

City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 07 February 2024

Regular Session at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
REGULAR SESSION
WEDNESDAY | 6:30 PM
07 February 2024

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

<https://bloomington.zoom.us/j/86449374721?pwd=xE4f4QuXBfja2LZT0kOxnli07s2YTG.1>

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES:

- A. May 10, 2023 – Regular Session
- B. June 14, 2023 – Regular Session
- C. June 21, 2023 – Regular Session
- D. January 10, 2024 – Organizational Meeting
- E. January 17, 2024 – Regular Session
- F. January 24, 2024 – 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
 - a. Update on work of Capital Improvement Board – Doug Bruce to report
- C. Council Committees
 - a. Sidewalk Committee – Recommendations re: Partial 2024 Sidewalk Allocations
- D. Public*

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READINGS AND RESOLUTIONS

None

(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.

Auxiliary aids are available upon request with adequate notice. To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.

Posted: 02 February 2024

VII. LEGISLATION FOR FIRST READINGS

- A. Ordinance 2024-01 - To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks and Storm Sewers" Re: Amending Various Chapters to Update References to the City Engineer, to Update References to the Comprehensive Plan and Transportation Plan, to Amend Language about Trees and Vegetation in Chapter 12.24, and Using this Occasion to Make Typographical and Grammatical Updates

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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Posted: 02 February 2024



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

Minutes for Approval

10 May 2023 | 14 June 2023 | 21 June 2023
10 January 2024 | 17 January 2024 | 24 January 2024

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, May 10, 2023 at 6:30pm, Council President Sue Sgambelluri presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
May 10, 2023

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

ROLL CALL [6:31pm]

Council President Sue Sgambelluri gave a land and labor acknowledgement and summarized the agenda.

AGENDA SUMMATION
[6:32pm]

Rollo moved and it was seconded to approve the minutes of May 18, 2022. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF
MINUTES [6:34pm]
• May 18, 2022
(Regular Session)

Piedmont-Smith mentioned her upcoming constituent meeting.

REPORTS [6:34pm]
• COUNCIL MEMBERS

Sims wished all the mothers in the community a Happy Mother's Day.

• The MAYOR AND
CITY OFFICES
[6:35pm]

Virgil Sauder, Director, Animal Shelter, Public Works, noted that there would be updates from his department including the restriction on feeding deer. He explained how to report conflicts with wildlife.

Public Works, Animal
Shelter Report

Piedmont-Smith asked for clarification on the negative impact of feeding deer. Sauder stated that it increased access to food out of normal travel patterns.

Council questions:

Rollo asked about bird food, and if enforcement would be complaint driven.

Sauder said it would be complaint driven. Bird feeders attracted deer too.

Rollo asked if the ban would include salt licks, and a count of the number of deer. He noted the health concerns with ticks, too.

Sauder responded that the primary focus was in neighborhoods. There would be an assessment on other impacts of deer.

Sims agreed that it was a public health issue, and asked if public backlash was anticipated.

Sauder said staff was preparing education materials for the public, should the ban pass.

Smith asked how many people were feeding deer and where it was occurring.

Sauder stated that it was happening more frequently than staff knew about, mainly on the southeast side of town. There had been six reports so far.

Jackie Scanlan, Development Services Manager, Planning and Transportation (PT) department, reported on the requirement, per Ordinance 21-23, for an update on plexes and Accessory Dwelling Units (ADUs). She described the inquiries for plexes, and ADUs, as well as applications and approvals, and noted the website containing information on ADUs.

Planning and
Transportation,
Accessory Dwelling
Unit Report

Volan asked about the cap placed on ADUs, and buffer spaces. He referenced the deep concern in 2021 that duplexes would overrun the city, but in reality only one per year had been requested so far. He asked where they were.

Council questions:

Scanlan confirmed there were few and noted where they were in the city.

Volan asked if the rules were too restrictive and why more were not built.

Scanlan said staff did not believe the cap would be reached and that more were not being built because of the restrictions. She gave examples of requests and inquiries staff received.

Volan said there were about five ADUs, and one plex, per year.

Scanlan confirmed that was correct.

- The MAYOR AND CITY OFFICES (cont'd)

Volan moved and it was seconded to extend the time limit for reports from the mayor and city offices to 7:10pm. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to extend time limit [6:55pm]

Rosenbarger asked if the Unified Development Ordinance (UDO) allowed the cap to roll over to the following year, and if the plexes that had been approved were new-builds or conversions.

Council questions:

Scanlan said the cap did not roll over and it was fifteen per year, every year. She believed two were new-builds but was uncertain about the third.

Rollo asked for clarification that the restrictions were too restrictive.

Scanlan said it was largely based on what was seen with ADUs which were conditional to begin with, and increased when they became by right.

Flaherty said conditional use added more time to the process. He asked if the uncertainty of approval also deterred requests.

Scanlan believed it was uncertainty and not knowing the process.

Flaherty appreciated the ADU website. He asked about the architecture firms listed there and what the guidance for residents was.

Scanlan said that a request for proposals had been done for architectural firms to design models for residents to consider as options.

Sims asked what other reasons contributed to the low numbers.

Scanlan said there were financial barriers and gave examples.

Rollo asked if staff had evaluated the plexes that had been approved.

Scanlan said no because only one had been permitted but was not built.

Flaherty understood that staff would support revisiting the restrictions. He asked if fears about outside developers coming to Bloomington to purchase many homes to tear down for plexes was unfounded. He noted the missing middle housing.

Scanlan responded that the interest was primarily from local realtors, developers, architects, and residents. She believed that allowing the use by right, with restrictions, could help with the lack of missing middle housing.

Volan asked if it was possible to identify how many applicants from outside of Monroe County there were.

Scanlan explained that could be included in future reports.

Rosenbarger noted that some residents had misconceptions that an eight unit structure would be built next to their home, which was actually not allowed in the district. She asked about other misconceptions.

Scanlan said that people generally did not know what was allowed. Staff guided community members on the allowed uses in their specific district.

Flaherty said that it was important to be cautious with the narrative around the data on who was building housing in the city. He discussed construction of and conversion to single family homes, and vice versa leading to loss of housing and specifically affordable housing.

Scanlan said that reporting on plexes and ADUs was to inform decisions on uses and standards. Staff would present data as requested by council, though it might not be ideal to report on one type, and not another.

Volan said there had been concerns about out of state developers, and from his experience, it was mainly local developers.

There were no reports from council committees.

• COUNCIL COMMITTEES [7:11pm]

Greg Alexander spoke about a bicycle or pedestrian connector trail to Bloomington High School North (BHSN). He discussed the options, and his concerns, near BHSN to Fritz Terrace, Kinser Pike, and more.

• PUBLIC [7:11pm]

Daryl Ruble discussed utilities, roadways, recent damage to his car, and the difficulty in discovering what company caused the damage to his car. He commented on the unhoused population, Bloomington Police Department (BPD), and his concerns with the border.

Stephen Lucas, Council Attorney, briefly summarized the amendment to the bylaws for the City of Bloomington Capital Improvement (CBCI).

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:22pm]

Sandberg moved and it was seconded that the Council approve of the amendment to CBCI bylaws as proposed by the board of directors at the April 19, 2023 meeting of that organization.

Volan asked if there was a statute by which the the bylaws were created.

Council discussion:

Beth Cate, Corporation Counsel, said it was the Indiana Nonprofit Corporation Act.

Piedmont-Smith asked for clarification on a vacancy temporarily filled by a director for the remainder of the term.

Cate clarified that it would not preclude that person to serve a full term.

Volan asked about confusing language regarding the change.

Cate said the change was to Article 5 Section 7, empowered by Article 11.

Sims preferred having three appointments made by the administration and two appointments made by council.

Volan agreed with Sims and provided reasons in support.

The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Volan).

Vote to approve [7:30pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:31pm]

Rollo moved and it was seconded that Ordinance 23-10 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Ordinance 23-10 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.03 and 20.04 [7:31pm]

Rollo moved and it was seconded that Ordinance 23-10 be adopted.

Scanlan described Ordinance 23-10 and its positive recommendation from the Plan Commission (PC). She noted the annual update, changes to parking maximums based on site use, and upcoming discussions between PC members and staff. There would also be an amendment pertaining to chicken flocks. She provided reasons for the recommendations as well as examples of changes to the site-use parking maximums. The goal was to encourage greenspace while still allowing area for vehicle parking especially in undeveloped areas. She

clarified how the recommendations fit well with the Comprehensive Plan. There was always opportunity for annual updates or on a case by case basis.

Ordinance 23-10
(cont'd)

Piedmont-Smith asked about the variances that were considered or approved, regarding parking maximums at fitness centers.

Council questions:

Scanlan explained that a storage center was going to be built on S. Walnut, near an existing fitness center that was built under old regulations. With new construction, it needed updated and would lose parking. The property owners conducted a parking study, requested by staff, and reached a compromise.

Volan asked if staff discussed the parking study with the Parking Commission. He was concerned with raising parking maximums and asked for reasons why.

Scanlan said staff had not met with the Parking Commission, but analyzed data. Businesses could demonstrate that more parking spaces were needed. Staff kept track of that data, and also knew there were competing interests.

Volan noted concerns with increasing parking, and provided examples.

Scanlan clarified how staff analyzed uses including things like no street parking, shared parking, proximity to highways, et cetera. She said that staff looked to other cities and their uses too. Staff understood Volan's concerns and believed the compromised parking maximums were reasonable.

Rosenbarger said the Parking Commission should have been included. She asked about stadiums and noted the staff memo listing allowed maximums of 25% of the seats, but that industry added only about 1-2% seating.

Scanlan clarified that was a typo in the table, and explained the corrections. She said that the parking maximum was not required, nor was it being done. There were other restrictions in the UDO that would also come into play.

Volan asked Lucas on the process for amending something from PC.

Lucas said that any amendments that evening needed to be in writing and if passed, would then return to the PC. He explained the timelines including returning amendments to the PC with a forty-five day timeline for that body.

Piedmont-Smith asked for clarification on parking at stadiums. She struggled with allowing so much surface parking.

Scanlan said the feedback was to have no maximum parking at parking lots. Staff looked at comparable communities and guidance from the American Planning Association. Staff was not opposed to lowering the maximum parking.

Christopher Emge, Greater Bloomington Chamber of Commerce, and Parking Commission member, spoke in favor of increasing restaurant parking maximum and gave reasons in support.

Public comment:

Katie Yoder expressed concern about increasing the maximums for parking.

Volan asked Smith if he had anything to add, as a member of the PC.

Council comments:

Smith noted some initial concerns and summarized the discussion and resulting compromise on parking maximums.

There was brief council discussion on concerns on increasing parking maximums.

Volan moved and it was seconded to postpone consideration of Ordinance 23-10 to the meeting on June 07, 2023.

Motion to postpone:

Piedmont-Smith asked if there was a Parking Commission meeting prior to June 07.

Council discussion:

Volan stated there was.

Flaherty spoke about presenting legislation to boards and commissions. The PC was the designated body for Ordinance 23-10 since the changes related to

the UDO. He asked for staff’s perspective on sending legislation to overlapping boards or commissions.

Scanlan believed that updates to Title 20 were not sent to the Parking Commission.

Volan referenced previous legislation that had been sent to the Parking Commission that amended the code. He gave reasons in support of presenting legislation to, for example, the Parking Commission.

Sims discussed the need for parking in the city and the positive recommendation from the PC.

Volan urged council to reconsider the word “need” in regards to parking.

Rollo asked staff’s feedback on the motion.

Scanlan said staff wanted to get the updates right, so if amending the legislation was proper, that was fine. Parking was definitely a land use issue and was within the purview of the PT department. Staff preferred the recommendation from the PC and staff be approved that evening.

Piedmont-Smith agreed that council should have a process for having relevant boards and commissions review legislation. She supported the delay in order to explore amendments, and gave examples.

Lucas noted that a motion to table was more appropriate than to postpone.

Volan briefly explained his reasoning for including the Parking Commission. He asked for clarification from staff on including commissions.

Beth Rosenbarger, Assistant Director of the PT department, explained that legislation pertaining to Title 20 was sent to the PC because it had statutory authority. It had broad land use expertise and staff relied on it. She explained the difficulty with sending legislation to multiple boards or commissions.

There was discussion on sending legislation to boards and commissions.

Volan moved and it was seconded that council table consideration of Ordinance 23-10. The motion received a roll call vote of Ayes: 6, Nays: 2 (Sandberg, Smith), Abstain: 1 (Sims).

Vote to table
Ordinance 23-10
[8:24pm]

Rollo moved and it was seconded that Ordinance 23-08 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

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
[8:25pm]

Rollo moved and it was seconded that Ordinance 23-08 be adopted.

Rollo presented Ordinance 23-08 and said it would reinstate council in the traffic calming and greenways program that was initiated by residents. It was ideal for council to be involved as a check and balance. He gave reasons in support like the fiduciary duty as an elected body.

Beth Rosenbarger, said that staff did not support the proposed change. She reiterated that the traffic calming and greenways program did not identify what was a neighborhood greenway. They were identified via the Transportation Plan (TP) process and adopted by council. Staff looked to the TP and amending it was the best process. She described the staff-led, and resident-led, programs and gave an example of a contentious greenway, Hawthorne, with lots of feedback. Most were thankful for the improvements in the proposal. Residents not in favor of the greenway simply did not want it in their neighborhood. Beth Rosenbarger discussed funding, requests, and working with engineers. There were no other infrastructure projects in the city where council had final approval after the design was complete. She described the timeline and process that projects underwent. She highlighted

challenges and concerns with the proposed legislation including changes very late in the process. She described possible solutions and compromise.

Ordinance 23-08
(cont'd)

Rollo responded that there were many uncertainties and that updating council was ideal. He did not believe that only involving council at the start was the best process. He asked Lucas if all Title 15 projects were approved by council.

Lucas said that amendments to Title 15 were reviewed by council, and previously traffic calming projects were codified in that title.

Rollo reiterated that Ordinance 23-08 reestablished council's involvement in the process.

Beth Rosenbarger clarified that council did review Title 15 projects, but rarely at the design stage. This included Sidewalk Committee projects. She explained that greenways were very cost effective, especially in comparison with sidewalks or other city infrastructure like parking garages. Title 15 mainly consisted of traffic regulations.

Kate Rosenbarger noted suggestions from staff like earlier approvals and perhaps having more than one councilmember write a letter in support. She asked if staff had talked with the sponsor about the recommendations and if staff supported them.

Council questions:

Beth Rosenbarger said that the sponsor had not spoken with staff about the recommendations. Staff was open to the recommendations but would like to hear from residents.

Volan asked if council was in charge of roadways in subdivisions, given the fiduciary duties of council.

Rollo believed roadways to be more predictable so council was minimally involved. The Hawthorne greenway already existed and the proposed changes were not needed.

Volan said that greenways were more complex than roads, and believed that improving them for non-automobile transportation was useful.

Rollo said that greenways could be done in a variety of ways. He believed it was important to include the council in the approval process.

There was additional discussion on the process the Hawthorne greenway underwent, including meetings with residents.

Flaherty explained that it was possible that residents misunderstood the process.

Beth Rosenbarger stated that she did not have enough information to know. She explained the adopted process that staff followed.

Flaherty asked for clarification on what a greenway was.

Beth Rosenbarger read the definition from the Transportation Plan.

Piedmont-Smith asked for the feedback from the Bicycle and Pedestrian Safety Commission (BPSC).

Beth Rosenbarger said that BPSC had voted unanimously in opposition of Ordinance 23-08.

Piedmont-Smith referenced the previous process and council's vote to replace it with the new process.

Beth Rosenbarger stated the previous process required residents to vote and submit ballots which resulted in nearly no new greenways.

Rollo said the proposal did not require a threshold of resident votes.

Smith said the discussion was confusing, and asked if there already was a greenway on Hawthorne.

Beth Rosenbarger stated there were only markings on the road, and marked-way signs, but there were no traffic-calming structures.

Smith asked Rollo what his constituents wanted.

Rollo said that around 90% believed it was not necessary because the street was already low traffic and marked. It did not seem appropriate to make the

greenway given the city's limited funds. He forwarded a resident's email regarding the concern.

Ordinance 23-08
(cont'd)

Sgambelluri reminded everyone that the proposed changes were for a process and not just for the Hawthorne project. She asked about changes to the project that staff made in response to resident feedback.

Beth Rosenbarger explained the process including meeting with residents about specific concerns in their neighborhood or potential improvements. Some examples were to have enough space between speed bumps to allow bicycles with trailers to go through, and more.

Sgambelluri asked when staff has declined suggestions from residents.

Beth Rosenbarger said that inevitably there were opposing sides for projects, like the Hawthorne greenway. There were residents both in favor and against the connection.

Sandberg was concerned about the assumption that since council had approved the TP that was the end of council's role.

Beth Rosenbarger clarified that staff fully agreed that council could approve a plan and then amend it. Staff's role was to use the plans as guidance. She provided examples including the 17th Street multiuse path that was before council during the budget process. Council had voted to support the project through that process. It was not before council in the design process.

There was additional discussion regarding roles pertaining to planning, funding, designing, and constructing a project.

Piedmont-Smith asked about the importance of connectivity with greenways in the city.

Beth Rosenbarger said greenways were similar to streets because they were part of a network that served the purpose of connecting the city. An entire community could use a greenway and not just those individuals who lived near it.

Kate Rosenbarger asked about public input and the potential to have too many meetings.

Beth Rosenbarger said meetings were not the only way to give feedback to staff, like emails. There were challenges and barriers with multiple meetings, especially for working parents with limited time. More meetings made the process more difficult because people may not know which meeting to attend, or if they had to attend them all, et cetera.

Volan said there had not been a referendum on the Hawthorne greenway. He asked if Rollo had feedback from residents who did not live in his district, given council's obligation to constituents.

Rollo said yes, and referenced equity needs elsewhere in the city as opposed to a street that was already calm and bike-able.

Volan asked if all residents had been represented in the neighborhood meetings that were held regarding the Hawthorne greenway.

Rollo reiterated that the Hawthorne greenway was a misplaced investment for the city.

There was additional discussion on contentious issues in the city, public meetings, equity, and council's role in representing constituents.

Beth Rosenbarger clarified that an email regarding a project going to bidding was sent in error and was conflated with another project on Maxwell Drive. She apologized for the error.

Jack Wanninger opposed Ordinance 23-08 and supported greenways, and gave reasons in support and against additional approvals in the process. Public comment:

Carol Canfield urged council to vote in favor of Ordinance 23-08 and provided reasons why.

Tracy Bee expressed the desperate need for sidewalks especially in neighborhoods like Maple Heights. She spoke against Ordinance 23-08.

Ordinance 23-08
(cont'd)

Mark Stosberg referenced his 2020 sidewalk audit which showed the building of sidewalks was not equitable. He opposed Ordinance 23-08.

Public comment:

Katie Yoder spoke strongly against Ordinance 23-08 and gave robust reasons for including her participation in the greenway program.

Former councilmember Chris Sturbaum voted in favor of greenways planning but believed that having council oversight was needed to avoid errors.

Pauly Tarricone discussed the difficulty he had faced providing input on the legislation which highlighted the barriers for resident participation. He spoke against Ordinance 23-08 and dangers of bicycling and walking.

Matt Pelte commented against Ordinance 23-08 and provided reasons why.

Greg Alexander spoke about sidewalks, connectivity, greenways, and funding. He discussed problems with equity, and listed problems with projects.

Paul Kern believed the process was important and spoke in favor of council's oversight, and in favor of Ordinance 23-08.

Steve Layman was in favor of Ordinance 23-08 for fiduciary reasons.

Joan Middendorf appreciated the 7-Line, and said that more people needed to be biking and not using cars. She spoke about traffic calming in her neighborhood and against Ordinance 23-08.

Wai Wai Han used greenways every day and was thankful for them. He believed Ordinance 23-08 was in response to only the Hawthorne greenway but would impact all future ones. He urged a no vote.

Paige Anderson was properly consulted about the greenway in her neighborhood. She spoke in favor of planners designing greenways and against Ordinance 23-08.

Eric Ost asked council to approve Ordinance 23-08 and said that it was not politicking. It restored council involvement in the programs.

Volan asked staff to respond to the public comments.

Council comments:

Hank Duncan, Bicycle and Pedestrian Coordinator in the PT department, wanted to have councilmembers more involved in the programs and would enjoy educating council on the ongoing projects. He referenced the East Morningside Drive neighborhood greenway and its process including mailers, opportunities to provide feedback, and shared experiences of neighbors. He gave examples of interactions with residents in areas identified for greenways.

Beth Rosenbarger reiterated that the greenway designs were detailed, but were not done at the first meeting with residents. The first meeting was for staff to listen to residents and walk the corridor, and more.

Sandberg said that having councilmembers attend public meetings would help with future plans. She asked how Public Works (PW) and Public Safety (PS) were included in the process.

Duncan said that typically the Engineering department worked with PW and PS. Every project included input from the Bloomington Fire Department (BFD), Bloomington Police Department (BPD), and Emergency Medical Services (EMS) for their approval.

Beth Rosenbarger said there was interdepartmental coordination.

Sgambelluri was concerned with at the timing for resident participation. She asked for clarification on the process.

Ordinance 23-08
(cont'd)

Beth Rosenbarger described the process for recent projects. It was not limited to two or three meetings, and could include boards and commissions. At the second meeting, staff would present a design and receive feedback from residents. There was always opportunity for additional feedback even after a third meeting. Three out of four recent projects had only needed two meetings.

Council comments:

Rollo saw no harm in having council oversight because it helped ensure public involvement.

Kate Rosenbarger said that resident meetings were useful for councilmembers to attend. Especially since some might not know what a greenway was. She asked about having equity in the rubric for the prioritization of projects.

Beth Rosenbarger asked for clarification on how council would evaluate equity in the design of a project. Staff preferred set criteria for projects.

Rollo said that council would be included in the dynamic process and would have the final say. It could include equity in the criteria.

Kate Rosenbarger noted that it would be a level of oversight not done with any other infrastructure in the city. She asked if there were other greenways that upset residents, other than Hawthorne.

Beth Rosenbarger said that four greenway projects were done, and staff had heard positive feedback, and not complaints about the process. Staff heard requests for more traffic calming. She added that the city paid for design and construction.

Piedmont-Smith asked what the fiscal impact was for Ordinance 23-08 as required per council's own guidelines. She asked if there was no fiscal impact statement with the legislation.

Rollo said it was a policy change to include council so there was no fiscal impact statement.

Piedmont-Smith clarified her question, accounting for the fiscal impact of staff's time, resident's time, and more. For example, if half of the proposed projects were not approved by council, then staff's time could be wasted.

Rollo stated that he did not concur and did not draft a fiscal statement for the legislation.

Lucas added that there was a note in the memo that there was no expected direct cost for the legislation.

Piedmont-Smith noted that it would result in indirect costs.

Volan asked if Title 15 was updated when a greenway was created.

Beth Rosenbarger said they were not in Title 15.

Volan asked what recourse a councilmember had to reverse or stop a project.

Lucas stated that council could reduce appropriations, could amend the Neighborhood Traffic Safety Program (NTSP), traffic calming devices and/or location, and more.

Beth Rosenbarger added that the best process was to amend the TP because it identified which streets would become greenways. Things like bicycle lanes and more were not codified.

Volan asked if amending the TP required that it go to the PC. He asked if a stop-work order was needed.

Beth Rosenbarger said yes, it would go to the PC.

Lucas stated that he was not aware of any stop-work orders for previous, staff-led projects. He gave some examples on process.

There was additional discussion on the process and potential projects.

Piedmont-Smith said council approved the TP in 2019 which listed greenways, and funding during the budget process. She asked if the TP could include designs for greenways, since that appeared to be part of the concerns.

Beth Rosenbarger said that could be added with more clarity.

Rollo said some greenways were simply shared roads.

Flaherty thanked Rollo for the proposal but would not support it. Greenways were inexpensive, and created safe bicycle and pedestrian infrastructure, whereas sidewalks were very expensive. He noted the purpose of the TP. Adding council oversight created veto power at the last minute of the process and was not ideal. It nullified the countless hours that staff and residents had spent on the project. BPSC had not been included in the drafting of Ordinance 23-08 and had later unanimously voted against it. He discussed funding, and believed it was not useful to return to a previous process that had been improved, for a reason. It was a disservice to not involve engaged community members currently serving on boards and commissions. Flaherty worried about the micromanagement of staff and their expertise. He provided comparable examples involving council's role. Council had already been involved through the development of things like the TP. Council's role was to set the policy direction of the city and allow staff to implement projects. The programs sought safety for the most vulnerable users of roads, bicyclists and pedestrians. He highlighted that the programs used data to inform decisions including crash data, and more.

Ordinance 23-08
(cont'd)

Council comments:

Sims wondered why there was such opposition to council engagement. He believed it was important to include council. He had no intention of stopping a greenway after design. He referred to a recent project at Ralston and commented that there had been very few residents in attendance. He discussed resident feedback and the process that project undertook.

Piedmont-Smith said council engagement was necessary and important. A council vote at the end of a data-based process was not engagement. Involving council during the process regarding a resident-led, or staff-led, greenway was ideal. Having staff spend hours meeting with residents, then developing a design, then meeting with the residents again and tweaking the design, and then going before the BPSC prior to presenting to council for a vote was not engagement. That process was for veto power, since council would only be able to vote for or against, and that was fiscally irresponsible. She said that revisions to the TP was the proper process, and could include options for greenways. She would not support Ordinance 23-08.

Sandberg supported Ordinance 23-08 because it restored a balance that had been lost. She referenced the UDO discussions and the attempt to minimize the responsibilities of council, as an elected body with fiduciary responsibilities. The goal was not to kill good projects but rather to have intentional council involvement on fiscal and policy decisions. She believed council would not be as concerned had they not heard from many residents. A fiscal impact statement was not needed but that council's input was necessary.

