>Pussy Willow</u> <u>Nannyberry</u>	<u>Salix discolor</u> <u>Viburnum lentago</u>
<u>American Black Elderberry</u> <u>Black Haw</u>	<u>Sambucus canadensis</u> <u>Viburnum prunifolium</u> , <u>Viburnum rufidulum</u>
<u>Bladdernut</u> <u>Prickly Ash</u>	<u>Staphylea trifolia</u> <u>Zanthoxylum americanum</u>
<u>Coralberry</u>	<u>Symphoricarpos orbiculatus</u>
<u>Canadian Yew</u>	<u>Taxus canadensis</u>
<u>Highbush Blueberry</u>	<u>Vaccinium corymbosum</u>
<u>Hillside Blueberry</u>	<u>Vaccinium pallidum</u>
<u>Mapleleaf Viburnum</u>	<u>Viburnum acerifolium</u>
<u>Arrowwood Viburnum</u>	<u>Viburnum dentatum</u>
<u>Nannyberry</u>	<u>Viburnum lentago</u>
<u>Blackhaw</u>	<u>Viburnum prunifolium</u>
<u>Rusty Blackhaw</u>	<u>Viburnum rufidulum</u>
<u>Prickly Ash</u>	<u>Zanthoxylum americanum</u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
Flowering Perennials	
<u>Purple giant hyssop</u>	<u><i>Agastache scrophulariaefolia</i></u>
<u>Nodding wild onion</u>	<u><i>Allium cernuum</i></u>
<u>Lead plant</u>	<u><i>Amorpha canescens</i></u>
<u>Bluestar</u>	<u><i>Amsonia tabernaemontana</i></u>
<u>Canada Anemone</u>	<u><i>Anemone canadensis</i></u>
<u>Thimbleflower</u>	<u><i>Anemone virginiana</i></u>
<u>Wild Columbine</u>	<u><i>Aquilegia canadensis</i></u>
<u>Pale Indiana Plantain</u>	<u><i>Arnoglossum atriplicifolium</i></u>
<u>Goatsbeard</u>	<u><i>Aruncus dioicus</i></u>
<u>Poke milkweed</u>	<u><i>Asclepias exaltata</i></u>
<u>Tall green milkweed</u>	<u><i>Asclepias hirtella</i></u>
<u>Swamp or Marsh Milkweed</u>	<u><i>Asclepias incarnata</i></u>
<u>Purple milkweed</u>	<u><i>Asclepias purpurascens</i></u>
<u>Showy milkweed</u>	<u><i>Asclepias speciosa</i></u>
<u>Prairie milkweed</u>	<u><i>Asclepias sullivantii</i></u>
<u>Common Milkweed</u>	<u><i>Asclepias syriaca</i></u>
<u>Butterflyweed</u>	<u><i>Asclepias tuberosa</i></u>
<u>Whorled milkweed</u>	<u><i>Asclepias verticillata</i></u>
<u>Spider milkweed</u>	<u><i>Asclepias viridis</i></u>
<u>Lindley's Heart-leaved Aster</u>	<u><i>Aster ciliolatum (Symphyotrichum ciliolatum)</i></u>
<u>Blue Wood Aster</u>	<u><i>Aster cordifolius</i></u>
<u>Heath Aster</u>	<u><i>Aster ericoides (Symphyotrichum ericoides)</i></u>
<u>Smooth Aster</u>	<u><i>Aster laevis</i></u>
<u>New England Aster</u>	<u><i>Aster novae-angliae (Symphyotrichum novae-angliae)</i></u>
<u>Aromatic Aster</u>	<u><i>Aster oblongifolius (Symphyotrichum oblongifolium)</i></u>
<u>Sky-blue Aster</u>	<u><i>Aster oolentangiensis (Symphyotrichum oolentangiensis)</i></u>
<u>Swamp Aster</u> <u>Canada Anemone</u>	<u><i>Aster puniceus (Symphyotrichum puniceum)</i></u> <u><i>Anemone canadensis</i></u>
<u>Short's Aster</u>	<u><i>Aster shortii (Symphyotrichum shortii)</i></u>
<u>Flat-topped Aster</u>	<u><i>Aster umbellatus (Doellingeria umbellata)</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>False White indigo</u>	<u><i>Baptisia alba</i></u>
<u>False Blue Indigo</u>	<u><i>Baptisia australis</i></u>
<u>False Yellow Indigo</u>	<u><i>Baptisia tinctoria</i></u>
<u>Downy wood mint</u>	<u><i>Blephilia ciliata</i></u>
<u>Hairy wood mint</u>	<u><i>Blephilia hirsuta</i></u>
<u>False chamomile or false aster</u> <u>Columbine</u>	<u><i>Boltonia asteroides</i></u> <u><i>Aquilegia canadensis</i></u>
<u>Clustered poppy mallow</u>	<u><i>Callirhoe triangulata</i></u>
<u>Marsh marigold</u>	<u><i>Caltha palustris</i></u>
<u>Tall bellflower</u>	<u><i>Campanula americana</i></u>
<u>White turtlehead</u>	<u><i>Chelone glabra</i></u>
<u>Pink Turtlehead</u>	<u><i>Chelone obliqua</i></u>
<u>Black cohosh</u>	<u><i>Cimicifuga racemosa</i></u>
<u>Lance-leaved coreopsis</u>	<u><i>Coreopsis lanceolata</i></u>
<u>Prairie coreopsis</u>	<u><i>Coreopsis palmata</i></u>
<u>Tall Coreopsis</u>	<u><i>Coreopsis tripteris</i></u>
<u>White prairie clover</u>	<u><i>Dalea candida</i></u>
<u>Purple prairie clover</u>	<u><i>Dalea purpureum</i></u>
<u>Larkspur</u>	<u><i>Delphinium tricornis</i></u>
<u>Pale purple coneflower</u>	<u><i>Echinacea pallida</i></u>
<u>Purple coneflower</u>	<u><i>Echinacea purpurea</i></u>
<u>Rattlesnake master</u>	<u><i>Eryngium yuccifolium</i></u>
<u>Common boneset</u>	<u><i>Eupatorium perfoliatum</i></u>
<u>Flowering spurge</u>	<u><i>Euphorbia corollata</i></u>
<u>Grass-leaved goldenrod</u>	<u><i>Euthamia graminifolia</i></u>
<u>Hollow Joe-Pye weed</u>	<u><i>Eutrochium fistulosum</i></u> (syn. <u><i>Eupatorium fistulosum</i></u>)
<u>Spotted-Joe-Pyeweed</u>	<u><i>Eutrochium maculatum</i></u> (syn. <u><i>Eupatorium maculatum</i></u>)
<u>Purple Joe-Pye weed</u>	<u><i>Eutrochium purpureum</i></u> (syn. <u><i>Eupatorium purpureum</i></u>)
<u>Queen of the prairie</u>	<u><i>Filipendula rubra</i></u>
<u>Bottle Gentian</u>	<u><i>Gentiana andrewsii</i></u>
<u>Wild Geranium</u> <u>Swamp or Marsh Milkweed</u>	<u><i>Geranium maculatum</i></u> <u><i>Asclepias incarnata</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Autumn Sneezeweed</u>	<u><i>Helenium autumnale</i></u>
<u>Woodland Sunflower</u>	<u><i>Helianthus divaricatus</i></u>
<u>Downy Sunflower</u>	<u><i>Helianthus mollis</i></u>
<u>Western Sunflower</u>	<u><i>Helianthus occidentalis</i></u>
<u>Stiff or Prairie Sunflower</u>	<u><i>Helianthus pauciflorus</i></u>
<u>False Sunflower</u>	<u><i>Heliopsis helianthoides</i></u>
<u>American alumroot</u>	<u><i>Heuchera americana</i></u>
<u>Prairie Alumroot</u>	<u><i>Heuchera richardsonii</i></u>
<u>Rose Mallow</u>	<u><i>Hibiscus laevis</i></u>
<u>Swamp Rose Mallow</u>	<u><i>Hibiscus moschuetos</i></u>
<u>Dwarf Crested Iris</u>	<u><i>Iris cristata</i></u>
<u>Blue Flag Iris</u>	<u><i>Iris virginica</i></u>
<u>Violet Lespedeza</u> <u>Common Milkweed</u>	<u><i>Lespedeza violacea</i></u> <u><i>Asclepias syriaca</i></u>
<u>Rough Blazingstar</u>	<u><i>Liatris aspera</i></u>
<u>Dwarf Blazingstar</u> <u>Butterflyweed</u>	<u><i>Liatris microcephala</i></u> <u><i>Asclepias tuberosa</i></u>
<u>Prairie Blazing Star</u>	<u><i>Liatris pycnostachya</i></u>
<u>Northern Blazingstar</u> <u>Smooth Aster</u>	<u><i>Liatris scariosa</i></u> <u><i>Aster laevis</i></u>
<u>Dense Blazingstar</u> , <u>Spiked Blazingstar</u> <u>Short's Aster</u>	<u><i>Liatris spicata</i></u> <u><i>Aster shortii</i></u>
<u>Cardinal Flower</u>	<u><i>Lobelia cardinalis</i></u>
<u>Downy Lobelia</u> <u>False Blue Indigo</u>	<u><i>Lobelia puberula</i></u> <u><i>Baptisia australis</i></u>
<u>Great Blue Lobelia</u> <u>Tall Coreopsis</u>	<u><i>Lobelia siphilitica</i></u> <u><i>Coreopsis tripteris</i></u>
<u>Virginia Bluebells</u> <u>Larkspur</u>	<u><i>Mertensia virginica</i></u> <u><i>Delphinium tricorne</i></u>
<u>Bergamot or Bee-balm</u> <u>Purple Coneflower</u>	<u><i>Monarda fistulosa</i></u> <u><i>Echinacea purpurea</i></u>
<u>Purple Prairie Clover</u> <u>Spotted Joe-Pye Weed</u>	<u><i>Petalostemum purpureum</i></u> <u><i>Eupatorium maculatum</i></u>
<u>Blue Phlox</u> , <u>Woodland Phlox</u> <u>Wild Geranium</u>	<u><i>Phlox divaricata</i></u> <u><i>Geranium maculatum</i></u>
<u>Summer Phlox</u> , <u>Tall Phlox</u> <u>Autumn Sneezeweed</u>	<u><i>Phlox paniculata</i></u> <u><i>Helenium autumnale</i></u>
<u>Obedient Plant</u>	<u><i>Physostegia virginiana</i></u>
<u>Jacob's Ladder</u>	<u><i>Polemonium reptans</i></u>
<u>Solomon's Seal</u>	<u><i>Polygonatum biflorum</i></u>
<u>Prairie Cinquefoil</u>	<u><i>Potentilla arguta</i></u>
<u>Hoary Mountain Mint</u>	<u><i>Pycnanthemum incanum</i></u>
<u>Hairy Mountain Mint</u>	<u><i>Pycnanthemum pilosum</i></u>
<u>Narrow-leaved Mountain Mint</u>	<u><i>Pycnanthemum tenuifolium</i></u>
<u>Virginia Mountain Mint</u> <u>Stiff or Prairie Sunflower</u>	<u><i>Pycnanthemum virginianum</i></u> <u><i>Helianthus pauciflorus</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Pinnate Prairie Coneflower</u> False Sunflower	<u><i>Ratibida pinnata</i></u> <i>Heliopsis helianthoides</i>
<u>Orange Coneflower</u> Violet Lespedeza	<u><i>Rudbeckia fulgida</i></u> <i>Lespedeza violacea</i>
<u>Rough Blazing Star</u>	<u><i>Liatris aspera</i></u>
<u>Green-Headed Coneflower</u> Prairie Blazing Star	<u><i>Rudbeckia laciniata</i></u> <i>Liatris pycnostachya</i>
<u>Sweet Susan Coneflower</u>	<u><i>Rudbeckia subtomentosa</i></u>
<u>Wild Petunia</u>	<u><i>Ruellia humilis</i></u>
<u>Blue Sage</u>	<u><i>Salvia azurea</i></u>
<u>Lyre-leaved Sage</u>	<u><i>Salvia lyrata</i></u>
<u>Late-flowering Figwort</u>	<u><i>Scrophularia marilandica</i></u>
<u>Downey Skullcap</u>	<u><i>Scutellaria incana</i></u>
<u>Heart-leaved Scullcap</u>	<u><i>Scutellaria ovata</i></u>
<u>Wild Stonecrop</u>	<u><i>Sedum ternatum</i></u>
<u>Wild Senna</u>	<u><i>Senna hebecarpa</i></u>
<u>Maryland Senna</u>	<u><i>Senna manilandica</i></u>
<u>Royal Catchfly</u>	<u><i>Silene regia</i></u>
<u>Fire Pink</u>	<u><i>Silene virginica</i></u>
<u>Rosinweed</u>	<u><i>Silphium integrifolium</i></u>
<u>Compass Plant</u>	<u><i>Silphium laciniatum</i></u>
<u>Cup Plant</u>	<u><i>Silphium perfoliatum</i></u>
<u>Cutleaf Prairie Dock</u>	<u><i>Silphium pinnatifidum</i></u>
<u>Prairie Dock</u>	<u><i>Silphium terebinthinaceum</i></u>
<u>Whorled Rosinweed</u>	<u><i>Silphium trifoliatum</i></u>
<u>Blue-eyed Grass</u>	<u><i>Sisyrinchium angustifolium</i></u>
<u>Solomon's Plume</u> Dense Blazing Star	<u><i>Smilacina racemosa</i></u> <i>Liatris spicata</i>
<u>Cardinal Flower</u>	<u><i>Lobelia cardinalis</i></u>
<u>Blue-stemmed Goldenrod</u>	<u><i>Solidago caesia</i></u>
<u>Zig-zag Goldenrod</u>	<u><i>Solidago flexicaulis</i></u>
<u>Tall Goldenrod</u>	<u><i>Solidago gigantean</i></u>
<u>Early Goldenrod</u> Great Blue Lobelia	<u><i>Solidago juncea</i></u> <i>Lobelia siphilitica</i>
<u>Grey Goldenrod</u>	<u><i>Solidago nemoralis</i></u>
<u>Swamp Goldenrod</u>	<u><i>Soldago patula</i></u>
<u>Stiff Goldenrod</u>	<u><i>Solidago rigida</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Rough-leaved Goldenrod</u>	<u><i>Solidago rugosa</i></u>
<u>Showy Goldenrod</u>	<u><i>Solidago speciosa</i></u>
<u>Indian Pink</u> <u>Virginia Bluebells</u>	<u><i>Spigelia marilandica</i></u> <u><i>Mertensia virginica</i></u>
<u>Bergamot or Bee balm</u>	<u><i>Monarda fistulosa</i></u>
<u>Purple Prairie Clover</u>	<u><i>Petalostemum purpureum</i></u>
<u>Celandine Poppy</u> <u>Blue Phlox</u>	<u><i>Stylophorum diphyllum</i></u> <u><i>Phlox divaricata</i></u>
<u>Ohio Spiderwort</u>	<u><i>Tradescantia ohioensis</i></u>
<u>Virginia Spiderwort</u>	<u><i>Tradescantia virginiana</i></u>
<u>Bellwort or Merrybells</u>	<u><i>Uvularia grandiflora</i></u>
<u>Blue Vervain</u>	<u><i>Verbena hastata</i></u>
<u>Hoary Vervain</u>	<u><i>Verbena stricta</i></u>
<u>Yellow Wingstem</u>	<u><i>Verbesina alternifolia</i></u>
<u>Smooth Ironweed</u>	<u><i>Vernonia fasciculata</i></u>
<u>Missouri Ironweed</u>	<u><i>Vernonia missurica</i></u> <u><i>Phlox paniculata</i></u>
<u>Summer Phlox</u>	
<u>Culver's Root</u>	<u><i>Veronicastrum virginicum</i></u>
<u>Golden Alexander</u> <u>Obedient Plant</u>	<u><i>Zizia aurea</i></u> <u><i>Physostegia virginiana</i></u>
<u>Yellow Coneflower</u>	<u><i>Ratibida pinnata</i></u>
<u>Orange Coneflower</u>	<u><i>Redbeckia fulgida</i></u>
<u>Black-Eyed-Susan</u>	<u><i>Rudbeckia hirta</i></u>
<u>Green-Headed Coneflower</u>	<u><i>Rudbeckia laciniata</i></u>
<u>Sweet Coneflower</u>	<u><i>Rudbeckia subtomentosa</i></u>
<u>Stiff Goldenrod</u>	<u><i>Solidago rigida</i></u>
<u>Blue-stemmed Goldenrod</u>	<u><i>Solidago caesia</i></u>
<u>Grey Goldenrod</u>	<u><i>Solidago nemoralis</i></u>
<u>Royal Catchfly</u>	<u><i>Silene regia</i></u>
<u>Fire Pink</u>	<u><i>Silene virginica</i></u>
<u>Celandine Poppy</u>	<u><i>Stylophorum diphyllum</i></u>
<u>Coralberry</u>	<u><i>Symphoricarpos orbiculatus</i></u>
<u>Culver's Root</u>	<u><i>Veronicastrum virginicum</i></u>
<u>Violet</u>	<u><i>Viola sororia</i></u>
Ground Covers	

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Canada Anemone</u>	<u>Anemone canadensis</u>
<u>Pussytoes</u>	<u>Antennaria plantaginifolia</u>
<u>Wild Ginger</u>	<u>Asarum canadense</u>
<u>Purple poppy malow</u> Canada Anemone	<u>Callirhoe involucrate</u>
	<u>Anemone canadensis</u>
Wild Ginger	<u>Asarum canadense</u>
<u>Common Oak Sedge or Pennsylvania Sedge</u>	<u>Carex pensylvanica</u>
<u>Palm Sedge</u>	<u>Carex muskingumensis</u>
<u>Common Oak Sedge</u>	<u>Carex pensylvanica</u>
<u>Wild Strawberry</u> Running Strawberry Bush	<u>Fragaria virginiana</u> <u>Euonymus obovatus</u>
<u>Dwarf Crested Iris</u> Wild Strawberry	<u>Iris cristata</u> <u>Fragaria virginiana</u>
<u>Creeping Juniper</u>	<u>Juniperus horizontalis</u>
<u>Golden Ragwort</u>	<u>Packera aurea</u>
<u>Roundleaf Ragwort</u> Dwarf Crested Iris	<u>Packera obovata</u> <u>Iris cristata</u>
<u>Cleft Phlox</u>	<u>Phlox bifida</u>
<u>Creeping Phlox</u> <u>Creeping Juniper</u>	<u>Phlox subulata</u> <u>Juniperus horizontalis</u>
<u>Partridge Berry</u> Creeping Phlox	<u>Mitchella repens</u> <u>Phlox subulata</u>
<u>Wild Stonecrop</u> Partridge Berry	<u>Sedum ternatum</u> <u>Mitchella repens</u>
<u>Violet</u> Wild Stonecrop	<u>Viola sororia</u> <u>Sedum ternatum</u>
<u>Foam Flower</u>	<u>Tiarella cordifolia</u>
Vines	
Wooly Douchman's Pipe	<u>Aristolochia tomentosa</u>
Crossvine	<u>Bignonia capreolata</u>
Trumpet Creeper	<u>Campsis radicans</u>
Virgin's Bower (native clematis)	<u>Clematis virginiana</u>
Virginia Creeper	<u>Parthenocissus quinquefolia</u>
<u>Yellow Passionflower</u>	<u>Passiflora lutea</u>
Ferns	
Maidenhair Fern	<u>Adiantum pedatum</u>
Lady Fern	<u>Athyrium filix-femina</u>
Giant Wood Fern or Goldie's Fern	<u>Dryopteris goldiana</u>
Evergreen Shield Fern	<u>Dryopteris marginalis</u>
Ostrich Fern	<u>Matteuccia struthiopteris</u>
<u>Sensitive Fern</u>	<u>Onoclea sensibilis</u>
Cinnamon Fern	<u>Osmunda cinnamomea</u>
<u>Royal Fern</u>	<u>Osonda regalis</u>
Christmas Fern	<u>Polystichum acrostichoides</u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
Graminoids Grasses	
<u>Big Bluestem</u>	<u><i>Andropogon gerardii</i></u>
<u>Broomsedge</u>	<u><i>Andropogon virginicus</i></u>
<u>Side-Oats Gramma</u>	<u><i>Bouteloua curtipendula</i></u>
<u>Oak Sedge</u>	<u><i>Carex albicans</i></u>
<u>Yellow Fox Sedge</u>	<u><i>Carex annectens</i></u>
<u>Appalachian Sedge</u>	<u><i>Carex appalachia</i></u>
<u>Plains Oval Sedge</u>	<u><i>Carex brevior</i></u>
<u>Fringed Sedge</u>	<u><i>Carex crinita</i></u>
<u>Crested Sedge</u>	<u><i>Carex cristatella</i></u>
<u>Blue Wood Sedge</u>	<u><i>Carex flaccosperma</i></u>
<u>Gray's Sedge</u>	<u><i>Carex grayii</i></u>
<u>Hop Sedge</u>	<u><i>Carex lupulina</i></u>
<u>Palm Sedge</u>	<u><i>Carex muskingumensis</i></u>
<u>Pennsylvania Sedge</u>	<u><i>Carex pennsylvanica</i></u>
<u>Seersucker Sedge</u>	<u><i>Carex plantaginea</i></u>
<u>Eastern Star Sedge or Straight-Styled Wood Sedge</u>	<u><i>Carex radiata</i></u>
<u>Lanced-fruited, or Broom Sedge</u>	<u><i>Carex scoparia</i></u>
<u>Short's Sedge</u>	<u><i>Carex shortiana</i></u>
<u>Brown Fox Sedge</u> <u>Big Bluestem</u>	<u><i>Carex vulpinoidea</i></u> <u><i>Andropogon gerardii</i></u>
<u>Indian Seaoats or River Oats</u>	<u><i>Chasmanthium latifolium</i></u>
<u>Tufted Hair Grass</u>	<u><i>Deschampsia caespitosa</i></u>
<u>Canada Wild Rye</u> <u>Side-Oats Gramma</u>	<u><i>Elymus canadensis</i></u> <u><i>Bouteloua curtipendula</i></u>
<u>Bottlebrush Grass</u>	<u><i>Elymus hystrix</i></u>
<u>Silky Wild rye</u> <u>Indian Seaoats</u>	<u><i>Elymus villosus</i></u> <u><i>Chasmanthium latifolium</i></u>
<u>Virginia Wild Rye</u>	<u><i>Elymus virginicus</i></u>
<u>Purple Love Grass</u>	<u><i>Eragrostis spectabilis</i></u>
<u>Soft Rush</u>	<u><i>Juncus effuses</i></u>
<u>Torrey's Rush</u> <u>Bottlebrush Grass</u>	<u><i>Juncus torreyi</i></u> <u><i>Elymus hystrix</i></u>
<u>Virginia Wild Rye</u>	<u><i>Elymus virginicus</i></u>
<u>Switchgrass</u>	<u><i>Panicum virgatum</i></u>
<u>June Grass</u>	<u><i>Koeleria macrantha</i></u>
<u>Little Bluestem</u>	<u><i>Schizachyrium scoparium</i></u>

Table 04-1546: Permitted Herbaceous (Forb) Flowering Perennial Plant Species

Bold text indicates evergreen species

Common Name	Scientific Name
<u>Dark Green Bulrush</u>	<u><i>Scirpus atrovirens</i></u>
<u>Woolgrass</u>	<u><i>Scirpus cyperinus</i></u>
<u>Georgia Bulrush</u>	<u><i>Scirpus georgianus</i></u>
<u>Indian grass</u>	<u><i>Sorghastrum nutans, syn. Andropogon nutans</i></u>
<u>Prairie Cordgrass</u> <u>Switch Grass</u>	<u><i>Spartina pectinata</i></u> <u><i>Panicum virgatum</i></u>
<u>Prairie Dropseed</u> <u>Little Bluestem</u>	<u><i>Sporobolus heterolepis</i></u> <u><i>Schizachyrium scoparium</i></u>
<u>Prairie Dropseed</u>	<u><i>Sporobolus heterolepis</i></u>

(e) Prohibited Plant Species

Species identified in [Table 04-18: Prohibited Plant Species](#) [Table 04-17: Prohibited Plant Species](#) are considered unacceptable and shall not be planted because of invasive characteristics, weak wood, and/or abundant litter.

Table 04-1817: Prohibited Plant Species+* = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) [C 15-16-7](#)*+ = Indiana detrimental plants (INDNR) [C 15-16-8](#) ^ = Indiana terrestrial plant rule [\(312 IAC 18-3-25\)](#)@ = Indiana multiflora rose and purple loosestrife restrictions [\(312 IAC 18-3-13\)](#)# = Indiana control of kudzu rule [\(312 IAC 18-3-16\)](#)

Common Name	Scientific Name
Prohibited Invasive Trees	
<u>Hedge Maple</u>	<u><i>Acer campestre</i></u>
<u>Amur Maple</u>	<u><i>Acer ginnala</i></u>
<u>Norway Maple</u>	<u><i>Acer platanoides</i></u>
<u>Sycamore Maple</u> <u>Amur Maple</u>	<u><i>Acer pseudoplatanus</i></u> <u><i>Acer ginnala</i></u>
<u>Tree-of-Heaven</u>	<u><i>Ailanthus altissima</i></u> ^
<u>Mimosa</u> <u>Norway Maple</u>	<u><i>Albizia julibrissin</i></u> <u><i>Acer platanoides</i></u>
<u>Black Alder</u>	<u><i>Alnus glutinosa</i></u> ^
<u>Kousa Dogwood</u>	<u><i>Cornus kousa</i></u>
<u>Cornelian Cherry Dogwood</u> <u>Tree-of-Heaven</u>	<u><i>Cornus mas</i></u> <u><i>Ailanthus altissima</i></u>
<u>Russian Olive</u> <u>Black Alder</u>	<u><i>Elaeagnus angustifolia</i></u> <u><i>Alnus glutinosa</i></u>
<u>Autumn Olive</u>	<u><i>Elaeagnus umbellata</i></u> ^
<u>Hardy Rubber Tree</u> <u>Russian Olive</u>	<u><i>Eucommia ulmoides</i></u> <u><i>Elaeagnus angustifolia</i></u>
<u>Glossy Buckthorn</u>	<u><i>Frangula alnus</i></u> ^
<u>Golden Raintree</u>	<u><i>Koelreuteria paniculata</i></u>
<u>Chinaberry Tree</u> <u>Autumn Olive</u>	<u><i>Melia azedarach</i></u> <u><i>Elaeagnus umbellata</i></u>
<u>White Mulberry</u> <u>Glossy Buckthorn</u>	<u><i>Morus alba</i></u> ^ <u><i>Frangula alnus</i></u>

Table 04-1847: Prohibited Plant Species

± = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) (C 15-16-7)

*± = Indiana detrimental plants (INDNR) (C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Princess Tree</u> <u>White Mulberry</u>	<u><i>Paulownia tomentosa</i></u> <u><i>Morus alba</i></u>
<u>Sawtooth Oak</u> <u>Princess Tree</u>	<u><i>Quercus acutissima</i></u> <u><i>Paulownia tomentosa</i></u>
<u>Amur Cork Tree</u> <u>Sawtooth Oak</u>	<u><i>Phellodendron amurense</i></u> <u><i>Quercus acutissima</i></u> ^
<u>Callery Pear and all cultivars</u> <u>Amur Cork Tree</u>	<u><i>Pyrus calleryana</i></u> <u><i>Phellodendron amurense</i></u>
<u>European or Common Buckthorn and all cultivars</u> <u>Callery Pear and all cultivars</u>	<u><i>Rhamnus cathartica</i></u> <u><i>Pyrus calleryana</i></u> ^
<u>Glossy or Smooth Buckthorn and all cultivars</u> <u>European</u> <u>or Common Buckthorn and all cultivars</u>	<u><i>Rhamnus frangula</i></u> <u><i>Rhamnus cathartica</i></u> ^
<u>Buckthorn Tallhedge and all cultivars including</u> <u>'Fineline' Glossy or Smooth Buckthorn and all cultivars</u>	<u><i>Rhamnus frangula columnaris</i></u> <u><i>Rhamnus frangula</i></u> ^
<u>Black Locust</u> <u>Buckthorn Tallhedge and all cultivars</u>	<u><i>Robinia pseudoacacia</i></u> <u><i>Rhamnus frangula columnaris</i></u>
<u>Siberian Elm</u>	<u><i>Ulmus pumila</i></u> ^
<u>Japanese Zelkova</u> <u>Black Locust</u>	<u><i>Zelkova serrata</i></u> <u><i>Robinia pseudoacacia</i></u>
<u>Siberian Elm</u>	<u><i>Ulmus pumila</i></u>
Prohibited Plants with Poor <u>or Nuisance</u> Characteristics	
Box Elder	<i>Acer negundo</i>
Silver maple	<i>Acer saccharinum</i>
<u>Ragweed</u>	<u><i>Ambrosia artemisiifolia</i></u>
<u>Giant Ragweed</u>	<u><i>Ambrosia trifida</i></u>
<u>Tropical Milkweed</u>	<u><i>Asclepias curassavica</i></u>
European White Birch	<i>Betula pendula</i>
Poison Hemlock	<i>Conium maculatum</i> L.
Ash	<i>Fraxinus</i> species
Ginkgo (female only)	<i>Ginkgo biloba</i>
<u>Giant Hogweed</u> <u>or Giant Cow Parsnip</u> <u>or Wild Parsnip</u>	<i>Heracleum mantegazzianum</i>
Rice Cutgrass	<i>Leersia oryzoides</i>
Flowering Crabapple	<i>Malus</i>
<u>Heavenly Bamboo</u>	<u><i>Nandina domestica</i></u>
Wild Parsnip	<i>Pastinaca sativa</i>
American Elm	<i>Ulmus Americana</i>
Poison Ivy	<i>Toxicodendron radicans</i>
Poison Sumac	<i>Toxicodendron vernix</i>
<u>Stinging Nettle</u>	<u><i>Urtica dioica</i></u>
<u>Burning Nettle</u>	<u><i>Urtica urens</i></u>
Prohibited Invasive Herbaceous Perennials <u>and Forbs</u>	
<u>Japanese Chaff Flower</u>	<u><i>Achyranthes japonica</i></u> ^

Table 04-1847: Prohibited Plant Species

+* = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner) C 15-16-7)