Rollo was shocked with the hesitancy about council oversight, especially on projects that would change streets. It was not about having veto power for council, and it was important to have council involvement throughout processes. It was in the interest of staff to update council on projects. He wanted a better process than the current one. He discussed his involvement with BPSC and the Hawthorne greenway which had been added to the agenda. He had attended the meeting where residents expressed concerns. Involving council, as the elected body, expanded the process and democracy, and provided a balance between council and the administration, and provided a better product in the end. He said that Flaherty indicated that Rollo had not attended BPSC meetings though he had. He believed Flaherty had gone to BPSC regarding Ordinance 23-08 in order for the commission to draft a resolution against the legislation. It behooved staff to present a good project to council for approval. Finally, he commented on equity and said that he respected but disagreed with Mark Stosberg's sidewalk study because it was selective. Rollo said that two years' worth of Sidewalk Committee funding had

been spent on one project between the bypass and Union Street. He said equity was important and discussed recent projects like the stop sign at Sheridan and Maxwell.

Ordinance 23-08
(cont'd)

Council comments:

Smith planned to support Ordinance 23-08 because of the strong mayor system in the city. He referenced the closing at Cascades Park. He believed council oversight was necessary and without it, the public did not have anyone to reach out to. Council had fiduciary oversight and including council in the greenway program would not negatively affect it.

Volan said that when the NTSB was created in 1999, engineering was a function of Public Works, before moving to the Planning department, and then finally becoming its own department. He commented on the evolution of street design as well as the debate on how much oversight council should have. He said that Rollo believed the legislation was the only way to stop what he thought was a bad project. He commented on public meetings, engagement with staff, and resident-inspired political concerns resulting in an overreaction by their representative. Rollo, as parliamentarian, knew the rules and options available. Returning to the previous process was not ideal, and Volan provided examples of council oversight on projects. He commented on staff's time, process, time limits, debate limits, and on other council processes. He could not support Ordinance 23-08.

Kate Rosenbarger thanked everyone for their comments. She would consider changes to the program, but did not believe Ordinance 23-08 was the proper way. It gave council too much oversight, too far in the process, and at high cost to the city. Council engagement did not result from veto power but rather from involvement throughout a process. Staff appreciated council involvement in greenways and traffic-calming projects. The legislation wasted resources and would make greenways a conditional use, thus stalling projects, and creating safety issues for residents moving throughout the city. It was important to have resident-led projects in their neighborhoods, like the recent one in Crestmont. Safer streets was a very urgent need in the city. She read a note from a resident near the Hawthorne greenway who did not want it because they did not want lower income residents using their street, near their yard. Streets belonged to all community members and safety was a priority. She commented on council's role, and empowering residents in their community. Power-hoarding was a characteristic of white culture which was damaging because they were used to be norms or standards. It was not ideal to have council's final approval at the end of a long process.

Sgambelluri appreciated the discussion but felt conflicted. She considered what was compelling, or not, and did not believe that having council oversight was politicizing nor power-hoarding. Staff used adopted plans as guides; and obtained feedback from residents. She separated the Hawthorne greenway from the legislation, and saw there was disconnect in the communication to residents. She was encouraged that staff would engage councilmembers early on. The process was not fundamentally flawed because it included residents in the process. Equity and connectivity were important. New opportunities for public engagement was needed. She would not support Ordinance 23-08.

Flaherty had asked the BPSC for their input on the process for Ordinance 23-08 and learned that Rollo had not asked to present on it. Rollo attended that meeting and did not present, but spoke during public comment. Flaherty's motion at a previous council meeting encouraged Rollo to present to BPSC. Flaherty commented on policy priorities and disappointment with council's ability to cancel safety projects. He spoke about his experience with danger while bicycling in the city.

Rollo said that he too had been hit while riding his bicycle. He commented on dangerous areas in the city, including 7th Street. Elm Heights was the safest

place to bike, according to the Transportation Plan. There were other places in the city that should be prioritized, especially in areas with lower means. He did not believe it was necessary to impugn anyone's character.

Ordinance 23-08
(cont'd)

Council comments:

Volan commented on other areas that also were dangerous, like East 3rd Street.

Flaherty iterated that he had only commented on policy and had referenced a quote by Rollo.

The motion to adopt Ordinance 23-08 received a roll call vote of Ayes: 4 (Rollo, Sandberg, Sims, Smith), Nays: 5 (Flaherty, Piedmont-Smith, Rosenbarger, Sgambelluri, Volan), Abstain: 0. FAILED

Vote to adopt
Ordinance 23-08
[11:52pm]

LEGISLATION FOR
FIRST READING
[11:53pm]

Rollo moved and it was seconded that Appropriation Ordinance 23-04 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

Appropriation Ordinance 23-04 - To Specially Appropriate from the General Fund, ARPA State and Local Fiscal Recovery Fund, Parks and Recreation General Fund, and Motor Vehicle Highway Street Fund, Expenditures Not Otherwise Appropriated (Appropriating a Portion of the Amount of Funds Reverted to Various City Funds at the End of 2022 for Unmet Needs in 2023)
[11:53pm]

Sgambelluri referred Appropriation Ordinance 23-04 to the Regular Session to meet on May 17, 2023.

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT [11:54pm]

Lucas reviewed the upcoming council and committee schedule.

COUNCIL SCHEDULE [11:54pm]

Sgambelluri adjourned the meeting with no objections.

ADJOURNMENT [11:55pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, June 14, 2023 at 6:30pm, Council President Sue Sgambelluri presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
June 14, 2023

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan

ROLL CALL [6:30pm]

Councilmembers present via Zoom: none

Councilmembers absent: Dave Rollo

Council President Sue Sgambelluri gave a land and labor acknowledgement and summarized the agenda.

AGENDA SUMMATION
[6:30pm]

There were no minutes for approval.

APPROVAL OF
MINUTES [6:31pm]

Sandberg stated that she and Rollo would not have a constituent meeting.

REPORTS [6:34pm]
• COUNCIL MEMBERS

Piedmont-Smith noted her upcoming constituent meeting.

Sims acknowledged the recent passing of Viola Taliaferro and her many contributions to the community.

Rosenbarger commented on the many opportunities to participate in the discussion on the College and Walnut corridor.

Alex Crowley, Director of Economic and Sustainable Development (ESD) department, briefly described the process for the annual update on tax abatements. He highlighted the complications and improvements with the process.

• The MAYOR AND
CITY OFFICES
[6:39pm]

De de la Rosa, Assistant Director for Small Business Development, ESD, presented an overview of tax abatement compliance review, criteria and process, economic impacts, current residential and commercial abatements, pending abatements, and other economic development commission activities.

Piedmont-Smith moved and it was seconded to extend the time for reports by 15 minutes. The motion was approved by voice vote.

Vote to extend time
limit [7:01pm]

Piedmont-Smith asked about the actual assessed value versus the projected assessed value.

Council questions:

Crowley said the county did the assessments and it was difficult to project. It changed every year and there were some inconsistencies.

Piedmont-Smith asked about the different phases at the Woolery Mill.

Crowley said the abatement dated back to 2004 and the original intent was to have extensive renovation in phases, including housing and more.

Piedmont-Smith asked if staff considered that project to be in compliance.

Crowley stated that it was substantially compliant but was a very complex property. Staff hoped there would be ongoing investment in the property by the owners.

Sgambelluri asked for additional information on the Economic Development Commission (EDC).

Crowley spoke about the discussion at the recent EDC including assessed values, compliance, improving the monitoring process, and more.

There was no public comment.

Public comment:

Piedmont-Smith moved and it was seconded that the Council hold a public hearing on June 21, 2023 at the Council's Regular Session to begin at 6:30pm regarding New Urban Station's compliance with the statement of benefits provided as part of the tax abatement granted by Resolution 16-12. The Council directs Council staff to provide the required notice of this hearing to the property owner and to list "failure to file the required CF-1 form" as the reason for the Council's determination. The motion was approved by voice vote.

- The MAYOR AND CITY OFFICES (cont'd)

Vote to hold public hearing [7:18pm]

Piedmont-Smith moved and it was seconded to approve the Annual Tax Abatement Report's recommendations of substantial compliance for the remaining properties. The motion was approved by voice vote.

Vote to approve report [7:19pm]

There were no council committee reports.

- COUNCIL COMMITTEES [7:19pm]

Greg Alexander spoke about the need for more sidewalks and the misconceptions and errors with the recent sidewalk study conducted by Public Works.

- PUBLIC [7:19pm]

Eric Spoonmore, Greater Bloomington Chamber of Commerce, discussed also acknowledged the passing of Judge Viola Taliaferro. He commented on the Convention Center and the Capital Improvement Board managing the expansion of the center.

Paul Post, President of the Fraternal Order of Police, Lodge 88, gave an update on recruitment and hiring, understaffing, the Tech Park, and the purchase of the Showers West building.

Jeff Rodgers noted the understaffing at the Bloomington Police Department (BPD), overtime and pay, annexation, and housing and vehicle incentives.

Stephen Lucas, Council Attorney, read a statement submitted via Zoom chat from Sam Dove regarding a tweet from Greg Alexander and sidewalks.

Piedmont-Smith moved and it was seconded to approve the mayoral appointment of Ernesto Castañeda to seat M-2 on the Historic Preservation Commission. The motion was approved by a voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:38pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:39pm]

Piedmont-Smith moved and it was seconded that Resolution 23-08 be introduced and read by title and synopsis only. The motion was approved by a voice vote. Clerk Nicole Bolden read the legislation by title and synopsis.

Resolution 23-08 – Authorizing the Allocations of the Jack Hopkins Social Services Program Funds for the Year 2023 and Related Matters [7:39pm]

Piedmont-Smith moved and it was seconded that Resolution 23-08 be adopted.

Lucas provided a brief history of the Jack Hopkins Social Services Funding (JHSSF) program and its purpose. The total budget for 2023 was \$323,000 and the requested amount was \$964,877. He thanked Housing and Neighborhood Development (HAND) department for their work during the process and management of the awarded funds.

Sandberg added details about the process and the resulting recommendations by the committee.

Piedmont-Smith asked about the new organizations including the Healing Hands outreach center affiliated with the City Church. She asked if there were religious tests to receive help from the center.

Resolution 23-08
(cont'd)

Lucas stated that all organizations were informed that programs had to be separate from the religious institution and he believed that Healing Hands was a separate program.

Council questions:

Carole Canfield spoke against Planned Parenthood and All-Options because they provide abortions.

Public comment:

Scott Tibbs opposed funding for Planned Parenthood and All-Options.

Sydney Zulich thanked council for supporting women's rights.

Genevieve Warren spoke in favor of women's rights and funding for Planned Parenthood.

Sandberg stated that the committee believed it was especially important to fund Planned Parenthood and All-Options based on the programs including birth control and assistance for low income residents with children. She reiterated that JHSSF did not support abortions funded by organizations. She would continue to support women's rights.

Council comments:

Sims understood that abortion services was a divisive issue. He noted that public funds could not be used for abortion services. He discussed the types of things that were funded like the program for diaper assistance, contraceptives, mammograms, and more.

The motion that Resolution 23-08 be adopted received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote to adopt
Resolution 23-08
[8:01pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-12 be introduced and read by title and synopsis only. The motion was approved by voice vote.

Ordinance 23-12 – An Ordinance To Amend Ordinance 22-26, Previously Amended By Ordinance 22-40, Which Fixed the Salaries of Appointed Officers, Non-Union, and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana for the Year 2023 – Re: To Reflect Updates Needing Implementation in 2023 [8:02pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-12 be adopted.

Emily Fields, Interim Director, Human Resources, highlighted the changes including adding a project manager in the Engineering department instead of hiring consultants, three community paramedics in Fire, title changes in Legal, regrading of the program specialist in the Environmental Division in Utilities as well as a title change, and a change in the language pertaining to collective bargaining.

Piedmont-Smith asked if there were already funds budgeted for the three paramedics in Fire.

Council questions:

Fire Chief Jason Moore said yes, there was cost savings from being understaffed, encumbered funds that may be released, and reversion funds.

Sims asked for clarification on the use of the positions to make up for the staffing shortages.

Moore explained that there were some medical calls that firefighters did not need to attend. There was a shortage of ambulances, too, and firefighters were

being called for lift assists and non-critical emergencies. The additional staff could partially restore the medical squad instead of firefighters.

Ordinance 23-12
(cont'd)

Sims asked how dispatch sent emergency responders out.

Moore stated that there were several serious calls that the Fire department responded to, when there was not an ambulance available. He provided additional details on the process.

Sims appreciated that there was funding for the positions and asked how insurance played into the calls that firefighters went to.

Moore clarified that the cost was passed through to the hospital and insurance, and the Fire department recouped the medical supplies they used. He noted that the program was paid for by taxpayers and supported the underserved population in the county.

Jordan Canada, Union President, said that there could be a violation of the agreed upon contract with the changes in the Fire department.

Public comment:

Sandberg asked if it was possible to remove the firefighter's portion from the legislation.

Council comments:

Lucas said it was possible to amend the legislation.

There was brief discussion on the possible options for council.

Moore said that there would not be any layoffs. The proposal was to have additional staff to help the work burden of the current firefighters, and to assist with medical needs in the community.

Piedmont-Smith noted that there were two ordinances and the concerns seemed to pertain to Ordinance 23-13. She had spoken with Chief Moore and Sergeant Canada.

Flaherty had spoken with Chief Moore and other fire staff, and believed there would be a productive discussion related to Ordinance 23-13. He did not believe that there would be less commitment of investment into the Fire department with Ordinance 23-12.

There was additional discussion on the consideration of Ordinance 23-12 and Ordinance 23-13.

Volan moved and it was seconded to postpone the discussion of Ordinance 23-12 until after the discussion of Ordinance 23-13. The motion was approved by voice vote.

Vote to postpone
[8:27pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-13 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Ordinance 23-13 – An Ordinance to Amend Ordinance 22-25, Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana for the Year 2023 - Re: To Reflect Increases in Compensation to Certain Firefighters
[8:28pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-13 be adopted.

Fields presented Ordinance 23-13 and highlighted key changes including the addition of the Assistant Chief of Operations in the Fire department. It also addressed staffing shortages in the Fire department like compensation during the Covid-19 pandemic and more.

Moore added that there would not be any layoffs or removal of sworn duties for firefighters. He explained that it was a senior staff member that would assist the chief with issues in the department. He noted that he had been making the request for six years, and was a needed change.

Piedmont-Smith asked for clarification on the Kelly Day Vacation days.

Council questions:

Moore explained that the Kelly Days allowed for more days off and to relieve the built in overtime. It was a forced, paid day off every forty-two days. He provided additional details.

Piedmont-Smith asked if they received their regular pay, and would get additional pay. She was concerned with staff being overworked.

Ordinance 23-13
(cont'd)

Moore said it was paid time off days that were compensated at the end of the year. He did not want to overwork staff, and the vacation was to have firefighters decompress and rest, but the buyback was due to the staffing crisis. It compensated those willing to give up the Kelly Days and serve the community.

Council questions:

Volan asked for clarification on the word squad.

Moore clarified that the squad was an F150 Ford pickup truck that responded to calls that did not need the larger trucks to participate. It was staffed by two sworn firefighters. He said that there was not an assigned safety officer on all major incidents. That was a key contributor in the deaths of firefighters.

Volan asked what the concerns were from the firefighter union.

Moore said that during staffing shortages, the squad was taken off duty, or was run with one person instead of two. It was not ideal to have a firefighter safety at major incidents.

Flaherty asked about the effective 3% additional compensation rates for the year. The contract only required a 2% increase, and civil city had a 5% increase. He asked for clarification on the contract, too.

Fields said that staff intended to evaluate firefighter compensation and would propose changes for the 2024 budget.

Flaherty asked if the Assistant Chief of Operations' duties would shift once the Fire department had adequate staffing.

Moore said that there was a critical gap when the squad was off duty. The proposal was to have the squad fully staffed, and the Assistant Chief of Operations would focus on operations, and health and safety of firefighters. Per state rules, the hire would be an internal hire.

Jordan Canada said that there were financial impacts for firefighters, and the legislation needed to be postponed for additional information.

Public comment:

Shaun Huttenlocker, Union Secretary-Treasurer, said that the changes seemed to be rushed, and might have an impact on retention of staff. He listed other concerns with the proposed changes.

Wes Martin, Chair of the Political Action Committee, Local 586, expressed concerns with potentially moving sworn personnel off of the squad and the resulting impact.

Volan was conflicted. There was a contract in place and pay was an issue. He did not understand removing sworn personnel and asked for clarification.

Council comments:

Moore explained that there would be the addition of an Assistant Chief of Operations and three civilians and portions of squad duties could be restored quicker than the hiring of firefighters, due to statutory requirements. He provided additional details on the non-sworn duties like lifting people who had fallen. The civilians were hired under the Mobile Integrated Healthcare license and could not respond as firefighters. Moore was publicly stating that sworn positions would not be eliminated.

Volan asked what vehicle the civilians would use.

Moore said there were three vehicles with no lights or sirens.

Smith asked if there was a specific timeline.

Moore explained that a vital resource due to staffing shortages, and the proposal was a faster process for restoring some resources than training twenty-one firefighters. He noted that the squad was being shut down four times per week due to the crisis of staffing.

Piedmont-Smith asked if sworn personnel were paid more on the squad.

Moore said that the squad received command-appointment pay and would not be removed.

Ordinance 23-13
(cont'd)

Piedmont-Smith asked if the Assistant Chief would do the job of squad members and receive that pay.

Council comments:

Moore said no, and while the squad was not running, there would be someone other than him to be the safety person on scene. He discussed his lessons learned in his experience with safety and the deaths of nine firefighters. He was addressing the concerns with his staff.

Sandberg asked about the lack of sufficient ambulances given that it was under the auspice of Indiana University Health (IUH).

Moore said there was an unprecedented number of 911 calls in the community. He noted that there were other emergency responders in the city. Firefighter shortages was a common problem in the state. When someone called 911, due to the shortage, the city's Fire department was stepping in to fill the gaps, despite the type of call, like someone falling and not being able to get up. He explained how entities in the city and county were addressing the issues.

Volan asked Canada for clarification on the union's concerns.

Canada responded that sworn personnel would be rearranged, including the squad. There had also not been enough time to assess what the Assistant Chief would do.

Flaherty asked about the impact of delaying the legislation.

Moore said it delayed the process of hiring.

Canada said five of the six squad positions filled, and would be on duty. Passing the legislation without detailed information was not ideal.

Sandberg asked how long the crisis had been ongoing and if it could have been brought before council earlier.

Moore stated that due to his health issues, he had only found out about the decision that was proposed one week prior, as had the union. He reviewed all the financial information and agreed with the decision that was reached. He did not want to be at odds with the union and was addressing the concerns. The union was involved in all aspects of the Fire department.

Volan asked who initiated the legislation and its timeline.

Fields said it was in collaboration with the Deputy Chief, Corporation Counsel, and the Controller. She said staff had been talking with the union about compensation for a while. The legislation had been solidified in the last three to four weeks.

Moore said the first discussion was with the union regarding the buyback of Kelly Days was on May 8.

Canada said the last meeting with Mayor John Hamilton about the buyback and the 3% pay increase was May 11. What had not been discussed was the three full time employees, and the roles and responsibilities of the Assistant Chief since the union had only recently found out about that.

Rosenbarger asked if one week might be sufficient time for union members to obtain more information and clarification.

Fields said that the engineering position was an immediate need.

Flaherty said that there were amendments prepared.

There was additional discussion on possibly delaying the legislation.

Volan moved and it was seconded to postpone the discussion of Ordinance 23-12 and Ordinance 23-13 to a third reading on June 21, 2023. The motion was approved by voice vote.

Vote to postpone
[9:42pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-11 be introduced and read by title and synopsis only. Bolden read the legislation by title and synopsis.

Ordinance 23-11 – To Amend Title 6 of the Bloomington Municipal Code Entitled “Health and Sanitation” – Re: Updating and increasing fees for service and harmonizing Chapters 4 and 5 of Title 6 of the Bloomington Municipal Code [9:43pm]

Piedmont-Smith moved and it was seconded that Ordinance 23-11 be adopted.

Adam Wason, Director of Public Works, summarized the proposed legislation and addressed council questions from the previous council meeting.

Council questions:

Flaherty discussed cart sizes households had and asked for clarification on the count.

Wason said he would research with staff and respond to council.

Volan moved and it was seconded to adopt Amendment 01 to Ordinance 23-11.

Amendment 01

Amendment 01 Synopsis: This amendment is sponsored by Councilmembers Flaherty and Volan. It replaces the proposed sanitation service fee ranges with a schedule of service fees that would increase over the course of five years. The intent behind the fee increases is to gradually reduce the amount of support needed from the city’s general fund to cover the expenses of providing sanitation services.

Flaherty preferred not to present Amendment 01 given that Wason indicated that he would need more time to review the proposed reduction of the phase out of the General Fund subsidy. He provided reasons why.

Volan withdrew the motion to adopt Amendment 01 to Ordinance 23-11.

Withdrawal of motion

Sgambelluri asked about budget planning for PW and the timeline.

Council discussion:

Wason said staff’s preference was to move forward with one of the proposed models. He commented further on the timeline and other rate proposals. He noted that some staff would be returning from paid time off leave that could assist in the process.

Flaherty noted options including moving forward with the legislation as presented and working with staff regarding possible rate changes and more. He commented on his calculations on rate changes. He opined that the two issues could be separated for consideration.

Sgambelluri passed the gavel to Vice President Piedmont-Smith.

Sgambelluri moved and it was seconded to adopt Amendment 02 to Ordinance 23-11. She presented Amendment 02 and shared feedback from constituents.

Amendment 02 to Ordinance 23-11

Amendment 02 Synopsis: This amendment is sponsored by Councilmember Sgambelluri and replaces the proposed sanitation service fee ranges with rates that reflect ongoing support from the city’s general fund at the existing level.

Sandberg asked if waiting one week would be ideal.

Council questions:

Lucas stated that council could consider Amendment 02 or dispose of it that evening.

Volan send it would be ideal to send Ordinance 23-11 to a third reading.

Flaherty asked what the policy change was in the proposed rate changes from PW.

Wason responded that staff considered a fixed rate for all households, a capital recovery rate, and a per gallon rate. He explained that there was not a capital recovery fee or a non-reverting fund. The cost was continuously absorbed and there were impacts on PW. It ended up being a higher cost for the higher producers of waste in the community.

Ordinance 23-11
(cont'd)

Council questions:

Flaherty asked for clarification on a progressive rate structure overall.

Wason said it was the same across all categories. There was not a flat rate fee and then a progressive rate on top. It was one overall rate.

There were no public comments.

Public comment:

Flaherty favored the proposed legislation as written and did not support Amendment 02. He preferred a different structure in general.

Council comments:

Sandberg stated that she would support Amendment 02.

Smith supported Amendment 02 and did not understand eliminating the subsidy.

Volan would not support Amendment 02 and gave reasons why. He believed an alternative option was ideal.

Sims asked what the fee was for exchanging a larger bin to a smaller one.

Wason said it was \$50.

Piedmont-Smith opposed Amendment 02. She felt that the subsidy from the General Fund was not equitable. Sanitation services were only provided by the city to single family homes, or apartments with four or fewer units. She gave additional examples of the inequity. Sanitation was both a public, and private, benefit. She believed the General Fund subsidy needed to be reduced.

The motion to adopt Amendment 02 to Ordinance 23-11 received a roll call vote of Ayes: 3 (Sandberg, Sgambelluri, Smith), Nays: 4 (Flaherty, Piedmont-Smith, Rosenbarger, Volan), Abstain: 1 (Sims). FAILED

Vote to adopt
Amendment 02
[10:22pm]

Flaherty believed that it appeared that the legislation would not pass that evening. He supported passing Ordinance 23-11 and then working with staff on the details including phasing out the subsidy in phases instead of having a large increase in the rate.

Council questions:

Rosenbarger spoke about postponing the legislation until after council recess because there would be two councilmembers not in attendance the following week.

Volan concurred with Flaherty and Sims' point of incentivizing the reduction in waste by waiving the fee for going to a smaller bin. He would not support the legislation.

Carole Canfield spoke against only having single family households pay a fee.

Public comment:

Sims agreed that waiving the fee for going from the largest bin to the smallest would be useful. He commented on the fee structure and increase in taxes which added up to a financial burden for some residents.

Council comments:

Smith was against the proposal. He did not believe that homeowners being charged a higher fee was equitable. They paid property tax and other taxes. He noted that people without children paid for schools and more. He provided additional examples.

Rosenbarger commented on the options regarding the subsidy and potential options for the future. She said that there was a lot of waste generated in the

city. It was important to look at creative ways to incentivize the reduction in waste. She gave some examples of the incentives.

Ordinance 23-11
(cont'd)

Volan reminded everyone that if there were no city trash service, then all homes would be paying for private services. He commented on the way the rate structure was calculated. He spoke about postponing the consideration of the legislation, and bin and cart prices, and was willing to work with staff to draft a better solution. He would vote for the legislation.

Council comments:

Piedmont-Smith noted the unsustainable and large amount of waste which was not good for the environment. She said that funding could be redirected to expand the restaurant composting pilot program and more. She supported Ordinance 23-11 that evening.

Sgambelluri supported fee increases that covered cost increase. She could not support the proposed increase and gave reasons why.

The motion to adopt Ordinance 23-11 received a roll call vote of Ayes: 3 (Flaherty, Rosenbarger, Piedmont-Smith), Nays: 5 (Sgambelluri, Sandberg, Smith, Volan, Sims), Abstain: 0. FAILED

Vote to adopt
Ordinance 23-11
[10:43pm]

There was no legislation for first reading.

LEGISLATION FOR
FIRST READING
[10:43pm]

There were no public comments.

ADDITIONAL PUBLIC
COMMENT [10:44pm]

Lucas reviewed the upcoming council schedule and legislation.

COUNCIL SCHEDULE
[10:44pm]

Sgambelluri adjourned the meeting without objection.

ADJOURNMENT
[10:46pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, June 21, 2023 at 6:30pm, Council President Sue Sgambelluri presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
June 21, 2023

Councilmembers present: Isabel Piedmont-Smith (arrived at 6:32pm), Dave Rollo, Susan Sandberg, Sue Sgambelluri, Ron Smith, Stephen Volan
Councilmembers present via Zoom: Kate Rosenbarger
Councilmembers absent: Matt Flaherty, Jim Sims

ROLL CALL [6:31pm]

Council President Sue Sgambelluri gave a land and labor acknowledgement and summarized the agenda.

AGENDA SUMMATION
[6:31pm]

Rollo moved and it was seconded to approve the minutes of January 12, 2022, June 15, 2022, and July 20, 2022. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES
[6:36pm]

- January 12, 2022
(Regular Session)
- June 15, 2022
(Regular Session)
- July 20, 2022
(Regular Session)

Rollo spoke about his concerns about the advance of large language models and artificial general intelligence.

REPORTS [6:37pm]

- COUNCIL MEMBERS

Volan commented on the Salt Creek Township Trustee's report on the difficult impacts of housing costs, and growth, in the Bloomington metropolitan area.

Sgambelluri noted her upcoming constituent meeting.

Larry Allen, City Attorney, discussed Urban Station's tax abatement and CF-1 form including employment and assessed value. Economic and Sustainable Development (ESD) department recommended that the council pass a resolution that waived noncompliance and continued the abatement.

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

Piedmont-Smith asked if the fifteen affordable housing units were still in place.

Council questions:

Allen stated that the Housing and Neighborhood Development (HAND) department confirmed that they were.

There were no council committee reports.

- COUNCIL COMMITTEES [6:55pm]

Carole Canfield noted an upcoming town hall meeting concerning Cascades Park.

- PUBLIC [6:55pm]

[Unknown] spoke about the American flag, unborn babies, and refused to state his name.

Sgambelluri recessed the meeting at 7:00 pm. Sgambelluri reconvened the meeting at 7:11 pm.

Daniel Olsson discussed recruitment and staffing issues with police officer and other first responders across the nation.

Piedmont-Smith moved and it was seconded to appoint Heidi Dowding to seat C-4 on the Commission on Sustainability. The motion was approved by a voice vote. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

APPOINTMENTS TO
BOARDS AND
COMMISSIONS [7:22pm]

Volan moved and it was seconded to appoint Eliza Carey to seat C-1 on the Commission on the Status of Women, and to appoint Sophia Amos to seat C-1 on the Community Advisory on Public Safety Commission. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

APPOINTMENTS TO
BOARDS AND
COMMISSIONS (cont'd)

LEGISLATION FOR
SECOND READING AND
RESOLUTIONS [7:22pm]

Rollo moved and it was seconded that Resolution 23-11 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Resolution 23-11 – To
Waive Non-Compliance
of New Urban Station,
LLC Concerning a
Previously Approved
Real Property Tax
Abatement [7:22pm]

Rollo moved and it was seconded that Resolution 23-11 be adopted.

Allen described the requirements for tax abatements, compliance with the terms and conditions, and referenced state code. Urban Station had filed the required CF-1 one month late. He said that despite the late filing, Urban Station was still in compliance and provided details on employment and assessed value. Allen clarified that there were differences from previous years' filings because of new ownership. He also noted options for council action.

Rollo asked if representatives from Urban Station were invited to the meeting.

Council questions:

Allen said they were, but it had been difficult to reach the appropriate representative. Stephen Lucas, Council Attorney, had put out a formal notice.

Rollo said that no representative was present was concerning.

Sgambelluri asked if Urban Station explained why they filed the CF-1 late.

Allen believed it was an oversight by their accounting department. The new owner did not have other tax abatements or a process in place for the CF-1. He described ESD's process for reminding entities of the annual requirement.

Volan asked how staff confirmed affordable housing compliance.

Allen said HAND staff had confirmed that Urban Station was in compliance with the affordable housing requirement and briefly described the monitoring.

There was no public comment.

Public comment:

Volan expressed his concern with Urban Station's lack of concern regarding the late filing of the CF-1 and not having a representative attend the meeting.

Council comments:

Rollo agreed with Volan, and appreciated city staff's efforts in the robust attempt of reaching out to Urban Station.

Sgambelluri would vote against Resolution 23-11 and provided reasons why.

Volan also recognized staff's efforts in contacting Urban Station.

Rosenbarger concurred that Urban Station not following the proper process was inappropriate and would vote against Resolution 23-11.

Smith asked what the fiscal impact would be.

Allen did not know, but there was a calculation based on a percentage of the assessed value.

Volan stated it was roughly \$15,000.

Rollo asked if it was a ten year abatement.
Allen confirmed that was correct.

Resolution 23-11
(cont'd)

There was brief council discussion about the inappropriateness of Urban Station's late filing and lack of explanation via a representative.

Council comments:

The motion that Resolution 23-11 be adopted received a roll call vote of Ayes: 0, Nays: 7, Abstain: 0. FAILED

Vote to adopt Resolution 23-11 [7:48pm]

Rollo moved and it was seconded that Resolution 23-12 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 0, Nays: 7, Abstain: 0. Bolden read the legislation by title and synopsis. FAILED

Resolution 23-12 – To Rescind Resolution 16-11, Resolution 16-12 and Resolution 17-26 and Terminate Tax Deduction For Improvements To Real Estate Re: 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street (New Urban Station, LLC, Owner) [7:49pm]

Rollo moved and it was seconded to take Ordinance 23-10 from the table. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Ordinance 23-10 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Amendments and Updates Set Forth in BMC 20.03 and 20.04 [7:49pm]

Jackie Scanlan, Development Services Manager, Planning and Transportation (PT) department, said that the legislation went to the Parking Commission. The PC considered a memo to support the ordinance accepting the three uses that were increased, but were not able to come to a quorum agreement.

Piedmont-Smith moved and it was seconded to adopt Amendment 01 to Ordinance 23-10. She presented Amendment 01 and gave reasons in support.

Amendment 01 to Ordinance 23-10

Amendment 01 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith and reverts the maximum vehicle parking allowance for restaurants to the current amount of 10 spaces per 1,000 sq. ft. GFA. As there is currently no different parking maximum for a restaurant located near public parking than for a restaurant with no nearby public parking, the increase in maximum proposed by staff may not be appropriate in all areas. If the property owner of a restaurant can make a good case for additional surface parking beyond the current maximum (for example, if there is no public parking nearby), they can still request a variance.

Rollo asked for staff's opinion on Amendment 01.
Scanlan said staff did not oppose Amendment 01.

Council questions:

Christopher Emge, Greater Bloomington Chamber of Commerce, spoke in favor of Ordinance 23-10 and against Amendment 01. He provided reasons.

Public comment:

Volan provided information regarding the consideration of Ordinance 23-10 by the Parking Commission and Plan Commission. He supported Amendment 01 and did not believe it was a drastic change.

Council comments:

Rollo asked about the Plan Commission's, and staff's recommendation to increase parking spaces, but staff now opposed it.

Scanlan said the decrease to ten spaces could work and staff did not oppose Amendment 01. Staff had proposed fifteen spaces for restaurants

that were not located near shared or street parking. She said it was dependent on the size of the restaurant and provided additional details.

Rollo asked about public input at Plan Commission meetings.

Scanlan said there was not many members of the public at the meetings.

Amendment 01 to
Ordinance 23-10 (cont'd)

Council comments:

Volan asked how many variance requests there were.

Scanlan said three. There had not been many new builds or restaurant development, and openings, under the new rules so the number was high.

Volan expressed concern for additional pavement, over greenspace, given the climate crisis.

Scanlan said the change allowed for new asphalt, or repurposing existing asphalt. It was a balance between the need for parking, and greenspace.

Smith said the goal was to help businesses in the city.

Rollo asked if the requested variances had been granted by the Board of Zoning Appeals (BZA).

Scanlan said they were and described how businesses showed a need for the variance.

Piedmont-Smith reiterated the rationale for Amendment 01 including the location of restaurants being near public parking or not. The goal was to err on the side of less parking to avoid unnecessary paving at restaurants near public parking. She said those not near public parking could request a variance.

Rollo supported Amendment 01 and preferred to have less impervious surface.

Volan believed Ordinance 23-10 questioned the way parking had been done in the city. It was important to find ways to make the city more compact and decrease parking needs. Supporting businesses was good but it was not the primary goal of the city. He appreciated the discussion that evening. He supported Amendment 01 and provided reasons why.

The motion to adopt Amendment 01 to Ordinance 23-10 received a roll call vote of Ayes: 5 (Rosenbarger, Piedmont-Smith, Sgambelluri, Rollo, Volan), Nays: 2 (Sandberg, Smith), Abstain: 0.

Vote to adopt
Amendment 01
[8:15pm]

Piedmont-Smith moved and it was seconded to adopt Amendment 02 to Ordinance 23-10. She presented Amendment 02 and described the changes specific to stadiums.

Amendment 02 to
Ordinance 23-10

Amendment 02 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith. It decreased the maximum vehicle parking allowance for stadiums to 1 space per 8 seats from the proposed maximum of 1 space per 4 seats. Comparisons with stadiums in other cities show that 1 space per 4 seats is more than necessary. Also, the City should encourage structured parking in place of surface parking in situations where a lot of parking is required, in order to reduce permeable surface coverage and thus curb the urban heat island effect and potential stormwater runoff issues in an era of climate change.

Scanlan stated that staff did not oppose Amendment 02. She noted that there had been typos in the previous presentation. She described the proposed changes. Staff believed that Amendment 02 was reasonable and it supported the Comprehensive Plan's goals relating to land use.

Volan commented on stadium parking and asked why the change was minimal.

Piedmont-Smith stated that she believed that decreasing it by half was sufficient. She commented on stadiums in other examples which had much less parking to seating ratios.

Amendment 02 to Ordinance 23-10 (cont'd)

There was no public comment.

Council questions:

Public comment:

Volan spoke about stadiums downtown perhaps across from the Convention Center. He believed the decrease could be greater.

Council comments:

The motion to adopt Amendment 02 to Ordinance 23-10 as amended received a roll call vote of Ayes: 5 (Rosenbarger, Piedmont-Smith, Sgambelluri, Rollo, Volan), Nays: 2 (Sandberg, Smith), Abstain: 0.

Vote to adopt Amendment 02 [8:25pm]

There were no council questions.

Council questions:

There was no public comment.

Public comment:

Volan believed that the proposal was an ideal change because it put limits where there had not been before, pertaining to parking maximums.

Council comments:

The motion to adopt Ordinance 23-10 as amended received a roll call vote of Ayes: 5 (Rosenbarger, Piedmont-Smith, Sgambelluri, Rollo, Volan), Nays: 2 (Sandberg, Smith), Abstain: 0.

Vote to adopt Ordinance 23-10 as amended [8:27pm]

Rollo moved and it was seconded that Ordinance 23-12 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

Ordinance 23-12 – An Ordinance To Amend Ordinance 22-26, Previously Amended By Ordinance 22-40, Which Fixed the Salaries of Appointed Officers, Non-Union, and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana for the Year 2023 – Re: To Reflect Updates Needing Implementation in 2023 [8:27pm]

Rollo moved and it was seconded that Ordinance 23-12 be adopted.

Emily Fields, Interim Director, Human Resources, gave a brief presentation on the proposed changes in Ordinance 23-12. She referenced her more robust presentation the previous week.

Piedmont-Smith moved and it was seconded to adopt Amendment 01 to Ordinance 23-12. She presented the proposed changes.

Amendment 01 to Ordinance 23-12

Amendment 01 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith and would delete the proposed increase in the number of Community EMT / Community Paramedic positions within the Fire Department. There are currently 4 such positions, and the ordinance would add 3 more. This amendment deletes that change to the salary ordinance. After discussion with Chief Moore and feedback from firefighters, it was determined that the City should not take on the \$243,432 annual fiscal impact of the additional 3 EMTs at this time.

Fire Chief Jason Moore said staff requested Amendment 01 in order to address firefighters' concerns.

There were no council questions.

Council questions:

Shaun Huttenlocker, Union Secretary/Treasurer, described firefighters' concerns with the proposal including the timing and prioritization of the funding. There was a staffing crisis that needed addressed first.

Amendment 01 to Ordinance 23-12 (*cont'd*)

Public comment:

There were no council comments.

Council comments:

The motion to adopt Amendment 01 to Ordinance 23-12 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 [8:35pm]

There were no council questions.

Council questions:

There was no public comment.

Public comment:

There were no council comments.

Council comments:

The motion to adopt Ordinance 23-12 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 23-12 as amended [8:36pm]

Rollo moved and it was seconded that Ordinance 23-13 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

Ordinance 23-13 – An Ordinance to Amend Ordinance 22-25, Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana for the Year 2023 - Re: To Reflect Increases in Compensation to Certain Firefighters [8:37pm]

Rollo moved and it was seconded that Ordinance 23-13 be adopted.

Fields presented Ordinance 23-13 and highlighted the proposed changes, and referenced her presentation at the previous meeting.

Moore pointed out that the proposal had been a collaborative approach labor and management on how to address the staffing crisis. He noted there had been compromises.

Piedmont-Smith moved and it was seconded to adopt Amendment 01 to Ordinance 23-13. She described the correction to Section I I regarding recruitment incentives.

Amendment 01 to Ordinance 23-13

Amendment 01 Synopsis: This amendment would add a new section to the ordinance to provide for a \$5,000 recruitment incentive for newly-hired firefighters.

Moore stated staff requested Amendment 01 and said that it was a recruiting incentive via a hiring bonus that was already budgeted for.

There were no council questions.

Council questions:

There was no public comment.

Public comment:

There were no council comments.

Council comments:

The motion to adopt Amendment 01 to Ordinance 23-13 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 [8:44pm]

Piedmont-Smith moved and it was seconded to adopt Amendment 02 to Ordinance 23-13. She presented Amendment 02.

Amendment 02 to Ordinance 23-13

Amendment 02 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith and would remove the proposed Assistant Chief of Operations position in the Fire Department from the ordinance. After discussion with

Chief Moore and feedback from firefighters, it was determined that the City should not take on the \$118,000 annual fiscal impact of the additional position at this time.

Amendment 02 to Ordinance 23-13 (cont'd)

Moore explained that it was a vital position, and would be an internal hire. He discussed the difficulty in filling the position during the hiring crisis, and planned to work with staff to determine a better process.

There were no council comments.

Council comments:

There was no public comment.

Public comment:

There were no council comments.

Council comments:

The motion to adopt Amendment 02 to Ordinance 23-13 as amended received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Amendment 02 [8:47pm]

There were no council questions.

Council questions:

There was no public comment.

Public comment:

Volan said it was a privilege to discuss the legislation with staff, firefighters, union, and fire administration. He looked forward to future efforts with the positions.

Council comments:

Sandberg appreciated the tone the amendments set forth and the recognition that there was a staffing crisis with the Fire department, Police department, and American Federation of State, County and Municipal Employees (AFSCME) workers. She believed that council had been a good sounding board and urgent action was needed.

Piedmont-Smith thanked the Chief Moore and the firefighters and acknowledged that it had been difficult time with the staffing shortage. She was pleased with the recently hired firefighters.

The motion to adopt Ordinance 23-13 as amended received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 23-13 as amended [8:52pm]

Rollo moved and it was seconded that Resolution 23-10 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 6, Nays: 0, Abstain: 0 (Smith out of the room). Bolden read the legislation by title and synopsis.

Resolution 23-10 – A Resolution Requesting an Appropriation Recommendation to Establish Additional Bus Routes Circulating the Greater Downtown of Bloomington [8:52pm]

Rollo moved and it was seconded that Resolution 23-10 be adopted.

Volan presented Resolution 23-10 which created a downtown circulator shuttle bus service. He noted Community Revitalization Enhancement District (CRED) funds and potential infrastructure projects, parking, meters, rationale for the downtown shuttle, and alternative modes of transportation like scooters. He described potential service routes, frequency, capital investment in battery-electric bus, operating costs, funding the service, collaboration with Indiana University (IU), state and federal funding, revenue from meters, the Food and Beverage Tax, and decisions council could take that evening.

Rollo asked if the fare would be free, and about extensions to the stadium.

Council questions:

Volan said it would be free. He said that any extensions would have to be funded by IU.

Rollo asked if there were examples from other cities where meters varied in price and did so successfully without confusing the public.

Volan said yes, there was differential or dynamic pricing.

Resolution 23-10
(cont'd)

Council questions:

Smith favored the shuttle, but questioned the number of riders that would use it. He thought extending it to IU was ideal, and if it was possible to run an extension to the College Mall too.

Volan gave a brief history of routes to the mall. People tended to want to park right where they were going and a shuttle service could help alleviate that.

Smith asked about people going from downtown to the mall.

Volan said Smith was reimagining Bloomington Transit (BT) as a whole. The proposed circulator served a different purpose. He provided examples.

Sgambelluri asked about steps to gather feedback and create awareness.

Volan said BT had experience with advertising including signs, and other entities could help share the information.

Volan asked for council feedback on frequency of routes, distances, and stops.

Piedmont-Smith believed that a frequency of ten minutes was ideal. She spoke about adjusting the route towards IU with contributing funding. She commented on the inclusion of Hopewell in the future. She preferred one route as opposed to two because people likely preferred not changing buses.

Volan asked about hours of operation, including late night hours and early mornings, and weekends.

Rollo said that it was ideal to have a smaller route with greater frequency, but he would defer to BT. He believed it was necessary to adjust accordingly.

Volan responded that was BT's preference. He said that demand for parking was greater on Fridays and Saturdays.

Sandberg asked if Volan had conversations with the administration about the CRED funds since the funds had been moved to the General Fund.

Volan said that Resolution 23-10 was the first step in working with the administration.

Rosenbarger asked what Volan's goal was for the meeting that evening. She said a maximum frequency should be ten minutes. It was also important to have night time service. She noted the tragic killing of an IU student riding a scooter by a drunk driver and asked what happened with the "Drunk Bus" service that existed previously, and who operated it.

Volan commented on the recent death of the student, who was legally operating a scooter and was not intoxicated. He said that daytime and nighttime service were equally important. BT could conduct a study, with a contractor, as it was doing with the 3rd Street corridor. He was also willing to postpone and have amendments to the legislation.

Sandberg said Resolution 23-10 would send a message of support for the circulator by council.

Volan said that council's discussion indicated to BT that frequency was more important than distance.

Piedmont-Smith asked if there was a timeline to note, including the budget process.

Volan said he did not know and did not have adequate information to make an educated guess. The legislation was a signal to BT and the administration of council's support for a downtown circulator.

Sgambelluri appreciated the discussion. She asked about the hours of operation. She commented on the IU Auditorium's shuttle. She wondered about having late nights only during events.

Volan reiterated that in order to do expand, IU would have to fund it.

Resolution 23-10
(cont'd)

There was additional discussion on actions council could take that evening.

Christopher Emge spoke in support of using CRED funds in the district.

Public comment:

Rollo noted that Volan had been advocating a circulator for fifteen years. He believed it was a good proposal and was in favor of Resolution 23-10.

Council comments:

Piedmont-Smith supported the proposal and appreciated Volan's efforts. Late night service could be done in a variety of ways.

Volan appreciated council's consideration of the proposal and acknowledged some challenges regarding funding, hours, routes, and more. He commented on potential next steps should the legislation pass.

The motion to adopt Resolution 23-10 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Resolution 23-10 [9:54pm]

There was no legislation for first reading.

LEGISLATION FOR
FIRST READING
[9:54pm]

Christopher Emge commented on sanitation services and its rates.

ADDITIONAL PUBLIC
COMMENT [9:55pm]

Lucas noted council's recess and the schedule upon returning. He mentioned other events like the City of Bloomington Capital Improvement board meeting.

COUNCIL SCHEDULE
[9:56pm]

Sgambelluri adjourned the meeting without objection.

ADJOURNMENT
[9:58pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ___ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, January 10, 2024 at 6:30pm, Council Vice President Isabel Piedmont-Smith presided over the Organizational Meeting of the Common Council.

COMMON COUNCIL
ORGANIZATIONAL MEETING
January 10, 2024

Councilmembers present: Isak Nti Asare, Matt Flaherty, Isabel Piedmont-Smith, Shruti Rana, Dave Rollo, Kate Rosenbarger, Andrew (Andy) Ruff, Hopi Stosberg, Sydney Zulich
Councilmembers present via Zoom: none
Councilmembers absent: none

ROLL CALL [6:30pm]

Council Vice President Isabel Piedmont-Smith noted why she was opening the council meeting as the returning Council Vice President, gave a land acknowledgment, and summarized the agenda.

AGENDA SUMMATION [6:30pm]

Stosberg announced her constituent meetings.

REPORTS

Rollo welcomed everybody and said he looked forward to working with them. He also announced his constituent meetings.

- COUNCIL MEMBERS [6:31pm]

Ruff said he was excited to work with all of the councilmembers and was honored to serve.

Asare reported attending a meeting related to encampments and said he looked forward to working with people in the government and community.

Zulich thanked council staff and Clerk Nicole Bolden for their work. She thanked former Councilmember Stephen (Steve) Volan for his service.

Piedmont-Smith discussed a recent death in an encampment in the community and said the time had come to take action. She also encouraged people to attend the Dr. Martin Luther King, Jr. celebration the following week. She announced her constituent meetings.

Mayor Kerry Thomson gave remarks, and Deputy Mayor Gretchen Knapp introduced herself and some of the new department heads, Margie Rice (legal), Jane Kupersmith (Economic and Sustainable Development), Jessica McClellan (Controller), and Sharr Pechac (Human Resources).

- The MAYOR AND CITY OFFICES [6:43pm]

There were no council committee reports.

- COUNCIL COMMITTEES [6:48pm]

Jen Pearl, Maggie Chin, Jim Shelton (via Zoom), Maria Douglas, Tom McGlasson Jr., and Sam Dove (via Zoom) made comments.

- PUBLIC [6:48pm]

ELECTION of OFFICERS [6:58pm]

Zulich moved and Asare seconded that Isabel Piedmont-Smith be elected as President.

Motion to elect Council President

Piedmont-Smith gave comments related to why she was well-suited to the role, and said she would appreciate the support of her colleagues.

Ruff, Stosberg, Rana, Asare, and Zulich spoke in favor of the selection.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to elect Council President [7:09pm]

Asare moved and Rana seconded that Andrew Ruff be elected as Vice President.

Motion to elect Council Vice President

Ruff explained why he was suited to serve as Vice President.

Zulich, Rosenbarger, Rana, Rollo, and Piedmont-Smith spoke in favor of the selection.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to elect Council Vice President [7:16pm]

Rosenbarger moved and Ruff seconded that Hopi Stosberg be elected as Parliamentarian.

Motion to elect Council Parliamentarian

Stosberg stated that she would be happy to serve as parliamentarian and explained why she would be suited to the role.

Flaherty, Asare, Rana, Ruff, and Piedmont-Smith spoke in favor of the selection.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to elect Council Parliamentarian [7:21pm]

Piedmont-Smith proposed that councilmembers email their seat preferences to her for assignment the following week.

Council President Piedmont-Smith presided over the remainder of the meeting.

Piedmont-Smith noted that the appointments to Boards and Commissions would be broken down by categories and that members were welcome to self-nominate if they wished to serve on a particular Board or Commission.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:22pm]

Economic Development

Asare moved and Zulich seconded that Asare be appointed to the Bloomington Economic Development Corporation.

Zulich moved and Asare seconded that Zulich be appointed to the Downtown Bloomington, Inc. Board of Directors.

Asare moved and Flaherty seconded that Asare be appointed to Economic Development Commission (County).

Asare moved and Rollo seconded that Asare be appointed to Economic Development Commission (City).

The motions related to the Economic Development appointments received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Asare).

Vote to accept Economic Development appointments [7:29pm]

Planning and Transportation

Stosberg moved and Rosenbarger seconded that Stosberg be appointed to the Plan Commission.

Rana moved and Rosenbarger seconded that Rana be appointed to the Metropolitan Planning Organization.

Flaherty moved and Rosenbarger seconded that Flaherty be appointed to Parking Commission.

The motions related to the Planning and Transportation appointments received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to accept Planning and Transportation appointments [7:35pm]

Sustainability and Environment

Piedmont-Smith moved and Zulich seconded that Piedmont-Smith be appointed to the Board of the Waste Reduction District of Monroe County.

Rollo moved and Zulich seconded that Rollo be appointed to the Bloomington Commission on Sustainability.

The motions related to the Sustainability and Environment appointments received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to accept Sustainability and Environment appointments [7:38pm]

Community Development Block Grant

Zulich moved and Rollo seconded that Zulich be appointed to the Citizens Advisory Committee- Community Development Block Grants-Social Services

Rosenbarger moved and Stosberg seconded that Rosenbarger be appointed to the Citizens Advisory Committee- Community Development Block Grants-Physical Improvements.

The motions related to the Community Development Block Grant appointments received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to accept Community Development Block Grant appointments [7:40pm]

Tax Advisory Boards

Ruff moved and Stosberg seconded that Ruff be appointed to the Monroe County Food and Beverage Tax Advisory Commission.

Rosenbarger moved and Stosberg seconded that Rosenbarger be appointed to the Public Safety Local Income Tax Allocation Committee.