*+ = Indiana detrimental plants (INDNR) C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Wild Garlic and Wild Onion</u> <u>Japanese Chaff Flower</u>	<u>Alliums spp.</u> <u>Achyranthes japonica</u>
<u>Garlic Mustard</u>	<u>Alliaria petiolata</u> ^
<u>Smooth Pigweed</u>	<u>Amaranthus hybridus</u> +
<u>Palmer Amaranth or carelessweed</u>	<u>Amaranthus palmeri</u> +
<u>Powell Amaranth</u>	<u>Amaranthus powellii</u> +
<u>Rough Pigweed</u>	<u>Amaranthus retroflexus</u> +
<u>Common Waterhemp</u>	<u>Amaranthus rudis</u> +
<u>Tall Waterhemp</u> <u>Wild Garlic and Wild Onion</u>	<u>Amaranthus tuberculatus</u> + <u>Alliums spp.</u> *
<u>Mugwort</u>	<u>Artemisia vulgaris</u> ^
<u>Italian Arum</u>	<u>Arum italicum</u>
<u>Narrowleaf Bittercress</u> <u>Garlic Mustard</u>	<u>Cardamine impatiens</u> <u>Alliaria petiolata</u>
<u>Spiny Plumeless Thistle</u> <u>Mugwort</u>	<u>Carduus acanthoides</u> ^ <u>Artemisia vulgaris</u>
<u>Cornflower or Bachelor's Button</u> <u>Spiny Plumeless Thistle</u>	<u>Centaurea cyanus</u> <u>Carduus acanthoides</u>
<u>Russian Knapweed</u> <u>Cornflower or Bachelor's Button</u>	<u>Centaurea repens</u> <u>Centaurea cyanus</u>
<u>Spotted Knapweed</u> <u>Russian Knapweed</u>	<u>Centaurea stoebe</u> ^ <u>Centaurea repens</u> *
<u>Canada Thistle</u> <u>Spotted Knapweed</u>	<u>Cirsium arvense</u> *+ <u>Centaurea stoebe</u>
<u>Bull Thistle</u> <u>Canada Thistle</u>	<u>Cirsium vulgare</u> ^ <u>Cirsium arvense</u> *+
<u>Poison Hemlock</u>	<u>Conium maculatum</u> +
<u>Marestail or Horsetail</u>	<u>Conyza canadensis</u> +
<u>Queen Anne's Lace</u> <u>Bull Thistle</u>	<u>Daucus carota</u> <u>Cirsium vulgare</u>
<u>Grecian Foxglove</u> <u>Poison Hemlock</u>	<u>Digitalis lanata</u> <u>Conium maculatum</u>
<u>Teasel</u> <u>Grecian Foxglove</u>	<u>Dipsacus fullonum ssp. sylvestris</u> ^ <u>Digitalis lanata</u>
<u>Cutleaf Teasel</u> <u>Teasel</u>	<u>Dipsacus laciniatus</u> ^ <u>Dipsacus fullonum ssp. Sylvestris</u>
<u>Leafy Spurge</u> <u>Cutleaf Teasel</u>	<u>Euphorbia virgata</u> ^ <u>Dipsacus laciniatus</u>
<u>Mulberry weed, Hairy Crabweed</u>	<u>Fatoua villosa</u>
<u>Giant Hogweed</u> <u>Leafy Spurge</u>	<u>Heracleum mantegazzianum</u> <u>Euphorbia virgata</u>
<u>Dame's Rocket</u> <u>Giant Hogweed</u>	<u>Hesperis matronalis</u> ^ <u>Fallopia japonica</u>
<u>Meadow Fleabane or British Yellowhead</u>	<u>Inula britannica</u>
<u>Korean Lespedeza</u>	<u>Kummerowia stipulacea</u>
<u>Striate Lespedeza</u> <u>Dame's Rocket</u>	<u>Kummerowia striata</u> <u>Hesperis matronalis</u>
<u>Perennial Peppergrass</u> <u>Meadow Fleabane or British Yellowhead</u>	<u>Lepidium draba</u> ^ <u>Inula britannica</u>
<u>Pepperweed</u> <u>Perennial Peppergrass</u>	<u>Lepidium latifolium</u> ^ <u>Lepidium draba</u> *

Table 04-1847: Prohibited Plant Species

+‡ = Indiana State-listed noxious weeds (USDA, INDNR, &/or State Seed Commissioner[C 15-16-7])

*+ = Indiana detrimental plants (INDNR[C 15-16-8]) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Bicolor Lespedeza</u> <u>Pepperweed</u>	<u>Lespedeza bicolor</u> <u>Lepidium latifolium</u>
<u>Sericea Lespedeza</u> <u>Bicolor Lespedeza</u>	<u>Lespedeza cuneata</u> ^ <u>Lespedeza cuneata</u>
<u>Purple Loosestrife</u> <u>Sericea Lespedeza</u>	<u>Lythrum salicaria</u> @ <u>Lespedeza cuneata</u>
<u>White Sweet Clover</u>	<u>Melilotus alba</u>
<u>Yellow Sweet Clover</u> <u>Purple Loosestrife</u>	<u>Melilotus officinalis</u> <u>Lythrum salicaria</u> *
<u>Star of Bethlehem</u> <u>Sweet Clover</u>	<u>Ornithogalum umbellatum</u> <u>Melilotus alba</u> , <u>M. officinalis</u>
<u>Lesser Celandine</u>	<u>Ranunculus ficaria</u>
<u>Beefsteak Plant</u> <u>Star of Bethlehem</u>	<u>Perilla frutescens</u> <u>Ornithogalum umbellatum</u>
<u>Japanese Knotweed</u> <u>Lesser Celandine</u>	<u>Polygonum cuspidatum</u> , <u>Reynoutria japonica</u> , <u>Fallopia japonica</u> ^ <u>Ranunculus ficaria</u>
<u>Giant Knotweed</u> <u>Japanese Knotweed</u>	<u>Reynoutria sachalinensis</u> ^ <u>Polygonum cuspidatum</u>
<u>Bohemian Knotweed</u>	<u>Reynoutria x bohemica</u> ^
<u>Bouncing Bet</u> <u>Giant Knotweed</u>	<u>Saponaria officinalis</u> <u>Reynoutria sachalinensis</u>
<u>Perennial Sowthistle</u>	<u>Sonchus arvensis</u>
<u>Spreading Hedge Parsley</u>	<u>Torilis arvensis</u>
<u>Japanese Hedge Parsley</u> <u>Bohemian Knotweed</u>	<u>Torilis japonica</u> <u>Reynoutria x bohemica</u>
<u>Black Swallow-Wort</u> <u>Perennial Sowthistle</u>	<u>Vincetoxicum nigrum</u> ^ <u>Sonchus arvensis</u> *
<u>Pale Swallow-Wort</u> <u>Black Swallow-wort</u>	<u>Vincetoxicum rossicum</u> ^ <u>Vincetoxicum nigrum</u>
<u>Pale Swallow-wort</u>	<u>Vincetoxicum rossicum</u>
Prohibited Invasive Graminoidsses	
<u>Quackgrass</u>	<u>Agropyron repens</u>
<u>Giant Reed</u> <u>Quackgrass</u>	<u>Arundo donax</u> <u>Agropyron repens</u> *
<u>Small Carpgrass</u> <u>Giant Reed</u>	<u>Arthraxon hispidus</u> ^ <u>Arundo donax</u>
<u>Smooth Brome</u> <u>Small Carpgrass</u>	<u>Bromus inermis</u> <u>Arthraxon hispidus</u>
<u>Tall Fescue and all cultivars</u>	<u>Festuca elatior</u>
<u>Cogon grass</u> , <u>Japanese Blood Grass</u> <u>Smooth Brome</u>	<u>Imperata cylindrica</u> <u>Bromus inermis</u>
<u>Japanese Stiltgrass</u> <u>Tall Fescue and all cultivars</u>	<u>Microstegium vimineum</u> ^ <u>Festuca elatior</u>
<u>Maiden Grass</u> <u>Japanese Stiltgrass</u>	<u>Miscanthus sinensis</u> <u>Microstegium vimineum</u>
<u>Reed Canary Grass</u> <u>Maiden Grass</u>	<u>Phalaris arundinacea</u> ^ <u>Miscanthus sinensis</u>
<u>Common Reed Grass</u>	<u>Phragmites australis</u> ^
<u>Ravenna Grass</u>	<u>Saccharum ravennae</u>
<u>Tall Fescue</u> <u>Reed Canary Grass</u>	<u>Schedonorus arundinaceus</u> <u>Phalaris arundinacea</u>
<u>Columbus Grass</u> <u>Common Reed Grass</u>	<u>Sorghum x almum</u> <u>Parodi</u> *+ <u>Phragmites australis</u>
<u>Shattercane</u> <u>Columbus Grass</u>	<u>Sorghum bicolor</u> *+ <u>Sorghum almum</u> <u>Parodi</u> *
<u>Johnson Grass or Sorghum Almum</u> <u>Shattercane</u>	<u>Sorghum halepense</u> *+ <u>Sorghum bicolor</u> *+

Table 04-1847: Prohibited Plant Species

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*+ = Indiana detrimental plants (INDNR) (C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
<u>Yellow Groove Bamboo Johnson Grass or Sorghum</u> <u>Alum</u>	<u><i>Phyllostachys aureosulcata</i></u> <u><i>Sorghum halepense</i></u> *+
<u>Yellow Groove Bamboo</u>	<u><i>Phyllostachys aureosulcata</i></u>
Prohibited Invasive Vines and Groundcovers	
<u>Porcelain Berry</u>	<u><i>Ampelopsis brevipedunculata</i></u>
<u>Oriental Bittersweet</u>	<u><i>Celastrus orbiculatus</i></u> ^
<u>Asiatic Bittersweet Oriental Bittersweet</u>	<u><i>Celastrus scandens</i></u> <u><i>Celastrus orbiculatus</i></u>
<u>Sweet Autumn Clematis Asiatic Bittersweet</u>	<u><i>Clematis terniflora</i></u> <u><i>Celastrus scandens</i></u>
<u>Field Bindweed Sweet Autumn Clematis</u>	<u><i>Convolvulus arvensis</i></u> ^ <u><i>Clematis terniflora</i></u>
<u>Crown Vetch Field Bindweed</u>	<u><i>Coronilla varia</i></u> ^ <u><i>Convolvulus arvensis</i></u> *
<u>Black Swallow-Wort Crown Vetch</u>	<u><i>Cynanchum nigrum</i></u> , syn. <u><i>Vincetoxicum nigrum</i></u> ^ <u><i>Coronilla varia</i></u>
<u>Pale Swallow-Wort Black Swallow-Wort</u>	<u><i>Cynanchum rossicum</i></u> ^ <u><i>Cynanchum nigrum</i></u> , syn. <u><i>Vincetoxicum nigrum</i></u>
<u>Potato Vine Pale Swallow-Wort</u>	<u><i>Dioscorea batatas</i></u> <u><i>Cynanchum rossicum</i></u>
<u>Chinese Yam Potato Vine</u>	<u><i>Dioscorea oppositifolia</i></u> ^ <u><i>Dioscorea batatas</i></u>
<u>Purple Winter Creeper Chinese Yam</u>	<u><i>Euonymus fortunei</i></u> ^ <u><i>Dioscorea oppositifolia</i></u>
<u>Creeping Charlie Purple Winter Creeper</u>	<u><i>Glechoma hederacea</i></u> <u><i>Euonymus fortunei</i></u>
<u>English Ivy Creeping Charlie</u>	<u><i>Hedera helix</i></u> <u><i>Glechoma hederacea</i></u>
<u>Japanese Hops</u>	<u><i>Humulus japonicus</i></u> ^
<u>Yellow Archangel English Ivy</u>	<u><i>Lamium galeobdolon</i></u> <u><i>Hedera helix</i></u>
<u>Japanese Honeysuckle Japanese Hops</u>	<u><i>Lonicera japonica</i></u> ^ <u><i>Humulus japonicus</i></u>
<u>Creeping Jenny or Moneywort Japanese Honeysuckle</u>	<u><i>Lysimachia nummularia</i></u> <u><i>Lonicera japonica</i></u>
<u>Mile-A-Minute Weed or Mile-A-Minute Vine Creeping Jenny or Moneywort</u>	<u><i>Polygonum perfoliatum</i></u> ^, <u><i>Persicaria perfoliata</i></u> ^ <u><i>Lysimachia nummularia</i></u>
<u>Kudzu Mile-A-Minute Weed</u>	<u><i>Pueraria montana lobata</i></u> # <u><i>Polygonum perfoliatum</i></u>
<u>Bur Cucumber</u>	<u><i>Sicyos angulatus</i></u> *+
<u>Vetch Kudzu</u>	<u><i>Vicia cracca</i></u> <u><i>Pueraria montana lobata</i></u>
<u>Periwinkle or Myrtle Bur Cucumber</u>	<u><i>Vinca minor</i></u> <u><i>Sicyos angulatus</i></u> *+
<u>Wisteria Periwinkle or Myrtle</u>	<u><i>Wisteria sinensis</i></u> <u><i>Vinca minor</i></u>
<u>Wisteria</u>	<u><i>Wisteria sinensis</i></u>
Prohibited Invasive Shrubs	
<u>Black Alder</u>	<u><i>Alnus glutinosa</i></u> ^
<u>Japanese Barberry Black Alder</u>	<u><i>Berberis thunbergii</i></u> ^ <u><i>Alnus glutinosa</i></u>
<u>Butterfly Bush Japanese Barberry</u>	<u><i>Buddleia davidii</i></u> <u><i>Berberis thunbergii</i></u>
<u>Burning Bush Butterfly Bush</u>	<u><i>Euonymus alatus</i></u> <u><i>Buddleia davidii</i></u>

Table 04-1847: Prohibited Plant Species

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*+ = Indiana detrimental plants (INDNR) (C 15-16-8) ^ = Indiana terrestrial plant rule (312 IAC 18-3-25)

@ = Indiana multiflora rose and purple loosestrife restrictions (312 IAC 18-3-13)

= Indiana control of kudzu rule (312 IAC 18-3-16)

Common Name	Scientific Name
Blunt-Leaved Privet Burning Bush	<i>Ligustrum obusifolium</i> ^ <i>Euonymus alatus</i>
Common Privet Blunt-leaved Privet	<i>Ligustrum vulgare</i> ^ <i>Ligustrum obusifolium</i>
Bush or Amur Honeysuckle Common Privet	<i>Lonicera maackii</i> ^ <i>Ligustrum vulgare</i>
Morrow's Honeysuckle Bush or Amur Honeysuckle	<i>Lonicera morowii</i> ^ <i>Lonicera maackii</i>
Tatarian Honeysuckle Morrow's Honeysuckle	<i>Lonicera tatarica</i> ^ <i>Lonicera morowii</i>
Bell's Honeysuckle	<i>Lonicera x bella</i> ^
Heavenly Bamboo, Sacred bamboo Tatarian Honeysuckle	<i>Nandina domestica</i> <i>Lonicera tatarica</i>
Jetbead	<i>Rhodotypos scandens</i> ^
Bristly Locust Bell's Honeysuckle	<i>Robinia hispida</i> <i>Lonicera x bella</i>
Multiflora Rose Jetbead	<i>Rosa multiflora</i> @ <i>Rhodotypos scandens</i>
Wineberry Multiflora Rose	<i>Rubus phoenicolasius</i> <i>Rosa multiflora</i> *
Japanese Spirea or Japanese Meadowsweet Wineberry	<i>Spiraea japonica</i> <i>Rubus phoenicolasius</i>
Atlantic Poison Oak Japanese Spirea	<i>Toxicodendron pubescens, syn. Rhus pubescens</i> <i>Spiraea japonica</i>
European Highbush Cranberry Atlantic Poison Oak	<i>Viburnum opulus var. opulus</i> <i>Toxicodendron pubescens, syn. Rhus pubescens</i>
Poison Sumac	<i>Toxicodendron vernix, syn. Rhus vernix</i>
European Highbush Cranberry	<i>Viburnum opulus v. opulus</i>

(f) Street Trees

(1) Number

The minimum number of required street trees to be planted shall be one large canopy tree for every 30 feet of property that abuts a public right-of-way. If medium or small trees are allowed, two medium or small trees can be substituted for each large canopy tree. A minimum of one canopy tree shall be planted per 40 feet of property that abuts a public right-of-way or 20 feet for small trees under overhead utility lines.

(2) Type

Street tree species shall be subject to approval by the City's Urban Forester based on hardiness, seasonal appearance, and contribution to shading and cooling.

(3) Location

(A) Freeway/Expressway

Street trees along a limited-access highway shall be planted within 15 feet of the property line that abuts the limited-access highway. No trees shall be planted in the right-of-way.

(B) Arterial, Collector, Local or Private Street

Street trees along an arterial, collector, local, or private street shall be planted in a minimum five-foot wide tree plot between the sidewalk and the curb. If a tree plot is not available, then the street trees shall be planted within the front yard immediately adjacent to the street. Street trees planted within the front yard shall not count towards other landscaping requirements.

(C) ~~Proximity of Adjacent Street Trees~~ Separation

The spacing between adjacent street trees shall be no less than 10 feet from the center of one tree to the next, and no more than 40 feet. ~~Street trees shall be planted no more than 30 feet apart, from the center of one tree to the next, except that street trees with separation exceeding 30 feet may be approved by the Planning and Transportation Department because of site constraints, such as utility or driveway location.~~

(D) Tree Grates

Street trees may be planted in a minimum five foot by five-foot tree pit covered with an ADA compliant cast iron grate to maintain a flush grade with adjacent sidewalks.

(E) Planting

All street trees shall be planted, stabilized, and mulched according to this UDO and the Administrative Manual.

(E)(F) Vision Clearance

~~i. Street trees shall be planted outside the vision clearance triangle as defined in Section 20.04.050(c)(4) (Connectivity)~~

~~ii. Where properties have adjacent street or access drive stubs intended for connection, these stubs shall be extended and connected on the developing property.~~

~~iii.i. Vision Clearance Triangle), Street trees shall be planted outside the vision clearance triangle, as defined in Section 20.04.050(c)(4) (Vision Clearance Triangle), or within that portion of the vision clearance triangle behind the sidewalk.~~

~~iv.ii. Low-branching species shall not be allowed within 50 feet of an intersection.~~

~~v.iii. Locations for street trees within 50 feet of an intersection shall be approved by the City Engineering Department.~~

~~vi.iv. Street trees shall be located a minimum of 10 feet from a driveway cut, traffic control sign, or streetlight, and a minimum of three feet from a fire hydrant.~~

(4) MD District**(A) Generally**

Street trees shall be planted in a minimum five foot by five-foot tree pit covered with an ADA compliant cast iron grate to maintain a flush grade with adjacent sidewalks, subject to approval by the Transportation and Traffic Engineer.

(B) Alternatives

The following street tree planting methods may be used in lieu of the five foot by five-foot grate, subject to approval by the Transportation and Traffic Engineer.

- i. Street trees may be planted in a minimum five-foot-wide grassed tree plot area; or
- ii. Street trees may be planted in a large curbed planting area.

(g) Buffer Yards**(1) Purpose**

Buffer yards are required to mitigate or minimize potential nuisances such as noise, light, glare, dirt, litter, signs, parking, or storage areas and to provide a transition between incompatible uses.

(2) General Standards**(A) Responsibility**

The developer or owner of the property being developed is responsible for installing and maintaining in perpetuity the buffer yard at the time of that development. The adjacent property owner shall not be required to participate in the installation of the buffer yard.

(B) Location

All required buffer yard areas shall be provided entirely on the subject property, ~~and shall be in addition to setbacks required by Section 20.04.020 (Dimensional Standards).~~ The required buffer yards shall be installed despite the presence of alleys, streams or other features that may separate the two properties.

(C) Plant Material

All plant material used to meet the buffer yard requirements shall meet the standards of this section, and shall be selected from the list of permitted plant species in Section 20.04.080(d).

(D) Groundcover

All portions of a buffer yard not planted with trees, shrubs, or other required landscape materials shall be covered with grass or similar ground-covering vegetation. Landscaping stone or other non-vegetative materials may not be substituted for ground-covering vegetation except for areas that incorporate stormwater treatment alternatives, such as swales and culvert outfalls. Decorative mulch or stone planting beds may be used around trees, provided that such planting beds are six feet or less in diameter.

(E) Planned Unit Development

For development adjacent to a Planned Unit Development, or for a Planned Unit Development adjacent to existing development, the zoning district that most closely matches the predominant use of the Planned Unit Development shall be used to determine the buffer yard type, as determined by the decision-making body.

(F) Credit Toward Other Requirements

~~New landscaping that is required to meet these buffer yard requirements shall not count toward other site or parking lot landscaping requirements.~~

(F)(G) ~~Credit Toward Other Requirements~~ Prohibited Uses

~~Buildings, parking areas, swimming pools, or drive aisles are not allowed within buffer yards. New landscaping that is required to meet these buffer yard requirements shall not count toward other site or parking lot landscaping requirements.~~

(3) Buffer Yard Types

Required buffer yards shall be installed according to the following standards:

Table 04-1918: Required Buffer Yard Types

Buffer Yard Treatment	Buffer Type		
	Type 1	Type 2	Type 3
Minimum width setback [1]	10 feet	15 feet	20 feet
Deciduous trees	1 tree every 30 linear feet	1 tree every 25 linear feet	1 tree every 20 linear feet
Evergreen trees	No requirement	2 trees every 25 linear feet	(see below)
Other	No requirement	No requirement	Any one of the following: 1 evergreen tree every 10 linear feet; or A 6-foot opaque fence; or A stone/brick wall; or A 5-foot tall undulating berm planted with shrubs

Notes:

[1] The buffer yard setback is measured from the property line along the boundary between the subject and adjoining properties, ~~and shall be provided in addition to the required building and parking setbacks required by this UDO.~~

(4) Buffer Yard Requirements

Buffer yards shall be required by the developing use pursuant to ~~Table 04-19: Required Buffer Yards.~~

Table 04-20: Required Buffer Yards

Developing Site Property Zoning District	Adjacent Zoning District							
	R1/R2/R3/R4	RMH	RM/RH	MS	MN	MD	MM/MC	ME/MI/MH/EM
RMH	2							
RM/RH	1	1						
MS	2	2						
MN	1	1						
MD	1	1						
MM/MC	2	2	2	2	2	1		
ME/MI/MH/EM	3	3	2	2	2	1	1	

Notes:

[1] ~~The uses Dwelling, single-family (attached); Dwelling, single-family (detached); Dwelling, duplex; Dwelling, triplex; and Dwelling, fourplex do not have to provide a buffer yard, even if on the 'Developing Site'.~~

Table 04-19: Required Buffer Yards

Developing Use	Adjacent Use Type or Category			
	Single-family detached, duplex, triplex, or fourplex	Multifamily or single-family attached	Mixed-use, commercial, or institutional	Employment
Single-family detached, duplex, triplex, and fourplex		4	3	3
Multifamily and single-family attached	4		2	3

Mixed-use, commercial, or institutional	3	2		4
Employment	3	3	2	

(h) Parking Lot Landscaping

(1) Parking Lot Perimeter Treatment

Parking lots shall be screened from streets and adjacent uses using a combination of plant materials, decorative fences, decorative walls, and/or earthen berms. Parking lots with four or more spaces shall have the following perimeter treatment:

(A) Minimum Landscape Width

i. Generally

A landscape area a minimum of eight feet in width shall be provided along all parking lot perimeter areas abutting another property or a public right-of-way. This standard does not apply to those portions of a development site where shared parking, access, or other site features adjoin at the property line.

ii. MD Zone District

A minimum of one of the following perimeter landscape treatments shall be applied in the MD zoning district:

1. A landscape area a minimum of five feet in width shall be provided along all surface parking lot perimeter areas abutting another property or a public right-of-way. This standard does not apply to those portions of a development site where shared parking, access, or other site features adjoin at the property line; or
2. A decorative wall shall be installed along the perimeter of the parking area except for parking spaces where vehicles back out into the public right-of-way. Decorative walls shall be a minimum of 30 inches and a maximum of 42 inches in height and may incorporate breaks to allow for pedestrian movement.

(B) Trees

i. Number

Parking lot perimeter areas shall contain a minimum of one tree per four parking spaces.

ii. Type

A minimum of 75 percent of the required trees shall be large, canopy trees.

iii. Location

Trees shall be planted within 10 feet of the parking lot edge.

(C) Shrubs

i. Number

Parking lot perimeter areas shall contain a minimum of three shrubs per one parking space.

ii. Location

Shrubs shall be planted within five feet of the parking lot edge. In situations where there is a sidewalk immediately adjacent to a parking area, the required shrubs must be within 5' of the edge of the sidewalk.

iii. Height

Shrubs planted in parking lot perimeter areas shall be selected from species that grow to a minimum height of four feet.

(2) Landscape Bumpouts, Islands, and Endcaps**(A) Number**

Parking lots with 12 or more parking spaces shall provide one landscape bumpout, island, or endcap per every 10 parking spaces.

(B) Minimum Area

The width and length of each required landscape bumpout, island, or endcap shall be equal to the width and length of the adjacent parking space.

(C) Minimum Planting

Each landscape bumpout, island, or endcap shall contain at least one large canopy tree. Where a bumpout, island, or endcap area is equal to the width and length of two parking spaces, a minimum of two large canopy trees shall be provided. Required trees within bumpouts, islands, or endcaps do not count toward required street tree totals, required parking lot perimeter area tree totals, or required interior plantings tree totals.

(D) Stormwater Filtration

Parking lot bumpouts, islands, or endcaps shall be installed lower than the parking surface to allow stormwater run-off to enter the bumpout, island, or endcap for natural treatment and filtration. Any parking areas with curbing shall incorporate gaps to allow stormwater to enter the bumpout, island, or endcap.

(E) Placement

Landscape bumpouts, islands, or endcaps shall be installed to control vehicular circulation and define major drives. Such islands shall be placed at intervals of no more than 10 consecutive spaces.

(i) Multifamily Development Landscaping

(1) Interior Plantings

The minimum landscape area on a site not covered by a structure, parking lot, accessway, required buffer yard, or other pervious surface as established in Section 20.04.020 (Dimensional Standards) shall be planted with the following:

- (A) A minimum of 14 large canopy trees, five evergreen trees, and five medium or small canopy trees per acre.
- (B) A minimum of 36 shrubs per acre. One ornamental tree may be substituted for every four shrubs; however, substitution shall not exceed 50 percent of the required shrubs.
- (C) Shrubs and ornamental trees along foundation walls of structures shall be planted no closer than two feet and eight feet respectively from the foundation wall.

(2) Parking Lot Landscaping

See Section 20.04.080(h).

- (B) A site plan has been approved for the reuse of the property. If an approved site plan has expired and has not been renewed, landscaping as outlined in Section 20.04.080(l)(3) shall be installed within 180 days after site plan expiration.

(3) Planting Requirements

- (A) For lots of one-half acre or less, the entire lot containing the demolition activity shall be covered with grass or other suitable ground cover. No ground cover is required in locations where existing vegetation, remaining structures, or parking areas serving such remaining structures still exist.
- (B) For lots greater than one-half acre, one of the following landscaping options must be selected:
- i. The entire area disturbed for demolition shall be covered with grass or other suitable ground cover; or
 - ii. A 10-foot wide planting area shall be installed along the property line bordering the entire area disturbed for demolition from any public street. This planting area may either utilize raised planters or be level with street grade. Evergreen shrubs that grow to a minimum height of at least four feet shall be planted every three feet within these planting areas.

(m) Screening

(1) Roof-Mounted Mechanical Equipment

- (A) Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design.
- (B) The parapet wall or similar feature shall be sufficient to screen the mechanical equipment from all sides when viewed from ground-level.
- (C) Facilities for the operation of active or passive solar energy systems and other alternate energy systems shall be exempt from the screening requirements.

(2) Ground-Mounted Mechanical Equipment

The following standards shall apply to all uses except for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses.

- (A) Outdoor ground-mounted mechanical equipment which relates to power supply, watering, heating, ventilating, and similar purposes (including, but not limited to subpanels, transformers, air conditioners, heating, cooling and ventilating equipment, kitchen hoods and vents, swimming pool equipment, pumps and heaters, propane tanks), and all other mechanical equipment shall be located where it is not visible from public open space, public trails, public streets, or from adjacent properties to the maximum extent practicable.
- (B) In cases when ground-mounted mechanical equipment is visible from a public open space, public trail, public street, or adjacent property, the equipment shall be screened from view by a solid wall or fence or a vegetative screen that satisfy the following criteria, except that ground-mounted equipment within 10 feet of an improved platted alley does not require screening:
- i. The wall or fence shall be of a height equal to or greater than the height of the mechanical equipment being screened and shall be compatible with the architecture and landscaping of the development; or

20.04.100 Signs

(a) Purpose

The intent of these sign standards is to:

- (1) Accomplish the goals of the Comprehensive Plan;
- (2) Avoid unnecessary proliferation of signs;
- (3) Provide developments with appropriate identification;
- (4) Create a consistent streetscape;
- (5) Maintain and enhance the aesthetic environment of the city and its City;
- (6) Eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and
- (7) Promote the health, safety, and welfare of the residents of the City of Bloomington.
- (8) No part of these standards shall in any way be interpreted to infringe upon those rights guaranteed by the First Amendment to the United States Constitution or Article 1, Section 9 of the Indiana Constitution.

(b) Applicability

No sign or advertising device shall be established, altered, changed, erected, constructed, reconstructed, moved, divided, enlarged, demolished or maintained except in compliance with this Section 20.04.100.

(c) Permit Requirements

(1) Generally

A sign permit shall be required for all signs located, erected, constructed, reconstructed, moved, or altered unless specifically exempted by this Section 20.04.100.

(2) Signs not Requiring a Permit

The following signs are exempt from the requirement to obtain a sign permit, unless specifically required by another subsection of this Section 20.04.100.

(A) Public Signs

Any signs erected, or required to be erected, by a unit of local, state, or federal government. [City of Bloomington public signs are exempt from signage regulations.](#)

(B) Small Signs

Any sign of not more than one and one-half square feet in area.

(C) Temporary Signs

- i. In all zoning districts, each property is allowed to have two signs, neither of which shall exceed five square feet in area, and one additional sign that shall not exceed eight square feet in area.
- ii. In nonresidential and mixed-use zoning districts, each vacant property, or property that is under construction, is allowed to have one sign that shall not exceed 32 square feet in area.

7. Replacement or switch-out of individual tenant panels on a multi-tenant sign shall not require compliance of the entire freestanding sign but shall require a sign permit.
8. The gross floor area calculations described in this Section 20.04.100(j)(4)(B)ii shall not include any square footage associated with a residential use.

(C) Height

- i. For individual nonresidential uses and multi-tenant centers of less than 20,000 square feet of gross floor area, the maximum freestanding sign height shall be six feet.
- ii. For multi-tenant centers with at least 20,000 square feet and less than 50,000 square feet of gross floor area, the maximum freestanding sign height shall be eight feet.
- iii. For multi-tenant centers with at least 50,000 square feet of gross floor area, the maximum sign height shall be 15 feet.
- iv. The gross floor area calculations described in this Section 20.04.100(j)(4)(C) shall not include any square footage associated with a residential use.

(D) Separation

Where a lot is permitted multiple freestanding signs, no two freestanding signs shall be within 100 feet of each other, as measured along the public right-of-way.

(E) Changeable Copy

A maximum of 80 percent of any freestanding sign may be dedicated to changeable copy.

(5) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage square footage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display cabinet, measured at the outer edge of the cabinet frame.
- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(6) Drive-Through Uses

In addition to the signs listed in this Section 20.04.100:

- (A) Structures with a drive-through shall be permitted one additional sign at the entrance to or for each area connected to a drive-through lane, provided that the sign has only one face, the maximum area of that sign face does not exceed 36 square feet, and the height of the sign does not exceed six feet. These signs shall be allowed to have 20% as electronic reader board and shall be exempt from the landscaping requirements of 20.04.100(g)(1)(E).
- (B) Structures with a drive-through shall be permitted two additional freestanding signs, with a maximum sign face area that does not exceed four square feet, and the height of the sign does not exceed four feet.

~~(B)(C)~~ Structures with a drive-through shall be permitted one additional sign at the ordering location of each drive-through, provided that the sign(s) has only one face, the maximum area of that sign face does not exceed 12 square feet, and the height does not exceed five feet. These signs shall be allowed to have 100% as electronic reader board and shall be exempt from the landscaping requirements of 20.04.100(g)(1)(E).

(7) Multifamily Dwelling Uses

~~The following standards apply to multifamily dwelling uses: Developments containing at least 15 dwelling units shall be permitted up to 24 square feet of wall signage per development and one freestanding sign per vehicle entrance. The freestanding sign shall not exceed 32 square feet and the height of the sign shall not exceed six feet.~~

~~(A) Multifamily developments containing between 3 and 14 dwelling units shall be permitted one wall sign not to exceed 24 square feet per development.~~

~~(B) Multifamily developments containing at least 15 dwelling units shall be permitted:~~

~~i. One freestanding sign per development vehicle entrance, not to exceed 32 square feet per side in maximum sign area and not to exceed six feet in height; and~~

~~ii. One wall sign per building not to exceed 24 square feet each.~~

(8) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following standards:

(A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.

(B) The following numbers of signs are permitted:

i. Individual nonresidential uses shall be permitted a maximum of three temporary signs.

ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of three temporary signs.

iii. Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.

(C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8).

(D) Temporary signs shall not exceed 16 square feet.

(E) Freestanding temporary signs shall not exceed six feet in height.

(F) External illumination of temporary signs is prohibited.