Zulich moved and Rollo seconded that Zulich be appointed to the Public Safety Local Income Tax Allocation Committee.

Ruff moved and Stosberg seconded that Ruff be appointed to the Public Safety Local Income Tax Allocation Committee.

Piedmont-Smith moved and Stosberg seconded that Piedmont-Smith be appointed to the Public Safety Local Income Tax Allocation Committee.

The motions related to the Tax Advisory Boards appointments received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to accept Tax Advisory Boards appointments [7:44pm]

Utilities

Flaherty moved and Rollo seconded that Flaherty be appointed to the Utilities Services Board.

The motion related to the Utilities appointment received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to accept Utilities appointments [7:46pm]

Piedmont-Smith appointed the following councilmembers to the Climate Action & Resilience Committee: Flaherty (Chair), Stosberg, Rollo, Zulich

ASSIGNMENTS TO COUNCIL COMMITTEES [7:47pm]

Piedmont-Smith appointed the following councilmembers to the Jack Hopkins Social Services Funding Committee: Rana (Chair), Asare, Ruff, Stosberg

Piedmont-Smith appointed the following councilmembers to the Council Sidewalk Committee: Rosenbarger (Chair), Ruff, Stosberg, Rana

Piedmont-Smith made the following assignments to the Board and Commission Interview Committees:

- Interview Team A- Asare, Rosenbarger, Stosberg
- Interview Team B- Ruff, Piedmont-Smith, Rana
- Interview Team C- Flaherty, Rollo, Zulich

Piedmont-Smith continued the Special Committee on Council Processes and appointed the following councilmembers to the Special Committee: Piedmont-Smith (chair), Flaherty, Rollo, Rana

Christopher Emge and Steve Volan made comments.

ADDITIONAL PUBLIC COMMENT [7:55pm]

Stephen Lucas, Council Attorney, reviewed the upcoming council schedule.

COUNCIL SCHEDULE [8:04pm]

Piedmont-Smith adjourned the meeting.

ADJOURNMENT [8:05pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, January 17, 2024 at 6:30pm, Council President Isabel Piedmont-Smith presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
January 17, 2024

Councilmembers present: Isak Nti Asare, Matt Flaherty, Isabel Piedmont-Smith, Shruti Rana, Dave Rollo, Kate Rosenbarger, Andrew (Andy) Ruff, Hopi Stosberg, Sydney Zulich
Councilmembers present via Zoom: none
Councilmembers absent: none

ROLL CALL [6:30pm]

Council President Isabel Piedmont-Smith gave a land and labor acknowledgment and summarized the agenda.

AGENDA SUMMATION [6:31pm]

Stosberg moved and Ruff seconded to suspend the rules to consider the minutes for approval. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES [6:31pm]

March 8, 2023 (Regular Session)
March 29, 2023 (Regular Session)
April 4, 2023 (Regular Session)
April 12, 2023 (Regular Session)

Stosberg moved and Ruff seconded to approve the minutes of March 8, 2023, March 29, 2023, April 4, 2023, and April 12, 2023. The motion was approved by voice vote.

Rana reported that she would be stepping down from the City Council the following month due to her family's plan to relocate. She thanked people for their support and best wishes. She noted the one-year anniversary of the racially motivated attack on the Asian American student who was stabbed while riding a city bus, and let people know about the various community groups that were hosting events to address the impact of the attack. She thanked members of the community who spoke at the previous council meeting.

REPORTS

- COUNCIL MEMBERS [6:35pm]

Stosberg announced her upcoming constituent meeting.

Rollo announced his upcoming constituent meeting that he planned to hold with Ruff in attendance. Rollo discussed the concept of concurrency as it related to city planning and growth.

Ruff noted the recent passing of local artist, Brian Garvey.

There were no reports from the Mayor or city offices.

- The MAYOR AND CITY OFFICES

There were no council committee reports.

- COUNCIL COMMITTEES

Daniel Olson, Jim Shelton (via Zoom), an unidentified member of the public, and Christopher Emge offered comments to the council.

- PUBLIC [6:45pm]

There were no appointments to boards or commissions.

APPOINTMENTS TO BOARDS AND COMMISSIONS

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:04pm]

Stosberg moved and Ruff seconded that Resolution 2024-01 be introduced and read by title and synopsis only. The motion was approved by voice vote. Deputy Clerk Jennifer Crossley read the legislation by title and synopsis.

Resolution 2024-01 - To Approve Recommendations of the Mayor for Distribution of Community Development Block Grant (CDBG) Funds for 2024

Stosberg moved and Ruff seconded that Resolution 2024-01 be adopted.

Anna Killion-Hanson, Interim Director of Housing and Neighborhood Development (HAND), highlighted key points on the recommendations for the distribution of the Community Development Block Grant (CDBG) funds. She gave an overview of the program, the factors that determined the allocation, the review process, and a breakdown of the proposed funding.

Zulich asked for clarification on how the estimate was calculated and how it could potentially change.

Council discussion:

Killion-Hanson explained that the final amount would be determined by Housing and Urban Development (HUD) and the funding agreements spelled out for the recipients how their funding would change if the final amount was more or less than the estimate. She noted that there had not been significant changes over the last several years.

Stosberg asked about organizations that did not receive the funding requested and any trends related to who was chosen for funding.

Killion-Hanson noted that she was new to the process, but that there were usually some organizations that did not receive funding. She said each applicant was scored and given allocations.

Rosenbarger agreed that there were usually more requests than dollars available. She said that allocations were somewhat hit or miss, and planned to discuss allocation distribution with staff in the upcoming year.

Rana asked for a restatement of the criteria for organizations to apply for funding.

Matthew Swinney, HAND Program Manager of Housing and Construction Projects, gave an overview of the physical improvements side of the process.

Flaherty asked about allocations across different categories, specifically the decision to cap amounts given for administration.

Killion-Hanson thought it was set by HUD and said she would let the council know if she was incorrect.

Resolution 2024-01 (cont'd)

Piedmont-Smith asked if the award amount from HUD was less than expected and asked for more clarification.

Killion-Hanson explained the allocations were estimates, but they had to start the process before they had final numbers for several reasons. She noted that the exact dollar amount from HUD had not varied by more than 10% over the last ten years.

Piedmont-Smith asked about the calculations and if reductions were required.

Cody Toothman, HAND Program Manager, explained the scoring and funding method, and how they would decrease the funding if necessary.

Zulich asked how organizations that re-applied for funding were evaluated for their use of funds.

Killion-Hanson said she was not sure and would get back to the council.

Stosberg asked how the allocation to the HAND department was different than a general government expense.

Killion-Hanson said she did not know and that the numbers were set by HUD. She said she would do additional research and get back to the council the next day.

Piedmont-Smith asked for the email to be sent to all of the councilmembers or just the council office.

There was no public comment.

Public comment:

Council discussion:

Piedmont-Smith asked why members of the Citizens Advisory Committee (CAC) were listed with their terms ending on August 31, 2024.

Killion-Hanson said she was not sure and would get back to the council.

Swinney said the date was meant to fall at the end of each funding year before the new process began for the following year.

Rollo said that the committees had done good work. He noted that the overall funding for the CDBG program had decreased over the years but the number of applicants had increased. He said the city could anticipate a continued decrease or flatlining of funding and the next logical step would be to address the issue through the Jack Hopkins Social Service Fund.

Flaherty agreed with Rollo overall and suggested combining the Jack Hopkins Social Services Funding Committee and the CDBG Citizens Advisory Committee for Social Services to better meet the need to have one process and more dollars available.

Rosenbarger noted that she had worked on both committees and that the processes for applicants were difficult to navigate. She hoped software could be used to make things easier and have a more equitable application process.

Vote to adopt Resolution 2024-01
[7:35pm]

The motion to adopt Resolution 2024-01 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

LEGISLATION FOR FIRST READING [7:35pm]

Stosberg moved and Ruff seconded that Appropriation Ordinance 2024-01 be introduced and read by title and synopsis only. The motion was approved by voice vote. Crossley read the legislation by title and synopsis.

Appropriation Ordinance 2024-01 - To Transfer Funds from the Motor Vehicle Highway Restricted Street Fund into the Motor Vehicle Highway Fund and to Additionally Appropriate ARPA State and Local Fiscal Recovery Fund Expenditures Not Otherwise Appropriated for 2024

Piedmont-Smith referred Appropriation Ordinance 2024-01 to the Regular Session to meet on January 24, 2024.

ADDITIONAL PUBLIC COMMENT

There was no public comment.

Stephen Lucas, Council Attorney, reviewed the council schedule.

COUNCIL SCHEDULE [7:37pm]

Piedmont-Smith reminded the council interview committees to collaborate with the clerk’s office for filling board and commission vacancies.

Piedmont-Smith adjourned the meeting.

ADJOURNMENT [7:38pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ___ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, January 24, 2024 at 6:30pm, Council President Isabel Piedmont-Smith presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
24 January 2024

Councilmembers present: Isak Nti Asare, Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Andrew (Andy) Ruff, Hopi Stosberg, Sydney Zulich
Councilmembers present via Zoom: Shruti Rana, Kate Rosenbarger
Councilmembers absent: none

ROLL CALL [6:30pm]

Council President Isabel Piedmont-Smith gave a land and labor acknowledgment and summarized the agenda.

AGENDA SUMMATION [6:31pm]

Stosberg moved and Ruff seconded to suspend the rules to consider the minutes for approval. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES [6:31pm]

April 19, 2023 (Regular Session)
May 3, 2023 (Regular Session)
May 17, 2023 (Regular Session)
June 7, 2023 (Regular Session)

Stosberg moved and Ruff seconded to approve the minutes of April 19, 2023 (Regular Session), May 3, 2023 (Regular Session), May 17, 2023 (Regular Session), and June 7, 2023 (Regular Session). The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Zulich discussed an upcoming event for Downton Bloomington, Inc.

REPORTS

- COUNCIL MEMBERS [6:35pm]

Rollo discussed proposed legislation at the statehouse that allowed building on slopes up to 25% instead of the 15% that was currently allowed under the Bloomington Municipal Code. He said the change was not for increasing supply or affordability, but for development interests. He said he would produce a letter to the state senate and Governor if anyone wanted to join him in protesting the legislation.

Rana discussed the events over the last week that commemorated the racially motivated bus stabbing of the IU student, the Hoosier American Power event, the Roe v Wade anniversary, and other upcoming events.

Asare announced his constituent meetings and discussed the need for the council to review their meeting processes.

Stosberg spoke about education and local educational updates.

Piedmont-Smith gave an update on the regional transit summit that was held to discuss strategies for developing and improving public transportation in the county.

Mayor Kerry Thomson announced the upcoming State of the City address to be held on April 9, 2024, a planned financial audit, a review of pending litigation, advisory teams related to Showers West and Hopewell, and an upcoming removal of a homeless encampment.

- The MAYOR AND CITY OFFICES [6:55pm]

There were no council committee reports.

- COUNCIL COMMITTEES

Marc Haggerty, Greg Alexander, Trin Piedra, Kyle Haberson, Sam Dove (via Zoom), and Thomas Schwandt (via Zoom) offered comments to the council.

- PUBLIC [7:09pm]

Zulich moved and Rollo seconded to make the following appointment(s):

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:32pm]

For the Historic Preservation Commission - To approve the following mayoral appointments: Ernesto Castenada, Ashley Johnson, John Saunders, and William (Bill) Fulk.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Rollo moved and Zulich seconded to make the following appointment(s):

For the Bloomington Arts Commission - To reappoint Rob Shakespeare to seat C-1.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Asare moved and Ruff seconded to make the following appointment(s):

For the Animal Control Commission – to reappoint Sita Cohen to seat C-1.

For the Bloomington/Monroe County Human Rights Commission – to appoint Autumn Crisovan to seat C-2.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:37pm]

Stosberg moved and Ruff seconded that Appropriation Ordinance 2024-01 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Appropriation Ordinance 2024-01
- To Transfer Funds from the Motor Vehicle Highway Restricted Street Fund into the Motor Vehicle Highway Fund and to Additionally Appropriate ARPA State and Local Fiscal Recovery Fund Expenditures Not Otherwise Appropriated for 2024

Stosberg moved and Ruff seconded that Appropriation Ordinance 2024-01 be adopted.

Margie Rice, Corporation Counsel, presented the legislation. Rice noted that the presentation that evening was a public hearing, and explained that the appropriation was meant to correct an accidental closing of a purchase order that was meant to provide 1.5 million dollars in ARPA funding to the United Way that the city had agreed to give during the COVID pandemic. She said the city planned to amend the original agreement to include more details. Rice also discussed the transfer of funds in the Motor Vehicle Highway Fund.

Asare asked for more information on the additional agreement.

Council discussion:

Rice noted that the original agreement was very broad, and the revised agreement would have more details about programs, timelines, restrictions, risk assessments, and financial audit information.

Appropriation Ordinance 2024-01
(cont'd)

Asare asked what kind of control the city would have over the funds if the appropriation was approved.

Rice said the appropriation was permission to spend the money, but it would not actually be spent until after the agreement was signed. She noted that an amendment was passed at the end of 2023 that froze the remaining \$700,000 in their bank account, and she did not want to wait a long time to release those funds.

Stosberg asked if the United Way representatives would give a brief overview of funds already spent and future spending plans.

Mary Morgan, director of Heading Home of South Central Indiana, discussed the mission of the organization (to make homelessness rare, brief, and non-repeating). She said they had been working on a data dashboard and were trying to solve some technical issues. Morgan also gave an overview of the other projects the organization had been working on.

Rollo noted that most of the programs Morgan discussed were targeted toward long-term needs, and asked what, if any, programs were targeted toward emergency or immediate needs.

Morgan said United Way did not do emergency response, and that the focus was on long-term solutions to alleviate the need to address the short-term crises.

Rollo asked if Rice could address a comment that came up during public comment.

Rice noted that she nodded her head to indicate she would pass the question on to Mayor Thomson.

Zulich asked that any further information sent to the council be posted on the city website so that the public could see the information as well.

Piedmont-Smith said that she and Zulich had talked to Stephen Lucas, Council Attorney, the previous week related to adding a spot to the council web page for follow-up information.

Rollo noted that the opportunity for public comment on this item constituted the statutorily required public hearing on this appropriation.

Thomas Schwandt asked questions about the legislation.

Piedmont-Smith noted that the questions Schwandt asked were for the administration, and asked that the answers be shared with him.

Public comment:

Asare noted that many of the long-term investments made by Heading Home had led to the ability of the city to respond to emergencies more effectively. He pointed out the harmony that was created by the natural tension of long-term versus short-term investments.

Council discussion:

Piedmont-Smith asked the administration to share their responses on how the funds were spent and the effectiveness of the funding so they could be shared on the website.

Stosberg underscored the importance of transparency and having information available.

Rice encouraged Schwandt to reach out to the Legal department if he had more detailed questions. She said answering how the money was spent was the easy part but answering how it was effective was more difficult.

Piedmont-Smith clarified that two council members were asked to attend a meeting related to encampments by the mayor and that it was not a committee meeting.

The motion to adopt Appropriation Ordinance 2024-01 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Appropriation Ordinance 2024-01 [8:09pm]

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

Josh Monteg and Clerk Nicole Bolden offered comments to the council.

ADDITIONAL PUBLIC COMMENT [8:09pm]

Lucas reviewed the upcoming council schedule.

COUNCIL SCHEDULE [8:13pm]

Piedmont-Smith adjourned the meeting.

ADJOURNMENT [8:14pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

Council Sidewalk Committee Report – 2024 Council Sidewalk Funding – Part I

Table of Contents

- **Signature Sheet**
- **Report of the Common Council Sidewalk Committee**
- **Partial Allocation Recommendations for 2024**
- **Maps for Recommended Projects**
- **Program Criteria, History, and Other Policies for Sidewalk Allocation**
- **2024 Sidewalk Evaluation Matrix**

Note: The Report can be found at <https://bloomington.in.gov/council/sidewalks> once approved by the Committee.

**Signatures for Sidewalk Committee Report –
Partial 2024 Council Sidewalk Funding**

Note: Your signature below indicates approval of the Report pursuant to BMC 2.04.230 Standing committees-Reports (a), which requires that reports be in writing and be signed by a majority of the membership.

Jim Sims (Chair), At-Large

Susan Sandberg, At-Large

Kate Rosenbarger, District I

Steve Volan, District VI

Report of the Common Council Sidewalk Committee – Partial 2024 Council Sidewalk Funding (December 19, 2023)

Committee Members and Staff

The members of the Committee were appointed by the President of the Council and included:

- Jim Sims, At-Large (Chair)
- Kate Rosenbarger, District I
- Susan Sandberg, At-Large
- Steve Volan, District VI

The committee members were assisted by the following persons and departments:

Planning and Transportation (P & T)

Ryan Robling, Planning Services Manager

Hank Duncan, Bicycle and Pedestrian Coordinator

Engineering

Neil Kopper, Senior Project Engineer

Roy Aten, Senior Project Manager

Utilities

Jane Fleig, Utilities Engineer

Parks and Recreation

Steve Cotter, Natural Resources Manager

Office of the City Clerk

Sofia McDowell, Chief Deputy Clerk

Council Office

Stephen Lucas, Council Administrator/Attorney

Ash Kulak, Deputy Administrator/Deputy Attorney

Schedule

The Committee met in person, with the meeting also accessible via Zoom on:

- Tuesday, December 19, 2023 at 1:30pm

Highlight of Recommendations

This Report of the Sidewalk Committee (the Committee) outlines the Committee's recommendation to the Council on the use of \$120,000 out of \$350,000 of Alternative Transportation Fund (ATF) monies budgeted for 2024 for sidewalk and traffic-calming/pedestrian improvements projects. The Committee met on December 19, 2023 to review ongoing projects and allocations, to discuss program criteria, to consider new projects, and to make recommendations regarding the allocation of these funds. As in the past, additional funds from various other sources – e.g. P & T (through ATF and other funds), Housing and Neighborhood Development (through Community Development Block Grant funding), or CBU (City of Bloomington Utilities - for storm water) may be necessary for some projects to move forward or be completed.

In brief, the Committee learned about the status of the following sidewalk and traffic-calming projects from 2023:

Update on 2023 Allocations:

Project	Allocation	Spent/Estimate	Difference	Description
Adams Street Sidewalk	\$125,000.00	\$229,683	\$104,683	Construction
Liberty Drive Sidewalk	\$114,000.00	\$56,617	-\$57,383	Construction
Overhill Drive Sidewalk	\$35,000.00	\$37,940	\$2,940	Design
Smith Avenue Sidewalk	\$12,000.00	\$11,760	-\$240	Conceptual Design
Resident-Led Traffic Calming	\$50,000.00	\$0	-\$50,000	Construction
TOTAL	\$336,000.00	\$336,000	\$0	

Please note that P & T staff provide an annual Council Sidewalk Project Status Report, (a copy of the Report can be found in the [December 19, 2023 Sidewalk Committee meeting packet](#)).

Please note that other sidewalk and pedestrian projects are pursued by various other city departments and funded through various means.

Deliberation Materials and Minutes Available Online

Deliberation materials and meeting memoranda for the Sidewalk Committee’s meetings will be available online at <https://bloomington.in.gov/council/sidewalks> under Meetings and Documents.

Purpose of Committee and History of Funding

In the past, the Sidewalk Committee has made recommendations on the use of a portion of the Alternative Transportation Fund (ATF) monies appropriated for this purpose and, in the course of doing so, works in concert with City staff to identify funding priorities for sidewalk and traffic calming projects in the City. The ATF was established in 1992 with surplus revenues from the Neighborhood Parking Program and was dedicated to “reducing the community’s dependence upon the automobile.” (BMC 15.37.160). Over the years, the ATF has also received annual infusions from other City sources. In 2024, \$350,000 has been appropriated for use by the Committee, an increase of \$14,000 from 2023.

The table on the following page provides a rough historical view of funding for Committee projects which is divided into annual Council Sidewalk Budgets, contributions from CBU, and contributions from other sources. Please know that, under [BMC 12.04.010](#), the maintenance of sidewalks is the responsibility of the adjacent property owner and that the construction of new sidewalks in the City is mostly done by the owner when property is developed or redeveloped.

Council Sidewalk Committee Projects – Funding Sources

Year(s)	Council Sidewalk Budget		Estimate of Other Contributions	
	Per Year	Total	Other	CBU
2007	\$185,000	\$185,000	\$0	~ \$46,174
2008-2012	\$225,000	\$1,125,000	~\$1,425,000	~\$538,742
2013	\$275,000	\$275,000	~\$1,200,000	\$0
2014-2016	\$300,000	\$900,000	~\$43,000	~\$136,697
2017	\$306,000	\$306,000	~\$239,000	\$0
2018	\$312,000	\$312,000	~\$14,000	\$0
2019	\$318,000	\$318,000	~\$173,500	\$45,000
2020	\$324,000	\$324,000	~\$106,000	\$0
2021	\$330,000	\$330,000	~\$0	\$0
2022	\$336,000	\$336,000	~\$140,000	\$0
2023	\$336,000	\$336,000	~\$140,000	\$0
2024	\$350,000	\$350,000	\$0	\$0
Total		\$4,761,000	~\$3,480,500	~\$766,613

Table Notes

1. The amounts in the “Per Year” and “Total” Council Sidewalk Budget columns are amounts budgeted at the beginning of the year. They include amounts dedicated for traffic calming (which, up until 2017, were typically under \$25,000 per year), but do not account for re-appropriation of unspent reverted funds in subsequent years.
2. The amounts in the “Other” column of the “Estimate of Other Contributions” portion of the table were amounts estimated at the time the Committee Reports were filed and do not account for changes after the actual amount was known. Funding sources include, but are not limited to: Greenways Funds (within the ATF); HAND Community Development Block Grant (CDBG) funds (targeting low-income neighborhoods); Cumulative Capital Development (CCD) fund; bond funds; General Fund appropriations to various departments; Metropolitan Planning Organization (MPO); and INDOT funds (like the former Safe Route to Schools program).
3. The amounts in the “CBU” column of the “Estimate of Other Contributions” portion of the table highlight that because sidewalk projects, and more particularly curbs, channel water, they are part of the City’s storm-water infrastructure. The Committee has, over the years, recognized that the storm-water component of a sidewalk project frequently comprises a significant and sometimes a majority of the project cost. The amounts in this column are either fiscal or in-kind contributions from CBU. They are derived from a detailed accounting provided by Jane Fleig, Utilities Engineer covering the years 2007 to 2015, and from Committee Reports thereafter.
4. In 2013, Committee recommended funding the design for a portion of Rockport Road sidewalk project that was part of a much larger road project.

Previous Program Criteria for Sidewalk Projects

For more than 20 years, the Committee used six core criteria to decide upon the funding of sidewalks. The criteria were refined over time, but continued to prioritize the construction (not maintenance) of sidewalks that fill in gaps in the City’s sidewalk network that will be used by, and improve the safety of, pedestrians. The following Evaluation Matrix explains the criteria, analytics and information used in funding cycles before 2022:

Criteria	Analytics and Information	
1) Safety Considerations	Pedestrian Level of Service (PLOS) - gauges the pedestrian experience based upon traffic volume and speed, lane width, presence and width of sidewalk, and presence, type, and width of the buffer.	
2) Roadway Classification		
3) Pedestrian Usage	Residential Density	Walkscore – an online score that gauges pedestrian demand based upon proximity to a mix of destinations. Score: 0 (car dependent) – 100 (walker’s paradise)
4) Proximity to Destinations	Transit routes and stops	
5) Linkages	Proximity to existing sidewalks as shown on Sidewalk Inventory (updated intermittently).	
6) Cost and Feasibility	Estimates provided by Engineering Dept.	

Prior to 2022’s funding cycle, the P & T department prepared a Project Prioritization list which scored projects based upon objective measures associated with some, but not all, of the criteria. However, the Project Prioritization list did not incorporate objective measures for evaluating connectivity or feasibility, which left the satisfaction and weighing of those criteria to the judgment of the Committee members.

During the 2021 funding cycle, the Committee discussed a Sidewalk Equity Audit and associated recommendations prepared by Bicycle and Pedestrian Safety Commission President Mark Stosberg and submitted to the Mayor, City Council, and various city staff members.

In addition to the suggestions contained in this audit, the 2021 Committee members also discussed census block maps that were created by P & T staff and submitted to the Committee for consideration. The 2021 Committee discussed potential revisions to the program criteria and related objective factors, and, while no formal changes were implemented in the 2021 funding cycle, the 2021 Committee indicated it would like P & T staff to consider and recommend what additional or different metrics are available and best suited to objectively measure the criteria the Committee values in new projects.

Current Program Criteria for Sidewalk Projects – starting in 2022

For the 2022 funding cycle, the P & T staff submitted a report to the Committee and subsequently to the full Council, which included revised metrics best suited to objectively guide the Committee’s evaluation of projects. These revised metrics took into consideration the analysis provided in the Sidewalk Equity Audit and include two new mechanisms to inform sidewalk project prioritization: an inventory of all missing sidewalks and weighted metrics to identify those areas best-suited for improvement. The Committee voted to revise the criteria in accordance with the recommendations of the P & T Staff at its December 9, 2021 meeting.

In order to prioritize projects objectively, the scope of projects eligible for review was identified by creating a map of all City of Bloomington maintained streets with missing sidewalks. This map was created using data from the 2018 LiDAR scan, and it was updated to include sidewalk projects completed or in design/construction phase in subsequent years.

Next, weighted metrics were developed to identify those areas from the map of missing sidewalks best-suited for improvement. The data for the development of these weighted metrics was collected from the Census, the City GIS inventory, and formulas that indicate high areas of potential use and connectivity to transit.

The Committee reviewed these criteria and metrics and made no changes for the 2024 funding cycle. The following Evaluation Matrix explains the criteria, analytics and information used in this year’s funding cycle:

2024 Sidewalk Evaluation Matrix			
	Criteria	Analytics and Information	Criteria Weight
Demand and Density Data	Walk Potential	Based on 10-minute travel maps between residential areas and destinations (cafes, libraries, banks, grocery stores, hardware stores). The 10-minute walk distance is based on the actual street grid, not how a bird would travel. The more destinations that overlap and that can be reached within a 10-minute walk, the higher the score. This tool replaces the manually-applied walk score data included in years past prioritization methods.	25%
	Population Density	2019 American Community Survey Census Block Group data converted to a weighted score. Higher scores reflect areas with increased population density.	25%
	% Walk to Work	2019 American Community Survey Census Block Group data, converted to a weighted score ranging from 1 to 26. Areas where residents report higher rates of walking to work score higher than areas with less reported rates of walking to work.	7%
	% Transit to Work	2019 American Community Survey Data converted to a weighted score ranging from 1 to 100. Areas where residents report higher rates of utilizing transit to commute to work are higher than areas with less reported rates of utilizing transit to get to work	7%
	Vehicle Count	Derived from the 2019 American Community Survey Data which counts private registered vehicles per household. The variable scores and weigh each Census Block Group to reflect priority for residents in areas where average car ownership rates are lower.	6%
Safety and Harm Reduction Data	Adjacent Street Speed	Scores based on City-maintained Centerline data for speed limits. Streets with higher posted speed limits are weighted for greater point values/priority over streets with lower speed limits.	10%

	Adjacent Street Width	Scores based on City-maintained Centerline data for road width. Wider streets are scored for priority over streets that are narrower. Wider streets are prioritized because generally traffic travels faster on wider streets.	10%
Historically Excluded Groups Data	% Resident Renters	2019 American Community Survey Data which scores Census Block Groups with higher percentages of residents who are renters over areas with fewer renter households.	3%
	% BIPOC Renters	2019 American Community Survey Data which scores Census Block Groups with higher percentages of residents who are Black, Indigenous, and People of Color over Census Block Groups with lower percentages of residents who are Black, Indigenous, and People of Color.	3%
	Median Income	2019 American Community Survey Data, scored such that Census Block Groups with lower reported median income are prioritized over areas with higher median incomes.	4%
	Total		100%

Partial Funding Recommendations for 2024

Along with reviewing funding for ongoing projects, the Committee considered P & T staff’s prioritization of high-ranking projects identified by utilizing the revised sidewalk evaluation metrics and the comprehensive map of missing sidewalks.

Funding for In-Progress Projects – No current allocation recommendations

- Sidewalk Construction – Liberty Drive – 3rd to 360° south (northern entrance of Whitehall Plaza)**
 The Committee learned that the construction costs for this project would be covered through a combination of 2023 Committee allocations and funding from the Engineering Department and that no further allocations would be needed from the Committee to complete the project.
- Sidewalk Construction – S. Overhill Drive – 3rd St to 5th St**
 In 2023, the Committee allocated \$35,000 toward the design of this project for that year’s funding cycle. Design services came in at \$37,940. This year, the Committee considered allocating funding toward construction, which is estimated to cost \$240,000. However, the Committee did not recommend any construction funding. Instead, members requested that P & T staff gather information about less expensive options for increasing pedestrian safety on this street. Staff was asked to bring that information forward along with other, high-ranking project recommendations for the Committee’s further consideration.

Funding for New Sidewalk Projects

Based on P & T staff identifying highly-ranked projects through the program criteria described above, the Committee recommends the following projects.

- **Design – N. Dunn Street (east side of street) – North of 17th Street**
The rough estimated total construction cost of this project is \$200,000. The Committee recommends allocating \$35,000 toward this project for design during the 2024 funding cycle. P & T staff notes that this is a high-pedestrian traffic area by a popular transit stop, is a heavily-used area for Indiana University sporting events, and is a project that will provide a much-needed connection to an already-existing sidewalk for comfortable pedestrian travel.
- **Design – N. Jefferson Street (east or west side of street) – 8th Street to 10th Street**
The rough estimated total construction cost of this project is \$300,000. The Committee recommends allocating \$35,000 toward this project for design during the 2024 funding cycle. P & T staff notes that this is a high-scoring location using the density and demand criteria, is a high-pedestrian traffic area that connects to transit stops, and is a project that would provide much-needed access for Bloomington residents.

Funding for Traffic Calming Projects

In 2020, the City implemented a new Traffic Calming and Greenways Program (TCGP). Information about the TCGP can be found here: <https://bloomington.in.gov/tcgp>.

- **Resident-Led Traffic Calming Projects**
Based on the analysis and recommendation of P & T staff, the Committee recommends allocating \$50,000 toward resident-led traffic calming projects in order to provide funding for construction of a project or projects prioritized in that program's funding cycle. The Resident-Led Traffic Calming Program is accepting letters of intent until March 15, 2024. Following the close of the application process, P & T staff will evaluate and prioritize the projects based on the program criteria for this funding cycle.

Summary of Actions

In summary, during the course of its deliberations, the Committee:

- Provided an opportunity for Committee members or staff members to disclose any potential conflicts of interest for those who might own or reside in homes along sidewalk projects recommended for funding by the Committee;
- Heard a progress report regarding on-going projects;
- Reviewed the list of projects recommended by staff for funding and provided an opportunity for public comment;
- Recommended the allocation of \$120,000 in ATF monies as described below – *See Funding Recommendations (attached)*.

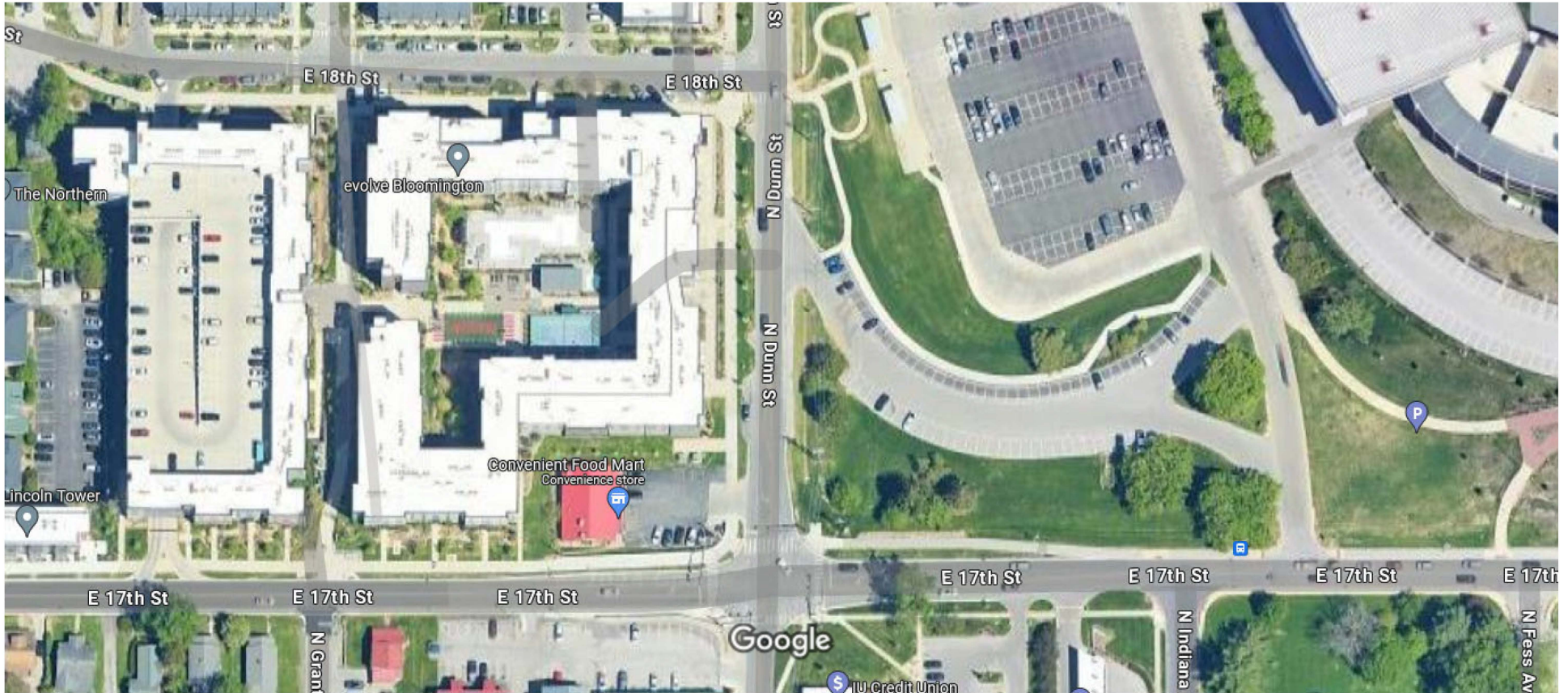
COMMON COUNCIL SIDEWALK COMMITTEE (COMMITTEE)
PARTIAL SIDEWALK ALLOCATION RECOMMENDATIONS FOR 2024
- TOTAL FUNDS AVAILABLE: \$350,000

Project	ATF	ATF (Additional Amounts – Should They be Appropriated)	CBU	OTHER FUNDS
<u>Sidewalk Projects</u>				
Design: N. Dunn St. (east side) – North of 17th St.	\$35,000		\$0	\$0
Estimated Costs				
Design: \$35,000				
Right-of-Way: \$0				
Construction: \$200,000				
Design: N. Jefferson St. (either side) – 8th St. to 10th St.	\$35,000		\$0	\$0
Estimated Costs				
Design: \$35,000				
Right-of-Way: \$0				
Construction: \$300,000				
<u>Traffic Calming</u>				
General Traffic Calming and Greenways Program	\$50,000		\$0	\$0
Resident-led Projects				
Estimated Costs				
\$50,000				
2024 ALLOCATION	\$120,000	\$0	\$0	\$0

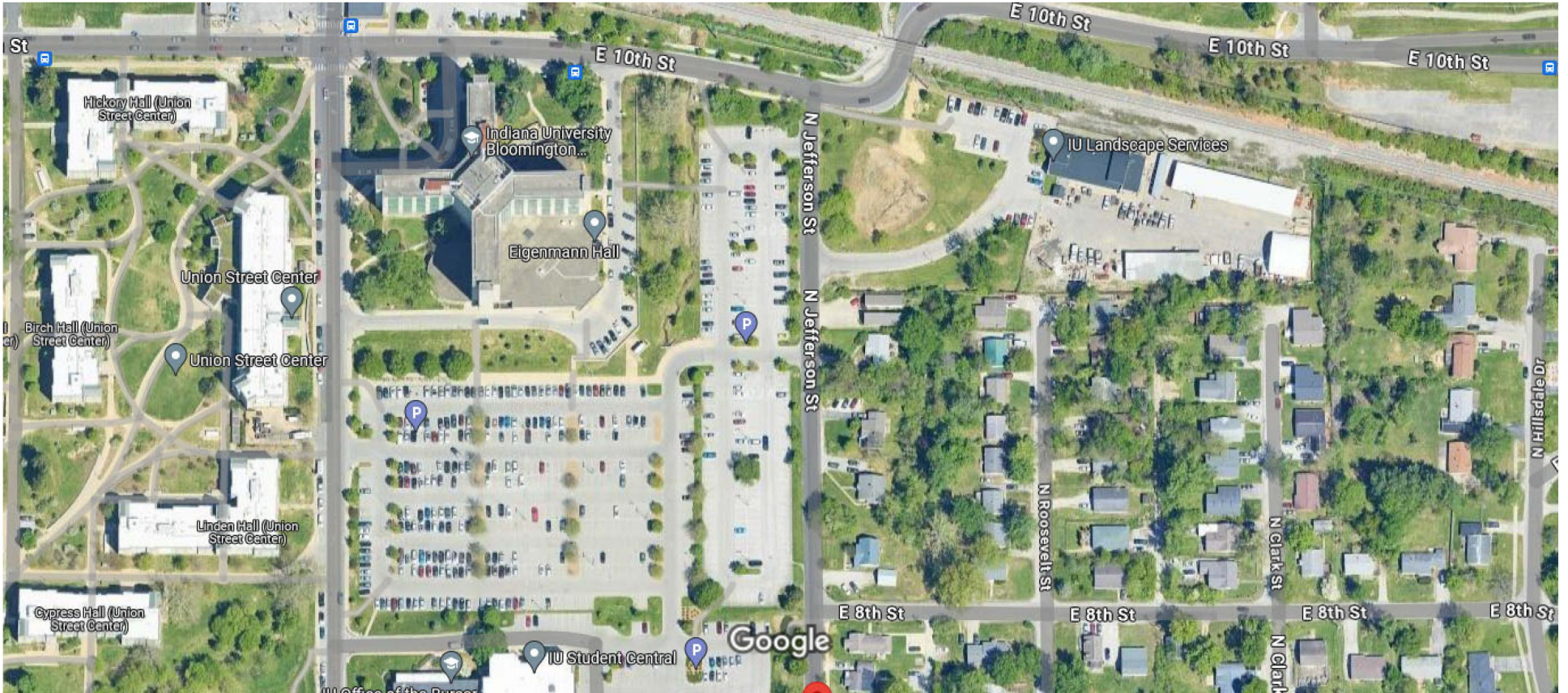
COMMON COUNCIL SIDEWALK COMMITTEE (COMMITTEE) SIDEWALK PARTIAL
ALLOCATION RECOMMENDATIONS FOR 2024

CHART NOTES

1. Project. This column identifies the location and details about the project.
2. Alternative Transportation Fund (ATF). This column represents ATF funds appropriated in 2024 for sidewalk and traffic-calming initiatives recommended by the Committee.
3. ATF (Additional Amounts – Should they be Appropriated). This column is available to capture unused funds from prior years should the Committee wish to make recommendations about the use of the remaining funds and any necessary additional appropriation proposals. No funds were identified for additional appropriation and, therefore the shaded column remains empty.
4. CBU. This column represents CBU assistance with the storm-water component of projects. The CBU evaluates the storm-water component of projects and, when able, offers some in-kind contributions when these projects align with CBU storm-water priorities. There were no CBU in-kind contributions identified for sidewalk construction projects recommended by the Committee for 2024.
5. OTHER FUNDS. This column represents project funding from other sources, if any.



Imagery ©2024 IndianaMap Framework Data, Maxar Technologies, USDA/FPAC/GEO, Map data ©2024 100 ft



Imagery ©2024 IndianaMap Framework Data, Maxar Technologies, USDA/FPAC/GEO, Map data ©2024 100 ft

Common Council Transportation Committee/Sidewalk Committee Criteria, History, and Other Policies for Sidewalk Allocation

History of Criteria - The criteria for selecting sidewalk projects first appeared in a memo entitled the *1995 Linkages Plan – Criteria for Project Selection/Prioritization* and have been affirmed and revised over the years. These criteria for consideration initially included the following:

- Safety Consideration – A particular corridor could be made significantly safer by the addition of a sidewalk.
- Roadway Classification – The amount of vehicular traffic will increase the likelihood of pedestrian/automobile conflicts, which a sidewalk could prevent. Therefore, arterial and collector streets should be a priority for linkages over residential/subdivision streets.
- Pedestrian Usage – Cost-effectiveness should be based on existing and projected usage.
- Proximity to Destination Points – Prioritization of linkages should be based on proximity to destination such as elementary school, Indiana University, employment centers, shopping opportunities, parks/playgrounds, etc.
- Linkages – Projects should entail the construction of new sidewalks that connect with existing pedestrian facilities.
- Costs/Feasibility – Availability of right-of-way and other construction costs must be evaluated to determine whether linkages are financially feasible.

Over the years the Committee has revised these criteria as follows:

- On October 16, 2006, the Committee added “Indiana University” as another “destination point” under the fourth criteria (Proximity to Destination Points). At that time, it decided not to explicitly recognize “synergy” as another criteria, because it was already being considered as a factor under the fifth criteria (Costs/Feasibility).
- On January 4, 2008, the Committee added the fifth criteria defining “Linkages.”
- On November 12, 2009, the Committee revised “Proximity to Destination Points” to clarify that the list was illustrative and included “employment centers” among other destinations.

Current Criteria - On December 9, 2021, the Committee voted to revise the criteria in accordance with the recommendations of the P & T Staff taking into consideration the information gleaned from a Sidewalk Equity Audit and associated recommendations prepared by Bicycle and Pedestrian Safety Commission President Mark Stosberg. The revisions consist of the identification of three broad categories: Demand and Density, Safety and Harm Reduction, and Historically Excluded Groups. Each broad category contains weighted criteria, which will be used to prioritize and select sidewalk projects. The criteria, assigned weight, and analytic information are described on the 2024 Sidewalk Evaluation Matrix in this Report.

Other Policies – Overage Policy – Each year the Committee Report uses estimates submitted by City Engineering to allocate funds between projects. Even with built-in contingencies, these estimates are sometimes far-off the bid for, or actual cost of, the project. In previous years, the Committee has approved of a motion to allow the allocation scheme to be amended by the Sidewalk Committee Chairperson in consultation with city staff to fund priorities on the current list of allocations. The Committee may yet adopt a motion to allow the Chairperson to authorize 2024 funding shifts between projects, but did not do so at the December 19, 2023 meeting.

2024 Sidewalk Evaluation Matrix			
	Criteria	Analytics and Information	Criteria Weight
Demand and Density Data	Walk Potential	Based on 10-minute travel maps between residential areas and destinations (cafes, libraries, banks, grocery stores, hardware stores). The 10-minute walk distance is based on the actual street grid, not how a bird would travel. The more destinations that overlap and that can be reached within a 10-minute walk, the higher the score. This tool replaces the manually-applied walk score data included in years past prioritization methods.	25%
	Population Density	2019 American Community Survey Census Block Group data converted to a weighted score. Higher scores reflect areas with increased population density.	25%
	% Walk to Work	2019 American Community Survey Census Block Group data, converted to a weighted score ranging from 1 to 26. Areas where residents report higher rates of walking to work score higher than areas with less reported rates of walking to work.	7%
	% Transit to Work	2019 American Community Survey Data converted to a weighted score ranging from 1 to 100. Areas where residents report higher rates of utilizing transit to commute to work are higher than areas with less reported rates of utilizing transit to get to work	7%
	Vehicle Count	Derived from the 2019 American Community Survey Data which counts private registered vehicles per household. The variable scores and weigh each Census Block Group to reflect priority for residents in areas where average car ownership rates are lower.	6%
Safety and Harm Reduction Data	Adjacent Street Speed	Scores based on City-maintained Centerline data for speed limits. Streets with higher posted speed limits are weighted for greater point values/priority over streets with lower speed limits.	10%
	Adjacent Street Width	Scores based on City-maintained Centerline data for road width. Wider streets are scored for priority over streets that are narrower. Wider streets are prioritized because generally traffic travels faster on wider streets.	10%
Historically Excluded Groups Data	% Resident Renters	2019 American Community Survey Data which scores Census Block Groups with higher percentages of residents who are renters over areas with fewer renter households.	3%
	% BIPOC Renters	2019 American Community Survey Data which scores Census Block Groups with higher percentages of residents who are Black, Indigenous, and People of Color over Census Block Groups with lower percentages of residents who are Black, Indigenous, and People of Color.	3%
	Median Income	2019 American Community Survey Data, scored such that Census Block Groups with lower reported median income are prioritized over areas with higher median incomes.	4%
	Total		100%



**NICOLE BOLDEN
CLERK**

CITY OF BLOOMINGTON
401 N Morton St, Suite 110
Bloomington, IN 47404

OFFICE OF THE CITY CLERK
812.349.3408
clerk@bloomington.in.gov

To: Members of the Common Council

From: Clerk Nicole Bolden

Date: 2 February 2024

Re: Interview Committee Recommendations for Board and Commissions

The council interview committees have made the following recommendations for appointment to the following boards and commissions:

Interview Committee Team B Recommendations:

- Commission on the Status of Women - Eliza Carey to be reappointed to seat C-1
- Community Advisory on Public Safety Commission (CAPS) - Jason Michalek for reappointment to seat C-2
- Environmental Commission - Neil Goswami to be appointed to seat C-6
- Dr. Martin Luther King Jr. Birthday Celebration - James Sanders to be reappointed to seat C-2

Interview Committee Team C Recommendations:

- Commission on the Status of Children and Youth - Eugene (Fred) Schick to be appointed to seat C-1
- Commission on Hispanic and Latino Affairs - Mariella Arrendondo to be appointed to seat C-5, Himena Holguin to seat C-4, and Dinorah Sapp to seat C-1
- Redevelopment Commission - Randy Cassady to be reappointed to seat C-1 and Deborah Myerson to be reappointed to seat C-2

Contact

Jennifer Crossley, Deputy City Clerk, 812-349-3838, jennifer.crossley@bloomington.in.gov
Clerk Nicole Bolden, 812-349-3408, clerk@bloomington.in.gov





MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Stephen Lucas, Council Administrator/Attorney

Date: February 2, 2024

Re: Ordinance 2024-01 - To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks and Storm Sewers" Re: Amending Various Chapters to Update References to the City Engineer, to Update References to the Comprehensive Plan and Transportation Plan, to Amend Language about Trees and Vegetation in Chapter 12.24, and Using this Occasion to Make Typographical and Grammatical Updates

Synopsis

This ordinance amends Title 12, "Streets, Sidewalks and Storm Sewers" of the Bloomington Municipal Code and comes forth at the request of city staff. The ordinance makes the following changes:

- Replaces references to the city's transportation and traffic engineer with city engineer;
- Capitalizes department names (i.e. Department of Public Works), board and commission names (i.e. Board of Public Works), and legal document names (i.e. Comprehensive Plan, Transportation Plan, etc.);
- Removes references to "his or her" and replaces it with "their";
- Removes references to the "Thoroughfare Plan" and its associated effective dates and replaces them with references to the "Transportation Plan" and its associated effective dates;
- Makes various other updates, including grammatical and typographical corrections; and
- Revises BMC Chapter 12.24 (Trees and Flora) to add or amend standards for appropriate tree protection, update terminology, and add relevant definitions.

Relevant Materials

- Ordinance 2024-01
- Memo from staff

Summary

Ordinance 2024-01 proposes to amend each of the seven chapters located in Title 12 ("Streets, Sidewalks and Storm Sewers") of the Bloomington Municipal Code (BMC).

Across all of Title 12, references to the transportation and traffic engineer would instead refer to the city engineer. Under BMC 2.35.010, the director of the Engineering Department (currently Andrew Cibor) serves both as the city's civil engineer and traffic engineer, which are roles called for in state code. Prior to 2020, city engineering staff had been embedded within other departments (Public Works, then Planning and Transportation). Other updates are proposed to reflect the fact that the Engineering Department has separated from the Planning and Transportation Department and now performs a number of tasks previously carried out by Planning and Transportation.

The ordinance would also make various grammatical, typographical and other minor revisions throughout Title 12.



Beyond those general revisions, the ordinances would make the following changes:

Chapters 12.06 (Sidewalk Seating and Merchandising Encroachments), 12.10 (Enforcement and Penalties), and 12.12 (Utilities in the Right-of-Way):

- updates provisions that specify what information must be included in notices of violations (NOVs) to make clear that appeals from such NOVs and associated fines should be made to the Board of Public Works via the department that issues the notice/fine.

Chapter 12.20 (Thoroughfare Plan):

- updates references to the city's previous thoroughfare plan to instead refer to the [Transportation Plan](#), which was adopted in 2019 via [Resolution 19-01](#).

Chapter 12.24 (Trees and Flora):

- amends language related to the care of trees and vegetation to reflect current practices and terminology;
- inserts a new section 12.24.075 (Tree Protection) and related definitions to add protections for public trees during construction and/or land-disturbing activities;
- updates language related to appeals from written findings by the Board of Public Works to specify that an individual has 60 days to file such an appeal rather than 10 days.

Contact

Karina Pazos, Long Range Planner, 812-349-3523, karina.pazos@bloomington.in.gov

Haskell Smith, Urban Forester, 812-349-3716, smithh@bloomington.in.gov

Aleks Pratt, Assistant City Attorney, 812-349-3802,

aleksandrina.pratt@bloomington.in.gov

MEMORANDUM

To: Common Council

From: Andrew Cibor, City Engineer; Karina Pazos, Long Range Planner; Aleksandrina Pratt, Assistant City Attorney; Ryan Robling, Planning Services Manager; Haskell Smith, Urban Forester; Tim Street, Interim Director of Park and Recreation

Date: February 2, 2024

Re: Proposed Ordinance # 2024-01, to make various amendments to Title 12

City staff from the Engineering, Legal, Parks and Recreation, and Planning and Transportation departments have compiled a number of recommendations for changes to Title 12, the streets, sidewalks and storm sewers section of the Bloomington Municipal Code. Proposed ordinance #2024-01 would make these changes.

The proposed changes will address issues that have come to staff's attention through public requests, commissions' recommendations, or departmental changes.

The ordinance includes the following changes:

- **Section 1** (*12.04 General Regulations, 12.06 Sidewalk Seating and Merchandising Encroachments, 12.08 Use of the Right-of-Way, 12.10 Enforcement and Penalties, and 12.12 Utilities in the Right-of-Way*):
 - Deletes "transportation and traffic engineer," adds "city engineer"
 - The change updates the text to reflect the most accurate title for the director of the Engineering Department.
 - Deletes "his or her," and adds "their"
 - The change updates the text to be consistent.
 - Deletes "planning and transportation department," and adds "department that issued the citation (NOV)"
 - The change updates the text to reflect the separation of departments, because this text refers to when the Engineering Department and Planning and Transportation Department were one department.
 - Capitalizes names
 - The change capitalizes department names (i.e. Department of Public Works), board and commission names (i.e. Board of Public Works), and legal document names (i.e. Comprehensive Plan, Transportation Plan, etc.).