(G) Display of temporary signs shall be permitted for a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

(k) MN District Sign Standards

(1) Applicability

This sign standards section applies to the MN zoning districts.

(2) Wall Signs

The following standards apply to wall signs for individual uses or tenants within a multi-tenant center:

(A) Allowance**i. Individual Nonresidential Uses**

The cumulative square footage of all wall signs shall not exceed one square foot per lineal foot of primary structure that faces a public or private street.

ii. Multi-tenant Centers

The cumulative square footage of all wall signs for any individual use shall not exceed one and one-half square feet per lineal foot of the facade width associated with the use facing either a public or private street or facing a parking area if no street frontage is adjacent. For purposes of this section, only one facade of the building will be used to measure allowance with the exception of corner locations in multi-tenant buildings, which shall be permitted to use the side facade as additional facade width.

iii. Limits

No property shall be limited to less than 20 square feet of wall signage and no use or tenant shall be permitted to exceed 100 square feet of wall signage.

(B) Location

No wall signage shall be located on a side or rear building facade facing a residential use.

(C) Maximum Projection

No part of a wall sign, other than an awning sign, shall protrude more than 12 inches from the wall or face of the building to which it is attached.

(3) Projecting Signs

A 5 square foot projecting sign is allowed on a tenant's lease space. Projecting signs shall count toward wall signage allotment

(4) Freestanding Signs

The following standards apply to permanent freestanding signs:

- (A) Lots with 30 feet or less of public street frontage shall not be permitted any freestanding signs. Lots with more than 30 feet of public street frontage on a single street are permitted a maximum of one freestanding sign.
- (B) No freestanding sign shall exceed 15 square feet in area per side.
- (C) No freestanding sign shall exceed four feet in height.
- (D) Internally illuminated signs are prohibited.

(5) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display, measured at the outer edge of the cabinet frame.

- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(6) Multifamily Dwelling Uses

Multifamily developments shall be permitted one wall sign not to exceed 24 square feet.

(6)(7) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following standards:

- (A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.
- (B) The following numbers of signs are permitted:
 - i. Individual nonresidential uses shall be permitted a maximum of three temporary signs.
 - ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of three temporary signs.
 - iii. Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.
- (C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8).
- (D) Temporary signs shall not exceed 16 square feet.
- (E) Freestanding temporary signs shall not exceed six feet in height.
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted for up to a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

(7)(8) Electronic Reader Boards

Electronic reader boards are not permitted in this zoning district.

(8)(9) Sandwich Board Signs

Properties immediately adjacent to a public sidewalk shall be permitted to place sandwich board signs in the public sidewalk provided the following criteria are met.

(A) Number

Each property shall be permitted one sandwich board sign. If a property contains more than one tenant, additional sandwich board signs shall be permitted, provided the number of sandwich boards in front of a single property shall be limited to ensure that no sandwich board sign shall be placed within eight linear feet of another sandwich board sign, measured from the base of each sign.

(B) Design

- i. Sign face area shall not exceed five square feet.

- (F) No part of a projecting sign shall protrude more than 96 inches from the wall or face of the building to which it is attached. Those support structures located between the building and the sign only shall be counted toward this allowance.
- (G) Projecting signs shall be located adjacent to the tenant's lease space and shall be installed at least seven feet above the pavement.
- (H) The petitioner for a projecting sign shall provide information verifying that the building facade containing the projecting sign can tolerate anticipated wind loading.

(4) Freestanding Signs

The following standards apply to permanent freestanding signs.

- (A) The erection of freestanding signs shall be prohibited on any property frontage immediately adjacent to the B-Line Trail right-of-way.
- (B) Lots with 30 feet or less of public street frontage are not permitted any freestanding signs. Properties with more than 30 feet of public street frontage on a single street are permitted a maximum of one freestanding sign.
- (C) Freestanding signs shall not exceed 15 square feet.
- (D) Freestanding signs shall not exceed four feet in height.
- (E) No freestanding sign shall be allowed unless the primary structure on a lot is set back from the public right-of-way by a minimum of 15 feet.
- (F) Internally illuminated signs and electronic reader boards are prohibited.
- (G) Changeable copy shall be prohibited as part of a freestanding sign.

(5) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display, measured at the outer edge of the cabinet frame.
- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(6) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following standards:

- (A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.
- (B) The following numbers of signs are permitted:
 - i. Individual nonresidential uses shall be permitted a maximum of three temporary signs.
 - ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of three temporary signs.

- (B) The petitioner takes one of the following actions in response to the findings of the linkage study:
- i. The petitioner constructs at least the number of affordable dwelling units required to offset the increased demand for affordable housing calculated based on the linkage study, and each of those affordable dwelling units (a) is located off site, and (b) is deed-restricted to meet the Tier 1 or Tier 2 criteria for affordability levels and length of income restriction in Section 20.04.110(c), and (c) complies with the standards in Section 20.04.110(c)(6); or
 - ii. The petitioner purchases at least the number of existing market-rate dwelling units required to offset the increased demand for affordable housing calculated based on the linkage study, and each purchased market-rate unit is converted to an affordable dwelling unit that (a) is deed-restricted to meet the Tier 1 or Tier 2 criteria for affordability levels and length of income restriction in Section 20.04.110(c), and (b) complies with the standards in Section 20.04.110(c)(6); or
 - iii. The petitioner submits a payment-in-lieu of the construction or purchase of affordable dwelling units described in subsection (i) and (ii) above, pursuant to Section 20.04.110(c)(7), calculated on a per bedroom rate, in an amount sufficient to at least offset the increased demand for affordable housing calculated based on the linkage study.

(4) Student Housing or Dormitory Projects

Student housing or dormitory projects located ~~outside of in~~ the Mixed-Use Downtown (MD) zoning district shall ~~qualify not be eligible~~ for the incentives established in subsection (5) below. Student housing or dormitory projects located in other zoning districts shall be eligible for the incentives established in subsection (5) below if they meet the eligibility criteria outlined in subsection (2) above:

(5) Affordable Housing Incentives

(A) Reduced Bulk Requirements

The following dimensional standards shall apply to single-family and duplex residential lots in the R1, R2, R3, and R4 zoning districts that meet either of the two criteria in subsection (2) above:

- i. The minimum lot area for subdivision may be reduced up to 50 percent.
- ii. The minimum lot width for subdivision may be reduced up to 40 percent.
- iii. The side building setbacks may be reduced to five feet regardless of the number of stories.
- iv. The rear building setback may be reduced to 15 feet.
- v. Where these standards conflict with the neighborhood transition standards established in Section 20.04.070(d)(5) (~~Neighborhood Transition Standards Neighborhood Transition Standards~~), the neighborhood transition standards shall govern.

(B) Primary Structure Height

i. Eligibility

In addition to the eligibility criteria in 20.04.110(c)(2), affordable housing projects seeking increased maximum primary structure height shall comply with the following criteria:

1. The building shall contain six or more dwelling units; and
2. Unit size and bedroom mix for deed-restricted units shall be comparable to those for market-rate units.

Chapter	Citation	Current Language	Proposed Language	Synopsis	Difficulty	Type of Change
4	20.04.020(e)(3)	New language	(D) For parking and building setback purposes, Interstate 69 is not considered a front.	Codifies previous interpretations.	easy	new
4	20.04.020 Table 04-6	For the R1 and R2 zoning districts, an entry or covered front addition a maximum of 6 feet deep and with a width not to exceed one-third the width of the primary façade of the structure.	For existing primary structures in the R1, and R2, R3, and R4 zoning districts, an entry or covered front addition a maximum of 6 feet deep and with a width not to exceed one-third the width of the primary façade of the structure.	Allows encroachment into front setback in the R4 district and the front setback created by the build-to-line for covered front entries to apply in the R3 district.	Easy	Revision
4	20.04.020(e) Table 04-6	Addition to existing primary structure: For single-family, duplex, and triplex structures, additions to existing primary structures may use existing side or rear setbacks already established on the lot, provided that the gross floor area of the existing structure is not increased by more than 50 percent. In no case shall the setback be less than 10 feet (rear) or 4 feet (side).	Additions to existing primary structures: For single-family, duplex, and triplex structures, additions to the first floor footprint of existing primary structures may use existing side or rear setbacks already established on the lot, provided that the gross floor area of the existing structure is not increased by more than 50 percent. In no case shall the setback be less than 10 feet (rear) or 4 feet (side). Vertical additions to existing primary structures may utilize existing front setbacks provided that the existing structure is equal to, or has a greater front setback than, the median front setback of abutting residential structures.	Clarifies language for additions to existing structures that are located in required setbacks that this only applies to first floor additions and provides language for second-story additions.	easy	Revision
4	20.04.030(d)(3)(L)	New regulation re: plastic netting	(L) Plastic Netting Under no circumstances shall plastic netting or mesh be used for any type of permanent landscaping or erosion control.	Plastic netting is used in permanent landscape situations and not removed from site. Now requiring that such treatments not be plastic.	Easy	New
4	20.04.040	Floodplain	New guidance from the State was received.	The Floodplain section is being replaced with the State model language with the addition of our conditional use language.	Medium	Revision
4	20.04.050(c)(2)(F)	Improved Alley Access in the R3 and R4 District: In the R3 and R4 zoning district, a driveway accessing the street shall be prohibited if the side or rear setback is accessible via an improved alley. Required parking spaces pursuant to Section 20.04.060 (Parking and Loading), shall be accessed directly from the adjacent alley.	Improved Alley Access in the R1, R2, R3, R4, RM, RH, and MD District: in the R3 and R4 zoning district, a A driveway accessing the street shall be prohibited if the side or rear setback is accessible via an improved alley. Required parking spaces pursuant to Section 20.04.060 (Parking and Loading), shall be accessed directly from the adjacent alley.	Revises and syncs this section with the Parking section requiring driveway access if adjacent to an improved alley	Medium	revision
4	20.04.060(g)(3)(A)	(A) The multifamily residential structure qualifies for the affordable housing incentives pursuant to Section 20.04.110 (Incentives)	(A) The multifamily residential structure qualifies for the affordable housing incentives pursuant to Section 20.04.110 (Incentives); or	Adds "or" to the end of the section to clarify that if either criteria are met, then the parking reduction is allowed	easy	clarification
4	20.04.060(i)(2)(B)	In the R1, R2, R3, R4, RM, and RH District	In the R1, R2, R3, R4, RM, RH, and MD District	Adds the MD district to the list of applicable districts requiring access to come from the alley	medium	revision
4	20.04.060(i)(2)(B)(ii)	i. In cases where the side or rear setback area is accessible via an improved alley, no front yard drive or parking shall be permitted. In the R1, R2, R3, and R4 districts, the required parking area shall directly access the alley and be limited to 20 feet in depth and 20 feet in width. Depth of required parking areas may exceed 20 feet if leading to a vehicular entrance of a detached garage or carport. In the RM and RH districts, the required parking area shall directly access the alley and be limited to 40 feet in depth and 20 feet in width. Determinations of whether an alley allows for safe access shall be made by the City Planning and Transportation Department.	i. In cases where the side or rear setback area is accessible via an improved alley, no front yard drive or parking shall be permitted. In the R1, R2, R3, and R4 districts, the required parking area shall directly access the alley and be limited to 20 feet in depth and 20 feet in width. Depth of required parking areas may exceed 20 feet if leading to a vehicular entrance of a detached garage or carport. In the MD, RM, and RH districts, the required parking area shall directly access the alley and be limited to 40 feet in depth and 20 feet in width. Determinations of whether an alley allows for safe access shall be made by the City Planning and Transportation Department.	Removes language that would prohibit a typical parking area in multi-family districts	medium	revision
4	20.04.070(d)(2)	Architectural Standards - Mixed Use	See separate exhibit	Revises the overall architecture standards	medium	revision

4	20.04.080(c)(1)(B)(ii)	ii. Trees shall be planted at least 10 feet from sanitary sewer, water service lines, and natural gas lines.	ii. Large canopy trees shall be planted at least 10 feet from public sanitary sewer, water service lines, and natural gas lines. Medium and small trees shall be planted at least 5 feet from public sanitary sewer, water service lines, and natural gas lines, except that medium and small trees planted less than 5 feet from public sanitary sewer, water service lines, and natural gas lines may be approved by the Planning and Transportation Director.	Revises standards to give flexibility for street trees in existing tree plots where there are existing utilities that may prevent street trees from being replaced or installed.	easy	revision
4	20.04.080(c)(1)(B)(iii)	A tree canopy may project over a right-of-way or easement.	A tree canopy canopy crown may project over a right-of-way or easement.	Verbiage correction	easy	revision
4	20.04.080(c)(1)(B)(v)	Where utility lines pass overhead of a tree plot, small trees may be used.	Where utility lines pass overhead of a tree plot, medium or small trees may be used with approval of the Urban Forester.	Clarifying that street tree substitutions for utility conflict need Urban Forester approval.	easy	revision
4	20.04.080(c)(1)(B)(vi)	New	Where utility lines or tree plot widths are an impediment to planting large trees in a tree plot, the Urban Forester may approve medium or small trees.	Clarifying that street tree substitutions for utility conflict need Urban Forester approval.	easy	revision
4	20.04.080(c)(2)(A) [(1)(E) in Municode]	(A) Distribution: Required landscape shall be reasonably distributed in any areas of a site not covered by a structure, parking lot or required buffer yard. It is suggested that the required plantings be planted in clusters or irregular patterns, and that native grasses and herbaceous perennial species be used for ornamentation in addition to the required plantings.	Remove Section.	Not necessary with other standards.	easy	revision
4	20.04.080(c)(1)(E)	New	(E) Green Infrastructure: All green infrastructure facilities, including detention basins, bioswales, and raingardens shall be planted with only native seeds and/or plugs.	Clarification that seed mixes must be native.	easy	clarification
4	20.04.080(c)(1)(F)	New	(F) Installation Prior to Occupancy: All landscaping required by the approved site plan shall be installed and inspected prior to issuance of a recommendation for final occupancy, unless an extension is approved by the Planning and Transportation Department for weather-related or unique circumstances.	Clarification that landscaping is required for final occupancy.	easy	clarification
4	20.04.080(c)(2)(B)	Species Identification: New plantings shall have species identification tags on the plant or paid purchase identification labels.	Species Identification: New plantings shall have species identification tags on the plant or paid purchase identification labels on the plants during the final inspection. A receipt with purchase order for plantings may be submitted prior to inspection in lieu of tags or labels on site. .	Clarification that plants needs to be identifiable during inspection.	easy	clarification
4	20.04.080(c)(2)(C)	Invasive Plants Species identified as invasive, detrimental, or noxious shall not be planted under any circumstances and will not be counted toward landscape requirements.	Invasive Plants Prohibited Plant Species Species identified as invasive, detrimental, or noxious shall not be planted under any circumstances and will not be counted toward landscape requirements.	Changing the title	easy	clarification
4	20.04.080(c)(2)(D)(i)	On sites that require an aggregate total of twenty or more new trees, any given genus of tree shall be limited to a maximum of twenty-five percent of the total number of newly planted trees on site.	On sites that require an aggregate total of twenty or more new trees, any given genus of tree shall be limited to a maximum of twenty-five percent of the total number of newly planted trees on site.	Reducing the percentage allowance for one genus in site plans.	easy	revision
4	20.04.080(c)(2)(D)(ii)	To improve pollinator habitat, at least twenty-five percent of planted areas shall include native flowering and nectar producing plant species.	Remove Section.	Not necessary.	easy	revision

4	20.04.080(c)(2)(D)(iii)	Where shrubs are required to be planted, up to 15 percent of the total number of required shrubs may be substituted with flowering perennials, grasses, or ferns. This does not apply to shrubs required as part of a landscape buffer requirement per Section 20.04.080(g). Any flowering perennials, grasses, or ferns used toward parking lot perimeter requirements shall be of species that typically grow to be at least four feet in height, and shall be maintained in accordance with Section 20.04.120(b) (Landscaping).	Where shrubs are required to be planted, up to 15 percent of the total number of required shrubs may be substituted with flowering perennials, grasses, perennial forb species, graminoids, or ferns. This does not apply to shrubs required as part of a landscape buffer requirement per Section 20.04.080(g). Any flowering perennials, grasses, or ferns substituted plants used toward parking lot perimeter requirements shall be of species that typically grow to be at least four feet in height, and shall be maintained in accordance with Section 20.04.120(b) (Landscaping).	Updating language.		
4	20.04.080(c)(2)(E)(i)	Deciduous Trees All newly planted deciduous trees shall be two-inch caliper.	Deciduous Trees All newly planted deciduous trees shall be at least two-inch caliper.	Clarifying the minimum caliper.	easy	clarification
4	20.04.080(c)(4) and (5)	Alternatives Authorized and Alternative Landscape Plan Approval Criteria	No substance changes, only reorganizing.	Re-numbering these sections for clarity.	easy	Clarification
4	20.04.080(d)(1)	Street Trees Trees suitable for planting along public streets and highways, parking lots, and in locations where low maintenance and hardy constitution are required are established in Table 04-14: Permitted Street Tree.	Street Trees Trees suitable for planting along public streets and highways, parking lots, and in locations where low maintenance and hardy constitution are required are established in Table 04-14: Permitted Street Tree.	Clarifying that street trees are for public rights-of-way.	easy	Clarification
4	20.04.080(d)(2)	Interior Trees Trees suitable for the interior of a site are established in Table 04-15: Permitted Interior Tree Species. Permitted street tree species listed in Table 04-14: Permitted Street Tree Species may also be used.	Interior Trees Trees suitable for the interior of a site are established in Table 04-15: Permitted Interior Tree Species. Permitted street tree species listed in Table 04-14: Permitted Street Tree Species may also be used, as interior trees, except the parenthesized trees, which are prohibited for interior trees.	Clarifying what street trees can be used for interior trees.	easy	Clarification
4	20.04.080(d)(3)	Shrubs, Bushes, and Hedges Plants, bushes, and hedges suitable for individual, screen, biohedge uses, up to 12 feet at mature height are established in Table 04-15: Permitted Shrubs, Bushes and Hedges Species.	Shrubs, Bushes, and Hedges Plants, bushes, and hedges Shrubs suitable for individual, screen, or biohedge uses, up to 12 feet at mature height are established in Table 04-15: Permitted Shrubs, Bushes and Hedges Species.	Updating language.	easy	Clarification
4	20.04.080(d)(4)	Herbaceous Perennial Plants Herbaceous perennial plants suitable for infill, aesthetics, and cover are established in Table 04-16: Permitted Herbaceous Perennial Plant Species	Herbaceous Perennial Plants Forbs Forbs, or flowering, nongrassy h Herbaceous perennial plants suitable for infill, aesthetics, and cover are established in Table 04-16: Permitted Forb Herbaceous Perennial Plant Species	Updating language.	easy	Clarification
4	Table 04-14	Table 04-14: Permitted Street Trees	New Table	Amending table per comments from the Tree Commission and Urban Forester	medium	revision
4	Table 04-15	Table 04-15: Permitted Interior Tree Species	New Table	Amending table per comments from the Tree Commission and Urban Forester	medium	revision
4	Table 04-15	Table 04-15: Permitted Shrubs, Bushes and Hedges Species	Table 04-156: Permitted Shrubs, Bushes and Hedges Shrub Species	Title Correction and Change	easy	revision
4	Table 04-15	Table 04-15: Permitted Shrubs, Bushes and Hedges Species	New Table	Amending table per Senior Environmental Planner	medium	revision
4	Table 04-16	Table 04-16: Permitted Herbaceous Perennial Plant Species	Table 04-167: Permitted Herbaceous (Forb) Flowering Perennial Plant Species	Title Correction and Change	easy	revision
4	Table 04-16	Table 04-16: Permitted Herbaceous Perennial Plant Species	New Table	Amending table per Senior Environmental Planner	medium	revision
4	Table 04-17	Table 04-17: Prohibited Plant Species	Table 04-178: Prohibited Plant Species	Title Correction	easy	revision

4	20.04.080(f)(1)	A minimum of one canopy tree shall be planted per 40 feet of property that abuts a public right of way or 20 feet for small trees under overhead utility lines.	A minimum of one canopy tree shall be planted per 40 feet of property that abuts a public right of way or 20 feet for small trees under overhead utility lines. The minimum number of required street trees to be planted shall be one large canopy tree for every 30 feet of property that abuts a public right-of-way. If medium or small trees are allowed, two medium or small trees can be substituted for each large canopy tree.	Clarifying that this regulation is for number only. Increasing the number required.	easy	revision
4	20.04.080(f)(3)(C)	Proximity of Adjacent Street Trees The spacing between adjacent street trees shall be no less than 10 feet and no more than 40 feet.	Proximity of Adjacent Street Trees Separation The spacing between adjacent street trees shall be no less than 10 feet and no more than 40 feet from the center of one tree to the next. Street trees shall be planted no more than 30 feet apart, from the center of one tree to the next, except that street trees with separation exceeding 30 feet may be approved by the Planning and Transportation Department because of site constraints, such as utility or driveway location.	Reducing the separation maximum and clarifying how that is measured.	easy	revision
4	20.04.080(f)(3)(E)	New Section	Planting All street trees shall be planted, stabilized, and mulched according to this UDO and the Administrative Manual.	Clarifying planting expectations that will be in the Administrative Manual.	easy	revision
4	20.04.080(g)(2)(B)	All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by Section 20.04.020 (Dimensional Standards). The required buffer yards shall be installed despite the presence of alleys, streams or other features that may separate the two properties.	All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by Section 20.04.020 (Dimensional Standards). The required buffer yards shall be installed despite the presence of alleys, streams or other features that may separate the two properties.	Removing buffer yard requirement in addition to setbacks.	easy	revision
4	20.04.080(g)(3) Table 04-18	Minimum Setback	Minimum Setback -Width	Changes this standard so that there is no longer a stacked setback. The depth of the stacked setbacks has been more difficult on smaller lots.	medium	revision
4	20.04.080(g)(3) Table 04-18	Note [1]: The buffer yard setback is measured from the property line along the boundary between the subject and adjoining properties and shall be provided in addition to the required building and parking setbacks required by the UDO.	Note [1]: The buffer yard setback is measured from the property line along the boundary between the subject and adjoining properties and shall be provided in addition to the required building and parking setbacks required by the UDO.	Changes this standard so that there is no longer a stacked setback. The depth of the stacked setbacks has been more difficult on smaller lots.	medium	revision
4	20.04.080(g)(2)	New language/section	(G) Prohibited Uses: Buildings, parking areas, swimming pools, or drive aisles are not allowed within Buffer Yards	Adds language clarifying what uses or improvements are allowed within Buffer Yards	Medium	New
4	20.04.080(g)(4) Table 04-19	Table 04-19 Required Buffer Yards	New Table	Amends table to have buffer yard based on district.	medium	revision
4	20.04.080(h)(1)(C)(ii)	Shrubs shall be planted within five feet of the parking lot edge.	Shrubs shall be planted within five feet of the parking lot edge. In situations where there is a sidewalk surrounding a parking area, the required shrubs must be within 5' of the sidewalk.	Adds language to address the presence of sidewalks around parking areas and the locational requirements for shrubs in these situations. Reflects previous interpretations for this situation.	easy	Clarification
4	20.04.080(h)(2)(C)	Each landscape bumpout, island, or endcap shall contain at least one large canopy tree. Where a bumpout, island, or endcap area is equal to the width and length of two parking spaces, a minimum of two large canopy trees shall be provided.	Each landscape bumpout, island, or endcap shall contain at least one large canopy tree. Where a bumpout, island, or endcap area is equal to the width and length of two parking spaces, a minimum of two large canopy trees shall be provided. Required trees within bumpouts, islands, or endcaps do not count toward required street trees totals, required parking lot perimeter area tree totals, or required interior plantings tree totals.	Adds language to clarify standards and to reflect previous interpretations and application that parking lot bumpout, island, or endcap trees are their own requirement.	easy	clarification

4	20.04.080(m)(2)(B)	In cases when ground-mounted mechanical equipment is visible from a public open space, public trail, public street, or adjacent property, the equipment shall be screened from view by a solid wall or fence or a vegetative screen that satisfy the following criteria:	In cases when ground-mounted mechanical equipment is visible from a public open space, public trail, public street, or adjacent property, the equipment shall be screened from view by a solid wall or fence or a vegetative screen that satisfy the following criteria, except that ground-mounted equipment within 10 feet of an improved platted alley does not require screening:	Revised standards to not require screening adjacent to an alley.	easy	revision
4	20.04.100(c)(2)(A)	Public Signs: Any signs erected, or required to be erected, by a unit of local, state, or federal government.	Any signs erected, or required to be erected, by a unit of local, state, or federal government. City of Bloomington public signs are exempt from signage regulations.	Adds language to specifically state that public signs are exempt from signage regulations.	easy	New
4	20.04.110(c)(4)	Student housing or dormitory projects located outside of the Mixed-Use Downtown (MD) zoning district shall qualify for the incentives established in subsection (5) below:	Student housing or dormitory projects located outside of the Mixed-Use Downtown (MD) zoning district shall qualify for the incentives established in subsection (5) below: Student housing or dormitory projects located in the Mixed-Use Downtown (MD) zoning district shall not be eligible for the incentives established in subsection (5) below. Student housing or dormitory projects located in other zoning districts shall be eligible for the incentives established in subsection (5) below if they meet the eligibility criteria outlined in subsection (2) above.	Rewording of this section to be clearer, no change in the eligibility standards is proposed with this change.	easy	clarification
4	20.04.100(d)(3)	Architectural Standards - RM and RH	See separate exhibit	Revises the overall architecture standards	medium	revision
4	20.04.100(j)(6)(A)	(A) Structures with a drive-through shall be permitted one additional sign at the entrance to or for each area connected to a drive-through lane, provided that the sign has only one face, the maximum area of that sign face does not exceed 36 square feet, and the height of the sign does not exceed six feet.	(A) Structures with a drive-through shall be permitted one additional sign at the entrance to or for each area connected to a drive-through lane, provided that the sign has only one face, the maximum area of that sign face does not exceed 36 square feet, and the height of the sign does not exceed six feet. These signs shall be allowed to have 20% as electronic reader board and shall be exempt from the landscaping requirements of 20.04.100(g)(1)(E).	Allow menu board signs to be exempt from landscaping standards. Changes electronic reader board to reflect changing technology and standards. Also exempts them from landscaping requirements since these are not located along a road frontage.	medium	revision
4	20.04.100(j)(6)	New language/section	(C) Structures with a drive-through shall be permitted one additional sign at the ordering location of each drive-through, provided that the sign(s) has only one face, the maximum area of that sign face does not exceed 12 square feet, and the height does not exceed five feet. These signs shall be allowed to have 100% as electronic reader board and shall be exempt from the landscaping requirements of 20.04.100(g)(1)(E).	Allow menu board signs to be exempt from landscaping standards. Changes electronic reader board to reflect changing technology and standards. Also exempts them from landscaping requirements since these are not located along a road frontage.	medium	revision
4	20.04.100(j)(7)	Developments containing at least 15 dwelling units shall be permitted up to 24 square feet of wall signage per development and one freestanding sign per vehicle entrance. The freestanding sign shall not exceed 32 square feet and the height of the sign shall not exceed six feet.	Developments containing at least 15 dwelling units shall be permitted up to 24 square feet of wall signage per development and one freestanding sign per vehicle entrance. The freestanding sign shall not exceed 32 square feet and the height of the sign shall not exceed six feet: (A) Multifamily developments containing between three and 14 dwelling units shall be permitted one wall sign not to exceed 24 square feet per development. (B) Multifamily developments containing at least 15 dwelling units shall be permitted: i. One freestanding sign per development vehicle entrance, not to exceed 32 square feet per side in maximum sign area and not to exceed six feet in height; and ii. One wall sign per building not to exceed 24 square feet each.	Replaces language for multifamily in the RH and RM districts with the language from the Mixed-Use Districts.	easy	revision

4	20.04.100(k)(2)	Wall Signs: The following standards apply to wall signs for individual uses within a multi-tenant center:	The following standards apply to wall signs for individual uses or tenants within a multi-tenant center:	Clarifies existing language to be consistent with other sections	easy	clarification
4	20.04.100(k)	New language/section	Multifamily developments shall be permitted one wall sign not to exceed 24 square feet.	Adds language for multifamily uses in the MN District similar to other districts that have specific language for this use, while respecting the smaller scale of MN.	easy	new
4	20.04.100(l)(4)(F)	Internally illuminated signs are prohibited.	Internally illuminated signs and electronic reader boards are prohibited.	Clarifies this language to include electronic reader board	easy	clarification

ORDINANCE 23-07

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE –
Re: Amendments and Updates Set Forth in BMC 20.06**

WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and

WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”); and

WHEREAS, on December 18, 2019, the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and

WHEREAS, on January 14, 2020, the Mayor signed and approved Ordinance 19-24; and

WHEREAS, on April 15, 2020, the Common Council passed Ordinance 20-06 and Ordinance 20-07; and

WHEREAS, on April 18, 2020, the Unified Development Ordinance became effective; and

WHEREAS, on March 6, 2023, the Plan Commission voted to favorably recommend this amendment proposal to the Common Council, after providing notice and holding public hearings on the proposal as required by law; and

WHEREAS, the Plan Commission certified this amendment proposal to the Common Council on March 15, 2023; and

WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council have paid reasonable regard to:

- 1) the Comprehensive Plan;
- 2) current conditions and character of current structures and uses in each district;
- 3) the most desirable use for which land in each district is adapted;
- 4) the conservation of property values throughout the jurisdiction; and
- 5) responsible development and growth; and

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

SECTION 1. Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance”, is amended.

SECTION 2. An amended Title 20, entitled “Unified Development Ordinance”, including other materials that are incorporated therein by reference, is hereby adopted. Said replacement ordinance consists of the following documents which are attached hereto and incorporated herein:

1. The Proposal forwarded to the Common Council by the Plan Commission with a favorable recommendation, consisting of:
 - (A) ZO-07-23 (“Attachment A”)
 - (B) Any Council amendments thereto (“Attachment B”)

SECTION 3. The Clerk of the City is hereby authorized and directed to oversee the process of consolidating all of the documents referenced in Section 2 into a single text document for codification.

SECTION 4. Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this __ 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 petition contains amendments in Chapter 6 related to processes and procedures in the UDO. There are 21 amendments identified.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-604 I hereby certify that the attached Ordinance Number 23-07 is a true and complete copy of Plan Commission Case Number ZO-07-23 which was given a recommendation of approval by a vote of 8 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on March 6, 2023.



Date: March 15, 2023

Scott Robinson, Secretary
Plan Commission

Received by the Common Council Office this 15th day of March, 2023.



Nicole Bolden, City Clerk

Appropriation Ordinance #	_____	Fiscal Impact Statement Ordinance #	_____	Resolution #	_____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No XX

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

Approval of case ZO-07-23 amends the Unified Development Ordinance (UDO), with amendments and updates to processes and procedures, by the Bloomington Plan Commission. This ordinance is in accordance with Indiana Code 36-7-4-600.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

Case # ZO-07-23 Memo

To: Bloomington Common Council

From: Bloomington Plan Commission
Jackie Scanlan, AICP Development Services Manager

Date: March 15, 2023

Re: Text Amendments to Unified Development Ordinance

The Plan Commission heard case ZO-07-23 on March 6, 2023 and voted to send the petition to the Common Council with a positive recommendation with a vote of 8-0.

The Planning and Transportation Department proposes its annual update and amendment to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code. The last regular UDO Update process was completed in the Spring of 2022. This update is smaller scale than the larger update done in 2020 and is for regular maintenance of the code. Staff utilizes the UDO daily in our interactions with the public and other Departments, and has identified portions of the code that contain errors or that may benefit from amendment. No changes to the permitted uses or zoning districts are included in this update.