- **Section 2** (*12.20 Thoroughfare Plan*):
 - Deletes “thoroughfare plan” and “thoroughfares,” and adds “transportation plan” and “transportation facilities”
 - The change updates the text to refer to the most recent transportation plan.
 - Deletes “his or her,” and adds “their”
 - The change updates the text to be consistent.
 - Capitalizes names
 - The change capitalizes department names (i.e. Department of Public Works), board and commission names (i.e. Board of Public Works), and legal document names (i.e. Comprehensive Plan, Transportation Plan, etc.).

- **Section 3** (*12.24 Trees and Flora*):
 - Capitalizes names
 - The change capitalizes department names (i.e. Department of Public Works), board and commission names (i.e. Board of Public Works), and legal document names (i.e. Comprehensive Plan, Transportation Plan, etc.).
 - Deletes “his or her,” and adds “their”
 - The change updates the text to be consistent.
 - Corrects outdated language and references
 - The change updates the text to refer to Title 20 for permitted species list of tree species instead of “Tree Work Manual;” updates “Tree Work Manual” to “Tree Care Manual.”
 - Adds section detailing tree protection measures
 - The change adds section 12.24.075, standards for appropriate tree protection, with relevant definitions also added.
 - Clarifies need for tree work permit and its process
 - The change exempts directional boring; clarifies some language around the tree work permit process in relation to other Commissions and Common Council.

ORDINANCE 2024-01

**TO AMEND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
"STREETS, SIDEWALKS AND STORM SEWERS"**

**Re: Amending Various Chapters to Update References to the City Engineer, to
Update References to the Comprehensive Plan and Transportation Plan, to Amend
Language about Trees and Vegetation in Chapter 12.24, and Using this Occasion to Make
Typographical and Grammatical Updates**

WHEREAS, city staff from the Legal Department, Planning and Transportation Department, and the Department of Parks and Recreation have conducted a review of Title 12 of the Bloomington Municipal Code ("BMC") entitled "Streets, Sidewalks and Storm Sewers" and have determined that multiple chapters require maintenance and should be updated and amended;

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

SECTION 1. Title 12 of the Bloomington Municipal Code is hereby amended as provided in Appendix 1 to this Ordinance, which is attached hereto and made a part hereof. Amendments to chapter or section headings shall be reflected in the relevant table of contents.

SECTION 2. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other part of this ordinance that can be given effect without the invalid part, 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 _____, 2024.

ISABEL PIEDMONT-SMITH, 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 _____, 2024.

NICOLE BOLDEN, Clerk,
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2024.

KERRY THOMSON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 12, “Streets, Sidewalks and Storm Sewers” of the Bloomington Municipal Code and comes forth at the request of city staff. The ordinance makes the following changes:

- Replaces references to the city’s transportation and traffic engineer with city engineer;
- Capitalizes department names (i.e. Department of Public Works), board and commission names (i.e. Board of Public Works), and legal document names (i.e. Comprehensive Plan, Transportation Plan, etc.);
- Removes references to “his or her” and replaces it with “their”;
- Removes references to the “Thoroughfare Plan” and its associated effective dates and replaces them with references to the “Transportation Plan” and its associated effective dates;
- Makes various other updates, including grammatical and typographical corrections; and
- Revises BMC Chapter 12.24 (Trees and Flora) to add or amend standards for appropriate tree protection, update terminology, and add relevant definitions.

APPENDIX 1:

TITLE 12 AS MODIFIED BY THE PROPOSED ORDINANCE 2024-01 (Redline)

red underlined text = proposed additions

~~red strikethrough~~ = proposed deletions

TITLE 12 - STREETS, SIDEWALKS AND STORM SEWERS

Chapter 12.04 GENERAL REGULATIONS

Sections:

12.04.001 Reserved.

Editor's note(s)—Ord. No. 14-11, § 66, adopted July 2, 2014, repealed § 12.04.001 which pertained to sidewalks required for new buildings and derived from Ord. No. 72-20, § 1, 1972.

12.04.002 Reserved.

Editor's note(s)—Ord. No. 14-11, § 67, adopted July 2, 2014, repealed § 12.04.002 which pertained to waivers and derived from Ord. No. 72-20, § 2, 1972.

12.04.003 Reserved.

Editor's note(s)—Ord. No. 14-11, § 68, adopted July 2, 2014, repealed § 12.04.003 which pertained to sidewalks required for building permits and derived from Ord. No. 72-20, § 3, 1972.

12.04.004 Reserved.

Editor's note(s)—Ord. No. 14-11, § 69, adopted July 2, 2014, repealed § 12.04.004 which pertained to appeals and derived from Ord. No. 72-20, § 4, 1972.

12.04.005 Reserved.

Editor's note(s)—Ord. No. 14-11, § 70, adopted July 2, 2014, repealed § 12.04.005 which pertained to determinate variance—sidewalk construction deferred and derived from Ord. No. 72-20, § 5, 1972.

12.04.010 Repair of sidewalks—Duty of adjacent owner.

Every owner or occupant of any house or other building, and any owner of any vacant lot within the city, shall keep the sidewalks in front of such house, building or vacant lot in repair. Any person neglecting or refusing to comply with the provisions of this section, or neglecting or refusing to put the sidewalk in front of any house, building or vacant lot owned or occupied by him or her in repair after having received notice from the city engineer transportation and traffic engineer, or ~~their his or her~~ designees, to do so shall be subject to general penalty provisions of this code.

12.04.020 Discharge of water on sidewalk.

It is unlawful for any person owning or controlling any building in the city adjacent to an improved sidewalk to permit water to run from a downspout attached to such building onto and over such sidewalk.

12.04.030 Allowing filthy or noisome liquid to flow on streets.

It is unlawful for any person to cause or permit the flow or stagnation of any filthy or noisome liquid or substance upon any street, alley or other public place or into any stream.

12.04.050 Duty of abutting property owner to keep sidewalks clean.

It shall be the duty of every owner of real estate within the city to keep the sidewalk fronting upon such real estate reasonably clean and free from all dirt, filth or litter that may be washed or deposited thereon.

12.04.070 Reserved.

Editor's note(s)—Ord. No. 14-11, § 72, adopted July 2, 2014, repealed § 12.04.070 which pertained to duty of abutting property owner to remove snow and ice and derived from Ord. No. 04-35, § 1, 2004.

12.04.080 Reserved.

Editor's note(s)—Ord. No. 14-11, § 73, adopted July 2, 2014, repealed § 12.04.080 which pertained to failure to remove snow and ice and derived from § 23-10 of the prior code; Ord. No. 80-92, § 2, 1980; and Ord. No. 04-35, § 2, 2004.

12.04.085 Reserved.

Editor's note(s)—Ord. No. 14-11, § 74, adopted July 2, 2014, repealed § 12.04.085 which pertained to appeals and derived from Ord. No. 04-35, § 3, 2004.

12.04.090 Obstructing gutters.

It is unlawful for any person to obstruct any gutter, in any manner, with planks, timbers, pipe, bridge or any other material or design.

12.04.100 Pedestrian safety during razing or construction operations.

It shall be the duty of the owner of any property during the razing, remodeling or construction of any building or other facility to see that proper safety is provided at all times for pedestrians using the sidewalk adjoining such building or facility.

12.04.110 Reserved.

Editor's note(s)—Ord. No. 20-21, § 2, adopted Nov. 4, 2020, repealed § 12.04.110, which pertained to obstructing sidewalk—walkaround—to be provided and derived from prior code § 23-11.2; and Ord. No. 14-11, § 75, adopted July 2, 2014.

12.04.120 Reserved.

Editor's note(s)—Ord. No. 20-21, § 3, adopted Nov. 4, 2020, repealed § 12.04.120, which pertained to obstructing sidewalk—walkaround—approval of transportation and traffic engineer and derived from prior code § 23-11.3; Ord. No. 14-11, §§ 76, 77, adopted July 2, 2014; and Ord. No. 16-06, § 1, adopted April 20, 2016.

12.04.130 Reserved.

Editor's note(s)—Ord. No. 20-21, § 4, adopted Nov. 4, 2020, repealed § 12.04.130, which pertained to obstructing sidewalk—revocation of permit upon disregard of regulations and derived from prior code § 23-11.4.

12.04.140 Street assemblies.

It is unlawful for any person to hold or conduct, or cause to be held or conducted any meeting, speaking, or other gathering of people of any kind that will in any way tend to block the use of the streets or sidewalks or to congest crowds and travel over the streets and sidewalks of the city unless permission has first been obtained from the ~~Board of Public Works~~ ~~board of public works~~. This section shall not in any way be interpreted to infringe upon those rights guaranteed by the First Amendment to the United States Constitution.

12.04.150 Moving buildings.

Any person desiring to move any building within the city shall first obtain approval from the ~~city engineer transportation and traffic engineer~~, or ~~their his or her~~ designees, to do so. Such approval shall establish rules and regulations for the moving, including, but not limited to, time and route. As a prerequisite to this approval, the ~~city engineer transportation and traffic engineer~~, or ~~their his or her~~ designees, may require a bond for the protection of city property and the property of others in an amount deemed by the ~~city engineer transportation and traffic engineer~~ or ~~their his or her~~ designees to be sufficient.

12.04.160 Reserved.

Editor's note(s)—Ord. No. 14-11, § 80, adopted July 2, 2014, repealed § 12.04.160 which pertained to storm sewers and derived from Ord. No. 78-66, § 1, 1978.

Chapter 12.06 SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS

Sections:

12.06.010 Purpose of chapter.

The purpose of this chapter is to maintain aesthetically pleasing, accessible and vibrant sidewalks, and—through responsible encroachment practices—to balance the needs of citizens to use sidewalks with opportunities for businesses. It is further intended to assist with the enhancement of economic vitality of the City and to encourage the safe and orderly use of public property within the City. This chapter pertains specifically to the use of sidewalks by adjacent businesses for outdoor seating, merchandising and related purposes and does not remove from the Board of Public Works its authority to regulate other sorts of encroachments on the public right-of-way.

12.06.020 Definitions.

Whenever the following words are used in this chapter they shall be interpreted with the ascribed meaning:

"Block" means the distance between two cross streets on one side of the street. Alleys are specifically not considered cross streets.

"Board" means the Board of Public Works of the City of Bloomington.

"Clear straight pathway" or "clear zone" means an unobstructed straight walkway with a minimum width of 54 inches except where noted in this chapter.

"Department" means the ~~Engineering Planning and Transportation~~ Department of the City of Bloomington.

"Encroachment" means any private or public temporary or long-term use of a sidewalk for purposes other than movement of pedestrians and other ambulatory citizens or other use by the City of Bloomington in conducting its business.

"Merchandising" means any outdoor display of items intended for sale and/or decorative items including, but not limited to, flowers and plants, by the merchant whose business is located immediately adjacent to the sidewalk on which the items are being displayed.

"Obstruction" means any fixed object on the sidewalk including, but not limited to, street lights and their bases, sign posts, trees, tree and garden plots, tree grates, landscaping, fire hydrants and street furniture.

"Outdoor Seating" means seating outside of an established place of business whose primary or secondary business is the sale of food, or whose business desires to place outdoor seating for the convenience of their customers and the general public use and whose business location is immediately adjacent to the sidewalk space requested for use for said outdoor seating.

"Permittee" means the person or entity that receives a permit to encroach under the terms of this chapter.

"Sidewalk" means any walkway or pedestrian corridor within the City of Bloomington's legally platted right-of-way.

"Staff" means the city engineer ~~director of the planning and transportation department~~ and/or their ~~his/her~~ designees.

12.06.030 Standards for encroachment.

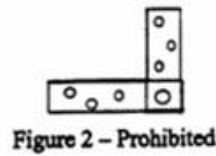
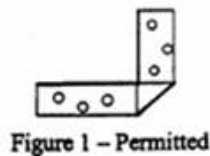
Sidewalk encroachments must be in full compliance with the following standards:

- (a) A clear straight pathway at least 54 inches wide must be maintained along blocks with the following exception: the north side of the 200 block of West Kirkwood Avenue, where a clear straight pathway at least 40 inches wide must be maintained. If and when there is a redesign and renovation of the sidewalk or streetscape on this side of this block, any encroachments will be required to accommodate a 54-inch straight clear path at that time.
- (b) The outermost (street side) edge of the clear straight pathway shall be at least one foot from the edge of the adjacent curb and shall be a straight line parallel to the curb and tangent to the innermost (building side) edge or point of the obstruction that is closest to its adjacent building anywhere on the same block as the requested encroachment. If there are no obstructions on the block, or if all obstructions on the block are within one foot of the edge of the curb, the outermost (street side) edge of the clear straight path shall be a line parallel to the curb at a distance one foot from the curb.
- (c) The following are exceptions to 12.06.030(b)
 - (1) For purposes of this chapter the City's tree/plant plots on the corners of the intersections at 6th and Walnut, and 6th and College, and Kirkwood and College, shall not be considered obstructions for the purposes of determining the clear straight pathway.
 - (2) On the east side of the 100 block of South College Avenue, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further west than parallel to the western edge of the wall that runs along the building side of the sidewalk just south of Kirkwood Avenue on the northern half of that block.
 - (3) On the west side of the 100 block of South Grant Street, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further east than parallel to the eastern edge of the wall that runs along the building side of the sidewalk just south of Kirkwood Avenue on the northern half of that block.
 - (4) On the east side of the 200 block of South Grant Street, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further west than parallel to the western edge of the wall that runs along the building side of the sidewalk just south of Fourth Street on the northern half of that block.
 - (5) On the north side of the 200 block of West Kirkwood Avenue, the poles supporting the railroad crossing signal on the northeast corner of the intersection of Kirkwood Avenue and Morton Street shall not be considered obstructions for purposes of this chapter.
 - (6) On the north side of the 200 block of West Kirkwood Avenue, the pole supporting the traffic signal on the northwest corner of the intersection of Kirkwood and

College Avenues, and the traffic control box just to the west of that pole, shall not be considered obstructions for purposes of this chapter.

- (7) On the west side of the 100 block of North College Avenue (west side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 125 North College Avenue shall serve as outermost (building side) edge of the clear straight pathway.
- (8) On the east side of the 100 block on North Walnut Street (east side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 102 and 106 North Walnut Street shall serve as outermost (building side) edge of the clear straight pathway.
- (d) Encroachment must be a minimum of 54 inches, or the distance indicated for a specific location in 12.06.030(a), from the innermost edge (building side) of streetlights and their bases, signposts, trees, tree and garden plots, tree grates, street furniture or any other fixed sidewalk obstruction.
- (e) If an encroachment has fencing adjacent to the clear straight pathway, and an object or fixture, including but not limited to a flower box, is attached to the fencing, such objects or fixtures shall be considered part of the encroachment and included in the measurements pertinent to this chapter.
- (f) The streetside edge of an encroachment shall include any item or object that extends at any height into the right-of-way even if the base or surface level of the item or object is closer to the building side of the encroachment.
- (g) If a newsbox or movable bicycle rack, encroaches into what would otherwise be the clear straight path, the permittee may, with the written permission of the Department, relocate the object to a location specified by the Department.
- (h) Subject to the other requirements of this chapter, the encroachment may extend a maximum of 8 feet into sidewalk from building face or property line.
- (i) Encroachment may only extend along sidewalk directly adjacent to permittee's business (may not extend in front of any other property) unless agreed upon by all parties involved, with proof of agreement presented to the Department, and with approval of the Department.
- (j) Objects or items within the encroachment area shall not be placed in such a way that obstructs access to utility meters.
- (k) If a business is required by any other law, statute or regulation—such as, but not limited to, the rules of the Alcohol and Tobacco Commission—to enclose or separate the encroachment from the rest of the public right-of-way, then the method of enclosure or separation, such as a fence, shall be fixed and attached to the right-of-way in a manner prescribed by the Department.
- (l) If the fencing or partition that is part of an encroachment is solid or imporous or impermeable, then that fencing or partition shall be no greater than 36 inches in height from the ground. If the fencing or partition that is part of an encroachment is porous then that fencing or partition shall be no greater than 46 inches except at the corners of the encroachment and the entryway to the adjacent business.

- (m) Persons using seating within an encroachment granted for those purposes shall be visible at all times from the street and sidewalk adjacent on all sides of the encroachment.
- (n) As an exception to 12.06.030(m), that provision does not apply to the awning and the support poles for the awning at the business at 125 N College Avenue which may remain up year around, although the partitions between the support poles must be removed by the third Monday of November.
- (o) Any fencing or partition that is part of the encroachment shall not include a gate that swings out of the encroachment.
- (p) If an encroachment is to utilize the right-of-way on more than one side of a building, then the portion of the encroachment, if any, connecting the two sides the building—such as around the corner of the building—must do so at an angle to the street as depicted in Figure 1, and not parallel to the street, as depicted in Figure 2.



- (q) Materials including, but not limited to, outdoor carpeting shall not be affixed to the surface of the public right-of-way.

12.06.040 Applications for encroachments.

No business may encroach onto the public right-of-way for purposes of seating or merchandising without a permit granted through the provisions of this chapter. Encroachment for these purposes without a valid permit is a violation of the provisions of this chapter subject to authorized remedies and penalties described later in the chapter. Applications for encroachment shall be submitted to the Department using the prescribed form no sooner than ninety (90) days before the expiration of an existing permit and at least sixty (60) days prior to the date the applicant wishes the encroachment to begin. Applications approved by staff shall be submitted to the Board for final authorization.

- (a) Eligible sidewalks shall be all sidewalks where a minimum of 54 inches of clear straight pathway can be maintained.
- (b) Businesses eligible for outdoor seating encroachment permits shall be all businesses who sell retail food items as a primary or secondary part of their daily operations or whose business desires to place outdoor seating for the convenience of their customer and the general public use and whose businesses are housed adjacent to the area of sidewalk requested for outdoor seating use.
- (c) Businesses eligible for a merchandising encroachment permit shall be all businesses conducting retail sales as the major part of their daily operations and whose businesses are housed immediately adjacent to the area of sidewalk requested for merchandising use.

- (d) All requests for encroachments, accompanied by the appropriate application fee as provided in 12.06.090, shall be submitted to the department on a form prescribed by the department and shall for all applicants include the following information:
 - (1) Name, street address and phone number of applicant;
 - (2) Street address of the property where encroachment is requested;
 - (3) A drawing to scale of the proposed encroachment;
 - (4) Length of time requested for the encroachment; and
 - (5) Name and street address of property owner if property owner is not applicant.
- (e) Applications requesting outdoor seating permits should be submitted to the department at least sixty (60) days prior to the date the applicant wishes the encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in Section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to the following:
 - (1) The proposed use, materials, colors and design;
 - (2) Relationship of the outdoor seating to the adjacent existing building with identified uses and entrances;
 - (3) Spatial relationship of the proposed outdoor seating to the existing sidewalk and to any existing public improvements, including, but not limited to, benches, lights, light poles, telephone/power poles, fire hydrants, planters, tree plots, tree grates, landscaping, sign posts, newspaper boxes, etc.;
 - (4) The exact dimensions and total square footage of the proposed outdoor seating area;
 - (5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;
 - (6) Evidence that abutting property owners and/or lessees have been notified of the proposed encroachment; and,
 - (7) Plans for the operation of the outdoor seating, including, but not limited to, hours of operation, services to be provided, maintenance and cleaning.
- (f) Applications requesting merchandising permits should be submitted to the department at least sixty (60) days prior to the date the applicant wishes the encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in Section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to, the following:
 - (1) The proposed use and items to be displayed;
 - (2) Relationship of display to the adjacent existing building with identified uses and entrances;

- (3) Spatial relationship of the proposed encroachment to existing sidewalk and to any existing public improvements including, but not limited to, benches, lights, light poles, telephone/power poles, fire hydrants, planters, tree plots, tree grates, landscaping, sign posts, newspaper boxes, etc.;
 - (4) The exact dimensions and total square footage and of the proposed encroachment;
 - (5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;
 - (6) Evidence that abutting property owners and/or lessees have been notified of the proposed encroachment; and,
 - (7) Plans for the operation of the encroachment, including, but not limited to, hours of operation, services to be provided, maintenance and cleaning.
- ~~(g)~~ (e) The department may require any other information as part of the application that it deems useful in evaluating the application.

12.06.050 Permit issuance and conditions.

Once an application has been reviewed and approved by the department, and payment of the application fee required by Section 12.06.090 has been confirmed, a permit shall be issued conditioned on the following:

- (a) The permittee has furnished the department with a certificate of insurance establishing proof of a comprehensive general liability policy naming the City of Bloomington as one of the insured to the extent of at least \$500,000 bodily injury and \$100,000 property damage, which shall be in effect during the term of this authorization.
- (b) Each permit shall be effective for one year of its date of issuance.
- (c) The permit issued is personal to the permittee only and is not transferable. Specifically, transfer of ownership of the business adjacent to the encroachment requires application for a new permit.
- (d) The board or department may require the removal, temporary or permanent, of the outdoor seating or merchandising encroachment when redevelopment of the street or sidewalk or utility repairs necessitates such action, or when the permittee fails to comply with any provisions of this chapter or section.
- (e) The permittee shall be responsible for expenses incurred in removing the outdoor seating or merchandising encroachment.
- (f) The city's officers and employees may immediately remove without notice all or parts of the outdoor seating or merchandising encroachments in an emergency situation. The city, its officers and employees, shall not be responsible for outdoor seating or merchandising components relocated or damaged during emergencies.
- (g) The permit covers only the area specifically described in the application.
- (h) All signage must be in compliance with the Bloomington Municipal Code.
- (i) Permittee acknowledges that seating and tables are not for the exclusive use of permittee's customers, but may be used by the general public.

- (j) The outdoor seating and merchandising area must be maintained and kept clean.
- (k) Any other conditions of approval which the Department deems appropriate.
- (l) The permit does not give the permittee a right to keep the boundaries of the outdoor seating and merchandising encroachment or maintain structures within such encroachment in the event there is a change in local, state, or federal law or regulation that would require a wider path along or other alteration of the city's right-of-way.

12.06.060 Revocation of a permit.

- (a) The department may revoke a permit at any time for any outdoor seating or merchandising encroachment if:
 - (1) Changing conditions of pedestrian or vehicular traffic necessitate the removal of the outdoor seating or merchandising encroachment;
 - (2) Proposed public improvements necessitate the removal of the outdoor seating or merchandising encroachment;
 - (3) Outdoor seating or merchandising encroachment no longer serves the public interest; or,
 - (4) Staff determines that a permittee's receipt of repeated notice of violations for failure to comply with the provisions of this chapter and/or the permit granted for encroachment indicates a general unwillingness to comply with the provisions of this chapter and/or the permit.
- (b) Upon determining that cause exists for revocation of a permit, the Department shall give written notice of such action to the permittee stating the action taken and the reason.
- (c) Upon official revocation by the department, the permittee shall have fourteen (14) days to remove the outdoor seating or merchandising encroachment and make any repairs to the sidewalk, if necessary, unless otherwise granted by the department. Failure to remove the encroachment in the time allowed by the department will result in removal of the encroachment by the department under the terms set forth in Section 12.06.110 below.

12.06.070 Permit renewal.

The permittee may file an application for permit renewal, accompanied by the appropriate renewal fee set forth in Section 12.06.090, no later than at least sixty (60) days prior to the date the applicant wishes the renewed encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit. The application for permit renewal shall be reviewed and processed by Department staff. If a permittee should have a record of failure to comply with the provisions of this chapter, this record shall be considered by staff in the decision to approve or deny renewal of the permit.

12.06.080 Duty to maintain.

Permittee agrees to operate and maintain outdoor seating or merchandising encroachment in a safe, secure and sanitary manner, and in full compliance with the provisions of this chapter and any conditions of approval set by the Department.

12.06.090 Application fees.

- (a) The fee to process an initial application for an outdoor seating or merchandising encroachment permit at a specific location shall be \$100.00.
- (b) The fee to process a renewal of an outdoor seating or merchandising permit shall be \$100.00. However, a permittee may renew its permit at a fee of \$50.00 if it agrees, as a provision or condition of the permit, that the permit will be valid only for the period beginning March 1 and ending the third Monday of November of the year for which the permit is issued. If the permittee agrees to this limited permit but encroaches at any time before March 1 or after the third Monday in November, the permittee must remit the additional \$50.00 to the Department before encroaching in the period excluded from the original permit, or be subject to the provisions of Section 12.06.110 in addition to being required to pay the additional \$50.00.
- (c) No fee shall be charged for processing applications for encroachments that will be limited to four days or less in a calendar year.
- (d) No refund shall be made where a permit is revoked or suspended for any reason.

12.06.100 Enforcement procedures.

- (a) If ~~staff the planning and transportation director, or his/her designee, collectively referred to as 'Staff'~~, find that any provision of this chapter is being, or has been, violated or that any condition of approval of a permit issued pursuant to Chapter 12.06 has not been met, said person shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing notice of violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: the permittee(s); the property owner(s); persons with any possessory interest in the property; and/or any persons and/or their agents who have caused the violation.
- (b) This Notice of Violation (NOV) shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by First Class mail; and/or by placement in a conspicuous place on the property where the violation occurs. The notice shall state:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The period of correction (if any);
 - (4) The daily fine assessed for the violation during the correction period;
 - (5) The increase in fine if violation continues beyond the correction period, if any;
 - (6) That the city may seek additional remedies for violation, if any;
 - (7) That the fine may be paid at the City of Bloomington ~~Planning and Transportation Department~~; and,
 - (8) That the ~~NOV may be appealed to the Board of Public Works within 7 days fine may be contested in the Monroe County Circuit Courts.~~

- (c) If staff determines that the condition of the site causes danger to the health, safety, or welfare of the public, the city may enter upon the site to remedy the dangerous condition without notice to the responsible party or landowner, and the permittee shall be liable for all costs of removal and disposal of said encroachment and the city shall incur no liability for damages associated with removal of the encroachment.

12.06.110 Authorized remedies and penalties for violations.

- (a) No fine shall be assessed for a violation of this chapter, or a violation of a condition of approval, that is remedied within twenty-four hours after issuance of an NOV, provided that no NOV has been issued to the property owner, person with possessory interest, or responsible party within the prior twelve-month period. A fine of one hundred ~~dollars~~ **dollars** per day until remediation shall be assessed for any violation of this chapter that continues after the twenty-four-hour remediation period, or for any violation where an NOV has been issued to the property owner, person with possessory interest or responsible party in the prior twelve-month period. Each enumerated item of non-compliance shall be considered to be a separate violation, and each day the violation continues shall be considered to be a separate violation. In addition, staff may seek, with the assistance of the city ~~Legal Department~~ **legal-department**, one or more of the following remedies:
 - (1) Removal of the encroachment at the expense of the permittee, with permittee liable for all costs of removal and disposal of said encroachment and no liability on the part of the city for damages associated with removal of the encroachment; and/or
 - (2) A temporary restraining order, preliminary injunction or permanent injunction to restrain a person from violating the provisions of this chapter or a condition of approval, requirement or commitment imposed or made thereunder; and/or
 - (3) An injunction directing a person to perform a condition, requirement or condition imposed or made under this chapter or to remove a structure erected in violation of this chapter; and/or
 - (4) Suspend and withhold other approvals, certificates and/or permits relevant to use of the site on which the violation has occurred; and/or,
 - (5) Revoke the permit that has been violated.
- (b) The purpose of each of the foregoing administrative remedies is to encourage compliance with this chapter and the conditions, terms and provisions of the permit without having to resort to litigation. If used, the Staff shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose.
- (c) The remedies provided for in these regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

12.06.120 Appeal of citation ~~and fine~~.

Citations (NOVs) may be appealed to the ~~Board of Public Works~~ **board-of-public-works**, provided the appeal is submitted to the board, ~~via the department that issued the citation (NOV) planning and transportation department~~, within seven calendar days of the citation (NOV) being issued ~~and fines may be appealed to the Monroe County Circuit Courts~~.

Chapter 12.08 USE OF THE RIGHT-OF-WAY

Sections:

12.08.010 Compliance with chapter required.

It is unlawful for any person to do, cause or permit to be done any closure, impediment, digging, cutting or excavating to any street, right-of-way, alley or public place, or into or through any pavement thereon, in the city except in accordance with and as provided for in this chapter.

12.08.020 Right-of-way use permit required.

Any person closing, prohibiting access to, digging, cutting or excavating on or causing the same to be made in pavements or adjacent to pavements shall apply for a right-of-way use permit as required by this chapter. A person shall not begin the aforementioned activities until a right-of-way use permit has been duly granted as provided in this chapter. The right-of-way use permit shall be kept on site in paper or digital form and be able to be produced as requested by city staff.

Work done at the direction of the ~~Board of Public Works~~ ~~board-of-public-works~~ which includes, but is not limited to, maintenance and improvements to existing infrastructure, shall be exempt from the permitting process, however, shall follow all maintenance of traffic principles outlined within the chapter.

12.08.030 Application and permit fee.

Any person desiring to close, prohibit access to, or make any opening or excavation contemplated by this chapter is subject to application and permit fees as described:

- (1) The application fee covers the cost of submitting an application for review. The fee does not guarantee the issuance of a permit upon review. The application fee is due upon submittal of the application for review and will not be refunded upon rejection of the application by city staff or cancellation of application by the applicant.
- (2) The permit fee is the cost associated with the issuance of the permit upon approval. The permit fee is due before the permit is issued to the applicant.

The application and permit fees to close, prohibit access to, or make any opening or excavation contemplated by this chapter are specified in Section 12.08.040 ("fee table") of the Bloomington Municipal Code and shall be paid to the ~~city engineer~~ ~~city's transportation and traffic engineer~~, or their designees, prior to closing, prohibiting access to, or making an opening or excavation. Application and permit fees may be adjusted or waived at the discretion of the ~~Board of Public Works~~ ~~board-of-public-works~~. The following entities, or their designees, are exempt from having to pay the fee required by this section and by Section 12.08.040 ("fee table"):

- (1) City of Bloomington Utilities Department;
- (2) Indiana University;
- (3) Monroe County;
- (4) State of Indiana;

- (5) Not-for-profit agencies with a 501(c)(3) designation; and
- (6) Any utility or entity performing work on a device or appurtenance owned or operated by and at the direction of the city.

12.08.040 Fee table.

(a) The right-of-way use and excavation fees shall be as follows:

Application	Fee
Right-of-way use/excavation	\$100.00
Use Type	Fee
Street; asphalt or concrete	\$1.00 per square feet of surface disturbance
Push or bore	\$0.10 per lineal foot
Replacement/removal of poles	\$35.00 per pole
Residential driveway installation	\$10.00
Grass, dirt, gravel, landscape area, or other unpaved surface	\$0.10 per square foot
Sidewalk, asphalt or concrete reconstruction	\$0.10 per square foot
Sidewalk asphalt or concrete new construction	\$0.05 per square foot
Storage of dumpsters or construction materials* non-metered location	\$50.00
Use Type	Fee
Lane, bike lane, or sidewalk closure*	\$100.00 per week
Street closure*	\$200.00 per week
Re-inspection fee	\$25.00

* Each closure type will be charged individually. Each closure type located on a different block will be charged as a separate closure. All items related to the same project can be listed on the same application as to only charge one application fee.

12.08.050 Permit application and site plan required.

Any person desiring to close, prohibit access to, or make any opening or excavation contemplated by this chapter shall file the following with the ~~city engineer transportation and traffic engineer~~, or their designees:

- (1) An application for right-of-way use, which shall contain all information deemed necessary by the ~~city engineer transportation and traffic engineer~~;
- (2) A site plan which may identify the following and/or additional details, at the discretion of the ~~city engineer transportation and traffic engineer~~:
 - (A) The specific location of all utilities already located in the right-of-way;
 - (B) The specific location of all signs already located in the right-of-way;

- (C) The specific location of all structures, either privately or publicly owned, already located in the right-of-way;
 - (D) The distance from all streets, alleys, driveways, entrances, intersections, and/or road cuts wherein the excavation will be made and the device or structure being installed as a result of the excavation will be located;
 - (E) The specific location of all proposed utilities; and
 - (F) A maintenance of traffic plan that is compliant with the Manual on Uniform Traffic Control Devices (MUTCD).
- (3) A bond in accordance with Section 12.08.060 ("bond required—amount—conditions"); and
 - (4) A certificate of insurance in accordance with Section 12.08.080 ("insurance and indemnity").

12.08.060 Bond required—Amount—Conditions.

At the time of filing the application under the provisions of Section 12.08.030 ("application and permit fee"), the person desiring to close, prohibit access to, or make any opening or excavation shall also file a bond payable to the city with the city engineer ~~transportation and traffic engineer~~, or their designees.

The bond shall be in a sum as shown in Section 12.08.070 ("bond amounts") or as designated by the city engineer ~~transportation and traffic engineer~~, or their designees. Bond amounts are per permit unless a larger bond is on file in an amount sufficient to encompass multiple active permits.

The city engineer ~~transportation and traffic engineer~~, or their designees, may require a bond in an amount not to exceed the total projected cost of the project, plus twenty-five percent, in the event such bond is deemed necessary to ensure performance of the contractor.

Bonds shall be conditioned to hold the city harmless from any loss, cost or damage by reason of such proposed work, and that the same shall be done in all respects in conformity with the requirements of all laws regulating the same.

A single or continuing bond may be required to embrace all work of an applicant for a period of time between the date of the execution of the bond and two years after the date of completion of the project as determined by the city engineer ~~transportation and traffic engineer~~, or their designees.

Entities with a bonding agreement approved and filed with the Board of Public Works ~~board of public works~~ shall be exempt from this section. The following entities are eligible for this bonding agreement:

- (1) City of Bloomington Utilities Department;
- (2) Indiana University;
- (3) Monroe County Community School Corporation;
- (4) Monroe County;

- (5) State of Indiana;
- (6) Indiana Department of Transportation
- (7) Not-for-profit agencies with a 501(c)(3) designation; and
- (8) Any utility or entity performing work on a device or appurtenance owned or operated by and at the direction of the city.

Contractors hired by these entities are required to have a bond on file with the city unless otherwise approved in the agreement approved and filed with the Board of Public Works ~~board of public works~~.

12.08.070 Bond amounts.

Permit	Bond Amount (per permit)
Street cut	\$20,000.00
Push or bore	\$5,000.00
Placement/removal of poles	\$5,000.00
Residential driveway installation	\$5,000.00
Storage of dumpsters or construction materials	\$5,000.00
Sidewalk replacement	\$5,000.00
Commercial driveway installation	\$10,000.00
Lane, bike lane, or sidewalk closure	\$5,000.00
Street closure	\$5,000.00

12.08.080 Insurance and indemnity.

Each applicant for a permit under this chapter shall provide a certificate of liability insurance to the city engineer transportation and traffic engineer, or their designees, upon a form approved by the corporation counsel of the city, insuring the applicant, and naming the city as co-insured, against the following liabilities and in the following amounts relative to such activity:

- (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and
- (2) Property damage: \$50,000.00 per occurrence and \$100,000.00 in the aggregate.

Each applicant for a permit under this chapter shall provide a document approved by the corporation counsel for the city, in which the applicant agrees to indemnify and forever hold harmless the city for losses and/or expenses arising from the opening and excavating work performed pursuant to a permit issued under this chapter.

12.08.090 Permit issuance.

It shall be the duty of the city engineer transportation and traffic engineer, or their designees, upon the filing of the application, site plan, approved bond, proof of insurance, and the payment of a fee as required by this chapter, to issue to the petitioner a permit to close, prohibit access to, or make such excavation and do such work, and such permit shall describe the

kind and location of the same. Staff may deny permits deemed incomplete or for work not in the public's interest as determined by the ~~city engineer transportation and traffic engineer~~. The permit may also describe any restrictions or special instructions by which the responsible party to the permit must abide.

12.08.100 Traffic control devices.

Traffic control plans for all streets, sidewalks, bike lanes or other city right-of-way within the city shall be made in compliance with the Indiana Manual on Uniform Traffic Control Devices. Other specific safety precautions may be required by the ~~city engineer transportation and traffic engineer~~, or their designees. All proper traffic control devices including but not limited to barricades, signage, lights, temporary markings, cones, and other safety precautions shall be maintained by the party to whom the permit was issued under the provisions of this chapter until construction has been inspected and approved by the ~~city engineer transportation and traffic engineer~~, or their designees. Deviation from or failure to maintain approved traffic control plans shall be considered a violation of this chapter and shall be subject to penalty as described in Chapter 12.10.

12.08.110 Obstructing sidewalk—Walkaround requirements.

If it is necessary to obstruct or block a sidewalk for a period or periods totaling twenty-four hours or more, then the party who has applied for the right-of-way use permit shall provide a walkaround for such area. The transportation or traffic engineer, or their designees, may also require walkarounds for shorter time periods to facilitate access in high-use pedestrian areas or other contexts.

Where possible, the walkaround shall parallel the disrupted pedestrian access route on the same side of the street. The walkaround shall consist of a walk not less than five feet wide, be protected by continuous concrete or water filled barricades with impact attenuators at each end for oncoming traffic, and have Public Rights-of-Way Accessibility Guidelines ("PROWAG") compliant access. Within the downtown overlay, a walkaround eight feet in width should be provided when possible. All Indiana Manual on Uniform Traffic Control Devices ("IMUTCD") guidelines must be followed including, but not limited to, advance warning signs. All Occupational Safety and Health Administration ("OSHA") guidelines must be followed.

Other conditions for walkarounds may be required by the ~~city engineer transportation and traffic engineer~~, or their designees, including, but not limited to, the following; concrete or water filled barricades on each side, railings five feet high on each side, electric lighting at night, overhead protection, rumble strips, changeable message signs, hazard identification beacons, flags, and warning lights. The ~~city engineer transportation and traffic engineer~~ may require a pedestrian detour or other accommodations instead of a walkaround if necessary in accordance with IMUTCD or OSHA guidelines. The walkaround shall remain unobstructed at all times unless otherwise approved by the ~~city engineer transportation and traffic engineer~~, or their designees.

The proposed alternative path must be approved by the ~~city engineer transportation and traffic engineer~~, or their designees. The ~~city engineer transportation and traffic engineer~~ or ~~their designees~~ shall consider the following factors when reviewing pedestrian walkarounds, detours, or other pedestrian accommodations:

- The city's Comprehensive Plan ~~comprehensive plan~~ and Transportation Plan ~~transportation plan~~, that both state the city must "provide a safe, efficient, accessible, and connected system of transportation that emphasizes public transit, walking, and biking to enhance options to reduce our overall dependence on the automobile."
- The Transportation Plan's ~~transportation plan's~~ modal priorities, which state that in considering tradeoffs between modes, including in the context of construction, pedestrians should receive the greatest priority, as the most vulnerable and most space-efficient road users. Pedestrian priority is followed by bicyclist and transit user priority, followed by single-occupancy vehicle drivers with the lowest priority.
- If a pedestrian detour is used then appropriate advance warning must be provided.
- Pedestrian accommodations should avoid additional street crossings and added travel distance.
- Options for detours, diversions, road narrowing and road closures for automobiles, in order to maintain connectivity for pedestrians.

When feasible, construction site entrances and exits should be located in areas that minimize impacts to walkarounds in order to make walkarounds a feasible option.

When approval for a sidewalk closure is required from the Board of Public Works ~~board of public works~~, the board may require a pedestrian detour in place of a walkaround based on the context of the construction site and the factors listed above. Deviation from or failure to maintain approved walkaround shall be considered a violation of this chapter and shall be subject to penalty as described in Chapter 12.10.

12.08.120 Location of mains and pipes—Supervision of work.

It shall be the duty of the responsible party in connection with all work contemplated by this chapter, through its duly authorized agents, to determine the proper location for all utilities including, but not limited to, water, gas, storm and sanitary sewer. It shall also be the duty of the responsible party to coordinate repair and incur expenses if there are damages to existing utilities due to their work. The city engineer ~~transportation and traffic engineer~~ or their designees may supervise the replacement of the excavation and pavements and see that all work in connection therewith is completed and in compliance with all federal, state, and local safety requirements and specifications required hereunder. The following persons shall be considered responsible parties, in connection with all work contemplated by this chapter:

- (1) The property owner;
- (2) Persons with any possessory interest in the property; and
- (3) Any person who, whether as property manager, principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, took part in the work.

12.08.130 Excavation materials and backfill.

Any responsible party receiving a permit under the provisions of this chapter shall pile any excavation material in a neat pile within the approved right-of-way use construction area in such a manner as does not present safety or erosion control hazards. All unused backfill shall be hauled away the same day unless approved by the city engineer transportation and traffic engineer or their designees for later removal.

12.08.140 Refilling of excavations.

After any work requiring excavation has been properly completed, the responsible party to the permit under the provisions of this chapter shall refill that portion of the street, alley, right-of-way, or public place excavated and restore the excavated area in accordance with specifications and standards as set forth by the city engineer transportation and traffic engineer. Excavation done on a street that has been paved in the last three years shall require mill and pave of the full traffic lane or lanes as determined by the city engineer transportation and traffic engineer.

In the event the responsible party fails to follow the above requirements or the refilling of the excavation fails, the city may refill the excavation, or employ another contractor to do so, at the expense of the responsible party. Such expense may be deducted from the bond required by Section 12.08.060 ("bond required—amount—conditions"). Fines may also be assessed per the fine schedule in Section 12.10.040 ("penalty") for non-compliance.

In the event a second inspection of the refilled excavation is necessary as a result of noncompliance with any section herein, a re-inspection fee of \$25.00 shall be charged by the city engineer transportation and traffic engineer, or their designees, for each subsequent inspection that occurs.

12.08.150 Protection of sides of excavation—Injury to adjoining right-of-way.

Any person making excavations or causing the same to be made in pavements or adjacent to pavements, shall so protect the sides of the excavation that the adjoining soil shall not cave in. It is unlawful for any person to excavate so as to undermine or injure any adjoining right-of-way including, but not limited to, curbs, streets, tree plots and sidewalks.

12.08.160 Emergencies.

A utility described in Section 12.12.010 ("applicability") may perform a closure of and excavation in the city's right-of-way without having a permit to do so under this chapter in the event an emergency necessitates closure and excavation work. An emergency is defined as a sudden and unexpected event that, if left uncorrected, will cause serious damage to property or jeopardize the safety and health of persons.

Any emergency closure in city right-of-way shall be done in compliance with the Indiana Manual on Uniform Traffic Control Devices temporary traffic control guidelines. Excavations must be repaired to city standard for temporary or final repair as described in city standard drawings.

In the event an emergency occurs, the affected party shall contact staff from the Engineering Department ~~planning and transportation department~~ and/or the Department of Public Works ~~public works department~~ to inform them of the excavation work being performed.

When closure and excavation due to an emergency occurs, the contractor conducting such emergency closure and excavation shall have current bonding and insurance on file with the city per requirements in Sections 12.08.060 ("bond required—amount—conditions") and 12.08.080 ("insurance and indemnity"). The contractor conducting such emergency closure and excavation shall file an application for a permit no later than seventy-two hours from the commencement of the said emergency work.

Chapter 12.10 ENFORCEMENT AND PENALTIES

Sections:

12.10.010 Authority.

All departments, officials and public employees of the city that are vested with the duty or authority to review and/or issue permits shall conform to the provisions of this title of the Bloomington Municipal Code (BMC) and shall issue no permit for any use, excavation, activity or purpose which would be in conflict with the provisions of this title. Any permit issued in conflict with the provisions of this title shall be null and void. The city engineer ~~transportation and traffic engineer~~ and their designees are designated enforcement officials with full authority to investigate, issue notices of violation, and secure remedies, including but not limited to injunctive relief, for any violation of this title.

12.10.020 Penalties and remedies for violations.

- (a) For the purposes of this chapter, a violation shall be defined as violation of or failure to comply with:
 - (1) Any provision or requirement of Chapter 12.08 or 12.10; or
 - (2) The required elements of the submission on the basis of which any permit or approval has been rendered hereunder.
- (b) Any violation as defined herein is hereby declared a common and public nuisance, and any person who is a responsible party as defined in Section 12.10.050(a) with respect to such violation shall, in addition to any other penalty or remedy provided herein, be liable for maintaining a common and public nuisance.
- (c) Any violation, as defined in subsection (a) above, shall be subject to the penalties and remedies provided in this chapter, and the city shall have recourse to any remedy available in law or equity.
- (d) Each day that any violation continues shall be considered a separate violation for purposes of the penalties and remedies specified in this chapter. A violation continues to exist until corrected. Correction includes, but is not limited to:
 - (1) Cessation of an unlawful practice;
 - (2) Removal of a building, structure, or other improvement;

- (3) Faithful or otherwise-approved restoration or replacement of a building, structure, site, excavation, traffic control devices, walk around, or natural feature;
 - (4) Any other remedy specified in this title; and/or
 - (5) Other remedy acceptable to the city.
- (e) The city ~~Legal Department~~ ~~legal department~~ may institute appropriate action to impose and collect fines and/or other penalties; to enforce or defend any action taken pursuant to Section 12.10.050(d) of this chapter; and to prevent, enjoin, abate, remove or correct any violation of or noncompliance with this title or any condition, requirement, or commitment established in connection with this title or any development approval hereunder.
- (f) The remedies provided for in this title shall be cumulative, and not exclusive, and shall be in addition to any other remedies available in law or equity.

12.10.030 Administration.

The ~~city engineer~~ ~~transportation and traffic engineer~~ or their designee shall maintain a record and tabulation of all complaints and investigations, and the resolutions of those complaints, whether made by citizens or by staff; communicate with citizen complainants about the progress being made in investigating and resolving their complaints; and report to pertinent boards or commissions on an as-needed basis.

12.10.040 Penalty.

- (a) Any violation that is subject to this chapter shall be subject to a civil penalty of not more than \$2,500.00 for each such violation, and not more than \$7,500.00 for the second and any subsequent violation, in addition to any and all other remedies available to the city, except where a lesser fine is specified herein.
- (b) The following violations of this title shall be subject to the fines listed in the table below for the first offense. In addition, if a responsible party commits a second or subsequent violation of the same provision within three years of the first such violation, regardless of whether the second or subsequent violation is on the same property as the first such violation, the listed fine for such second or subsequent offense shall be twice the previous fine, subject to the maximum set forth in subsection (a) above. (For example, a violation that is subject to a \$100.00 fine per the table will be subject to a \$200.00 fine for the second offense, a \$400.00 fine for the third offense, and so forth.)
- (c) [Fines for right-of-way use violations.]

Right-of-way Use Violation	Fine
Right-of-way closure or excavation without a permit	\$500.00 maximum not to exceed allowed under Section 12.10.040
Unrepaired damage to right-of-way following excavation	\$100.00
Failure to comply with city standards and specifications for right-of-way repairs	\$100.00

Right-of-way use without approved maintenance of traffic plan	\$500.00
Failure to maintain approved maintenance of traffic plan; including but not limited to maintaining compliant traffic control devices	\$500.00
Failure to have permit on site	\$100.00
Failure to reopen right-of-way per approved dates for right-of-way use permit	\$250.00

12.10.050 Enforcement procedures—Notices of violation.

- (a) If the ~~city engineer transportation and traffic engineer~~ or their designees finds that any violation subject to this chapter is occurring, or has occurred, a notice of violation (NOV) may be issued to the responsible party. Any person charged with violating any provision(s) of this chapter may, in the sole discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions. For purposes of issuing a notice of violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation:
- (1) The property owner;
 - (2) Persons with any possessory interest in the property; and
 - (3) Any person who, whether as property manager, principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, causes, maintains, suffers or permits the violation to occur and/or to continue.
- (b) The notice of violation (NOV) shall be in writing and shall be served on all of the responsible parties in one or more of the following manners: delivery in person or by first class mail. The notice of violation shall state:
- (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The date the violation was observed;
 - (4) The daily fine assessed for the violation;
 - (5) Additional remedies the city may seek for violation;
 - (6) That the fine is paid to the City of Bloomington; **and**
 - (7) That the notice of violation (**NOV**) may be appealed to the **Board of Public Works.**
~~board of public works; and~~
 - ~~(8)—That the fine may be contested in the Monroe County Circuit Courts.~~
- (c) Each item of noncompliance enumerated on the notice of violation shall be considered to be a separate violation, and each day that each such item of noncompliance continues shall be

considered to be a separate violation. Fines shall accrue from the date the violation commenced.

- (d) In addition to issuing a notice of violation (NOV), the city engineer ~~transportation and traffic engineer~~ or their designees may utilize and/or seek through legal proceedings one or more of the following remedies:
- (1) Revoke or withhold other approvals, certificates and/or permits relevant to the site on which the violation has occurred or to the parties committing the violation; and/or
 - (2) Issue a stop work order; and/or
 - (3) Request the Monroe County Building Department ~~county building department~~ to issue a stop work order and request the building official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred; and/or
 - (4) Draw on a performance or maintenance surety, as necessary, to affect any remedial actions required to abate the violations; and/or
 - (5) Revoke the permits, certificates and/or approvals that have been violated; and/or
 - (6) Any and all penalties and remedies listed in Section 12.10.020 ("penalties and remedies for violations").

12.10.060 Appeals.

- (a) Intent. The purpose of this section is to outline the procedure employed by the city in order to afford citizens an avenue of appeal when there is some doubt that an administrative official, staff member, administrative board or other body, has rendered a correct interpretation of the applicable ordinances and regulations while administering or enforcing any part of this title.
- (b) Applicability. An administrative appeal may be made by any person aggrieved by an order, requirement, decision, or determination made by an administrative official, staff member, administrative board or other body, charged with the administration or enforcement of any part of this title.
- (c) Application Filing Deadline. An administrative appeal must be filed ~~with the public works department~~ within seven days of the order, requirement, decision, or determination that is being appealed.
- (d) Review. At its next regularly scheduled public meeting, the Board of Public Works ~~board of public works~~ shall review:
- (1) The written statement and supportive material submitted by the appellant;
 - (2) The record of action supplied by the administrative official or body from which the appeal is taken;
 - (3) The written and oral testimony of the public;
 - (4) The testimony of the appellant; and
 - (5) The testimony of the administrative official or body from which the appeal is taken.

(e) Decision. The board shall issue its decision to uphold or deny the appeal to waive or adjust fines.

~~(f) Fines levied for violations may be challenged in the Monroe County Circuit Court and must be filed within seven days.~~

Chapter 12.12 UTILITIES IN THE RIGHT-OF-WAY

12.12.010 Applicability.

This chapter shall apply uniformly to the following utilities:

- (a) Telegraph;
- (b) Telephone;
- (c) Electric light;
- (d) Gas;
- (e) Water;
- (f) Steam;
- (g) Railroad;
- (h) Interurban company;
- (i) Communication service providers, as said term is used in Indiana Code chapter 8-1-32.3; and
- (j) Any other utility which may be regulated by the Indiana Utility Regulatory Commission.