The proposal is divided into four (4) petitions. One petition is discussed below and is this Ordinance, 23-07:

1. ZO-07-23 | Chapter 6: Administration & Procedures

ZO-07-23 | Chapter 6: Administration & Procedures

This petition deals with processes and procedures. The amendments cover a variety of topics. Multiple amendments extend the appeal period from five days to ten days for various department or Commission decisions; unnecessary or duplicate regulations are removed; when a change in use review is required for a grading permit is clarified; the site plan expiration timeline is made explicit; outdated language is updated; the demolition delay expiration timeline is made explicit; language related to grading permit exemptions is clarified; language related to lot line shift expectations is clarified; the abandonment time period is synced at a year with another part of the UDO; expansions that are exempt from site plan review are altered to be cumulative; and existing language related to the update of adjacent pedestrian facilities in a limited compliance situation is updated to reflect past practice and policy. There are 21 amendments identified. These amendments are needed to improve the appeal process, provide clarity on existing processes, and also protect against many small commercial expansions over time with no site improvements.

- (G) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;
- (H) Use and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- (I) Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (J) Review certified plans and specifications for compliance;
- (K) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 20.06.050(d) (Floodplain Development Permit); and
- (L) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 20.06.050(d) (Floodplain Development Permit).

(g) Hearing Officer

(1) Authority

The Hearing Officer, as may be authorized in the Plan Commission rules of procedure, shall have authority to act upon those matters, if any, delegated by the Plan Commission pursuant to Indiana Code 36-7-4-923, which may include to approve or deny a:

- (A) Variance from this UDO in accordance with Indiana Code 36-7-4-918.5; and
- (B) Conditional use under the terms of this UDO in accordance with Indiana Code 36-7-4-918.2.

(2) Procedures

The Hearing Officer shall review and hear petitions pursuant to procedures adopted by the Plan Commission by rule in accordance with Indiana Code 36-7-4-923 and Indiana Code 36-7-4-924. Where feasible and permissible, those procedures shall allow for the consolidation and simultaneous review of approvals connected with petitions relating to the same site.

(3) Appeals

Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within ~~ten~~five days after the decision is made.

(h) Plat Committee

(1) Authority

The Plat Committee, as may be authorized in the Plan Commission Rules of Procedure, shall have authority to act upon those matters, if any, delegated to it by the Plan Commission, pursuant to Indiana Code 36-7-4-701(e), which may include approval or denial of:

(A) Minor Changes Allowed

Development authorized by any approval under this UDO may incorporate minor changes from the approved plan, or permit, without the need for a new petition, provided that the Planning and Transportation Director determines that the proposed changes:

- i. Comply with the standards of this UDO;
- ~~ii. Are necessary to meet conditions of approval or commitments; and~~
- ~~iii.~~ ii. Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as originally approved.

(B) Major Changes

Any modification of an approved plan or permit that the Planning and Transportation Director determines does not meet the criteria in subsection (A) above shall require a new petition that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of the original petition.

(4) Limitation on Subsequent Similar Petitions

Following denial of a petition, the decision-making body shall not decide on petitions that are the same or substantially similar within one year of the previous denial, or in accordance with Indiana Code Section 36-7-4-609, as amended. This waiting period may be waived by the decision-making body provided that:

- (A) There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous petition review; or
- (B) The new petition is materially different from the previous petition.

(5) Appeals

Unless a different procedure is provided in Section 20.06.080(d) (Administrative Appeal) or another provision of this UDO, the following provisions apply to appeals of decisions under this UDO.

(A) Staff or Hearing Officer Decision

A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within ~~ten~~ five days of staff's or the Hearing Officer's decision.

(B) Plan Commission, Board of Zoning Appeals, or Common Council Decision

Any person that has standing to obtain judicial review of a zoning decision as established in Indiana Code 36-7-4-1603: Standing may appeal a zoning decision made by the Plan Commission according to the judicial review process established in Indiana Code 36-7-4-1600: Judicial Review. Such appeal shall be filed at the appropriate venue in the judicial district where the land affected by the zoning decision is located and shall be filed no later than 30 days after the date of the zoning decision.

iv. Creation or expansion of any vehicular parking area.

(B) Activities Exempt from Site Plan Review

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

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

(C) Thresholds for Minor and Major Site Plan Review

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

i. Minor Site Plan Review

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

1. A change in use that involves or requires site improvements;
2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section ~~20.06.050(a)(2)(C)(ii)~~ **Error! Reference source not found.**;
3. Development that contains 20,000 square feet or less of new non-residential gross floor area;
4. Development that contains 50 dwelling units or less;
5. ~~Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;~~
6. The alteration of any vehicular parking area;
7. Petitions for a ~~permit and/or certificate of zoning compliance for grading~~ permit where site improvements are required; or
8. Projects that qualify for affordable housing incentives and/or sustainable development incentives established in Section 20.04.110 (Incentives), provided that, if located adjacent to one or more lots in an R1, R2, R3, or R4 district or such project does not contain more than 75 dwelling units.

(B) Petition Submittal and Processing

The minor site plan petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (~~Petition Submittal and Processing~~ ~~Petition Submittal and Processing~~).

(C) Staff Review and Action**i. Generally**

1. The Planning and Transportation Director shall review the minor site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).
2. Alternatively, the Planning and Transportation Director may refer the petition to the Plan Commission pursuant to Section 20.06.040(d)(2) (~~Petition Routing~~ ~~Petition Routing~~).

ii. Commitments

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

iii. Additional Review for Drainage and Floodplain

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

(D) Post-Decision Actions and Limitations

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

i. Notification of Findings

The Planning and Transportation Director shall make and sign written findings concerning each decision to approve or disapprove a minor site plan, and such written findings shall be made available to the petitioner.

ii. Expiration of Approval

Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).

iii. Modification or Amendment of Approval

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

iv. **Appeal**

Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within ~~five~~ five ~~daysten days~~ of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.

(4) **Major Site Plan Review Process**

Figure 06.05-2 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to major site plan review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-2: Summary of Major Site Plan Review Procedure



(A) **Pre-Submittal Activities**

- i. A pre-submittal meeting shall be held in accordance with Section 20.06.040(b)(1) (Pre-Submittal Meeting).
- ii. A Development Review Committee meeting shall be held in accordance with Section 20.06.040(b)(2) (Development Review Committee (DRC) Meeting).
- iii. A pre-submittal neighborhood meeting shall be held in accordance with Section 20.06.040(b)(3) (~~Pre-Submittal Neighborhood Meeting~~ Pre-Submittal Neighborhood Meeting).

(B) **Petition Submittal and Processing**

The major site plan petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (~~Petition Submittal and Processing~~ Petition Submittal and Processing).

(C) Staff Review and Action

The planning and transportation staff shall review the petition and prepare a staff report and recommendation in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).

(D) Scheduling and Notice of Public Hearings

The major site plan petition shall be scheduled for a public hearing before the Plan Commission and noticed in accordance with 20.06.040(e) (~~Scheduling and Notice of Public Hearings~~ Scheduling and Notice of Public Hearings).

(E) Review and Decision**i. Generally**

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

ii. Commitments

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

iii. Additional Review for Drainage and Floodplain

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

(F) Post-Decision Actions and Limitations

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

i. Notification of Findings

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

ii. Expiration of Approval

Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the ~~petitioner/developer~~, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).

iii. Modification or Amendment of Approval

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

4. **Emergency Waiver of Waiting Period**

The waiting period may be waived upon a written determination by the City's Housing and Neighborhood Development Department that there is an emergency condition dangerous to life, health, or property that requires demolition prior to the expiration of the waiting period.

(D) **Scheduling and Notice of Hearings**

i. **Discretionary Hearing**

The Historic Preservation Commission may conduct a hearing, at its sole discretion, during the waiting period, to determine if any structure described below should be recommended for local designation by the Common Council:

1. A "Contributing" structure located in any of multifamily or ~~mixed-use nonresidential~~ zoning district.
2. A "Contributing" structure located in ~~any single-family~~ the R1, R2, R3, or R4 zoning districts if the staff for the HPC determines that a review of the petition necessitates full HPC review.
3. A "Notable" structure located in any zoning district of the city.
4. An "Outstanding" structure located in any zoning district of the city.

ii. **Posted Notice Required**

1. **Generally**

- [a] Within three business days of receiving notice by the Planning and Transportation Director that his/her property is subject to the waiting period provisions of this section, the owner shall place upon the property where the structure is located, in plain public view, a notice to the public of the proposed demolition or partial demolition of the structure.
- [b] The notice shall be in such form as approved by the staff and shall remain in place until termination of the waiting period.
- [c] Noncompliance with this provision shall result in the delay period being extended by an amount of time equal to the amount of time, as reasonably determined or estimated by the Planning and Transportation Director, during which the notice was not properly in place.

2. **Exemption to Posted Notice**

- [a] This section shall not apply to a petition for partial demolition of a property classified as "Contributing" in any single-family district if staff for the Historic Preservation Commission reviews and releases the petition.
 - i. Staff, for purposes of this subsection, shall be those persons who have the same or equivalent technical expertise as the members of the Historic Preservation Commission as outlined in Section 2.16.010(c) of the Bloomington Municipal Code.

- ii. If within seven business days of the receipt of a petition the staff has not taken steps to forward the matter to the Historic Preservation Commission for further review, the petition shall be released automatically and the provisions of Section 20.06.050(c) shall apply.
 - iii. Staff's decision shall be based on the same criteria used by the Historic Preservation Commission when it renders a determination about whether or not a property should be recommended for local historic designation.
- [b] If staff for the Historic Preservation Commission determines that full Historic Preservation Commission review of a petition for a partial demolition of a property classified as "Contributing" in a single-family district is necessary, then the owner shall post the notice described in subsection ii.1 above on the property.

~~iii. Published Notice Required~~

~~Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.~~

(E) Review and Decision

- i. After expiration of the waiting period, which shall include early termination of the waiting period, a certificate of zoning compliance authorizing demolition shall be issued if the property owner has submitted a complete petition and all other requirements of the Bloomington Municipal Code and this UDO are met.
- ii. For any structure that is exempt from the waiting period of this section, a certificate of zoning compliance authorizing release of a demolition or partial demolition permit shall be issued within a reasonable time following receipt by the Planning and Transportation Department of a complete petition, provided all other requirements of the Bloomington Municipal Code and this UDO are met.
- iii. If within the 90 or 120 day waiting period the property is placed under interim protection or is locally designated as a historic or conservation district pursuant to Chapter 8.08, (Historic Districts and Standards) of the Bloomington Municipal Code, then no certificate of zoning compliance authorizing demolition or partial demolition may be issued except:
 - 1. Upon termination of interim protection without historic or conservation district designation being placed upon the property; or,
 - 2. Where historic or conservation district designation is placed upon the property, in accordance with and after all approvals required by Chapter 8.08 (Historic Districts and Standards) of the Bloomington Municipal Code.

(F) Post-Decision Actions and Limitations

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

- i. The recipient of a permit or other approval subject to this section shall be bound to the details of the elevations, and the design, type, and location of materials depicted in the submission and may not deviate from such depiction, except as modified and approved at one or more public meetings of the Historic Preservation Commission, without applying for a new certificate of zoning compliance, petition for which shall commence a new waiting period.
- ii. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period. The demolition delay approval by the Historic Preservation Commission shall expire one year after the approval is issued.

(d) Floodplain Development Permit

(1) Purpose

The floodplain development permit procedure is intended to minimize public and private losses due to flood conditions in specific areas and to provide a mechanism to ensure compliance with this UDO by providing a thorough permitting and inspection process for all floodplain development activities.

(2) Applicability

- (A) No development shall occur in any special flood hazard area (SFHA) and known flood prone areas, unless a grading permit for such activity has been issued.
- (B) Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices established in federal and state law and all other applicable rules, regulations, standards and specifications of the City regarding development within a floodplain.

(3) Floodplain development permit Review Process

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to floodplain development permit review. Additions or modifications to the common review procedures are noted below.

(2) Applicability

No land-disturbing activity shall occur on platted or unplatted lands in any zoning district, unless a grading permit for such activity has been issued.

(A) Exemptions

- i. Land-disturbing activity covering an area less than 2,500 square feet;
- ii. Land-disturbing activity on lots containing the uses: dwelling, single-family (attached); dwelling, single-family (detached); dwelling, duplex; dwelling, triplex; or dwelling, fourplex, an individual single-family lot.
- iii. Projects with only Land-disturbing activity solely for new foundations for buildings or additions with a footprint of 5,000 square feet or less.

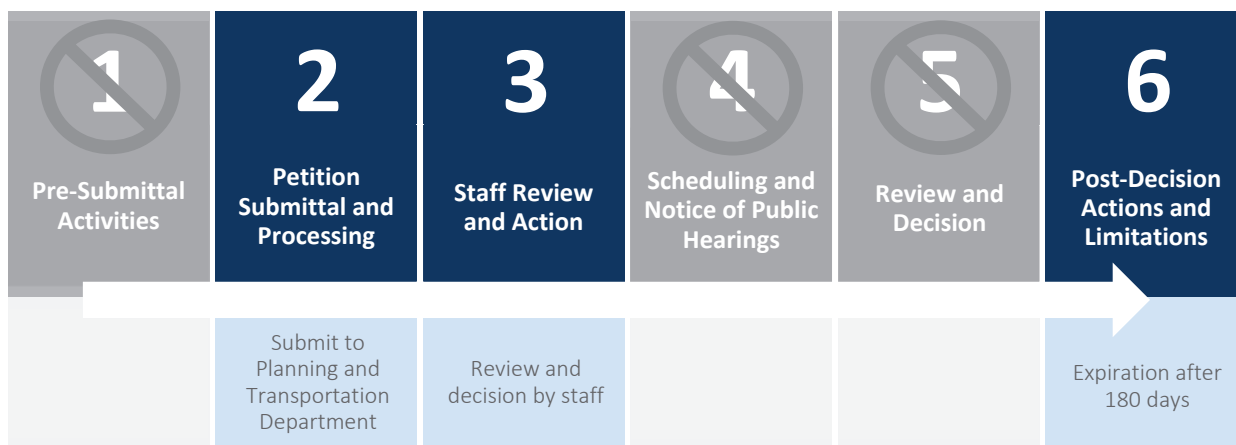
(B) Additional Requirements

Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5, and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management; all applicable provisions of Title 10 (Wastewater) of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the City Utilities Department regarding stormwater management practices.

(3) Grading Permit Review Process

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to grading permit review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-6: Summary of Grading Permit Procedure



(A) Petition Submittal and Processing

The grading permit petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing ~~Petition Submittal and Processing~~) with the following modifications:

v. Time Limitation

If an easement modification or termination petition has been denied, the petitioner shall not file a new petition with the same or substantially similar request for a period of six months.

20.06.060 Subdivision Procedures

(a) General Standards

(1) Purpose

The purpose of these subdivision procedures, and the related standards in Chapter 20.05: (Subdivision Standards) is to guide the development of the Plan Commission's jurisdiction to provide for the improvement of the health, safety, convenience, and general welfare of its citizens and to plan for the future development of the community; to the end that streets and highways be carefully planned; that new areas grow only with adequate street/utility, health, education and recreational facilities; that the needs of public utilities and facilities be recognized in the future growth; and that residential areas provide healthy surroundings for family life and that the growth of the community is commensurate with the efficient and economical use of public funds.

(2) Applicability**(A) Generally**

This Section 20.06.060 shall apply to all subdivisions of land in any zoning district located within the jurisdiction of the Plan Commission, except as stated in subsection (B) below. No land within that jurisdiction shall be subdivided until:

- i. A plat conforming to these regulations has been approved and certified by the Plan Commission; and
- ii. The approved secondary plat has been filed with the County Recorder's office.

(B) Exemptions

The regulations of this Section 20.06.060 shall not apply to the following:

- i. An adjustment of lot lines as shown on a recorded plat which does not reduce ~~the lots the area, frontage, width, depth, or building setback lines of each building site~~ below the minimum zoning requirements of Chapter 2 and does not ~~increase change~~ the original number of lots ~~in any block of the recorded plat~~.
- ii. A division of land into two or more tracts for an agricultural use of 10 or more acres, not involving any new street or access easement.
- iii. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property.
- iv. The unwilling sale of land as a result of legal condemnation as defined and allowed in state law.
- v. Modification of existing streets to conform to the Comprehensive Plan.

- vi. The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan.
- vii. The exchange of land between owners of adjacent property provided that such exchange does not ~~serve to reduce~~ the parcels below the minimum zoning requirements of Chapter 2 and does not increase the original number of parcels, lot area or other dimensions below required minimums.
- viii. The platting of condominium units regulated by Indiana Code 32-25: Condominiums.

(C) Jurisdiction

After the provisions of this Section 20.06.060 (~~Subdivision Procedures~~ Subdivision Procedures) and related provisions in Chapter 20.05: (Subdivision Standards) have been adopted, the Plan Commission shall have exclusive control over the approval of all plats and replats involving land covered by this UDO.

(D) Subdivision Type

All subdivisions shall be designed according to one of the subdivision types specified in Chapter 20.05: Subdivision Standards. A single subdivision shall not incorporate more than one of the subdivision types unless specifically authorized by the Plan Commission.

(b) Primary Plat

(1) Purpose

The primary plat procedure provides a mechanism for the city to review an overall plan for a proposed subdivision and ensures that the statutory requirements established in the Indiana Code for the subdivision of land are met.

(2) Applicability

A primary plat shall be prepared in conjunction with any proposal to subdivide or plat property within the jurisdictional area of the Plan Commission.

(3) Primary Plat Review Process

Figure 06.06-1 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to primary plat review. Additions or modifications to the common review procedures are noted below.

Figure 06.06-1: Summary of Primary Plat Procedure

- iii. Minor changes to an approved landscape plan that do not alter the general concept or screening effectiveness of the landscaping;
- iv. Minor changes to the internal street system and off-street parking areas; and
- v. Changes in the exact type of use in any particular location within the development, as long as the type of use is allowed by the PUD district ordinance and preliminary plan in that general location.
- vi. Changes of less than ten percent of the gross floor area of an approved building.

[b] **Major Changes**

The following changes shall require a new final plan, provided that this subsection [b] shall not be interpreted to allow any change that would otherwise require an amendment to the PUD district ordinance and/or the preliminary plan:

- i. Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
- ii. Changes in site design requirements, such as location or design of required landscaping, signage, building heights or footprints, setbacks, encroachment into areas slated for preservation under any of the sections of Section 20.04.030 (Environment), or other such development or design standards in the PUD district ordinance;
- iii. Changes in access to the development site, where such change amounts to an intensification of traffic patterns on roadways; and/or
- iv. Any reduction in aesthetic treatment.

4. **Appeal to Plan Commission**

Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within ~~ten~~ five days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.

5. **Revisions**

Following final approval, the petitioner shall submit revised copies of the final plan that address the comments and concerns of the staff. The petitioner shall refer to the final plan petition form to determine the format and number of copies of the revised plans to deliver to the Planning and Transportation Department.

(2) **Applicability**

- (A) An administrative appeal may be made by any person aggrieved by an order, requirement, decision, or determination made by an administrative official, Hearing Officer, staff member, administrative board or other body, except the Plan Commission, charged with the administration or enforcement of any part of this UDO.
- (B) This administrative appeals section shall not apply to fines levied under the authority of Section 20.06.100 (Enforcement and Penalties). Such fines may be appealed under the procedures specified in Section 20.06.100 (Enforcement and Penalties).

(3) **Administrative Appeal Review Process**

Figure 06.08-3 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to administrative appeal review. Additions or modifications to the common review procedures are noted below.

Figure 06.08-3: Summary of Administrative Appeal Procedure



(A) **Petition**

An appeal petition shall be submitted and accepted, and may be revised or withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing ~~Petition Submittal and Processing~~), with the following modifications:

i. **Burden of Proof on Petitioner**

The petitioner has the burden of proving the necessary facts to warrant approval of an appeal by the appropriate decision-making body. Such proof shall be provided at time of petition.

ii. **Time Limit**

An administrative appeal shall be filed with the Planning and Transportation Department within ~~ten five~~ days of the order, requirement, decision, or determination that is being appealed.

iii. **Stay of Proceedings**

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.

- (D) No additional structure not conforming to the requirements of this UDO shall be erected in connection with the nonconforming use of land or structure.
- (E) Whenever a nonconforming use of land or a building has been discontinued for a period of one-year, future use of land or building shall comply with this UDO.

(2) Change in Use

- (A) A nonconforming use that has been changed to a less nonconforming use pursuant to this subsection may not subsequently be changed back to a more nonconforming use.
- (B) A nonconforming use, if changed to a conforming use, may not subsequently be changed back to any nonconforming use unless otherwise permitted by this UDO.
- (C) A lawful nonconforming use which has been abandoned, including a use involving occupancy by four or five adults which has been voluntarily waived and relinquished pursuant to Section 20.06.090(c)(4) (~~Residential Occupancy Residential Occupancy~~), shall not be resumed or replaced by another nonconforming use.

(3) Abandonment of a Nonconforming Use

A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of ~~twelvesix~~ months, or when the furnishings have been removed and not replaced for a continuous period of ~~twelvesix~~ months.

(4) Residential Occupancy

(A) Authority to Continue

In the R1, R2, R3, and R4 zoning districts, a nonconforming use involving occupancy of a dwelling unit by four or five adults who are not all related to each other, which was duly registered on or before October 1, 1985, in accordance with Ordinance 85-15; or was duly registered on or before November 1, 1995, in accordance with Ordinance No. 95-21, shall be deemed a lawful nonconforming use which may be continued under this UDO, without further registration, and shall be considered a lawful nonconforming use that may continue only as provided in this section.

(B) Transition from Prior Regulations

- i. Where a lawfully existing dwelling unit was lawfully occupied by four or five adults who were not all related to each other on the effective date of this UDO, but becomes nonconforming under this UDO because of being so occupied, the property owner may register such property as a lawful nonconforming use, and if properly and timely registered, such use will be a lawful nonconforming use which may be continued under this UDO without further registration.
- ii. Forms for such registration shall be available in the Planning and Transportation Department and shall be completed by the property owner or agent and filed in the Planning and Transportation Department within 180 days of the effective date of this UDO.

(e) Nonconforming Lots

A lawfully nonconforming lot may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required as established in Section 20.06.090 (~~Nonconformities~~ ~~Nonconformities~~).

- (1) All lots legally established and recorded prior to the effective date of this UDO or its subsequent amendments that do not meet the lot area and lot width standards of this UDO shall be deemed a substandard lot, otherwise known as a lawful nonconforming lot of record.
- (2) A lawful nonconforming lot of record may be used and developed or redeveloped without compliance with the lot area and lot width standards of this UDO as long as all use restrictions and other development standards of this UDO are met.

(f) Nonconforming Site Features

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

(1) Full Compliance

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

(2) Limited Compliance

(A) Applicability

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

i. Nonresidential and Mixed-Use

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

ii. Multifamily

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

vi. Bicycle Parking

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

vii. Landscaping

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

viii. Pedestrian Facilities

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

ix. Signage

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

x. Dumpster Enclosures

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

xi. Lighting

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

xii. Entrances and Drives

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

(g) Nonconforming Signs

(1) Generally

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

Chapter	Citation	Current Language	Proposed Language	Synopsis	Difficulty	Type of Change
6	20.06.020(g)(3)	Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within five days after the decision is made.	Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within five ten days after the decision is made.	Extends time period allowed for appeals	easy	revision
6	20.06.040(h)(3)(A)(ii)	ii. Are necessary to meet conditions of approval or commitments; and	ii. Are necessary to meet conditions of approval or commitments; and	Removing this requirement because the others cover what is necessary.	medium	revision
6	20.06.040(h)(5)(A)	A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within five days of staff's or the Hearing Officer's decision.	A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within five ten days of staff's or the Hearing Officer's decision.	Extends time period allowed for appeals	easy	revision
6	20.06.050(a)(2)(C)(i)(5)	5. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;	5. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;	Removes this standard since there are two previous sections that address triggers for residential and non-residential development.	Medium	Revision
6	20.06.050(a)(2)(C)(i)(7)	7. Petitions for a permit and/or certificate of zoning compliance for grading; or	1. Petitions for a permit and/or certificate of zoning compliance fer grading permit where site improvements are required ; or	Adds language not requiring staff level minor site plan approval for grading permit where no improvements are required.	easy	revision
6	20.06.050(a)(3)(D)(ii)	(ii) Expiration of Approval Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	(ii) Expiration of Approval Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner , the Planning and Transportation Director grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	Codifies what has been common practice within the Department.	easy	Clarification
6	20.06.050(a)(3)(D)(iv)	Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within five days of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.	Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within five ten days of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.	Extends time period allowed for appeals	easy	revision
6	20.06.050(a)(4)(F)(ii)	(ii) Expiration of Approval Approval of a major site plan shall be effective for a maximum period of one year, unless, upon petition by the developer, the Plan Commission grants an extension pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	(ii) Expiration of Approval Approval of a major site plan shall be effective for a maximum period of one year, unless, upon petition by the developer petitioner , the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	Codifies what has been common practice within the Department.	easy	Clarification
6	20.06.050(c)(3)(D)(i)(1)	1. A "Contributing" structure located in any of multifamily or nonresidential zoning district.	1. A "Contributing" structure located in any of multifamily or nonresidential nonresidential zoning district.	Revises language referencing districts	easy	Clarification
6	20.06.050(c)(3)(D)(i)(2)	2. A "Contributing" structure located in any single-family district if the staff for the HPC determines that a review of the petition necessitates full HPC review.	2. A "Contributing" structure located in any single-family district the R1, R2, R3, or R4 districts if the staff for the HPC determines that a review of the petition necessitates full HPC review.	Revises language referencing districts	easy	clarification

6	20.06.050(c)(3)(D)(iii)	Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.	Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.	This section is not needed.	easy	revision
6	20.06.050(c)(3)(F)(ii)	i. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period.	i. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period. The demolition delay approval by the HPC shall expire one year after the approval is issued.	Clarifies expiration time limit for a decision from the HPC.	easy	revision
6	20.06.050(e)(2)(A)(ii)	Land-disturbing activity on an individual single-family lot.	i. Land-disturbing activity on an individual single-family lot on lots containing the uses: dwelling, single-family (attached); dwelling, single-family (detached); dwelling, duplex; dwelling, triplex, or dwelling, fourplex.	Provides specific language for when a grading permit is not required	easy	clarification
6	20.06.050(e)(2)(A)(iii)	Projects with only new foundations for buildings or additions with a footprint of 5,000 square feet or less.	Projects with only new foundations new Land-disturbing activity solely for new foundations for buildings or additions with a footprint of 5,000 square feet or less.	Revises wording of section.	easy	clarification
6	20.06.060(a)(2)(B)(i)	i. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.	i. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site the lots below the minimum zoning requirements of Chapter 2 and does not increase change the original number of lots. lots in any block of the recorded plat.	Adds new language to reflect previous interpretations for what standards lot line adjustments are reviewed by.	easy	clarification
6	20.06.060(a)(2)(B)(vii)	The exchange of land between owners of adjacent property provided that such exchange does not serve to reduce lot area or other dimensions below required minimums.	The exchange of land between owners of adjacent property provided that such exchange does not serve to reduce the parcels below the minimum zoning requirements of Chapter 2 and does not increase the original number of parcels. lot area or other dimensions below required minimums.	Deletes unnecessary section	easy	clarification
6	20.06.070(c)(3)(E)(ii)(4)	Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within five days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.	Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within five ten days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.	Extends time period allowed for appeals	easy	revision
6	20.06.080(d)(3)(A)(ii)	An administrative appeal shall be filed with the Planning and Transportation Department within five days of the order, requirement, decision, or determination that is being appealed.	An administrative appeal shall be filed with the Planning and Transportation Department within five ten days of the order, requirement, decision, or determination that is being appealed.	Extends time period allowed for appeals	easy	revision

6	20.06.090(c)(3)	A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of six months, or when the furnishings have been removed and not replaced for a continuous period of six months.	A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of six twelve months, or when the furnishings have been removed and not replaced for a continuous period of six twelve months.	Syncs language with definition of "use, abandonment of" that lists twelve months as the time period.		easy	revision
6	20.06.090(f)(2)(A)(i)(3)	Expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 percent.	Cumulative expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 cumulative percent, including previous additions approved under any UDO effective since February 12, 2007.	Clarifies that all previous additions approved since the 2007 UDO are included.		easy	Clarification
6	20.06.090(f)(2)(B)(viii)	i. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (Pedestrian And Bicycle Circulation). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that pedestrian facilities shall comply with the Americans with Disabilities Act.	i. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (Pedestrian and Bicycle Circulation). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that curb ramps pedestrian facilities shall comply with the Americans with Disabilities Act.	Clarifies that ramps on existing sidewalks are evaluated for compliance standards.		easy	revision



MEMO FROM COUNCIL OFFICE ON:

Ordinance 23-08 - To Amend the Traffic Calming and Greenways Program Incorporated by Reference into Title 15 (“Vehicles and Traffic”) of the Bloomington Municipal Code - Re: Amending the Traffic Calming and Greenways Program Incorporated by Reference into Bloomington Municipal Code Section 15.26.020

Synopsis

This ordinance adopts an amended Traffic Calming and Greenways Program. The Traffic Calming and Greenways Program sets the standard for the prioritization and placement of neighborhood traffic calming and related traffic control devices and requires a consistent procedure for resident-led and staff-led processes. The amendments to the program include the addition of Common Council Action as a required step in both the resident-led and staff-led processes.

Relevant Materials

- Ordinance 23-08
- Attachment A – Amended Traffic Calming and Greenways Program
- Presentation slides from Beth Rosenbarger, Assistant Director of Planning and Transportation, shown during November 30, 2022 Committee of the Whole meeting

Background re: Ordinance 22-35 - previously introduced and considered by the Council in 2022

A previous version of this proposal was introduced as Ordinance 22-35 at the Council’s November 16, 2022 Regular Session and discussed at the Council’s November 30, 2022 Committee of the Whole meeting.

At that November 30 meeting, the councilmember sponsor (Cm. Rollo) presented the proposal. Beth Rosenbarger, Assistant Director of Planning and Transportation, gave the administration’s position on Ord 22-35 and provided a presentation (slides included herein) that covered the Traffic Calming and Greenways Program, the planning process generally, and concerns that staff had with the proposed ordinance. Councilmembers asked questions, heard public comment, and provided their own comments on the ordinance. The Committee voted to recommend that the Council adopt the ordinance by a vote of four in favor, three opposed, and one abstention.

At the Council’s December 7, 2022 Regular Session, the Council amended the meeting agenda to remove Ordinance 22-35 as an item for consideration at the request of the sponsor. The current proposed ordinance, 23-08, differs from the previous proposal in that it would not change the signature threshold applicable to Affected Housing Units as part of the resident-led traffic-calming process.



Summary

Ordinance 23-08 would amend the city's Traffic Calming and Greenways Program ("TCGP"). The TCGP, adopted in 2020 via Ordinance 20-17, replaced the city's previous traffic calming policy, the Neighborhood Traffic Safety Program ("NTSP"). Materials associated with Ordinance 20-17 can be viewed in the Council's October 7, 2020 Legislative Packet. The NTSP was adopted in 1999 via Ordinance 99-16.

The TCGP is incorporated into Bloomington Municipal Code Section 15.26.020 by reference and includes any amendments to the program approved by the Council by ordinance. The TCGP is administered by the Planning and Transportation Department and provides the policies and procedures used by the city to determine the appropriate location and construction of traffic calming and related devices in neighborhoods. The TCGP defines "traffic calming device" as "a device erected to slow traffic on residential streets, including the following:

- (1) traffic circles;
- (2) curb extensions;
- (3) neck downs;
- (4) diagonal diverters;
- (5) truncated diagonal diverters; or
- (6) chicanes."

The amendments to the TCGP proposed by Ordinance 22-35 are shown in Attachment A to the ordinance and include:

1. The addition of Common Council Action as a necessary step in both the resident-led and staff-led traffic calming processes before projects can proceed to installation.
2. Correction of various grammatical errors and adjustments to the table of contents and the visual overviews to reflect the amendments.

The proposed amendments to the TCGP have not been reviewed by the Traffic Commission or by the Bicycle and Pedestrian Safety Commission. Planning and Transportation Department Director Scott Robinson previously noted, when Ordinance 22-35 was considered, that the Department was not in support of these specific proposed changes but was open to discussing suggestions and improvements to the program that councilmembers wished to consider.

The ordinance sponsor, Councilmember Rollo, does not anticipate that the proposed amendments to the TCGP will directly impact city revenues, expenditures, or any debt obligations.

Contact

Cm. Dave Rollo, 812-349-3409, rollod@bloomington.in.gov

ORDINANCE 23-08

**TO AMEND THE TRAFFIC CALMING AND GREENWAYS PROGRAM
INCORPORATED BY REFERENCE INTO TITLE 15 (“VEHICLES AND TRAFFIC”)
OF THE BLOOMINGTON MUNICIPAL CODE -**

**Re: Amending the Traffic Calming and Greenways Program
Incorporated by Reference into Bloomington Municipal Code Section 15.26.020**

- WHEREAS, on June 2, 1999, the Bloomington Common Council (“Council”) adopted Ordinance 99-16, which established the Neighborhood Traffic Safety Program in order to guide the decision making process for placement of traffic calming and related traffic control devices in neighborhoods; and
- WHEREAS, on October 21, 2020, the Council adopted Ordinance 20-17, which replaced the Neighborhood Traffic Safety Program with the Traffic Calming and Greenways Program; and
- WHEREAS, Bloomington Municipal Code Section 15.26.020 (“Traffic calming and greenways program”) incorporates the Traffic Calming and Greenways Program into the municipal code by reference, including any amendments made to the program approved by ordinance of the Council; and
- WHEREAS, the Traffic Calming and Greenways Program includes a list of rationale for the program, which includes encouraging resident involvement and ensuring an appropriate process to receive traffic calming requests from residents; and
- WHEREAS, the Traffic Calming and Greenways Program includes a list of guiding principles that inform the program, including the principle that processes shall provide for reasonable but not onerous resident participation in the plan development and evaluation; and
- WHEREAS, the Traffic Calming and Greenways Program envisions a process for Bloomington that is openly shared and transparent to the community; and
- WHEREAS, under the current Traffic Calming and Greenways Program, proposed projects, which may have significant impacts on residents, do not require review by an elected governing body before proceeding to the installation phase; and
- WHEREAS, both the resident-led and staff-led traffic calming processes provided for in the Traffic Calming and Greenways Program should include a step for Council review and approval of potential projects before those projects proceed to the installation phase; and
- WHEREAS, the Bloomington Common Council believes that changes are warranted to the Traffic Calming and Greenways Program, which has been incorporated by reference into Title 15 of the Bloomington Municipal Code entitled “Vehicles and Traffic,”

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

SECTION 1. The Traffic Calming and Greenways Program (“Program”) incorporated by reference into Bloomington Municipal Code Section 15.26.020 is amended as depicted in “Attachment A”, attached hereto and incorporated herein. The visual overviews in the Program of the resident-led traffic calming process and the staff-led traffic calming/neighborhood greenway process shall be revised to reflect the amendments shown in Attachment A.

SECTION 2. The amended Program is adopted. Two copies of the amended Program shall be kept on file in the office of the City Clerk for public inspection.

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 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 adopts an amended Traffic Calming and Greenways Program. The Traffic Calming and Greenways Program sets the standard for the prioritization and placement of neighborhood traffic calming and related traffic control devices and requires a consistent procedure for resident-led and staff-led processes. The amendments to the program include the addition of Common Council Action as a required step in both the resident-led and staff-led processes.



TRAFFIC CALMING & GREENWAYS PROGRAM

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BACKGROUND

The City of Bloomington (the City) places a high value on livability. Livability, as a concept, has largely been the rationale for public policies which serve to benefit the community. One such policy, Chapter 15.26, added to the City’s Code on June 2, 1999, established the Neighborhood Traffic Safety Program (NTSP). The NTSP aimed to increase a neighborhood’s livability by enabling groups of organized residents to manage driving behaviors on neighborhood streets through the installation of speed cushions, chicanes, and other traffic calming devices.

The City of Bloomington Traffic Calming and Greenways Program (TCGP) seeks to replace the NTSP program and envisions a process for Bloomington which is:

- Based upon objective, measurable data
- Viewed through the lenses of connectivity and accessibility
- Aligned with the City’s Comprehensive Plan and Transportation Plan
- Managed through a consistent process
- Openly shared and transparent to the community

RATIONALE

The rationale for replacing the NTSP policy is based on the Bloomington Comprehensive Plan (2018) and the Bloomington Transportation Plan (2019):

- Continue to integrate all modes into the transportation network while prioritizing bicycle, pedestrian, public transit, and other non-automotive modes to make our network equally accessible, safe, and efficient for all users (*Comprehensive Plan Goal 6.4*)
- Protect neighborhood streets that support residential character and provide a range of local transportation options (*Comprehensive Plan Goal 6.5*)
 - Implement traffic calming measures where safety concerns exist to manage motor vehicle traffic on residential streets (*Comprehensive Plan, Policy 6.5.1*)
 - Balance vehicular circulation needs with the goal of creating walkable and bike-friendly neighborhoods (*Comprehensive Plan, Policy 6.5.2*)
 - Continue to improve connectivity between existing neighborhoods, existing and proposed trails, and destinations such as commercial areas and schools (*Comprehensive Plan, Policy 6.5.3*)
- Ensure an appropriate process to receive traffic calming requests from residents and include steps for the installation of temporary, proactive traffic calming measures as well as the installation of longer-term measures as a result of a reactive process in response to local concerns (*Transportation Plan, p. 51*)
- Encourage resident involvement (*Transportation Plan, p. 64*)

GUIDING PRINCIPLES

The following eight guiding principles inform the TCGP:

1. Evaluation and prioritization of TCGP installations should be based upon objective, pre-established criteria; be in alignment with the City of Bloomington adopted plans and goals; ~~and~~ be reviewed by a designated City Commission ~~who that~~ oversees traffic calming, and/or long range transportation planning; **and be subject to approval by the Bloomington Common Council.**
2. Traffic Calming and Greenways Program projects shall enhance pedestrian, bicyclist, and other **micromobility** mode user's access through the neighborhood and preference shall be given to projects that enhance access to transit as well.
3. Traffic calming devices should be planned and designed in keeping with planning and engineering best practices.
4. Reasonable emergency and service vehicle access and circulation should be preserved.
5. City staff shall direct the installation of traffic calming measures in compliance with this policy and as adopted into Bloomington Municipal Code.
6. The TCGP is mainly intended for: **Shared Street, Neighborhood Residential Street,** and **Neighborhood Connector Street** typologies and, on occasion, may include traffic calming elements as part of a larger infrastructure project.
7. Some motorists may choose to reroute from one neighborhood street to another as a result of an TCGP project. In some cases, this rerouting may require updates to a project, but the goals of mode shift and improved safety for all road users should generally supersede minor shifts in rerouting. Minor increases in traffic volumes on adjacent streets are anticipated and acceptable levels should be defined on a project-by-project basis.
8. Processes shall provide for reasonable but not onerous resident participation in plan development and evaluation.

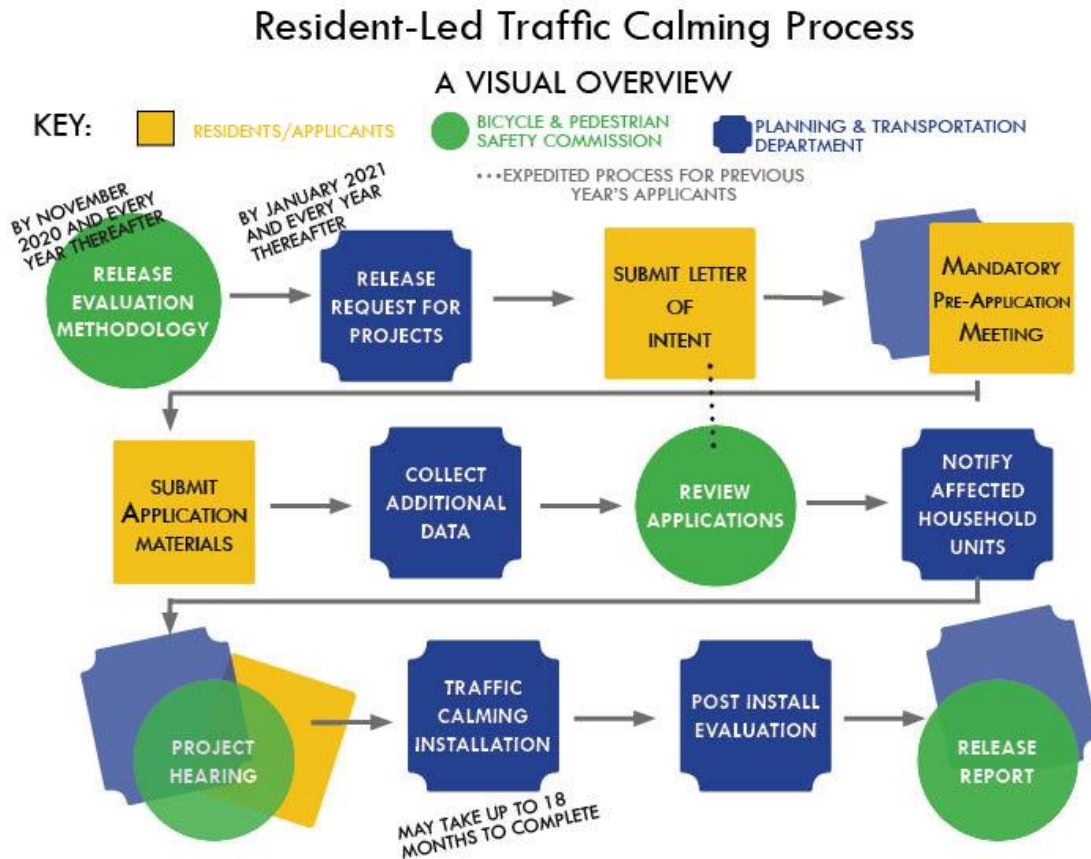
RESIDENT-LED TRAFFIC CALMING PROCESS

The TCGP provides a mechanism for residents to work with the City to manage traffic in their neighborhoods. The TCGP is intended to provide a simple process for residents to address traffic and speeding concerns on neighborhood streets. The TCGP processes also provide a consistent framework to ensure efficient use of resident and City staff time.

This section describes in detail the steps involved in participating in the Resident-led Traffic Calming process including the City’s request for projects, the application requirements, benchmark data collection, the review and prioritization of high-ranking projects, the installation of traffic calming devices, and an evaluation of the project’s success. The Resident-Led Traffic Calming Process is illustrated below in Figure 1 and in the [Appendix](#).

Traffic Calming devices primarily considered for this program include **speed cushions** and **speed humps**, in some contexts other devices may also be considered.

Figure 1: Visual Overview of the: Resident-led Traffic Calming Process



BICYCLE PEDESTRIAN SAFETY COMMISSION RELEASES EVALUATION METHODOLOGY

The Evaluation Methodology defines the objective criteria used to review project requests. The evaluation methodology is reviewed each year before the start of a new process cycle. By November 30, 2020 and by November 30 of each year thereafter, the Bicycle Pedestrian Safety Commission (BPSC) shall submit revisions of the TCGP Evaluation Methodology to the Planning and Transportation Department as well as a report that includes the following:

- Any changes to the application evaluation methodology from the previous year;
- A status report on the previous years' designed and installed projects; and
- Projects which applied for funding but did not receive funding based on the priority ranking during the previous year's cycle.

CITY RELEASES REQUEST FOR PROJECTS

In January 2021 and every year in January thereafter, the City Planning Department will release a Request for Projects (RFP) for participation in the Traffic Calming and Greenways Program. Each RFP issued shall be dependent upon funding availability, and the amount of available funding may be made known to prospective applicants. Requests for participation will be made through the BPSC and City staff to residents upon the opening of the RFP process.

STEP 1: RESIDENTS SUBMIT LETTER OF INTENT

Residents who wish to engage in the TCGP must submit a Letter of Intent (LOI) to the Planning Department before the end of the posted deadline. Prospective applicants are responsible for checking the TCGP guidelines for additional formatting and submission requirements. The LOI from the interested parties shall include but may not be limited to:

- Contact information for a minimum of two project co-organizers;
- Project organizers must represent two (2) separate dwelling units within the proposed area to be considered.
 - Individuals who reside in the same dwelling shall not be permitted to serve as project co-organizers without the collaboration of a neighbor or resident of a differing dwelling unit.
 - Individuals who reside in different dwelling units of a larger multi-family complex shall be permitted to serve as project co-organizers.
- A general description of the concern;
- A map of the proposed area to be considered;
- Acknowledgement of program policies; and
- Any supplemental information requested by staff.

Previous Applicants: Project co-organizers who have submitted an application for the previous one (1) year program cycle and did not receive funding may reapply with an updated LOI and any supplemental materials requested by City Staff.

Staff Action: When the submission window has closed, City staff shall review each of the LOIs. City staff will notify applicants who have met the requirements to advance to the application process of the Resident-led Traffic Calming Process. In the event that an application does not meet the minimum

requirements to apply, City staff may notify the project co-organizers and allow up to 4 additional business days to resubmit with recommended changes dependent upon the quantity and extent of changes needed. LOIs which do not meet the minimum requirements will not progress beyond Step 2 of the Resident-led Traffic Calming Process and shall be notified by City staff.

STEP 2: PRE-APPLICATION MEETINGS WITH CITY STAFF AND PROJECT ORGANIZERS

City staff shall schedule a mandatory meeting with each group of project co-organizers who have advanced to Step 2 of the Resident-led Traffic Calming Process. At the mandatory pre-application meeting staff shall:

- Discuss the application requirements, processes, and deadlines;
- Disseminate preliminary information required in the application;
- Provide a link to the application materials; and
- Answer questions from the project organizers.

STEP 3: RESIDENTS SUBMIT APPLICATION MATERIALS

Project co-organizers will have approximately six to eight weeks to complete and submit their applications. Application materials shall include:

- Three (3) Letters of Support from stakeholders.
 - Must include at least one (1) City Council Representative
 - May include an organization or professional which serves the residents living within the identified area (i.e., neighborhood association, school, neighborhood resource specialist, faith based organization, and/or a non-profit which serves households located within the specified area but may not necessarily be located within the specified zone)
 - Only three letters will be reviewed. Additional letters will not be reviewed with the project application.
- Twenty-four (24) or 30% (whichever is the lesser) signatures from **Affected Housing Units** impacted by the traffic calming installations proposed.
 - Staff shall provide a template document for collecting signatures which must be used for collecting signatures. No other forms will be accepted.
 - Electronic signatures may be used for this purpose if deemed appropriate and with written approval of the City Planning Department Director.
- A finalized map of the proposed project area.
- Additional relevant data requested by City staff

City staff shall send a confirmation email once an application has been received. In the event that an application requires clarification or has proposed a zone which is incompatible with the program, City staff may notify the project organizers and allow up to an additional 4 business days to resubmit with recommended changes dependent upon the quantity and extent of changes needed. Incomplete applications which are submitted with insufficient supporting documents/ materials will not progress beyond Step 3 of the Resident-led Traffic Calming Process and shall be notified by City staff.

STEP 4: CITY STAFF PREPARE RELEVANT DATA

City staff shall collect preliminary information about current traffic conditions. Relevant data may include crash history, speed counts and volume data, and other relevant facts. City staff shall notify the affected safety and emergency services of the initiative to include but not be limited to: the Bloomington Police Department, Bloomington Fire Department, local ambulance services, and Bloomington Transit.

City staff may collect and summarize preliminary information about existing plans for development, census data, and pedestrian and bicycle network infrastructure near the proposed project.

STEP 5: BPSC REVIEW OF APPLICATIONS

Upon the receipt of completed applications, the BPSC will review the materials submitted and the preliminary data collected by City staff. The BPSC will validate successful applications, and rank the projects which score highest as determined by the evaluation methodology. All applications will be evaluated using the same criteria.

The evaluation criteria for the Resident-led Traffic Calming Process must account for two main areas of emphasis:

1. Prevalence of vulnerable users (e.g., children, persons with disabilities, older adults, economically disadvantaged households) and community centers.
2. Incidence of crashes and behaviors which are the causal factors for increased injury to vulnerable users (crashes, speeding, volume).

STEP 6: NOTIFICATIONS SENT TO AFFECTED HOUSING UNITS IN HIGH RANKING AREAS

Notifications will be sent via post to **Affected Housing Units** and electronically to **Network Users** in the areas surrounding projects that are likely to be funded based upon the number of applications and the designated resources for traffic calming.

Information presented in the notification shall include:

- Information related to the location and placement of the proposed traffic calming installations;
- The objectives for the traffic calming;
- Notification of all scheduled meetings associated with the project and prioritization process; and Contact information and project website to direct feedback, ask questions, or present concerns.

STEP 7: PROJECT PRIORITIZATION HEARING

The BPSC shall host a hearing in which **Affected Housing Units**, **Network Users**, and members of the public may voice their questions, concerns, support, or critique of the Traffic Calming project. Based upon information gleaned at the prioritization hearing, the BPSC may vote to **recommend and** advance fundable projects to the **Common Council Action step design/~~installation phase~~** for those which rank highest unless extenuating circumstances become known which calls into question a project's merit or evidence that an application was not put forth in good faith with the program policies.

STEP 8: COMMON COUNCIL ACTION

Based on the project meetings, collected data, and BPSC review, City staff members prepare a resolution and report for the Common Council. The report outlines the process followed, includes the project findings, and states the reasons for the BPSC's recommendations. City staff shall present the resolution and report to the Common Council for action. If the resolution is not adopted by the Common Council, the project does not proceed to installation.

-STEP 98: INSTALLATION

After the project has been approved by the Common Council, City staff will proceed with final design and installation. Planning, design, and construction may take up to 18 months depending on the scope of the project. Installations will typically be planned with permanent materials; however, using temporary materials may be appropriate to evaluate design options or to accelerate project timelines.

STEP 109A: POST-INSTALLATION EVALUATION *(TAKES PLACE CONCURRENTLY WITH STEP 109B)*

Up to 18 months after the construction of the Traffic Calming project, the City may conduct a follow-up evaluation. After the installation has been completed, City of Bloomington Planning Department Staff will work to gather data which may include traffic counts, speed studies, and crash history. In some instances, evaluations of adjacent and parallel streets will also be included.

STEP 109B: MAINTENANCE AND MINOR ALTERATIONS *(TAKES PLACE CONCURRENTLY WITH STEP 109A)*

The City of Bloomington Planning Department is responsible for the construction and the minor alteration of any traffic calming device implemented as part of the Resident-led Traffic Calming Process. Alterations may occur either during the design of the project or after the construction is complete. Changes to signs, markings, or location of traffic calming devices may be considered minor alterations. Other changes which could have a more significant impact on a street's operations should follow the Staff-led Traffic Calming/Neighborhood Greenways Process or the Resident-led Traffic Calming Process in subsequent funding cycles.

The Department of Public Works will be responsible for maintenance of completed Traffic Calming installations.

OTHER PROCESSES A: INCREASED TRAFFIC CALMING AND MODIFICATIONS

If residents desire to have their traffic calming modified to include major alterations, a request in writing must be made to City Planning and Transportation staff. Requests for traffic calming tools beyond those typically used for Resident-led projects shall require staff approval in writing. Projects that are able to be supported and prioritized for increased traffic calming will follow the Staff-led Traffic Calming/Neighborhood Greenways Process beginning at [Step Six](#). In some cases, the City may choose to start at an earlier step in the process.

Residents may request to make major modifications to existing traffic-calming on public streets by applying to the Resident-led Traffic-Calming Process. To request major modifications to existing traffic

calming, residents shall follow the Resident-Led Process, starting at [Step 1](#) but may not do so within 7 years of the date which the traffic calming installation was approved.

OTHER PROCESSES B: REMOVAL PROCESS

If residents of a neighborhood request to have their traffic calming installations removed, an application shall be submitted with no less than sixty-six (66) percent of the **Affected Housing Units** in support of the removal. Removal of Traffic calming must be based upon the same boundaries as the original project request and may not be divided into smaller portions thereof. Applications for removal and required signatures shall not be submitted within 7 years of the date which the traffic calming installation was approved. City staff shall provide a template document for collecting signatures which **must** be used for collecting signatures required for traffic calming removal. No other forms will be accepted for this purpose. The City may provide an electronic signature option if deemed appropriate and with written approval of the City Planning Department Director.

City Planning Department staff shall validate completed applications and present it to the Bicycle Pedestrian Safety Commission for approval. Based upon the application materials provided, traffic speed and volume data, and public comment, BPSC shall vote to remove the traffic calming installations (or any portion thereof) unless sixty-six (66%) percent majority of BPSC appointed members vote to deny the removal of the traffic calming installations.

In some extenuating circumstances, the City Engineer may remove a traffic calming installation if they find it poses increased and unnecessary risk to public. In the event of such circumstances, the Engineer must submit a report within 180 days of the removal of a traffic calming device to both the BPSC and City Council explaining the rationale which the removal was deemed necessary.

STAFF-LED TRAFFIC CALMING/ NEIGHBORHOOD GREENWAY PROCESS:

The Staff-led Traffic Calming/ Neighborhood Greenway Process provides a framework for Planning and Engineering Department staff to identify and implement traffic calming projects, improve safety and/or support pedestrian, bicyclist, or transit initiatives.

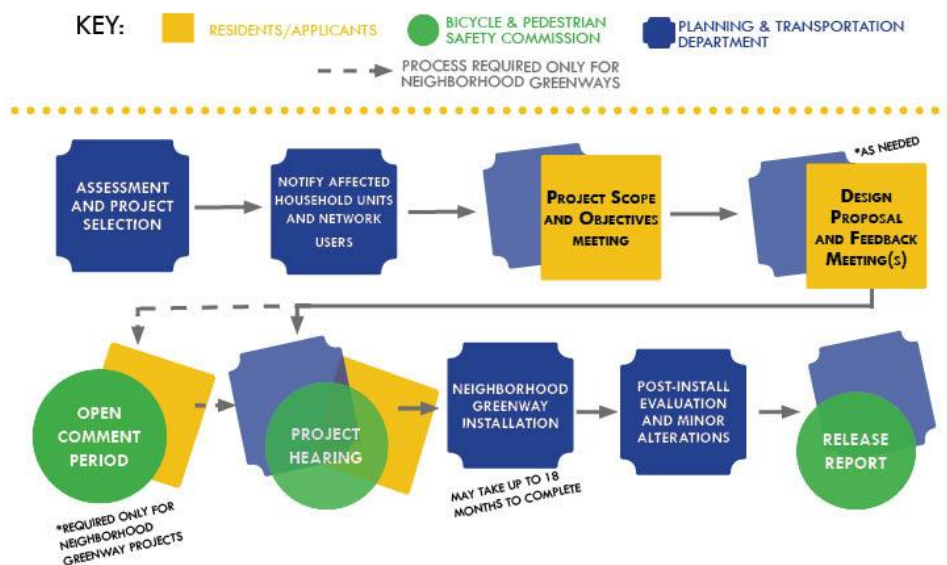
Traffic Calming, or devices used for reducing speeds on residential streets are defined by state code and may include: speed bumps, curb extensions, chicanes, and/or diagonal diverters. While the state provides a definition for specific traffic-calming devices which may be used, there are other street design elements (i.e., adding on-street parking, the design of on-street parking, narrowing lanes) which may result in slowing motorized vehicle traffic. These design elements alone do not trigger the Staff-Led Traffic Calming process. However, the design strategies may be included in a traffic-calming project.

A **Neighborhood Greenway** is a street that serves as a shared, slow street with the intention of prioritizing bicycling and improving walking. The Bloomington Transportation Plan identifies certain streets as Neighborhood Greenways. Traffic Calming installations, signs, and pavement markings are often used to create the basic elements of a Neighborhood Greenway-- but are, in and of themselves not Greenways for the purposes of the program until they are identified within the Transportation Plan. To be considered ~~for as~~ a Neighborhood Greenway, a street must be identified as a Neighborhood Greenway in the Bicycle Facilities Network in the Bloomington Transportation Plan.

This section describes in detail the steps involved in the Staff-led Traffic Calming/Neighborhood Greenways Process including the City’s notification to the public, the process for gaining feedback from **Affected Housing Units**, and the installation and evaluation for each Neighborhood Greenway project. The Staff-led Neighborhood Greenway Process is illustrated below in Figure 2 and in [the Appendix](#).

Staff-Led Neighborhood Traffic Calming/Greenway Process

A VISUAL OVERVIEW



STEP 1: NOTICE MAILING

City staff shall notify **Affected Housing Units** by a postal mailing and electronically to **Network Users** in advance of any work sessions or meetings which discuss the installation of the Traffic Calming/ Neighborhood Greenway project.

The intent of the notification is to alert residents and stakeholders of the project and provide details of upcoming meetings. Other notifications, such as postings on social media or signs posted in the vicinity of the proposed project, are additional measures which may be used to increase engagement with residents.

STEP 2: FIRST MEETING- PROJECT SCOPE AND OBJECTIVES MEETING

City Planning and Transportation Department Staff shall host a meeting about the proposed project. Staff will seek input from residents, stakeholders, and **Network Users**. Staff will present information including but not limited to the following:

- What is Traffic Calming? What is a Neighborhood Greenway?
- What are the boundaries of this phase of the project?
- How do the Traffic Calming/ Neighborhood Greenways support the City's Comprehensive Plan and Transportation Plan goals for multimodal connectivity?
- What are the funding limitations for this project or phase?

STEP 3: SECOND MEETING- FEEDBACK ON PRELIMINARY DESIGN

City staff will host a second meeting to share the preliminary design and to take input from residents and users.

STEP 4: THIRD MEETING (OPTIONAL) DESIGN/BUILD OUT OPTION WORK MEETING

A third meeting is optional, based on feedback of the preliminary design.

STEP 5: OPEN COMMENT PERIOD (NEIGHBORHOOD GREENWAY PROJECTS ONLY)

Staff-led Neighborhood Greenway plans shall be made available for comment by **Affected Housing Units, Network Users**, and other stakeholders. Comments shall be made on the project website, email, phone, or post mail. Comments housed in social media platforms and listservs will not be considered in the BPSC Discussion/ Review.

The open comment period is expected to last 4 weeks, unless extenuating circumstances require a longer timeframe. When City staff feel confident that a design best suited to the project and location has been achieved, the proposed Staff- Led Neighborhood Greenway installation will proceed forward to the BPSC Discussion and Review Phase.

STEP 6: BPSC DISCUSSION/REVIEW

City staff shall present the project, objectives, baseline data, notes from public meetings, and design concepts to the BPSC for review **and recommendation**. By default, projects will proceed **to the next step**, unless a ~~a~~ seventy-five percent (75%) of the BPSC appointed members vote to send the project back to the City staff for further refinement.

STEP 7: COMMON COUNCIL ACTION

Based on the project meetings, collected data, and BPSC review, City staff members prepare a resolution and report for the Common Council. The report outlines the process followed, includes the project findings, and states the reasons for the BPSC's recommendations. City staff shall present the resolution and report to the Common Council for action. If the resolution is not adopted by the Common Council, the project does not proceed to installation.

STEP 78: INSTALLATION

After the project has been approved by the Common Council, the City of Bloomington Planning Department shall install the Traffic Calming or Neighborhood Greenways. The installation is intended to be constructed with permanent materials; however, in some cases, using temporary materials may be appropriate in order to evaluate design techniques or to accelerate project timelines.

STEP 89A: EVALUATION (*HAPPENS CONCURRENTLY WITH STEP 98B*)

Within eighteen months after the construction of a Traffic Calming/ Neighborhood Greenway project is complete, the City may conduct a follow-up evaluation. This evaluation may include traffic counts, speed studies, and crash history. In some instances, evaluations of adjacent and parallel streets will also be beneficial.

STEP 89B: MAINTENANCE AND ALTERATIONS (*HAPPENS CONCURRENTLY WITH STEP 98A*)

The City of Bloomington Planning Department is responsible for the construction and the minor alterations of any traffic calming device implemented as part of the program. These alterations may occur either during the design of the project or after the construction is complete. Changes to signs, markings, or location of traffic calming devices may be considered **minor alterations**.

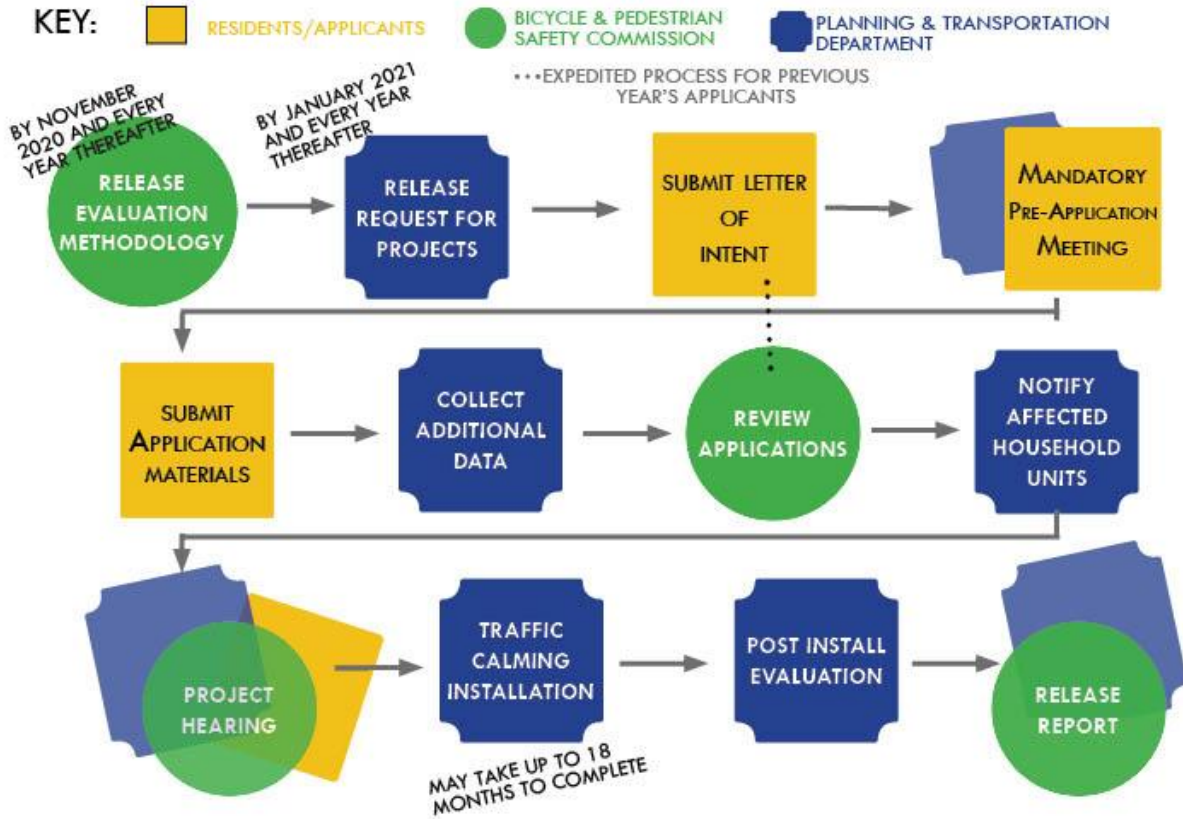
City Staff may request to make **major modifications** to existing traffic calming installations on public streets by following the Staff-led Traffic Calming and Neighborhood Greenways Process, starting at [Step 6](#). In some cases, the City may choose to start at an earlier step in the process.

The Department of Public Works will be responsible for maintenance of completed Traffic Calming/ Neighborhood Greenway installations.