12.12.020 Devices and appurtenances.

All devices and appurtenances owned by any of the entities described in Section 12.12.010 that require a location in ~~the~~ a right-of-way owed by the city are subject to the terms and conditions of this chapter. The devices and appurtenances subject to regulation under this chapter include, but are not meant to be limited to, the following:

- (a) Poles;
- (b) Lights;
- (c) Guy wires;
- (d) Transformers;
- (e) Above-ground meters;
- (f) Regulator stations;
- (g) Pedestals;
- (h) Hydrants;
- (i) Marker posts;

- (j) Test posts;
- (k) Telecommunication towers; and
- (l) Any equipment necessary for a utility described in Section 12.12.010 to operate and provide service.

12.12.030 Compliance with other laws.

All utilities listed in Section 12.12.010 shall comply not only with this chapter, but shall also comply with all other applicable laws, rules, and regulations, including, but not limited to:

- (a) The Bloomington Municipal Code, including Chapter 12.08 and Title 20; and
- (b) The laws and regulations of the United States Government and any rules, regulations, or guidelines of an agency of the United States Government; and
- (c) The laws and regulations of the State of Indiana and any rules, regulations, or guidelines of an agency of the State of Indiana; and
- (d) The Manual on Uniform Traffic-Control Devices; and
- (e) The Department of Justice, Americans With Disabilities Act Guidelines and Public Rights-of-Way Accessibility Guidelines; and
- (f) Any rules and regulations promulgated by the city engineer ~~city's transportation and traffic engineer~~ as authorized by this chapter.

12.12.040 Interference.

No utility listed in Section 12.12.010, or any device or appurtenance listed in Section 12.12.020, shall be installed in the city's rights-of-way which may interfere with any of the following:

- (a) Street or alley travel lanes;
- (b) Street trees;
- (c) Street parking spaces;
- (d) Parking meters;
- (e) Signs or signals;
- (f) Sidewalks, bike lanes, or multiuse paths;
- (g) Accessible curb ramps;
- (h) Drainage patterns and facilities;
- (i) Existing underground utilities; and
- (j) Existing above-ground utilities.

Interference shall not include the temporary removal or relocation of any of the above-listed items when said removal or relocation is needed in order to ensure the installation of a utility device or appurtenance listed in Section 12.12.020. The applicability of this exception shall be determined by the city engineer ~~city's transportation and traffic engineer~~.

12.12.050 Installation standards.

All utility devices and appurtenances installed under this chapter shall be subject to the following standards:

- (a) In accordance with generally accepted industry standards;
- (b) In accordance with the laws, regulations and rules noted in Section 12.12.030;
- (c) Located near the intersection of property lines;
- (d) Outside of the clear zone, unless specifically approved by the city engineer ~~city's transportation and traffic engineer~~;
- (e) No closer than two feet behind the edge of the pavement, unless specifically approved by the city engineer ~~city's transportation and traffic engineer~~ or required by any applicable law referenced in Section 12.12.030;
- (f) No higher than the maximum height permitted for any primary structure in the zoning district where the right-of-way is located, as described in Chapters 20.02 and/or 20.03 of the Bloomington Municipal Code, unless an applicable law, rule, regulation, or guideline of Section 12.12.030 requires the device or appurtenance to be higher than the maximum listed in the Bloomington Municipal Code; and
- (g) Separated from all pre-existing utility devices and/or appurtenances, either above-ground or below-ground, in accordance with the separation requirements of each pre-existing utility device and/or appurtenance, unless an encroachment is permitted by the existing utility or is located in a designated joint-use area.

12.12.060 Replacement.

The replacement of any utility device or appurtenance already located in ~~the a~~ city right-of-way at the time of adoption of this chapter shall be subject to the standards of this chapter as if the replacement was a newly requested installation.

12.12.070 Removal.

The owner or person having control of any utility device and/or appurtenance located in ~~the a~~ city right-of-way shall remove said device and/or appurtenance within forty-five (45) days after the device and/or appurtenance ceases to be used for the purpose for which it was erected.

12.12.080 Identification.

Each utility listed in Section 12.12.010 shall be required to provide the city engineer ~~city's transportation and traffic engineer~~, in an approved format such as a GIS shapefile, a detailed inventory identifying the location of each device or appurtenance it has presently located in ~~the a~~ city right-of-way no later than June 1, 2017. Additionally, each utility listed in Section 12.12.010 shall provide the city engineer ~~city's transportation and traffic engineer~~ an updated inventory upon any changes to its infrastructure; this updated inventory shall be due within thirty (30) days of the infrastructure being updated.

12.12.090 Rules and regulations.

The city engineer ~~city's transportation and traffic engineer~~ shall have the authority to establish reasonable rules and regulations in order to effectuate the terms and fulfill the purpose of this chapter. Any such rules and regulations will be posted on the city's website and available for viewing in the city's Engineering Department ~~planning and transportation department~~.

12.12.100 Penalty and appeal.

- (a) Penalty. The penalties for violating any provision of this chapter shall include, but may not be limited to, the following:
- (1) Fines which shall not exceed two thousand five hundred dollars for a first offense and seven thousand five hundred dollars for a second and each subsequent offense. Each day a violation occurs is considered ed a separate and distinct offense for purposes of fines.
 - (2) Removal of any device or appurtenance whose installation is in violation of this chapter.
 - (3) Revocation of any permits issued by the City that may relate to this chapter, especially a permit issued under Chapter 12.08 or Title 20.
- (b) Appeal. Any person who is aggrieved by any order issued by the city, a penalty other than a financial penalty issued by the city engineer ~~city's transportation and traffic engineer~~, a decision regarding an application for a permit, or the revocation of a permit, shall have the right to appeal said order or penalty to the city's Board of Public Works ~~board of public works~~.
- (1) Any such appeal shall be submitted to the city's Engineering Department ~~planning and transportation department~~, in writing, within seven days of the order or penalty being issued.
 - (2) The Board of Public Works ~~board of public works~~ shall consider the appeal within thirty days of the filing of an appeal.
 - (3) The Board of Public Works ~~board of public works~~ shall issue its decision in writing with said decision including findings of fact.
 - (4) The decision of the Board of Public Works ~~board of public works~~ may be appealed to the Monroe County Circuit Court, provided any such appeal is filed with the court within ~~sixty~~ thirty days of the Board of Public Works ~~board of public works~~ issuing its written findings of fact.
- ~~(c) The appeal of any financial penalty shall be taken directly to the Monroe County Circuit Court and shall be appealed within thirty days of the financial penalty being issued.~~

Chapter 12.20 TRANSPORTATION THOROUGHFARE PLAN

Sections:

12.20.010 Designation.

There is ~~an~~ adopted ~~an~~ official Transportation Plan thoroughfare plan for the city ~~and its extra-territorial planning jurisdiction~~, such plan having been adopted by Resolution MP-28-18 MP-02-02 of the Bloomington City Plan Commission on June 10, 2019 ~~December 16, 2002~~, with an effective date of July 17, 2019 ~~December 19, 2002~~.

12.20.020 Incorporation by reference—Description.

The official Transportation Plan is incorporated herein by reference, ~~thoroughfare plan is shown on the map entitled "Master Thoroughfare Plan, 2002" and chart entitled "Master Thoroughfare Plan,"~~ two copies of which are on file in the Office ~~office~~ of the City Clerk ~~city clerk~~ and the Planning and Transportation Department ~~planning and transportation department~~, ~~which are by this reference made a part of this code~~, showing location, alignment, functional classification, width of roadway, and minimum developed cross-section of existing and proposed facilities ~~thoroughfares~~.

12.20.030 Transportation facility ~~Thoroughfare~~ development.

The development, expansion, extension or realignment of new or existing transportation facilities ~~thoroughfares~~ shall be undertaken only in accordance with the Transportation Plan thoroughfare plan and recommended cross-sections as described in Section 12.20.020 and incorporated by this chapter. Proposals for deviation from any of the criteria contained in Section 12.20.020 shall require approval by the city Plan Commission ~~plan commission~~ before they shall be deemed to conform to the Transportation Plan ~~thoroughfare plan~~.

Chapter 12.24 TREES AND OTHER VEGETATION FLORA

Sections:

12.24.000 Purpose and intent.

It is the purpose of this chapter to regulate ~~any and all the~~ work, care, enforcement, ~~on and planting~~ and maintenance of all flora ~~boundary trees and trees~~ on public property and in the public rights-of-way. ~~("trees subject to these provisions") and flora on public property and in the public rights-of-way, to encourage proper selection and planting, and to assure compatibility with other urban infrastructure such as utilities, sidewalks and streets.~~

It is the intent of this chapter to establish the responsibilities of the city and its residents regarding all ~~toward~~ flora ~~and trees~~ subject to these provisions and to assure ~~those~~ regulations and policies maintain and increase the tree canopy within the city.

12.24.010 Definitions.

Whenever in this chapter the following words are used, they shall have the meanings respectively ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number, and words in the plural number include the singular number. The term "shall" is always mandatory and not merely directory. Terms not defined in this section shall have the meanings customarily assigned to them.

"Approved street tree species list" means a list of ~~proven~~ trees deemed adaptable to the street conditions of the city of Bloomington. The list is located in Bloomington Municipal Code Section 20.04.080(d)(1). ~~the "City of Bloomington Tree Work Manual."~~

"Board" means the Board of Park Commissioners ~~board of park commissioners~~ of the city of Bloomington, Indiana.

"Boundary tree" means a tree that meets one or more of the following criteria:

- (1) The stem of the tree straddles the actual property line between the public right-of-way ~~city public property~~ and the adjoining property;
- (2) The city and the adjoining property owner have previously agreed that the tree will identify the property boundary;
- (3) The city and the adjoining property owner have previously agreed to share the cost of maintaining the tree.

A boundary tree is the common property of both landowners.

"City" means the city of Bloomington, Indiana, including, but not limited to, the Board of Park Commissioners ~~board of park commissioners~~, the urban forester, or the board's designated agent.

"City of Bloomington Tree Care Work Manual" means the ~~official~~ arboricultural specifications manual ~~for of tree~~ care work as adopted by the city which specifies the policies and recommended practices of urban forestry ~~and which includes recommendations of size, spacing, and species of trees in urban forestry.~~

"Commission" means the tree commission as established in Bloomington Municipal Code Section 2.20.150.

"Critical root zone" means a circular region measured outward from the tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. Critical root zone is one foot in radial distance for every inch of tree diameter at breast height ("DBH"), with a minimum distance of eight feet. For specimen trees, the formula changes to one and one-half feet for every inch of tree DBH.

"Crown," also referred to as "canopy," means the above ground parts of a tree consisting of the branches, stems, buds, fruit and leaves.

"Department" means the Parks and Recreation Department ~~department of parks and recreation~~ of the city of Bloomington, Indiana.

"Flora" means all plants, including public trees shrubbery, but expressly excluding weeds and turf grass.

"Maintenance" means the trimming, care, pruning, protection, treating, and preservation of trees and other vegetation flora.

"Notice of violation" means a written notice of ordinance violation, as described in Section 12.24.110.

"Owner" means the person ~~in~~ who whom is vested with the ownership, dominion or title of property.

"Park trees" means trees on city-owned platted park areas.

"Person" means an individual, partnership, limited-liability company, corporation, firm, any other association or its agents or organization of any kind.

"Public street" means the entire area between the boundary lines of every dedicated right-of-way platted for and open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic within the corporate limits of the city.

"Right-of-way" means a strip of land reserved for, occupied, or intended to be occupied by transportation facilities, public utilities or other special public uses. Right-of-way may be held in the form of easement or fee.

"Shrub" means a woody plant which is characteristically below twenty feet in height and is multi-stemmed supporting mainly leafy growth.

"Specimen tree" means any tree or grouping of trees that has been determined by the urban forester to be of high value because of its species, size, age, form or historical significance.

"Street tree" means a tree on real estate abutting a public street or right-of-way that is owned or controlled by the city.

"Topping" means the severe cutting back to stubs of limbs larger than three inches in diameter within the tree's crown so as to remove the normal canopy and disfigure the tree.

"Tree" means a perennial woody plant, ordinarily with one main stem or trunk, which develops many branches, and which ordinarily grows to a height of twenty feet or more.

"Tree Drip Line" means an imaginary line trending from the outmost circumference of the tree canopy/crown straight down to the ground.

"Tree lawn," also referred to as "tree plot area," means the land lying between the boundary of the public street and private property except such portion covered by sidewalk or used as a walkway.

"Tree Protection Barrier" means temporary fencing used to protect existing trees, including roots and crown, from damage during construction. The fence used as the Tree Protection Barrier shall be installed three feet outward from the tree drip line to delineate the Tree Protection Zone and be at least 4 feet tall, highly visible, sturdy, and have warning signs on or near it for the duration of any construction activity.

"Tree Protection Zone (TPZ)" means a zone of protected space surrounding a tree or group of trees extending from the topmost branch or leader downward to 36 inches below the

surrounding ground surface level. The outer limits of the TPZ shall be determined by measuring three feet outward from the tree drip line and include the critical root zone.

"Tree work" means the planting, pruning, removal, treating, spraying, and any other tree maintenance or horticultural work intended for the enhancement or preservation of trees, and the removal and prevention of any and all damages to any trees caused by tree pests, blights and diseases. Tree work shall also include excavation within any tree drip line. ~~near trees and the planting of shrubs within the public tree lawn.~~

"Utilities" means both public and private utility companies.

12.24.020 City authority.

- (1) The city shall have the authority, control, supervision and direction over all flora and trees subject to these provisions.
- (2) The city shall have all the right and authority to order the removal of any tree or part thereof on private property which is deemed to be in an unsafe condition or which by the reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, telecommunication lines, or other public improvements, or is affected with any injurious fungus, insect or other pest which constitutes a potential threat to other trees within the city, or which constitutes a threat to public health or safety.
- (3) The city shall prepare and publish guidelines and specifications for tree planting, care, maintenance, and removal in a document titled entitled the "City of Bloomington Tree Care Work Manual" for reference and use by property owners, developers, consultants and the general public in furtherance of the requirements and intent of this chapter. The Manual shall be developed and maintained with the assistance of the commission.
- (4) The city shall review all applications for permits for any planting, removal and/or pruning trimming or cutting of trees subject to these provisions and shall have the authority to grant or deny permits and to attach reasonable conditions to the granting of a permit.

12.24.025 Replacement of the urban tree stock.

It is the policy of the city to maintain and expand the tree cover of the city as a whole and of individual streets and neighborhoods in particular by planting trees in accordance with practices observed by certified urban foresters. Overall, the city's annual goal shall be to plant at least twenty percent more trees than it removes, in order to maintain a planting to removal ratio of at least one point two to one. Once a tree has been removed, it shall be replaced, wherever possible, at or near its original location as soon as the planting season permits. Further, an ongoing program of replacing previously removed trees and of planting in new areas shall be conducted.

12.24.030 Tree lawn area maintenance.

- (1) The city shall have all the right and authority granted to municipalities under law to require the owners of parcels of land adjacent to a public street to maintain and improve the street tree lawn area. Such maintenance and improvement shall include, but is not limited to, leaf raking, turf grass mowing, brush collection, ~~and~~ landscape ~~bed~~ maintenance, and prohibited plant species removal.

- (2) The surface of tree lawn areas shall be as level as practicable, and the grade thereof shall be the top lines of the sidewalk and curb. No person shall pave, gravel, remove or otherwise convert existing grassed tree lawn areas.

12.24.040 Public safety and required clearances.

- (1) Vegetation Flora planted on public property or in the public rights-of-way and trees subject to these provisions shall ~~follow all stipulations set forth~~ ~~be sited as not to impede traffic visibility line of sight, at distances from street intersections as regulated~~ by the city of Bloomington Unified Development Ordinance 20.04.050(c)(4) and recommended practices in the "City of Bloomington Tree Care Work Manual."
- (2) Every owner shall remove or have removed all dead, diseased, or dangerous trees or vegetation flora, or broken or decayed limbs which overhang or may fall upon public property and which constitute a hazard to public safety. In addition, every owner shall properly prune or have properly pruned the branches of such tree(s) or other vegetation flora so that the branches shall not obstruct any traffic control signs or devices, the view of any street intersection, or light from any street lamp. Pruning shall be conducted following recommended practices in the City of Bloomington Tree Care Manual. There shall be a clearance standard space of fifteen feet above any highway or street surface and eight feet above any sidewalk surface to the bottom of the tree canopy.

12.24.050 Tree removal.

- (1) Except in emergency situations described in Section 12.24.070(3)(b), any tree subject to these provisions that is scheduled for removal by the city shall have an informational placard placed on the tree a minimum of ten working days before tree removal. The placard shall specify the reason for tree removal, projected removal date, and contact information.
- (2) If removal of a tree subject to these provisions is necessary ~~for construction purposes~~, the property owners shall pay for complete tree removal at their own costs and ~~a~~ replacement ~~tree or~~ trees of equal value equal to current standards shall be planted on site or at a location owned or controlled by the city, and determined by the urban forester or their designee ~~city~~.

12.24.060 Removal of stumps.

In the process of tree removal, stumps of trees subject to these provisions shall be ground to ~~24 six~~ inches ~~or more~~ below ground level to make room for a replacement tree and the cavity filled with soil and leveled. Stump removal shall include removing the entirety of the ~~the chipping of all limbs and removal of the stump as well as any surface roots. The urban forester may authorize stump grinding to a shallower depth where utilities are present or other conflicts exist.~~

12.24.070 Tree work permits.

- (1) All tree work, performed on trees subject to these provisions, shall follow the standards as set forth in this chapter and in the "City of Bloomington Tree Care Work Manual."

- (2) Except for the city and its agents, no person shall, unless otherwise noted herein, take the following actions without having first secured a tree work permit:
- (a) Plant, cut, remove, or treat with pesticide any tree subject to these provisions, except as otherwise noted herein; or
 - (b) Excavate any ditches, tunnels, boring pits, vaults, or trenches, lay any drive, install underground utilities, or store any substance within the tree protection zone a ten-foot radius of any tree subject to these provisions. When excavating, constructing or performing any street work within the tree protection zone a ten-foot radius of any tree subject to these provisions, all protective measures from BMC 12.24.075 the tree shall be followed. guarded with a fence, frame, or box, not less than four feet high and eight feet by eight feet square and all building material, dirt, or other debris shall be kept outside the barrier. Where heavy equipment will pass repeatedly over the tree's critical root zone a temporary layer of at least three inches depth of shredded bark or wood chips shall be placed and maintained on the ground.
- (3) No permit shall be required in the following situations:
- (a) The pruning trimming, by a property owner, of limbs less than two three inches in diameter of any tree subject to these provisions in the tree plot adjoining the owner's property, which does not exceed twenty thirty percent of the tree's canopy. Property owners shall follow recommended practices in the Tree Care Manual;
 - (b) During emergency situations, the city or public utilities may prune trim or remove any trees which endanger the public, inhibit the passage on city streets, or interfere with utilities and public infrastructure. Topping and the severe cutting back of limbs may be allowed under emergency conditions. The city may act without prior notification to the property owner;
 - (c) Any tree work performed by a city department or its agents; ~~or~~
 - (d) During road, curb, or sidewalk construction or utility installation or repair it may be necessary for the city to remove a non-hazard tree or trees. Trees in such situations shall be evaluated by the urban forester as to preservation potential; ~~or-~~
 - (e) For directional boring that passes close to or under trees, unless boring pits or vaults must be installed as described in BMC 12.24.070(2)(b).
- (4) Tree work permits are available without a charge from the department. All permit applications shall be reviewed by the department. The granting or denial of these permits shall be made in accordance with the policies and principles of urban forest management set forth in this chapter or as otherwise adopted by the board.
- (5) Any tree work related to matters pending before the Board of Zoning Appeals board of zoning appeals, the Plan Commission plan-commission, or the Common Council common council shall be accompanied by a completed tree work permit application. If the Board of Zoning Appeals board of zoning appeals, the Plan Commission plan-commission, or the Common Council common council approves matters which will impact trees subject to these provisions, the tree work permit is deemed automatically granted and shall be forwarded to the department. Decisions by the Board of Zoning Appeals board of zoning appeals, the Plan Commission plan-commission, or the Common Council common council

that impact trees subject to these provisions shall be made in accordance ~~aeoord~~ with the policies and principles of urban forest management set forth in this chapter or as otherwise adopted by the board.

- (6) When filing an application for a tree work permit, the ~~person~~ responsible party for performing any and all tree work removal, pruning, stump removal, or trenching near trees shall also file a single or continuous bond payable to the city in a sum, as the department may designate. Bonds shall be filed with the department and shall be conditioned to save the city harmless from any loss, cost, or damage by reason of such proposed work, and that the same shall be done in all respects in conformity to the requirements of this code and all other ordinances of the city regulating same. The applicant must be able to demonstrate to the city's satisfaction that it is of sound financial condition and is adequately bonded and insured. Unless otherwise mandated by the board, posting a bond for tree planting activity is not required during the tree permit application process.

12.24.075 Tree Protection

- (1) Any existing public tree subject to these provisions, shall be protected by a Tree Protection Zone for the duration of construction and/or land-disturbing activities.
- (2) The Tree Protection Zone shall be surrounded by a tree protection barrier at least 4 feet tall, highly visible, sturdy, that restricts entry, and has warning signs that specify the financial penalties possible if encroachment occurs.
- (3) Tree Protection Zones shall be depicted on the site plans to avoid conflict with utilities or structures during construction.
- (4) The Tree Protection Barrier shall be installed by the responsible party and inspected by the city or its designees prior to land-disturbing activities.
- (5) The following activities are prohibited within the Tree Protection Zone:
 - (a) Construction or land-disturbing activities,
 - (b) Equipment or supply storage,
 - (c) Equipment movement,
 - (d) Stockpiling,
 - (e) Rest or picnicking,
 - (f) Altering soils, including grade changes, surface treatment, compaction, or foot traffic.
- (6) If there are impediments to achieving a compliant Tree Protection Zone, the city's urban forester or their designees shall be consulted regarding a site-specific plan for alternative tree protection practices or exemptions. At this time, the responsible party shall submit a tree work permit application.
- (7) The following is an inclusive but not exhaustive list of potential impediments:
 - (a) Access to project area
 - (b) Impervious surface construction or maintenance within the tree protection zone
 - (c) Unforeseen circumstances that may alter a project's scope of work

(d) Utility infrastructure maintenance

12.24.080 Prohibited actions.

- (1) No person shall in any manner obstruct or interfere with the agents or employees of the city while carrying out the provisions of this chapter or the orders issued by the board.
- (2) No person shall do any of the following to trees subject to these provisions:
 - (a) Damage, cut, carve or deface;
 - (b) Attach any wires, nails, chains, cables, advertising posters or any other contrivance;
 - (c) Allow contact with any harmful gaseous, solid or liquid substance; or
 - (d) Set fire or allow to burn.

12.24.090 Tree topping banned.

It is unlawful for any person to top any tree subject to these provisions. Topping is defined in Section 12.24.010. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning methods are impractical, may be exempted from this practice by a written determination by the department.

12.24.100 Public nuisance.

All vegetation trees or flora within the city which has been are determined by the city to constitute a public hazard or threat to health, safety, life, or property may be declared to be a public nuisance. The board may order removal of any such nuisances or other violations of this chapter.

12.24.110 Notice of violation.

- (1) If the board or its designee determines that there is a violation of this chapter or a public nuisance, the board or its designee shall issue a notice of violation (NOV) to the responsible party. For purposes of issuing a NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: property owner(s); and persons who have caused the violation.
- (2) The NOV shall be served upon the responsible party by mailing a copy to that person's last known mailing address.

The notice shall include:

- (a) The address by legal description or street address of the location or premises of the trees or other vegetation flora;
- (b) The kind of tree or vegetation flora in violation of this chapter;
- (c) The sections of this chapter for which the responsible party is in violation;
- (d) Any actions that the responsible party may undertake to abate such violation and the time period specified to abate such violation;

- (e) The fact that a penalty may be assessed pursuant to Bloomington Municipal Code Section 12.24.120; and
 - (f) The date after which the city may abate the nuisance or violation.
- (3) The city shall, upon order of the board, take steps to remedy the violation. If the responsible party fails to remedy the violation cited in the NOV during the correction period, the city Legal Department ~~legal department~~ may bring suit in a court of competent jurisdiction to collect the accumulated fines, and any other costs associated with the remedy of the violation as are allowed by law, and any other remedies available, including but not limited to injunctive relief.
- (4) If a property owner fails to abate the violation cited in the NOV and the city remedies the violation, the controller shall make a certified statement of the actual cost incurred by the city for the action. The statement shall be served on the landowner by certified mail. The landowner shall pay the amount in the statement to the city legal department within ten working days of receiving it. If the property owner should fail to pay within the ten-day period, a certified copy of the statement of costs shall be filed in the offices of the county auditor. The auditor shall place the amount claimed on the tax duplicate against the property affected by the work. The amount shall be collected as taxes are and disbursed to the general fund of the city.

12.24.120 Violation and penalties.

- (1) Any person violating any of the provisions of this chapter may be issued an official warning.
- (2) Any person violating any of the provisions of this chapter shall, upon a written notice of violation (NOV), be subject to a penalty up to the statutory limit as described in Indiana Code Section 36-1-3-8, as amended.

12.24.130 Appeal.

Any person aggrieved by the department's denial of a tree work permit, the issuance of a notice of violation, or the city's notice of tree removal, shall have the right of appeal to the board. No appeal is allowed for emergency tree removal, described in Bloomington Municipal Code Section 12.24.070(3)(b). Appeals shall be made within ten working days after the action complained of, or for notice of tree removal, within seven working days of the posting of notice of tree removal. An appeal is made by filing a written statement with the board setting forth fully the grounds for the appeal. The board shall convene at a public meeting to review their initial decision in light of the appeal, and shall issue written findings. The decision and order of the board on such appeal shall be final and conclusive.

All appeals from written findings of the board shall be made to a court of competent jurisdiction within sixty ten ~~ten~~ working days of the issuance of the findings.