APPENDIX: VISUAL OVERVIEW OF RESIDENT-LED AND STAFF-LED PROCESSES

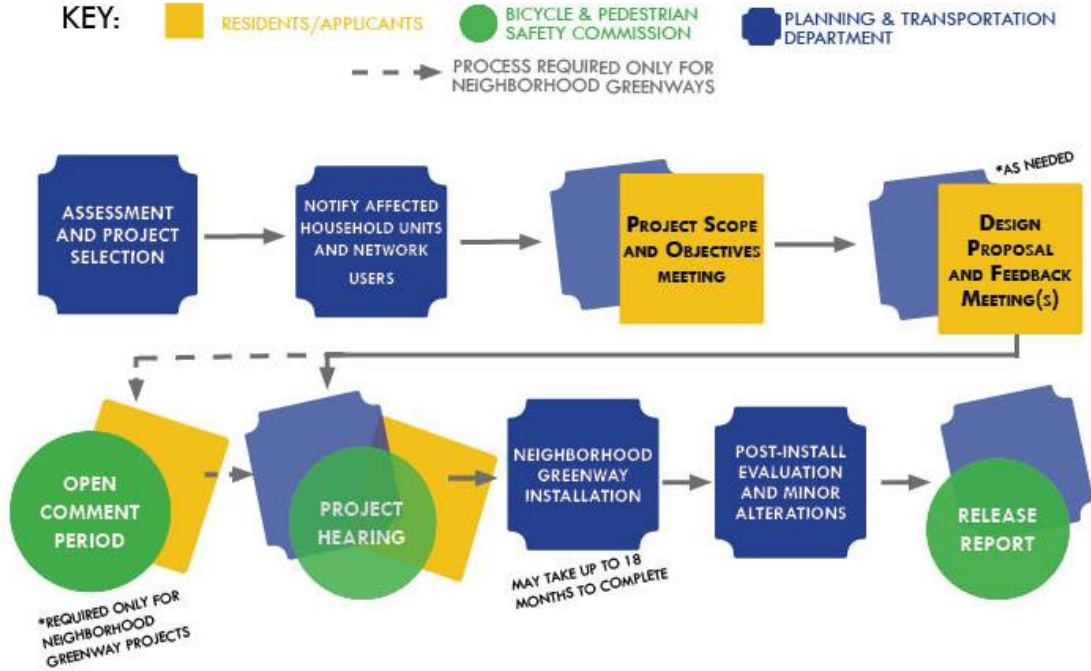
Resident-Led Traffic Calming Process

A VISUAL OVERVIEW



Staff-Led Neighborhood Traffic Calming/Greenway Process

A VISUAL OVERVIEW



APPENDIX: DEFINITIONS

Affected Housing Units: residents and property owners of record located within two lots not to exceed 300 feet of streets affected by the proposed traffic calming installation.

Major alterations: A change other than a minor alteration.

Micromobility: a category of modes of transport that are provided by very light vehicles such as scooters, electric scooters, electric skateboards.

Minor alterations: a change which has no appreciable effect on the surface area of the street dedicated to the travel for motor vehicles. Changes to signs, markings, parking policies or location of traffic calming devices may be considered minor alterations. All other changes are considered 'major alterations.'

Neighborhood Connector Street: streets which provide connections between the neighborhood residential and general urban or suburban connector streets. They collect traffic from residential neighborhoods and distribute it to the broader street network. Most of the land uses surrounding neighborhood connectors are generally low/medium-density residential with commercial nodes as it connects to the larger street network.

Neighborhood Residential Street: streets that provide access to single and multifamily homes and are not intended to be used for regional or cross-town motor vehicle commuting. Neighborhood residential streets have slow speeds and low vehicular volumes with general priority given to pedestrians.

Neighborhood Greenway: a low-speed, low-volume shared roadway that creates a high-comfort walking and bicycling environment. Neighborhood Greenways are identified in the Bloomington Transportation Plan.

Network Users: People who utilize a street for their primary means of access to pedestrian, bicycle, or transit networks.

Shared Streets: Streets designed for pedestrians, bicyclists, transit riders, and motorists to operate in a "shared" space; shared streets utilize design elements such as pavement treatments, planters, roadway widths, parking spaces, and other elements to direct traffic flow and to encourage cooperation among travel modes in typically flush or curbless environments.

Speed Cushions: speed humps that include wheel cutouts to allow large vehicles, cyclists, scooters and strollers to pass unaffected, while reducing passenger car speeds.

Speed Humps: a ridge set in a road surface, typically at intervals, to control the speed of vehicles.

Traffic Calming: methods described within the state code which are used to slow cars on residential streets. Traffic Calming devices may include curb extensions, chicanes, and/or diagonal diverters.

Traffic Calming and Greenways Program

Common Council – Committee of the Whole

NOVEMBER 30, 2022

Traffic Calming and Greenways Program

Staff is open to improvements to the Traffic Calming and Greenways Program. Proposed changes impact:

1. Resident-Led Traffic Calming by increasing the number of resident-signatures required to apply. This increase will be the most challenging for projects that include multi-family housing. Also, requiring that all resident-led projects are approved as a final step by the Common Council.
2. Staff-Led Traffic Calming and Greenways Projects would require Common Council approval as a final step.

Staff is open to a discussion about what is not currently working well with the recently adopted program.

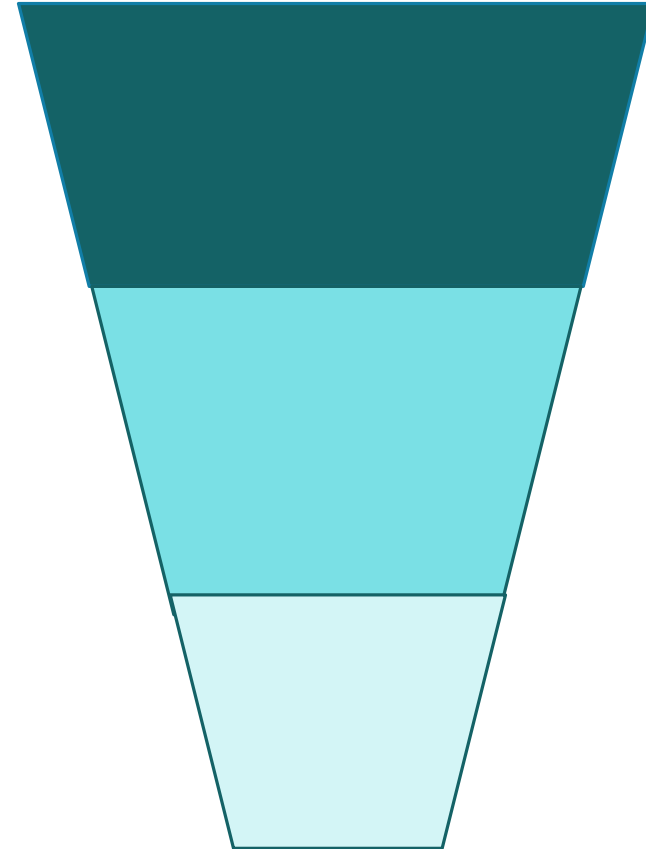
Traffic Calming and Greenways Program Overview

1. Planning processes and engagement
2. Traffic Calming and Greenways Program – the process
3. TCGP projects
4. Project objectives: improving safety, creating a network
5. Project prioritization
6. Questions, concerns, next steps

Planning processes and engagement

Broad to specific

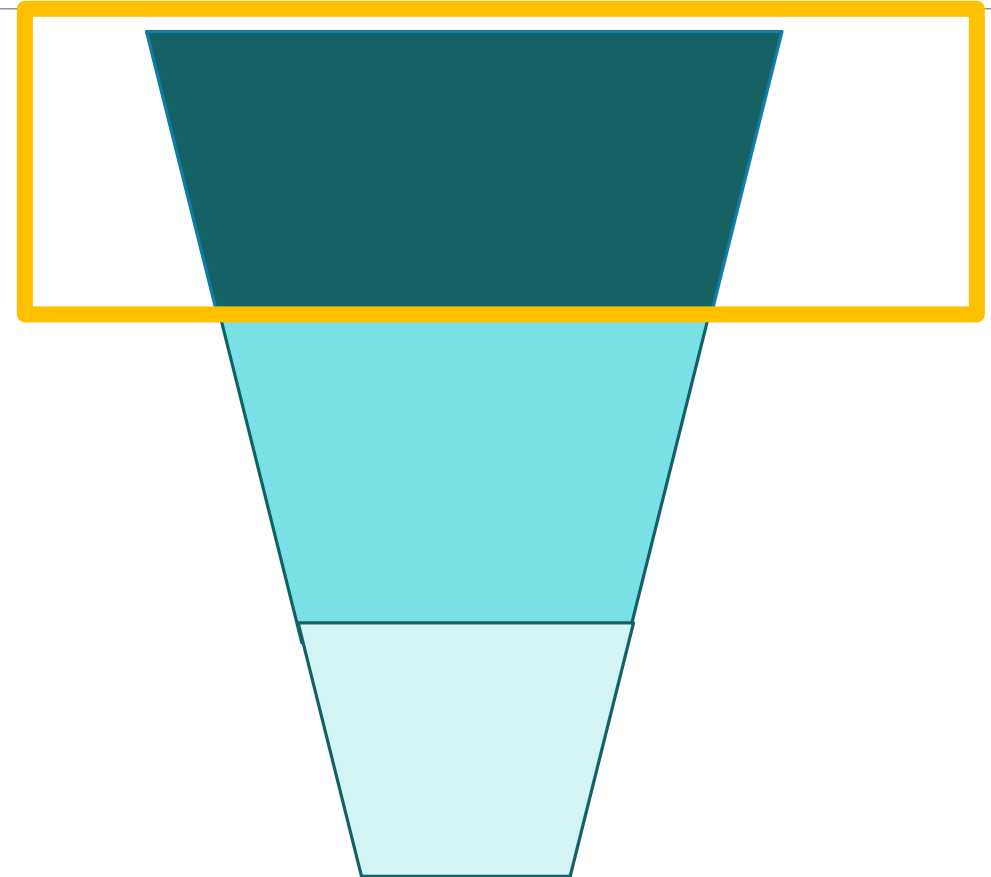
1. Comprehensive Plan
2. Transportation Plan
3. Traffic Calming and Greenways Program



Planning processes and engagement

Comprehensive Plan

1. Broad engagement and broad questions
2. What is our vision for the future?
3. What are our goals to achieve that vision?
4. Big picture, many topics, engagement across the community



Planning processes and engagement

Comprehensive Plan

1. Community Services & Economics
2. Culture & Identity
3. Environment
4. Downtown
5. Housing and Neighborhoods
6. Transportation
7. Land Use

Air Quality and Emissions

Goal 3.6 Protect local air quality from pollutants.

Policy 3.6.1: Ensure that the air we breathe is safe for all Bloomington residents and visitors.

Goal 3.7: Reduce greenhouse gas emissions.

Policy 3.7.1: Promote energy-saving retrofitting of public and private buildings and informed decision-making for building renters based on energy consumption.

Policy 3.7.2: Reduce vehicle miles travelled per capita.

Policy 3.7.3: Utilize tree, shrub, and native prairie perennials to sequester carbon in order to reduce our carbon dioxide emissions.

Planning processes and engagement

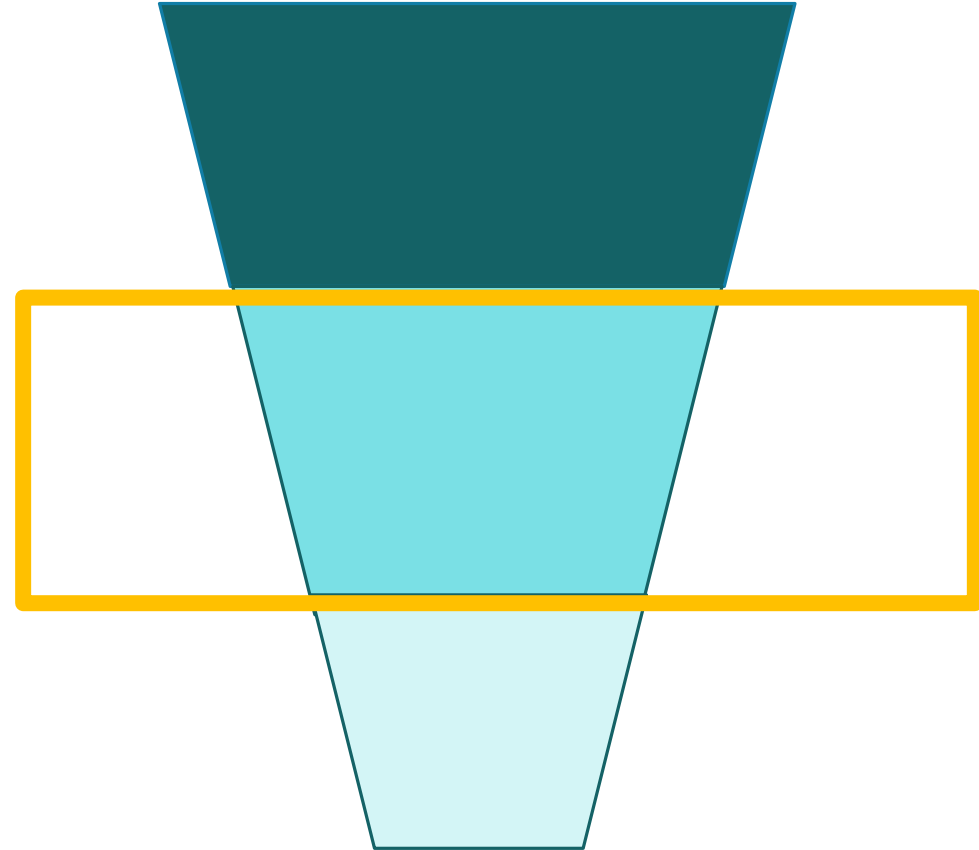
Comprehensive Plan: Transportation

6.1	Increase Sustainability: Improve the sustainability of the transportation system.
6.2	Improve Public Transit: Maintain, improve, and expand an accessible, safe, and efficient public transportation system.
6.3	Improve the Bicycle and Pedestrian Network: Maintain, improve, and expand an accessible, safe, and efficient network for pedestrians, and attain platinum status as a Bicycle Friendly Community, as rated by the League of American Bicyclists.
6.4	Prioritize Non-Automotive Modes: Continue to integrate all modes into the transportation network and to prioritize bicycle, pedestrian, public transit, and other non-automotive modes to make our network equally accessible, safe, and efficient for all users.
6.5	Protect Neighborhood Streets: Protect neighborhood streets that support residential character and provide a range of local transportation options.
6.6	Optimize Public Space for Parking: Plan and develop parking for cars and bicycles with a focus on efficiency and equity.
6.7	Educate the Public: Increase residents' safe use of transportation options that minimize negative environmental and infrastructure impacts.

Planning processes and engagement

Transportation Plan

1. Broad engagement and transportation-specific questions
2. Builds on the goals of the Comp Plan—how do we operationalize those goals in our community?



Planning processes and engagement

Transportation Plan

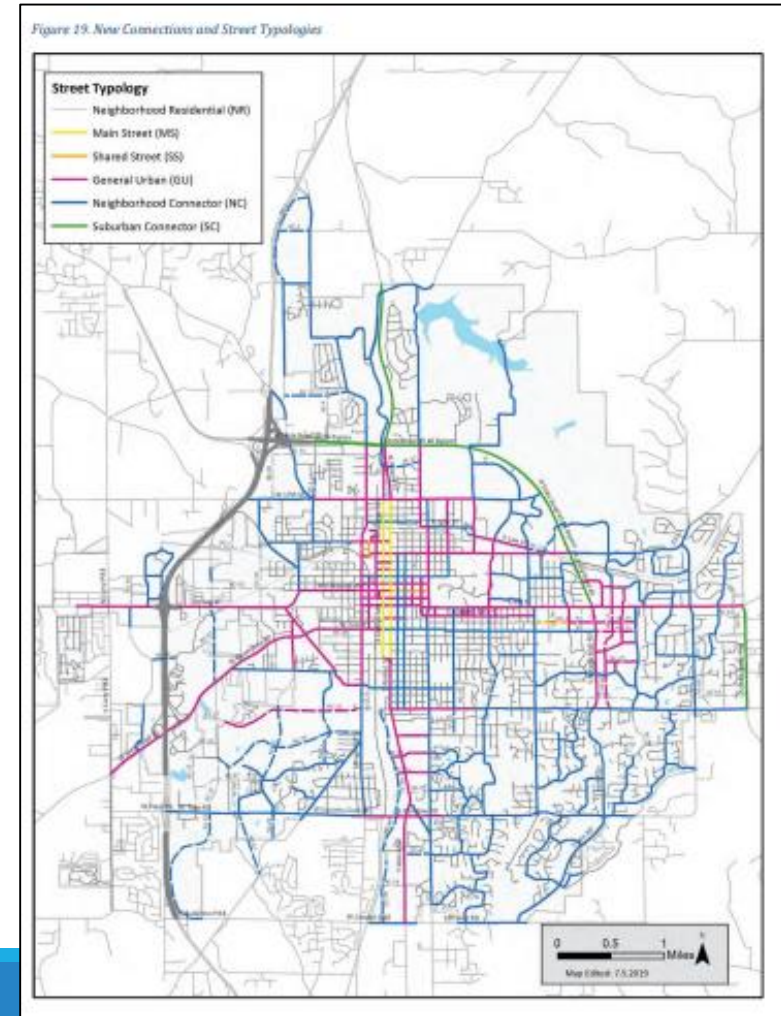
1. How do we achieve our Comprehensive Plan goals for our transportation network?
2. In order to meet our goals, what are our recommendations for every street within the city?
3. Because this builds on the Comprehensive Plan, the engagement questions do not ask, “What are our goals?” That question has been answered.



Planning processes and engagement

Transportation Plan

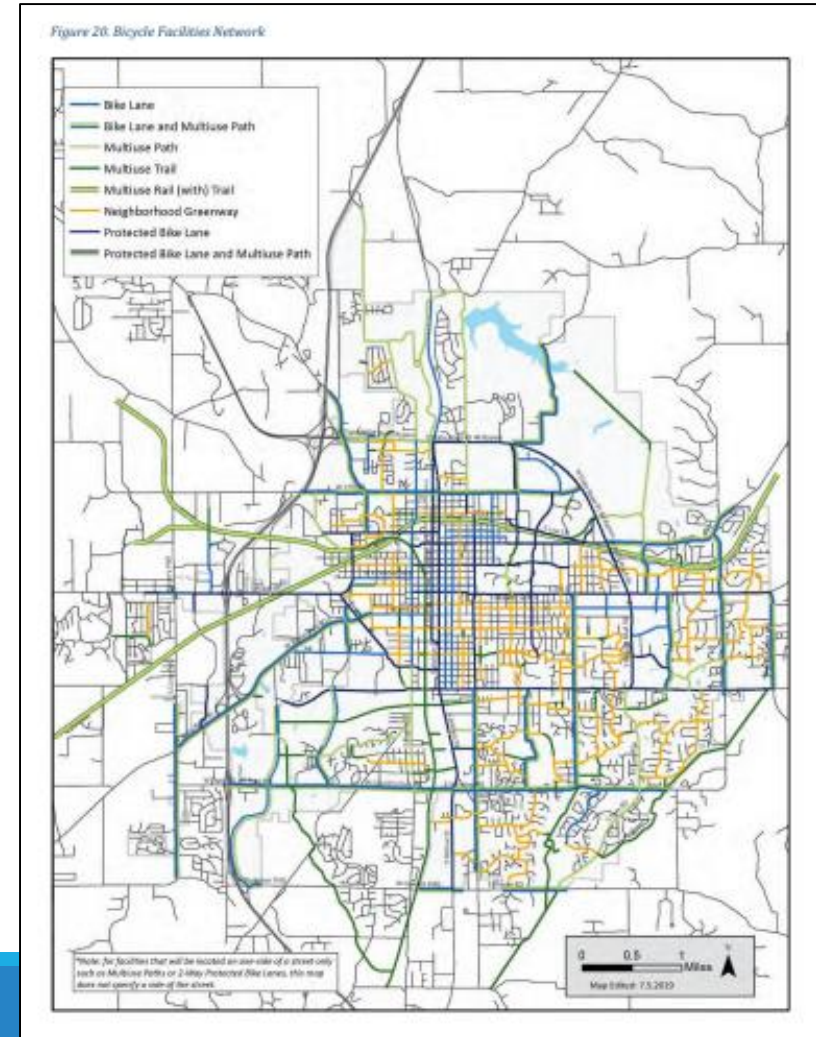
1. Street typologies
2. Every street in the city is assigned a street typology
3. Typologies specify sidewalk widths, treeplot widths, travel lane widths, and on-street parking
4. Figure 19: New Connections and Street Typologies



Planning processes and engagement

Transportation Plan

1. Bicycle Facility Network
2. Every street in the city was reviewed and an appropriate bicycle facility was recommended based on Comprehensive Plan goals
3. Figure 20: Bicycle Facilities Network

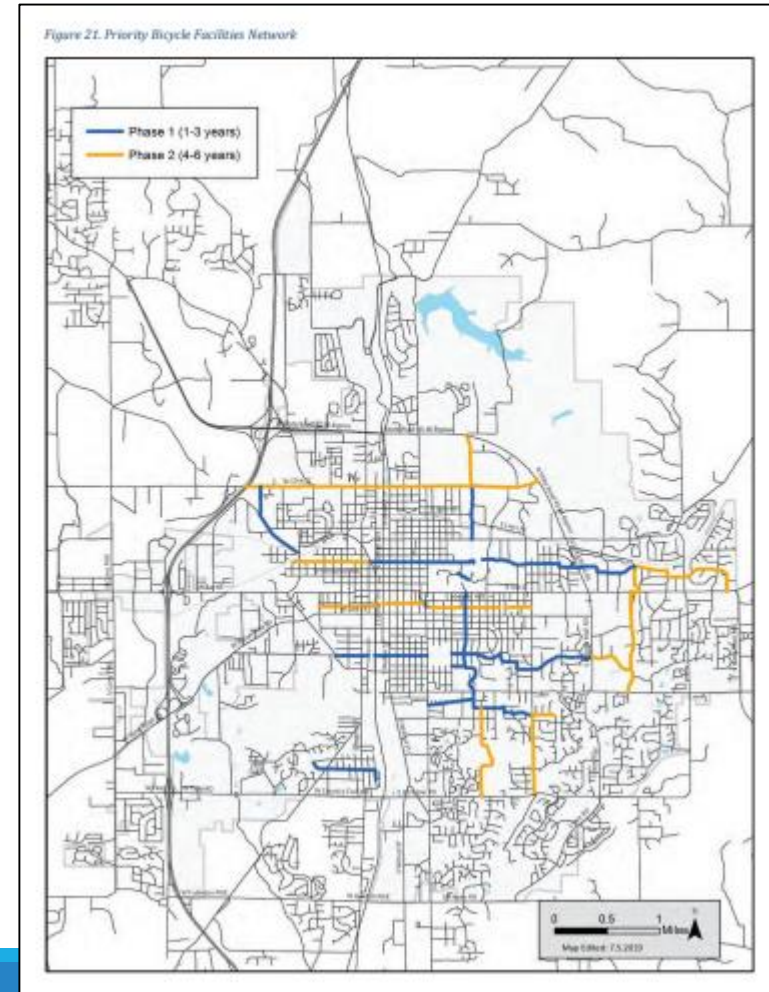


Planning processes and engagement

Transportation Plan

Bicycle Facility Types:

- Multiuse Paths and Trails
- Protected Bike Lanes
- Buffered Bike Lanes
- Conventional Bike Lanes
- Neighborhood Greenways
- Advisory Bike Lane/Shoulder



Planning processes and engagement

Transportation Plan

1. Bicycle Facilities defined: protected bike lane, conventional bike lane, trail, neighborhood greenway etc.
2. Similar to street typologies, each bicycle facility type is described in the text of the plan.
3. Neighborhood Greenway is a type of bicycle facility.

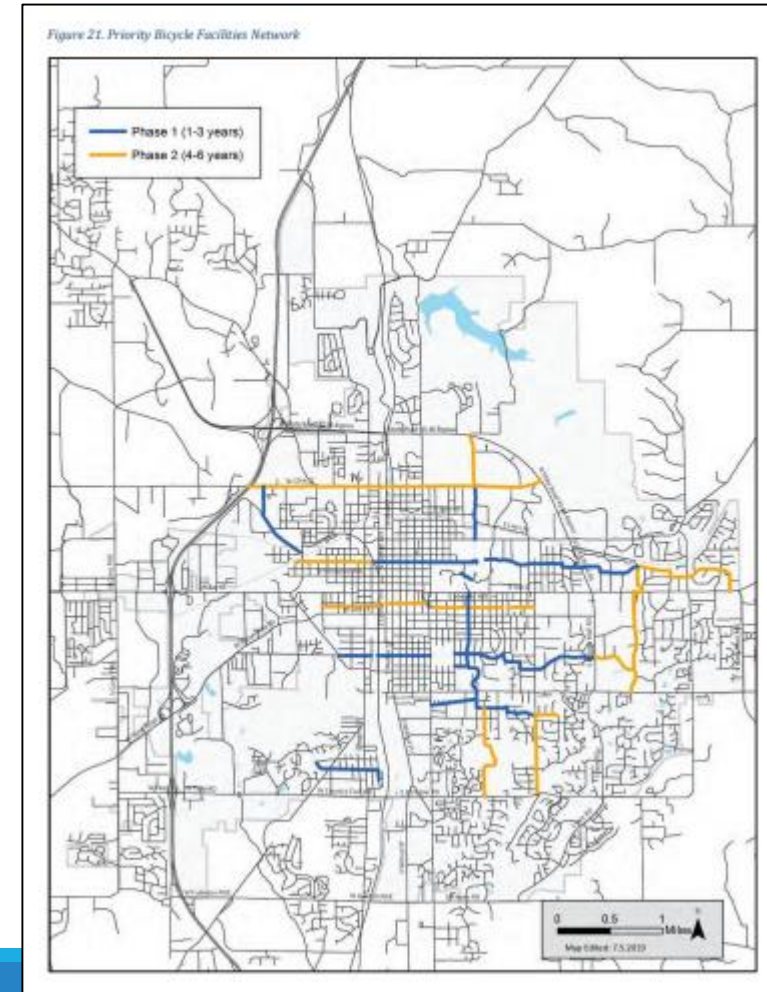
Neighborhood Greenways

Neighborhood greenways (also referred to as bicycle boulevards or neighborhood bikeways) are low-speed, low-volume shared roadways that create a high-comfort walking and bicycling environment. In addition to shared lane markings and wayfinding signs, traffic calming or diversion treatments are often used to promote speed and volume reduction (less than 25 mph and 3,000 vehicles per day). Another option would be to

Planning processes and engagement

Transportation Plan

1. Priority Bicycle Facilities Network
2. “Figure 21 shows the High-Priority Bike Network for Bloomington. Given the limited resources, the projects highlighted in the map and listed in Table 7, are anticipated to achieve the biggest impact within a short timeframe to advance multimodal transportation in the City. These projects form the basic east-west and north-south bicycle network that will be the backbone of the multimodal transportation system in the City.”



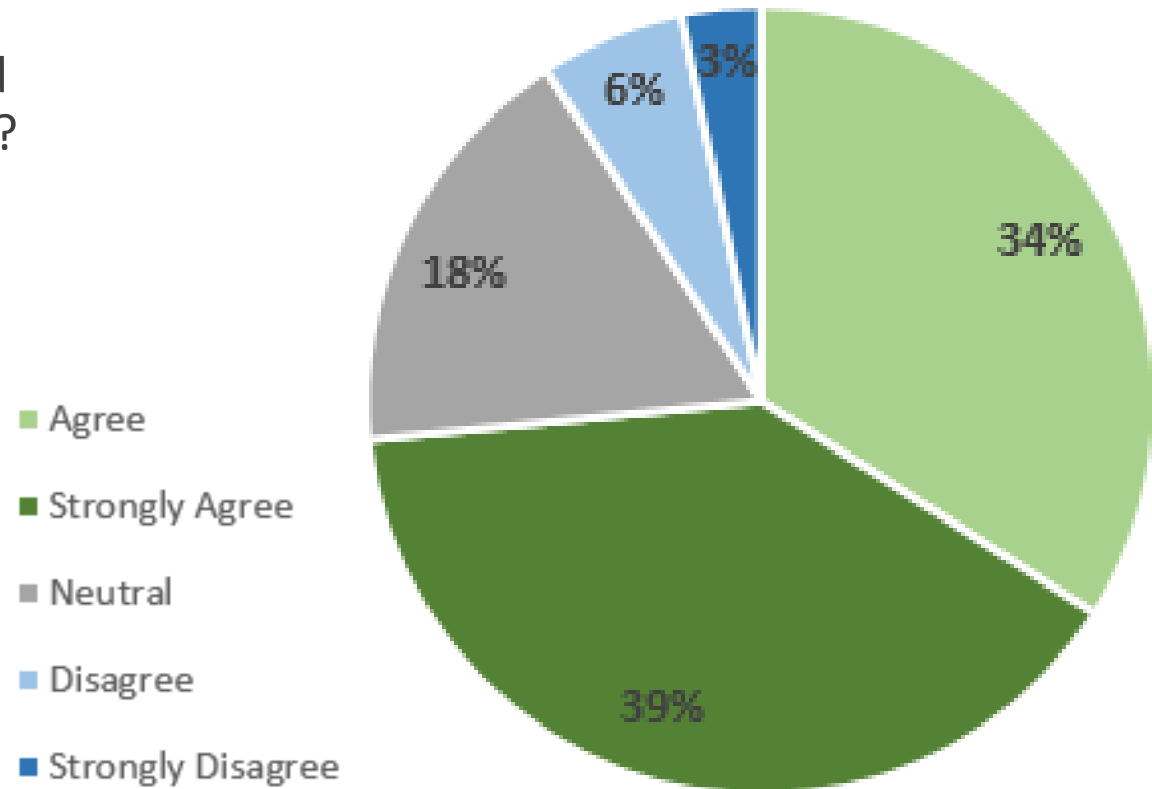
Planning processes and engagement

Transportation Plan

Is there support to extend the B-Line and invest in high-priority multimodal routes?

Yes, 523 respondents

73% of residents Strongly Agree or Agree



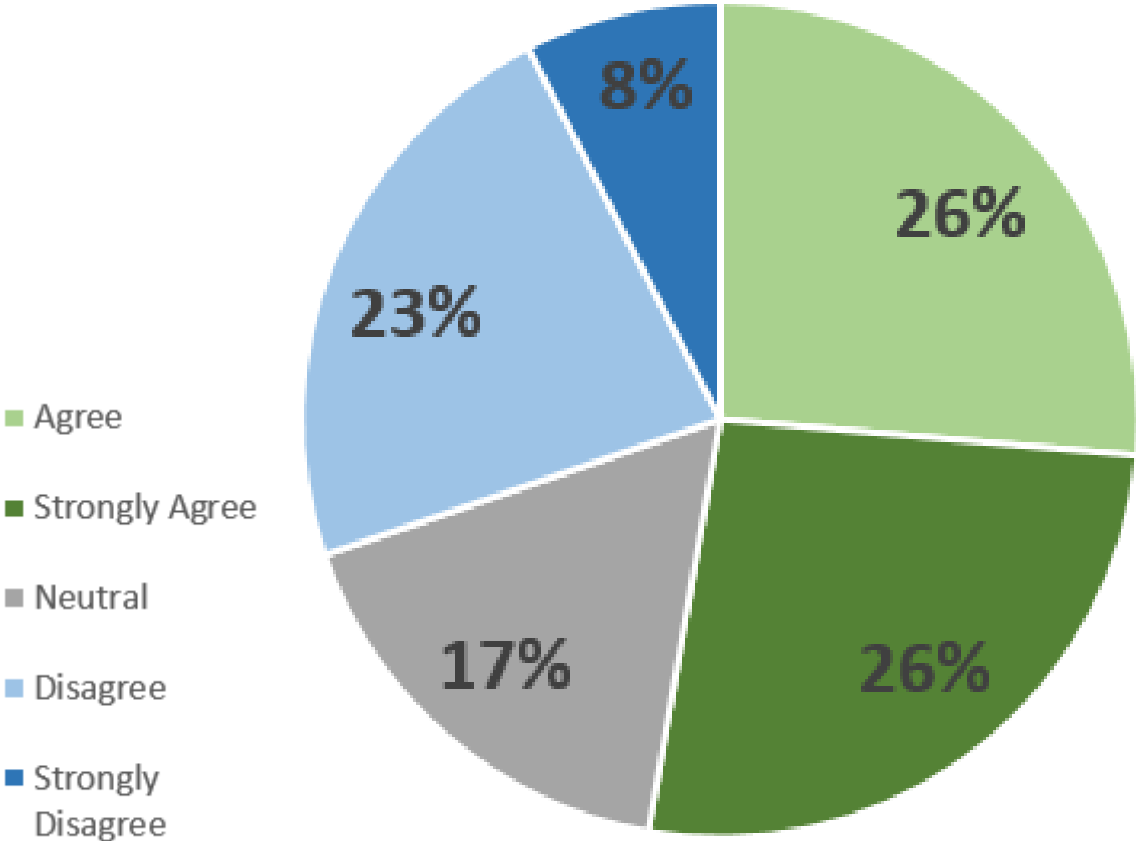
Planning processes and engagement

Transportation Plan

Is there support to expand the Neighborhood Greenway network?

Yes, 618 respondents

52% of residents Strongly Agree or Agree, 17% neutral



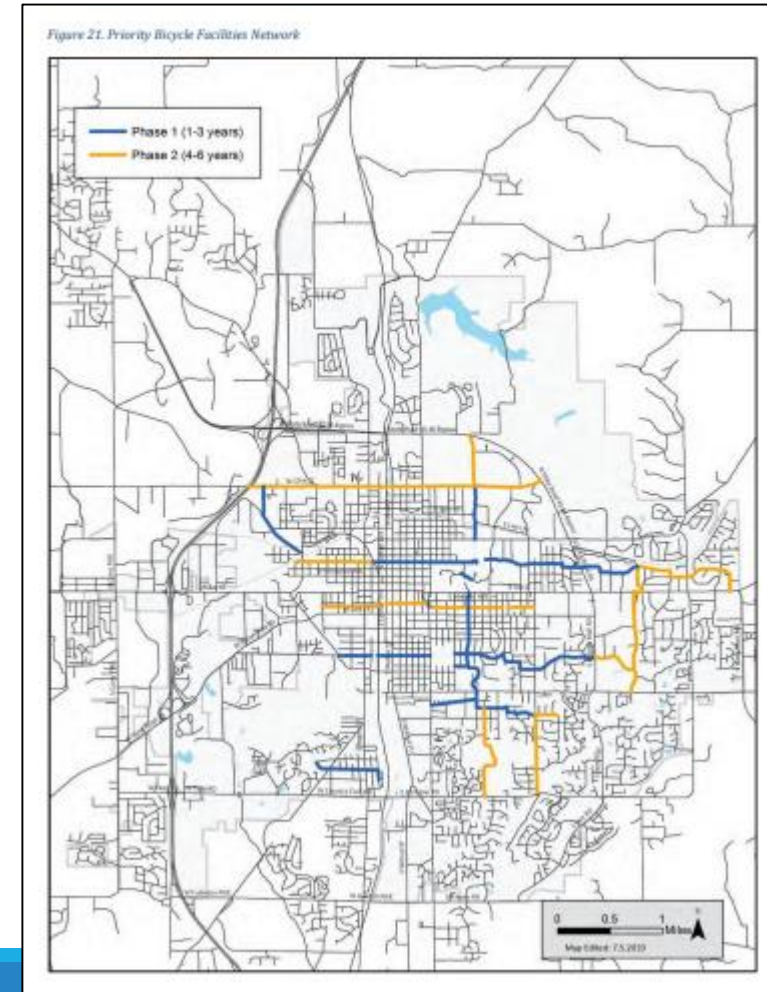
Planning processes and engagement

Transportation Plan

The Transportation Plan was passed by the Common Council on May 22, 2019

Based on the goals adopted in the Comprehensive Plan, the Transportation Plan answers:

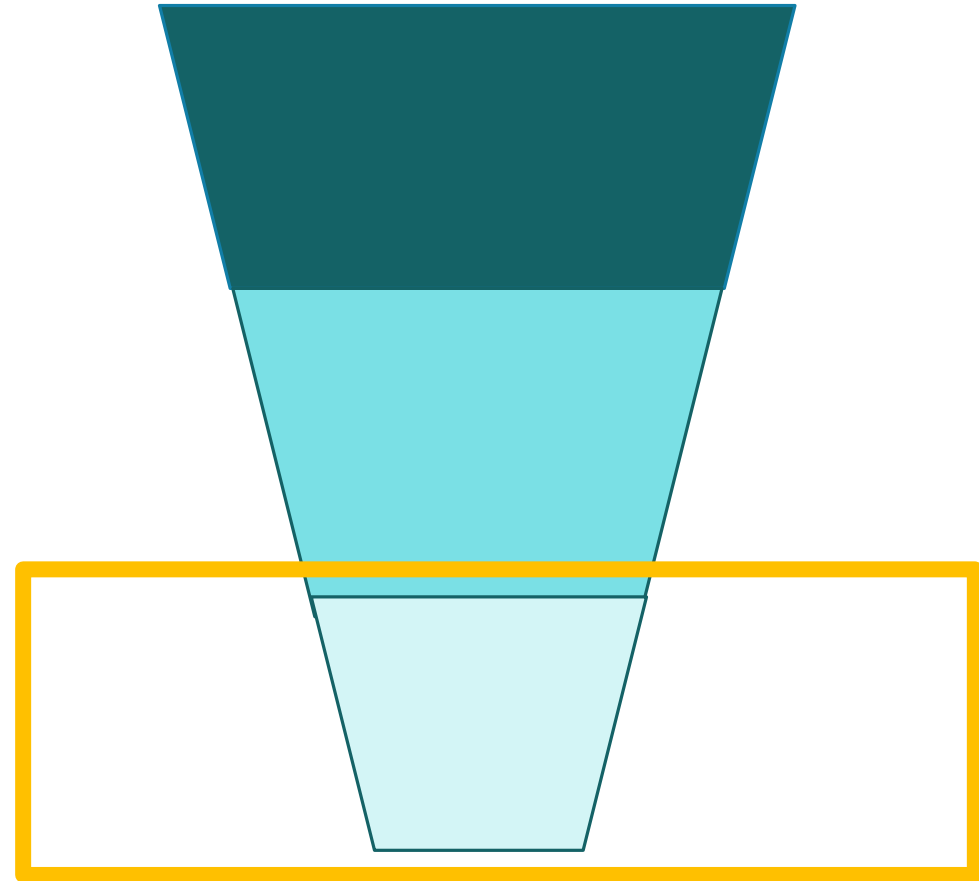
- What do we want our streets to look like;
- What are the bicycle facilities recommendations for each street in the City;
- Recommendations for how to prioritize projects; and
- Recommendations for determining tradeoffs.



Planning processes and engagement

Traffic Calming and Greenways Program

1. Targeted engagement and design-specific questions
2. Builds on the goals of the Comp Plan and recommendations of the Transportation Plan
3. For Neighborhood Greenways, other plans have answered why and where.



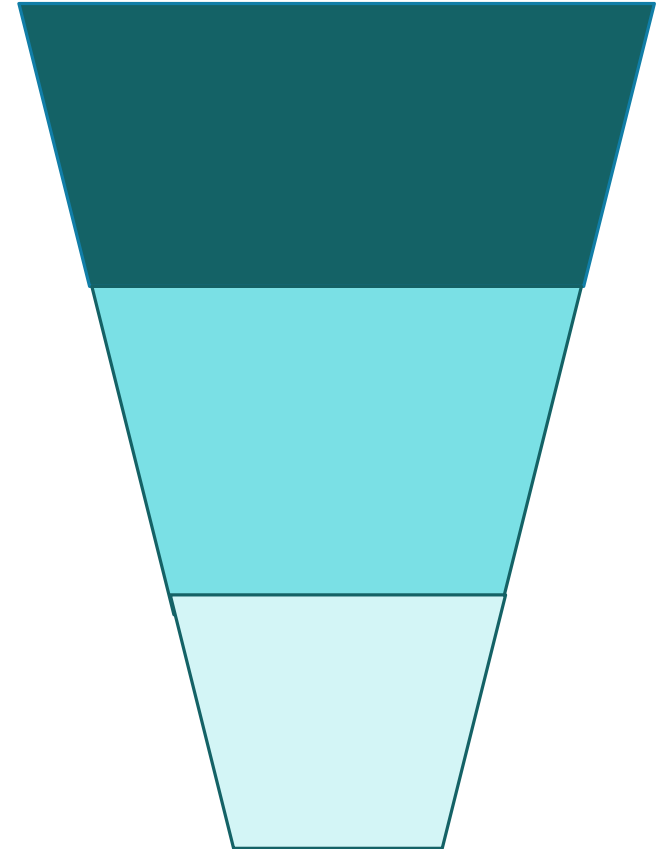
	Is this project needed?	Does this project support community goals?	How is project design approached?
Resident-Led	Residents identify their interest by talking with neighbors, collecting signatures, and requesting support from a councilmember. Staff collects data to determine if there is a need.	Only certain street typologies are eligible. Supports improving safety, walking, bicycling, and access to transit.	<ul style="list-style-type: none"> • Project design is approached from a technical perspective, focused on improving safety. • Resident project leaders are involved throughout. • Residents within 300 feet of the project are mailed letters and informed of opportunities to share input with staff or in a public meeting.

	Is this project needed?	Does this project support community goals?	How is project design approached?
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Staff-Led Neighborhood Greenway	This was reviewed and identified in the Transportation Plan.	This was reviewed and identified by the goals of the Comp Plan and then the recommendations of the Transportation Plan.	<ul style="list-style-type: none"> • This is the focus of public engagement for a neighborhood greenway. • Residents within 300 feet of the project are mailed information about the project and about the meetings. • Staff hosts 2-3 meetings to ask for input, review design, and present design changes. • Design is reviewed and approved in a public meeting of the Bicycle and Pedestrian Safety Commission.

Planning processes and engagement

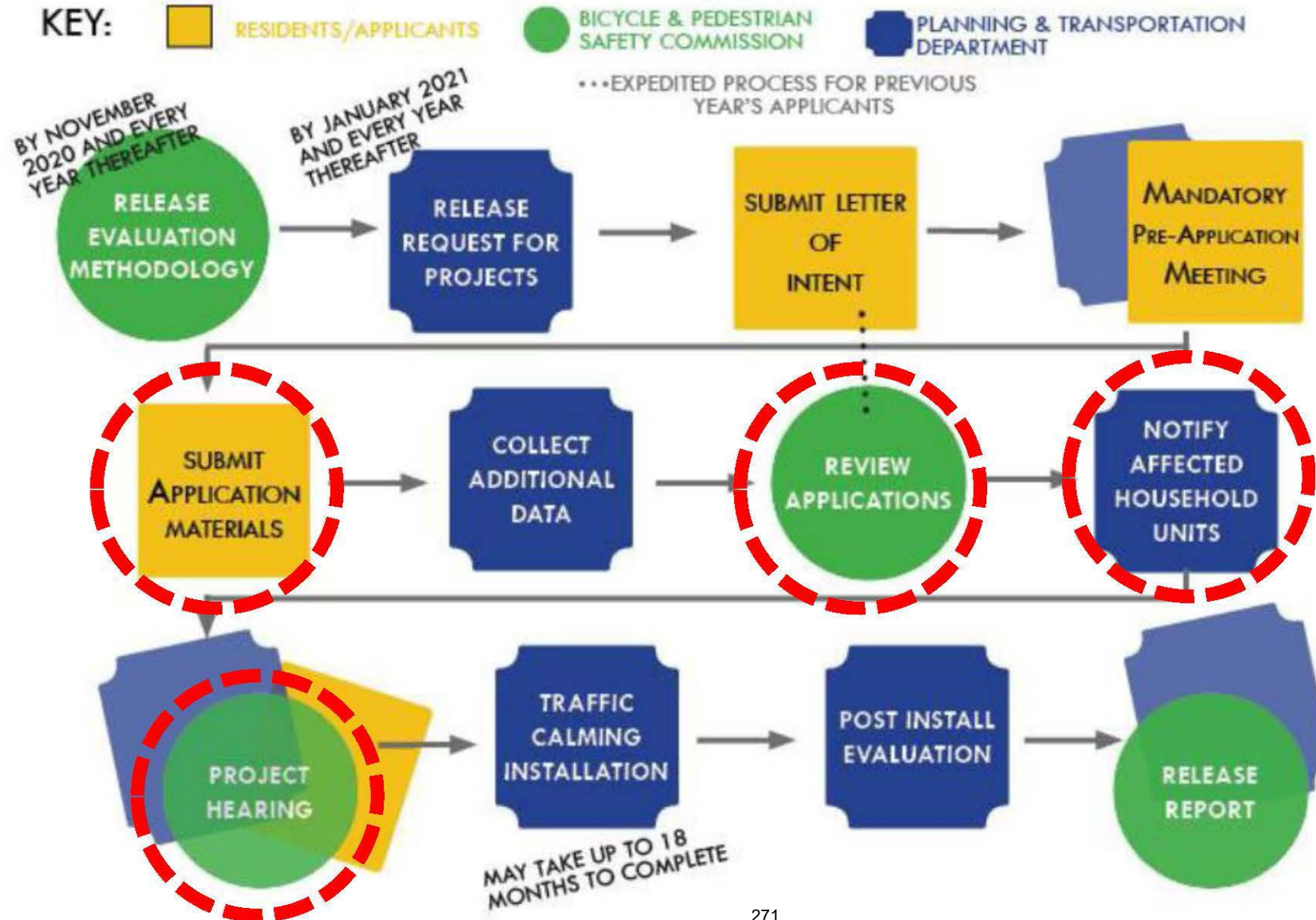
Summary

1. Comprehensive Plan: What is vision for the future our community?
2. Transportation Plan: In order to meet our goals, what are our recommendations for every street within the city?
3. TCGP: How do we design neighborhood greenways and other traffic calming to support community goals?



Resident-Led Traffic Calming Process

A VISUAL OVERVIEW



Staff-Led Neighborhood Traffic Calming/Greenway Process

A VISUAL OVERVIEW

KEY:



RESIDENTS/APPLICANTS

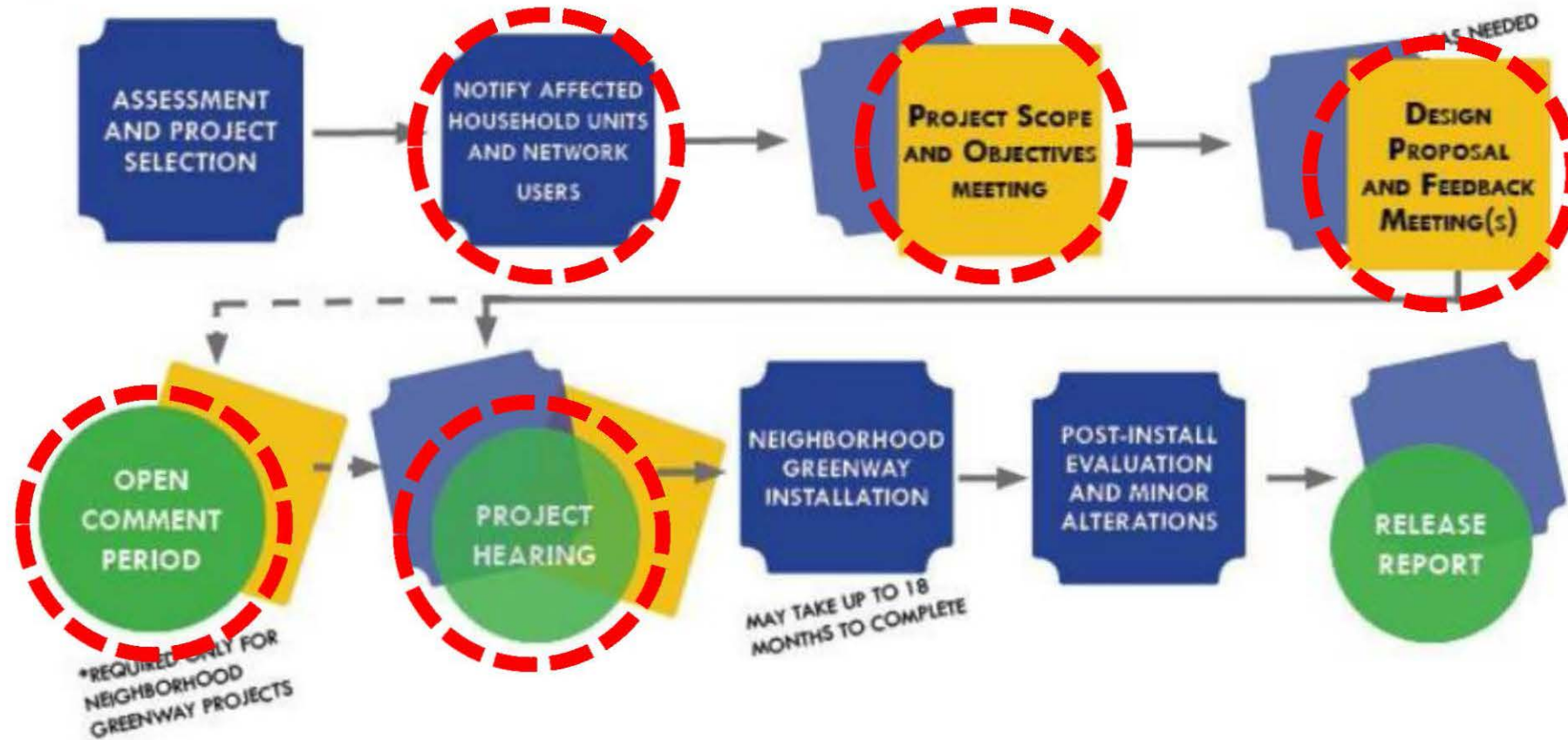


BICYCLE & PEDESTRIAN
SAFETY COMMISSION



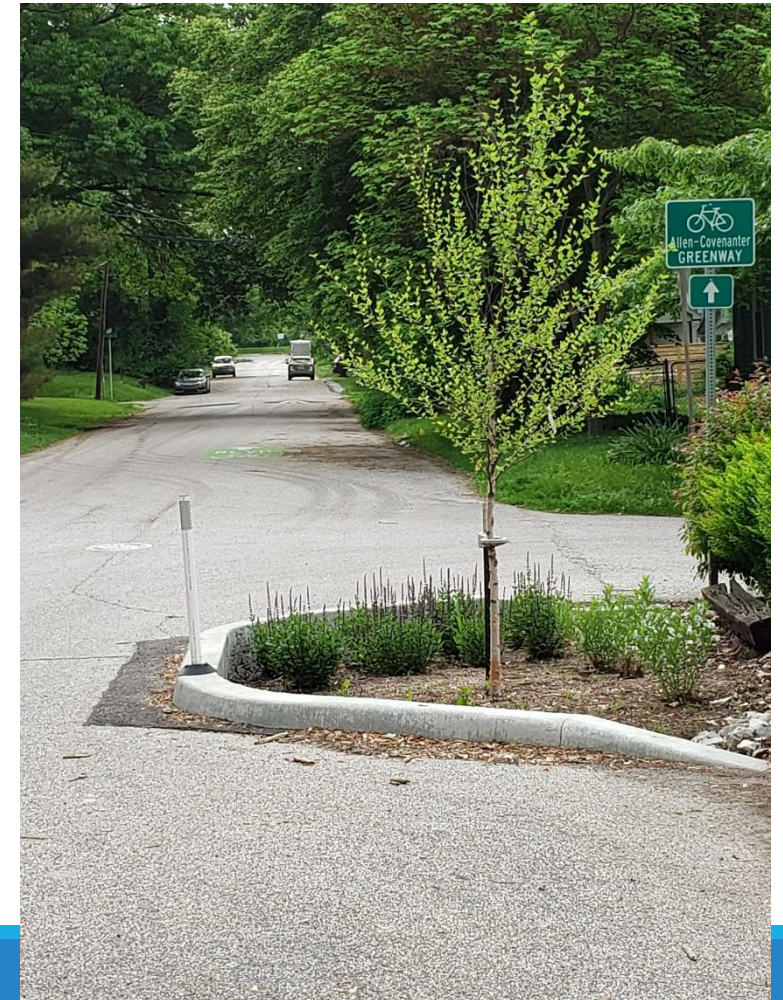
PLANNING & TRANSPORTATION
DEPARTMENT

---> PROCESS REQUIRED ONLY FOR
NEIGHBORHOOD GREENWAYS



TCGP Projects

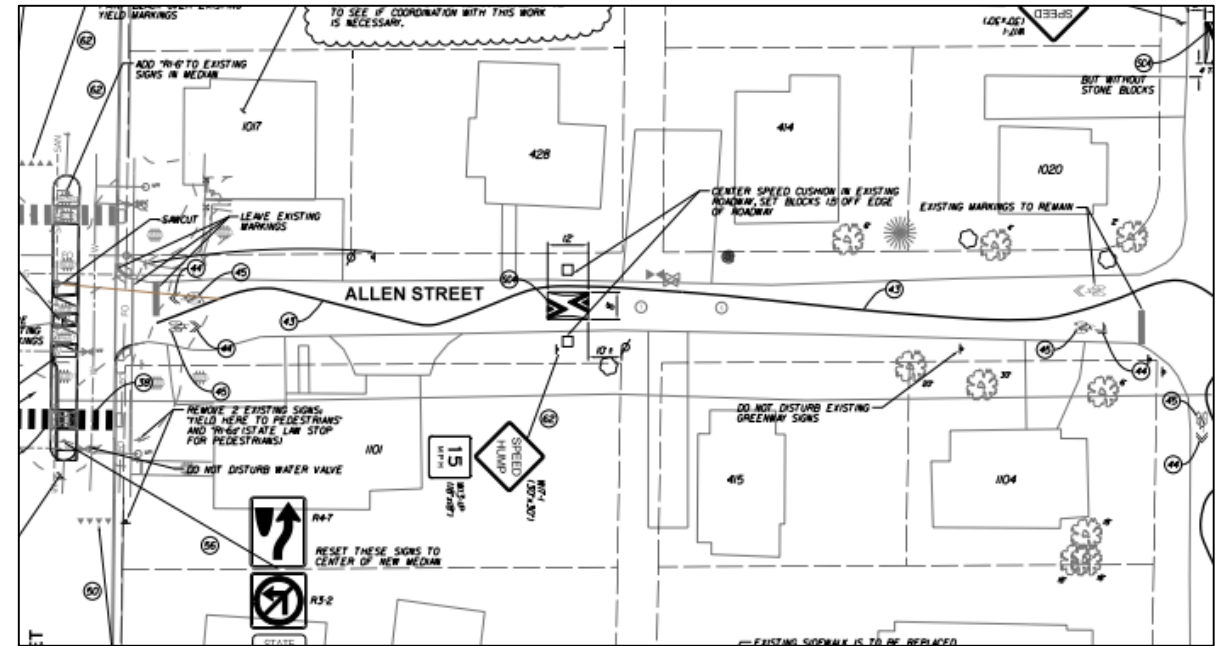
Process	Projects
Resident-Led	<ul style="list-style-type: none">• W. 12th Street and W. 13th Street (installed)• E. Maxwell Lane (designed, planned for installation 2023)
Staff-Led Neighborhood Greenways	<ul style="list-style-type: none">• E. Allen Street (Walnut St. to Henderson St., installed)• E. 7th Street (Union St. to the Bypass, installed)• W. Graham Dr. (Rockport Rd. to the B-Line Trail, installed)• W. Allen Street (Patterson Dr. to the B-Line Trail, designed, planned for installation 2023)• S. Hawthorne Dr./Weatherstone Ln (in process, 3rd public meeting scheduled)



TCGP Projects: Design Considerations

Design considerations:

- Feedback from residents about use of the street
- Location of driveways
- On-street parking
- Under and above ground utilities
- Locations where trees can be added
- Stormwater infrastructure
- Proximity to intersections
- Spacing of speed humps or speed cushions
- Gaps in speed cushions
- Emergency service routes

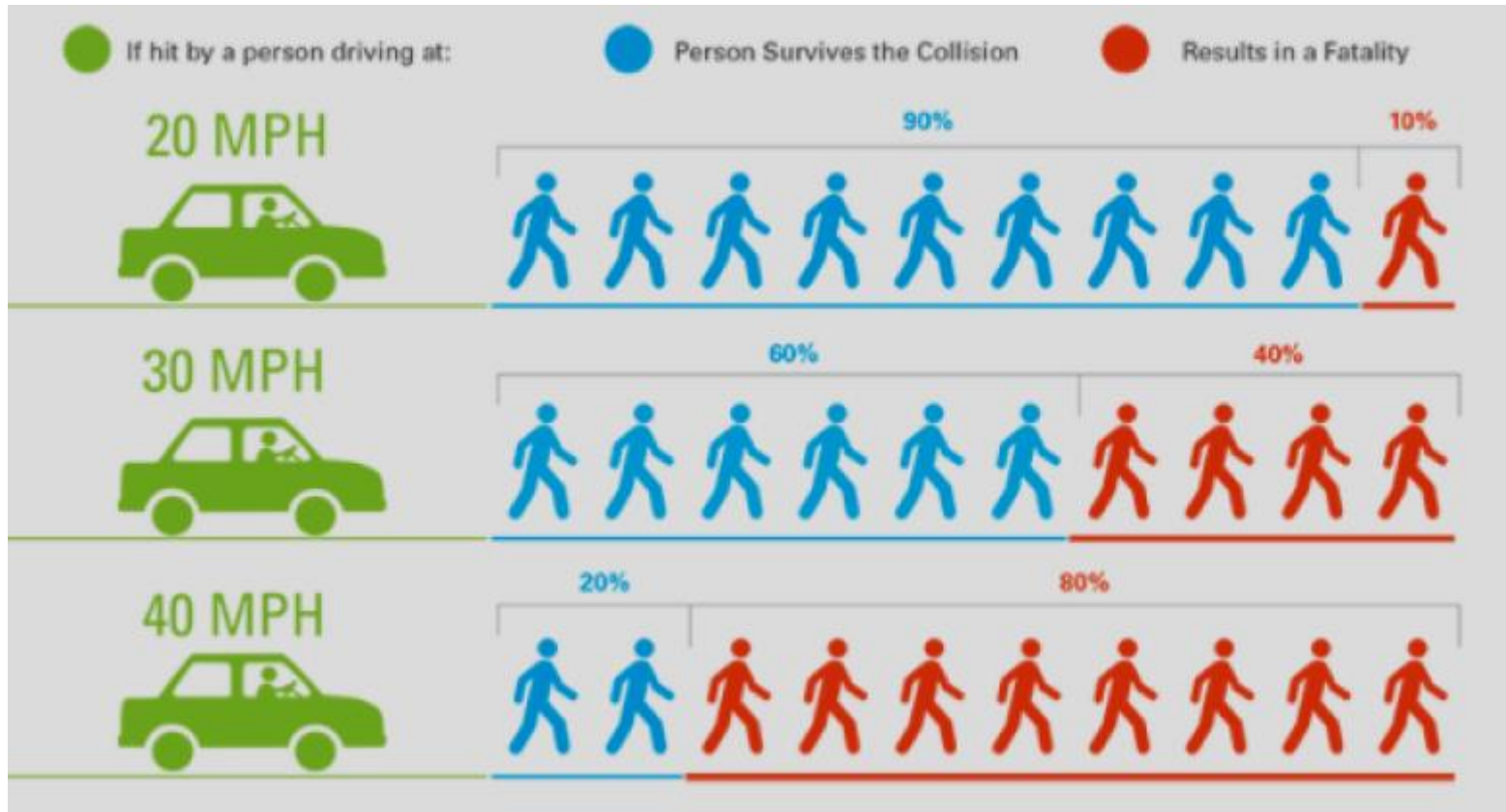


TCGP Project Objectives

Connected to Comprehensive Plan Goals

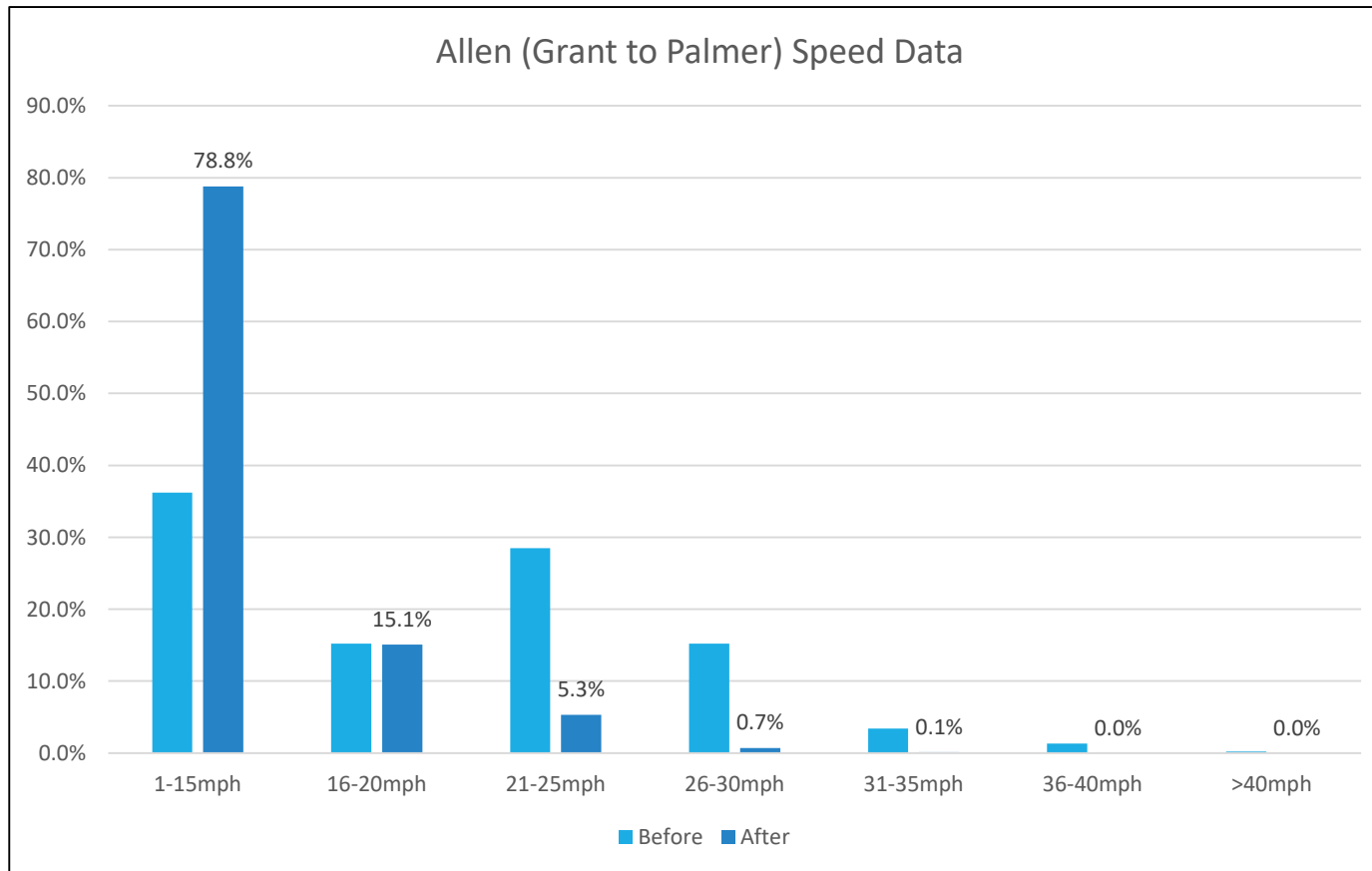
1. Goal 6.1 Increase Sustainability: Improve the sustainability of the transportation system.
2. Goal 6.3 Improve the Bicycle and Pedestrian Network: Maintain, improve, and expand on accessible, safe, and efficient network for pedestrians, and attain platinum status as a Bicycle Friendly Community, as rated by the League of American Bicyclists.
3. Goal 6.4 Prioritize Non-Automotive Modes: Continue to integrate all modes into the transportation network and to prioritize bicycle, pedestrian, public transit, and other non-automotive modes to make our network equally accessible, safe, and efficient for all users.

TCGP Project Objectives



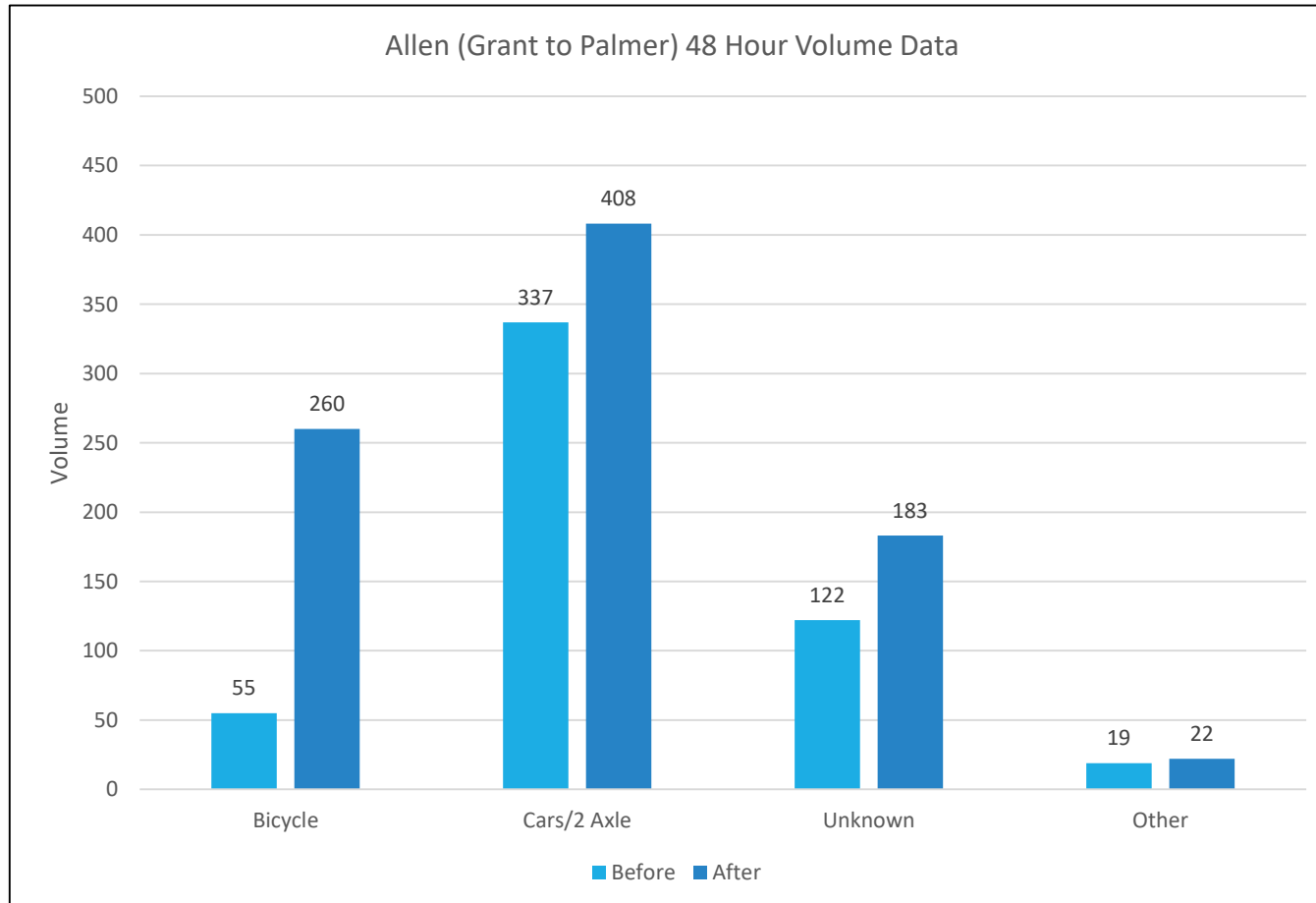
- Even small changes in impact speed have a large effect on the risk of fatal injury.
- A risk of pedestrian fatality at an impact speed of 20 MPH is 10%, the risk of a pedestrian fatality at an impact speed of 40 MPH is 80% (this increases with SUVs and trucks)
- Source: US Dept. of Transportation, March 2000

TCGP Project Objectives



- Goal 6.3 Improve the Bicycle and Pedestrian Network
- Improve safety

TCGP Project Objectives



- Goal 6.3 Improve the Bicycle and Pedestrian Network
- Allen Street: increased pedestrian usage.
- “The pedestrian parade”

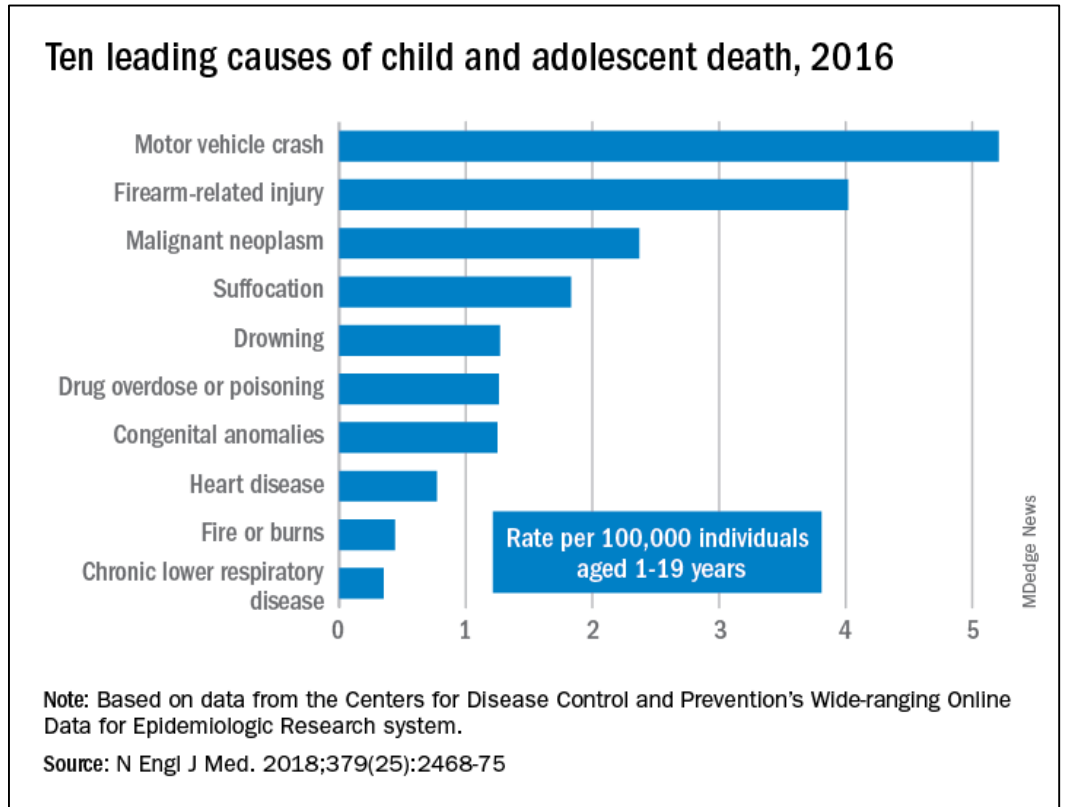
Project Prioritization

- For Neighborhood Greenways, staff uses the Priority Bicycle Facilities Map from the Transportation Plan to prioritize.
- Resident-led: residents request projects. Then, the Bicycle and Pedestrian Safety Commission prioritizes projects using an annually -reviewed and –adopted evaluation methodology. The criteria focus on history of crashes, likely prevalence of pedestrians, motor vehicle volumes, and motor vehicle speeds.



Questions, concerns, and next steps

- Resident-led traffic calming typically receives ~\$50,000 a year. This can be allocated by the Council Sidewalk Committee.
- Neighborhood Greenway projects are funded through the Alternative Transportation Fund, which is approximately \$375,000 each year. That quantity typically funds construction of two sections of Neighborhood Greenway.
- Neighborhood Greenways construction cost about \$200,000 - \$400,000 per mile.
- New sidewalks on one side of a street cost approximately \$2 million per mile.
- According to Zillow, the average cost of a home in Bloomington is \$310,290.



Questions, concerns, and next steps

- Staff is concerned that a higher threshold of signatures will be a barrier for people to participate in the resident-led program.
- Consider increasing the number of letters of support from councilmembers for resident-led projects in place of approval at the end of the process.
- Staff is concerned with the timing of the council approval for both processes. Each process includes public engagement.
- If there are concerns that a street should not be a Neighborhood Greenway, then the Transportation Plan should be amended.
- What are concerns with the current process?
- What criteria does council intend to use to review and approve projects? It will be helpful for staff to be aware of criteria.





MEMO FROM COUNCIL OFFICE ON:

Ordinance 23-09 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” Re: the Creation of a Joint City-County Human Rights Commission

Synopsis

This ordinance approves of changes to Title 2 (“Administration and Personnel”) of the Bloomington Municipal Code in order to create and empower a joint Bloomington/Monroe County Human Rights Commission, which will replace the City and County individual Human Rights Commissions.

Relevant Materials

- Ordinance 23-09
 - Appendix 1, Bloomington Municipal Code Chapter 2.23 as Modified by the Proposed Ordinance 23-09 (Redline)
- Staff memo (forthcoming)
- Monroe County Ordinance 2010-44
- Related resolution and interlocal agreement to appear on the agenda for the May 3, 2023 Regular Session

Summary

Ordinance 23-09 amends Title 2 of the Bloomington Municipal Code to reflect the creation of a joint city-county commission, a proposal that will come to Council through both this ordinance and through an upcoming resolution. The proposal is the result of discussions between city and Monroe County officials.

History:

The City of Bloomington Human Rights Commission (HRC) 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](#). Most recently, [Ordinance 23-02](#) transferred the primary responsibilities of the Bloomington HRC from the Legal Department to the Community and Family Resources Department. Under Municipal Code Section 2.23.130, as relocated from Section 2.21.040, the Commission currently calls for seven members, four appointed by the mayor and three appointed by the Council.

The Monroe County Human Rights Commission was established by the [Monroe County Human Rights Ordinance](#) in 2010, which was last amended in 2017. The County Commission also has seven members, all appointed by the Monroe County Board of Commissioners.



The County ordinance mirrors the Bloomington Municipal Code to the extent that most provisions, including definitions, are identical or nearly identical between the two local governing entities.

Notably, the current differences between the Bloomington and Monroe County ordinances that govern each respective Commission are as follows: the City includes more protections for veterans and requires affirmative action by city contractors, the County carves out additional permissive practices for employers regarding employees with disabilities, and only the City limits the Commission's authority to voluntary investigations and mediation regarding complaints of housing status discrimination.

Ordinance 23-09 reflects the codification of combining the two Commissions, with changes to be reflected in the Bloomington Municipal Code. A redline version of the affected code is attached to the ordinance to show the proposed text edits.

Please note that a separate resolution approving of an interlocal agreement between the City and County will be introduced at the same time that this ordinance will be scheduled for a potential vote at the May 3, 2023 Regular Session. Under state code, two entities who wish to jointly exercise power must enter into a written agreement approved by ordinance or resolution. [Ind. Code 36-1-7-2](#). The draft resolution and interlocal agreement are provided in this packet for context.

The combined Commission would still have seven members, with three appointed by the Mayor, two by the Common Council, and two by the Monroe County Commissioners. Members appointed by the City must be City residents, and members appointed by the County must be County residents. Information on the proposed changes and their expected fiscal impact will be available in the staff memo (forthcoming) or by contacting Beth Cate (see contact below).

Contact

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

Beverly Calender-Anderson, Director of Community and Family Resources Department, andersb@bloomington.in.gov, 812-349-3430

ORDINANCE 23-09

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

Re: the Creation of a Joint City-County Human Rights Commission

- WHEREAS, the City of Bloomington (“City”) created the Bloomington Human Rights Commission in 1970 through adoption of Ordinance 70-37; and
- WHEREAS, Monroe County created the Monroe County Human Rights Commission in 2010 through adoption of Ordinance 2010-44; and
- WHEREAS, the provisions found in the City and County Human Rights Ordinances, except jurisdiction, are virtually identical; and
- WHEREAS, the duties of each Human Rights Commission include public education and dispute resolution of Human Rights complaints for specified geographic locations, which do not overlap; and
- WHEREAS, staff of both the City and the County routinely field calls for public education and potential complaints that have to be redirected to the other entity; and
- WHEREAS, the City and County believe that a single point of contact for both public education and dispute resolution provides a more effective and efficient service to the community; and
- WHEREAS, the City and County are empowered pursuant to Indiana Code § 36-1-7 to contract together on the basis of mutual advantage to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local government; and
- WHEREAS, the City and County agree that creating a combined Bloomington/Monroe County Human Rights Commission (“Commission”) to conduct public education and resolve complaints will be an efficient and effective way to provide excellent service on human rights matters to residents of both the City and the County; and
- WHEREAS, the City and County have entered into an Interlocal Agreement duly authorized by City and County authorities and setting out their mutual obligations to support and fund the Commission’s functions; and
- WHEREAS, the City and County wish to amend their respective codes to create and empower the Commission; and
- WHEREAS, Appendix 1 to this Ordinance contains the amendments required in Chapter 2.23 of the Bloomington Municipal Code to achieve this goal, plus certain stylistic edits for consistency;

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

SECTION 1: To create and empower a joint Bloomington/Monroe County Human Rights Commission to better serve residents of the City of Bloomington and Monroe County, Title 2, Chapter 2.23 of the Bloomington Municipal Code is hereby amended as provided in Appendix 1 to this Ordinance.

SECTION 2: Each of the Mayor and the Controller is hereby authorized and directed, for and on behalf of the City, to execute and deliver any agreement, certificate or other instrument or take any other action which such officer determines to be necessary or desirable to carry out the intent of this Ordinance.

PASSED 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 approves of changes to Title 2 (“Administration and Personnel”) of the Bloomington Municipal Code in order to create and empower a joint Bloomington/Monroe County Human Rights Commission, which will replace the City and County individual Human Rights Commissions.

APPENDIX 1:
CHAPTER 2.23 AS MODIFIED BY THE PROPOSED ORDINANCE 23-09 (Redline)

red underlined text = proposed additions
red strikethrough = proposed deletions

Chapter 2.23 – COMMUNITY AND FAMILY RESOURCES DEPARTMENT

Sections:

**2.23.100 Bloomington/Monroe County Human Rights ~~Commission~~ Commission —
Establishment.**

There is hereby established within the **City's** Community and Family Resources Department **a the Bloomington/Monroe County Human Rights Commission** ~~pursuant to Section 2.23.110.~~

2.23.110 Public policy and purpose.

(1) It is the policy of the City, **and of the County upon appropriate county authority**, 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 City, **and of the County upon appropriate county authority**, 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 of the County upon appropriate county authority**, and a discriminatory practice for an employer to discriminate against a prospective employee on the basis of status as a veteran by:

~~(1A)~~ 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

~~(2B)~~ 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 of the County upon appropriate county authority**, 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.

(2) It is also the public policy of the City, **and of the County upon appropriate county authority**, to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

(3) It is hereby declared to be contrary to the public policy of the City, **and of the County upon appropriate county authority**, 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.

(4) 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~~**Commission** deems necessary to assure compliance with the City **and County, upon appropriate county authority**, 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 **Bloomington/Monroe County** 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~~**Commission**, or such other attorney as may be engaged by the ~~commission~~**Commission** or voluntarily lend their services to the ~~commission~~**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~~**Commission** attorney, a member of the ~~Human Rights~~ Commission, or the ~~commission~~**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 **and the County upon appropriate county authority**, as defined in Section 2.23.110.

(8) "Complaint" means any written grievance filed by a complainant with the ~~commission~~**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 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 **or within the unincorporated areas of Monroe County**, 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 **County 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 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 subdivisions 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~~ **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.

(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~~ **three** by the Mayor, ~~three~~ **two** by the Common Council, **and two by the Monroe County Commissioners, pursuant to the appropriate county authority.**

2.23.140 Qualifications.

Members of the ~~Human Rights~~ Commission shall be representative of the community and shall be City **or, in the case of the Monroe County Commissioner appointees, City or County** residents.

2.23.150 Rules and regulations.

- (1) 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.
- (2) ~~The Commission may adopt n~~New rules, regulations, and guidelines ~~may be adopted by majority vote the Commission~~ after a public hearing ~~by a majority vote of the Commission~~.
- (3) 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~~**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~~**Commission**.
 - (A) Complaints of discrimination shall be received and investigated by the ~~commission~~**Human Rights** director.
 - (B) 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.
 - (C) 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 **Bloomington/Monroe County** 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~~**Bloomington/Monroe County Human Rights Commission's** jurisdiction; provided, further, that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the **Bloomington/Monroe County** Human Rights Commission concerning any of the matters alleged in such complaint; provided, further, that the **Bloomington/Monroe County Human Rights Commission**~~commission~~ shall have no jurisdiction over the State or any of its agencies, or over the City or any of its departments.
 - (D) After a complaint is scheduled for a public hearing, the ~~commission~~**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~~**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~~**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~~**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~~**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~~**Commission** may by rule provide for issuance of its temporary order by a majority of the ~~commission~~**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 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 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~~**Commission** determines that a party to the consent agreement is not complying with it, the ~~commission~~**Commission** may obtain enforcement of the consent agreement in 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~~**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~~**Commission**. The ~~commission~~**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 penalty by a party shall not impair the ~~commission~~**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~~**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~~**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.

(1) 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~~**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.

(2) 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~~**Commission**.

(3) 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, instatement 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.

(4) 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.

(5) If upon all the evidence, the ~~commission~~**Commission** finds that a person has not engaged in any such unlawful practice or violation of this section, the ~~commission~~**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.

(6) 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~~**Commission**, the ~~commission~~**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~~**Commission**'s jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought, or may request the ~~commission~~**Commission** attorney or attorney representing the complainant to seek enforcement.

2.23.180 Affirmative Action by City Contractors.

(1) This section only applies to contractors doing business with the City of Bloomington.

(2) All contractors doing business with the City, except those specifically exempted by regulations promulgated by the **City-appointed members of the human rights ~~commission~~Commission** and approved by the ~~common~~**Common ~~council~~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.

(3) Each such contractor shall submit to the ~~H~~**Human ~~R~~ights ~~commission~~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 ~~m~~**Mayor's** office and as specified by resolution of the ~~C~~**Common ~~C~~ouncil**.

(4) Each such contractor shall also submit to the ~~h~~**Human ~~R~~ights ~~commission~~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.

(5) All contracting agencies of the City 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.

(6) 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~~ residents, the ~~commission~~ **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~~ **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.

(a1) Definitions:

(1A) "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.

(2B) "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.

(3C) "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.

(4D) "Discriminatory housing practice" includes: **(Ai)** practices prohibited by 2.23.120(11) of this code, **(Bii)** refusing to rent to an individual or family on the basis of familial status, **(Ciii)** 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. **(Div)** 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.

(b2) 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 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.

~~(3C)~~ 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:

~~(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.

~~(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:
~~(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/**Monroe County** Human Rights Commission may collect data and issue reports on the incidence of hate crimes in ~~the City's~~ **jurisdiction**. 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~~ **Commission's** authority shall typically be limited to voluntary investigations and voluntary mediation.

ORDINANCE 2010- 44

An ordinance to amend the Monroe County Code concerning.

WHEREAS, the Monroe County Commissioners desire to revise Chapter of the Monroe County Code to add chapter 520 Monroe County Human Rights Ordinance; and,

WHEREAS, the Monroe County Commissioners find that the proposed amendments would promote the health, safety, comfort and general welfare of the citizens of Monroe County.

NOW, THEREFORE, be it ordained by the Board of Commissioners of Monroe County, Indiana that Chapter is amended add Chapter 520 which shall read as follows:

CHAPTER 520 MONROE COUNTY HUMAN RIGHTS ORDINANCE

520-1 Human Rights Commission--Establishment. There is hereby created a Human Rights Commission.

520-2. Policy. It is the policy of the County 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 or disability. It is the public policy of the Monroe County 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 or disability, 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.

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

religion, color, sex, national origin, ancestry, sexual orientation or disability is the purpose of this Section.

It is also the public policy of the county 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 county 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 or subdivision of a person or persons of a particular race, religion, color, sex, national origin, ancestry, sexual orientation or disability.

520-3 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; or

(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 county 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 county attorney, or such assistants of the county attorney as may be assigned to the commission, or such other attorney as may be engaged by the commission or voluntarily lend his/her services to the commission.

(6) "Compensation" and "compensatory damages" mean 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 own behalf to have been personally aggrieved by a discriminatory practice or the commission attorney or a commissioner to the Monroe County Human Rights Commission charging that a discriminatory practice was committed against a person, other than himself, 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 county as defined in Section 520-2.

(8) "Complaint" means any written grievance filed by a complainant with the Monroe County Human Rights Commission. The original shall be signed and verified before a notary public or another person duly authorized by law to administer oaths and take acknowledgments.

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

(10) "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 or disability; or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, or disability 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 for 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 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 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; provided, further, it shall not be a discriminatory practice for an employer to fail to employ or retain as an employee any person who because of a disability is physically or otherwise unable to efficiently and safely perform, at the standards set by the employer, the duties required by that job; provided, further, it shall not be a discriminatory practice to fail to promote or transfer a person with a disability to another job or occupation after he or she is employed unless, prior to such transfer, such person with a disability is by training or experience qualified for such job or occupation;

(11) "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 (24) of this section.

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

(13) "Employer" includes any person employing six or more employees within Monroe County, but outside the Municipal limits of any city or town located within Monroe County, except that the term does not include 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 county or any department thereof; nor any state agency as defined in subsection (24) of this section.

(14) "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); or
- (iii) being regarded as having an impairment described in subsection (i).

(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) "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) "Lending institution" means any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or

part in making or guaranteeing loans secured by real estate or an interest therein.

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

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

(22) "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) "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 rest rooms 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) "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) "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. (

520-4 Appointments. The seven members of the Human Rights Commission shall be appointed by the Monroe County Board of County Commissioner.

520-5 Qualifications. Members of the Human Rights Commission shall be representative of the community and shall be Monroe County residents.

520-6 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 Monroe County Auditor's office.

520-7 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.

(A) To determine jointly with the legal department whether probable cause exists to believe that discrimination in violation of Monroe County Code Section 520-1 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. Complaints of discrimination shall be received and investigated by the legal department. To be acceptable to the legal department, a complaint shall be sufficiently complete so as to reflect properly the name and address 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 and eighty 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 for purposes of measuring the one-hundred-and-eighty-day limitation, as long as the complaint is otherwise within the legal department's jurisdiction; provided further, that any person who files a complaint with the Indiana Civil Rights Commission shall have no recourse to the legal department concerning any of the matters alleged in such complaint; provided, further, that the legal department

shall have no jurisdiction over the state or any of its agencies, or over the Monroe County or any of its departments. After a complaint is scheduled for a public hearing, the legal department shall make reasonable efforts to conciliate all issues raised during the investigation of the case.

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

(5) 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 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 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 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 complaint is resolved through conciliation or public hearing.

(6) 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) 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 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) 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, of the payment of a penalty not to exceed three hundred dollars. Each penalty shall be deposited in the general fund of the Monroe County; 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) 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.

If unlawful discrimination is found in the area of employment, an order shall be issued requiring the respondent to take such affirmative action 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.

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 accommodations, an order shall be issued requiring respondent to take affirmative action, including but not limited to providing services, goods, or access to property, reinstatement to membership, reinstatement to 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 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. 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 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 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 county attorney, commission attorney, or attorney representing the complainant to seek enforcement.

520-8 Educational program. In order to eliminate prejudice among the various groups in the Monroe County 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 race, religion, color, sex, national origin, ancestry, sexual orientation or disability, its harmful effects, and its incompatibility with the principles of equality.

520-9 Relationship with Civil Rights Commission. The legal department 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.

520-10 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 or 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 510-3(10) 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 520-3(15), 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 520-3(15), equal opportunity to use and enjoy a dwelling.

520-11 Housing Discrimination – Exemptions. This section applies only to cases alleging housing discrimination.

(a) 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.

(b) 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 person. Nor shall anything in this ordinance 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.

(c) 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.

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

(1) 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

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

(3) 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:

(A) 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

(B) 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

(C) 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.

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

(1) The sale or rental of a single-family house sold or rented by an owner if:

(A) The owner does not

(i) own more than three single-family houses at any one time; or

(ii) 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

(B) 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.

(2) 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.

520-12 Hate Crimes Statistics: The Monroe County Human Rights Commission may collect data and issue reports on hate crimes in the Monroe County. Hate crimes include verbal or physical abuse directed at individuals or groups because of their race, sex, color, disability, age, sexual orientation, ancestry, religion or national origin.

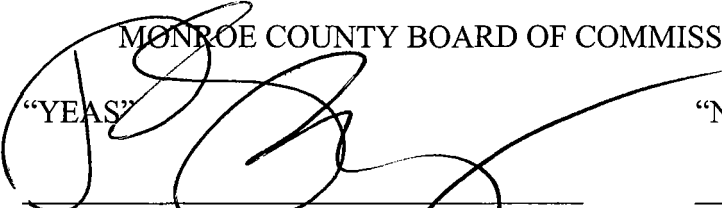
520-13 Complaints of sexual orientation discrimination. In complaints of discrimination on the basis of sexual orientation, the commission's authority shall be limited to voluntary investigations and voluntary mediation.

Adopted this 17th day of December, 2010.

MONROE COUNTY BOARD OF COMMISSIONERS

“YEAS”

“NAYS”



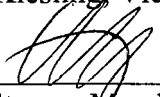
Patrick Stoffers, President

Patrick Stoffers, President



Iris F. Kiesling, Vice President


Iris F. Kiesling, Vice President



Mark Stoops, Member

Mark Stoops, Member

ATTEST:



Amy Gerstman, Monroe County Auditor

RESOLUTION 23-07

TO APPROVE AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF BLOOMINGTON AND MONROE COUNTY, INDIANA REGARDING A JOINT BLOOMINGTON/MONROE COUNTY HUMAN RIGHTS COMMISSION

- WHEREAS, the City of Bloomington (“City”) created the Bloomington Human Rights Commission in 1970 through adoption of Ordinance 70-37; and
- WHEREAS, Monroe County created the Monroe County Human Rights Commission in 2010 through adoption of Ordinance 2010-44; and
- WHEREAS, the provisions found in the City and County Human Rights Ordinances, except jurisdiction, are virtually identical; and
- WHEREAS, the duties of each Human Rights Commission include public education and dispute resolution of Human Rights complaints for specified geographic locations, which do not overlap; and
- WHEREAS, staff of both the City and the County routinely field calls for public education and potential complaints that have to be redirected to the other entity; and
- WHEREAS, the City and County believe that a single point of contact for both public education and dispute resolution provides a more effective and efficient service to the community; and
- WHEREAS, the City and County are empowered pursuant to Indiana Code § 36-1-7 to contract together on the basis of mutual advantage to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local government; and
- WHEREAS, the City and County agree that creating a combined Bloomington/Monroe County Human Rights Commission (“Commission”) to conduct public education and resolve complaints will be an efficient and effective way to provide excellent service on human rights matters to residents of both the City and the County; and

WHEREAS, the City and County wish to enter into an Interlocal Agreement setting out their mutual obligations to support and fund the Commission's functions; and

WHEREAS, following approval of this Interlocal Agreement, the City and County intend to amend their respective codes to create and empower the Commission; and

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

SECTION 1. The Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana, regarding the joint Bloomington/Monroe County Human Rights Commission, a copy of which is attached hereto and made a part hereof, is hereby approved.

SECTION 2. If any sections, sentences of provisions of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or 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.

PASSED 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

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 up on this _____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

DRAFT

**HUMAN RIGHTS COMMISSION INTERLOCAL AGREEMENT
BY AND BETWEEN THE CITY OF BLOOMINGTON AND MONROE COUNTY**

WHEREAS, the City of Bloomington (“City”) and Monroe County (“County”) (collectively “Entities” and singly, “Entity”) have Human Rights Ordinances that establish Human Rights Commissions; and,

WHEREAS, the provisions found in each Entity’s Human Rights Ordinance, except jurisdiction, are virtually identical; and,

WHEREAS, the duties of each Entity’s Human Rights Commission include public education and dispute resolution of Human Rights complaints for specified geographic locations, which do not overlap; and,

WHEREAS, staff of both the Entities routinely field calls for public education and potential complaints that have to be redirected to the other Entity; and,

WHEREAS, the Entities believe that a single point of contact for both public education and dispute resolution provides a more effective and efficient service to the community;

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

WHEREAS, the Entities agree that creating a combined City-County Human Rights Commission (“Commission”) to conduct public education and resolve complaints will be an efficient and effective way to provide excellent service on human rights matters to citizens of both Entities; and

WHEREAS, the Entities have amended their respective codes to create and empower the Commission;

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

1. The initial term of this Interlocal Cooperation Agreement shall be for three (3) years, commencing January 1, 2023, and ending on December 31, 2025. The Agreement may be renewed for additional terms of up to five (5) years, with any necessary modifications to terms, by mutual agreement by the Entities and approval from the relevant City and County authorities.
2. Either party may terminate the Agreement with twelve (12) months’ notice to the other party.
3. The City agrees to do the following in support of the Commission:

- a. Enforce the Monroe County Human Rights Commission Ordinance in the Unincorporated areas of Monroe County, including:
 - i. Conduct investigations of discrimination complaints arising in those areas; and
 - ii. Provide support to Human Rights Commission members regarding findings required and appropriate dispensation of discrimination complaints.
 - b. Provide staffing for the Commission meetings;
 - c. Promote awareness and understanding of problems with illegal discrimination and conduct programs to educate the community on Human Rights issues; and,
 - d. Provide an annual report to the County Commissioners in February of each year, beginning in 2024, documenting the efforts made under the Human Rights Ordinances and this agreement.
4. Except as provided in Section 5, the County agrees to pay the City annually the following amounts to help fund the operations of the Commission:
 - a. Half the portion of the City salary plus benefits of the Human Rights Director for the given contract year (i.e. including any raises or cost of living increases from the prior year), attributable to human rights functions. For the initial 3-year term of this Agreement, that portion is 70%.
 - b. Half the portion of the City salary plus benefits of a human rights support staff member (however titled) for the given contract year (i.e. including any raises or cost of living increases from the prior year), attributable to human rights functions. For 2023, that portion is 65%. For 2024-25, that portion shall be 60%.
5. The County's total contribution for calendar year 2023 shall be Thirty-Five Thousand Dollars (\$35,000).
6. The payments specified in Section 4 are contingent on annual appropriation of the funds by the Monroe County Council.
7. Payments shall be made semi-annually to the Controller of the City of Bloomington, upon the timely submission by the City of a claim. Such claims should be submitted to the Monroe County Board of Commissioners, Room 322, Courthouse, Bloomington, Indiana 47404.
8. The City and the County departments affected by the terms of this Agreement will continue to communicate and cooperate to assure that the purposes of this Agreement are achieved on behalf of and to the benefit of the citizens of the respective political subdivisions.

THE PARTIES, intending to be bound, have executed this HUMAN RIGHTS COMMISSION INTERLOCAL AGREEMENT on this _____ day of _____, 2023.

CITY OF BLOOMINGTON

MONROE COUNTY COMMISSIONERS

JOHN HAMILTON, MAYOR

JULIE THOMAS, PRESIDENT

DATE: _____

DATE: _____

LEE JONES, COMMISSIONER

DATE: _____

PENNY GITHENS, VICE PRESIDENT

DATE: _____

ATTEST:

ATTEST:

NICOLE BOLDEN, CLERK

CATHERINE SMITH, COUNTY AUDITOR

DATE: _____

DATE: _____