



City of Bloomington Common Council

Legislative Packet

Wednesday, 07 March 2018

Regular Session

(to be immediately followed by a)

Committee of the Whole

For legislation and background material regarding Ordinance 18-01
please consult the [21 February 2018 Legislative Packet](#).
All other material and legislation contained herein.

*For a schedule of upcoming meetings of the Council and the City's boards and
commissions, please consult the City's [Calendar](#).*

Office of the Common Council
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Bloomington, Indiana 47402
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<http://www.bloomington.in.gov/council>



Packet Related Material

Memo Agenda Notices:

- **Notice of Dimension Mill and Trades District Ground Breaking** at 2 pm on Tuesday, March 6th (*Note: this notice is posted because a quorum of Council may be present*)
- **Notice of Council Sidewalk Committee Meeting** to be held on Monday, March 12, 2018 at noon in the Council Library
- **Notice of Jack Hopkins Social Service Committee Meetings for 2018**

Legislation for Consideration under Second Readings and Resolutions at the Regular Session on

- **Ord 18-01** To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Sidewalk Requirements and Sidewalk Variances Set Forth in BMC 20.05.010, 20.05.051, 20.09.130, 2.09.135 & 20.11.020
 - Memo to the Council, Jacqueline Scanlan, Acting Development Services Manager
 - Map of City Streets – with color-coding of street classifications
 - City Sidewalk Inventory from 2015 (prepared by Planning and Transportation staff)
 - Excerpts from BMC Title 20 (Unified Development Ordinance) – Annotating Changes

Contact:

Jackie Scanlan at 812-349-3423, scanlanj@bloomington.in.gov

→ Introduced on 21 February 2018 and discussed on 28 February 2018. Please consult that [Legislative Packet](#) issued for the 21 February 2018 Regular Session for legislation and background material.

Supplemental Material

- Amendments regarding Section 1 are anticipated.

→ *Amendments will be made available next week prior to, or at, the Regular Session.*

Legislation to be Introduced under First Reading at the Regular Session and Discussed at the Committee of the Whole – One Meeting Following the Other on Wednesday, 07 March 2018

→ *With all legislation and background material contained in this Legislative Packet.*

- **Ord 18-04** To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Amending Fencing and Wall Standards and Some Related Definitions Set Forth in BMC 20.05.046(d) and BMC 20.11.020
 - Memo to Council from Amelia Lewis, Zoning and Long Range Planner;
 - Staff Report to the Plan Commission (February 5, 2018);
 - Title 20 (UDO) – Excerpts – Annotating changes proposed by Ord 18-04

Contact:

Amelia Lewis at 812-349-3549, lewisa@bloomington.in.gov

- **Ord 18-06** To Amend Title 16 of the Bloomington Municipal Code (BMC) Entitled “Residential Rental Unit and Lodging Establishment Inspection Program” - Re: Repeal of Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers)
 - Memo to the Council from Chris Wheeler, Assistant City Attorney
 - Title 16 – highlighting chapters removed by this ordinance

Contact:

Chris Wheeler at 812-349-3426; wheelech@bloomington.in.gov

Minutes

- February 7, 2018 – Regular Session

Memo

Two Meetings on Wednesday, March 7th One Item Ready for Consideration under First Reading at the Regular Session and Two Items Ready for Introduction at the Regular Session and Discussion at the Committee of the Whole later that Evening

There are two meetings next Wednesday. The Committee of the Whole normally scheduled for the second Wednesday is being combined with the Regular Session because of Spring Break. There is one item ready for consideration under Second Readings and Resolutions. Then there are two items ready for introduction under First Readings and discussion at the Committee of the Whole. As noted above, this packet and the packet issued for the Regular Session on February 21st will need to be consulted for the various legislation and background material.

Resolutions and Second Readings

Item One – Ord 18-01 (Amending Sidewalk Requirements in Title 20 [Unified Development Ordinance]) - Possible Amendments

Amendments regarding Section 1 of Ord 18-01 are anticipated. Section 1 would exempt all new single-family residences built on existing legal lots of record on neighborhood streets and any additions to existing residential structures from the site plan requirement to include the construction of sidewalks. The amendments may narrow or remove this exemption.

Items for First Readings and Discussion Next Week

Item 1 – Ord 18-04 (Amending Title 20 – Unified Development Ordinance [UDO]) – Re: Fence Height Regulations for Lots with More than One Street Frontage

The first item to be introduced at First Reading on March 7th is Ord 18-04. It comes forward from the Plan Commission and would amend the fence regulations in Title 20 (Unified Development Ordinance) to address corner and through lots which, unlike interior lots, face a public street on at least two sides (street frontages). This summary is drawn from the memo provided by Amelia Lewis, Zoning and Long Range Planner, and a review of Title 20.

Current Regulation, Rationale, and Issues

Currently, property between the street and the primary structure¹ (what, in a neighborhood, would typically be a dwelling) is considered a “front yard.” Fences built in the front yard must not exceed four feet in height. Fences built behind the front wall of the primary building may be as high as eight feet.

According to the memo, “this regulation was added to the UDO in 2006 to prevent tall privacy fences from being placed adjacent to sidewalks negatively impacting the pedestrian experience.”²

According to the staff report to the Plan Commission, the regulation has resulted in about 22 requests for variances in the last 10 years (with 15 approved, 4 denied, and 3 withdrawn) and about 5 complaints to uReport³ in the last year or so. These changes, in essence, adjust the divide between public and private spaces along the City’s streets in order to give property owners more opportunity to use their property without unduly impinging upon the pedestrian enjoyment of these spaces.

Proposed Change

For purposes of fence heights, the proposed changes would categorize lots with a primary structure as either a(n) “interior,” “corner,” or “through” lot and, for those lots with more than one street frontage, allow the construction of fence as high as 8 feet along the frontage that functionally serves as the side or rear yard. However, these taller fences must be located at additional distances from the property line in order to preserve the positive pedestrian experience.

Change Definition of “Interior Lot” to Identify Lots with One Street Frontage.

The proposed changes would keep the current rule on fence height for lots with one street frontage, but change it for lots with more than one street frontage. The current definition of “interior lot” however excludes lots along alleys and public ways, which do not create street frontages. To draw the distinction between lots with one and more than one street frontage, the ordinance changes the definition to include (rather than exclude) lots separated by alleys and public ways (but not public streets). That definition reads as follows:

¹ Technically the inward side of the yard begins with the “building wall of the primary structure”

² The memo also speaks of “enhancing the public realm along street-facing frontages.”

³ uReport is the City’s system for recording, referring, and tracking citizen complaints.

“Interior lot” means any lot, the side property line of which abuts the rear⁴ property line of one or more lots, and which is not separated by a ~~n alley or any other public way~~ **public street**.

Add Definition for “Secondary Front Building Wall” to Distinguish Between Multiple Street Frontages on the Same Lot. As stated in the memo, in those instances where a lot has two front yards, the ordinance designates one as a primary and the other as a secondary front yard. The “primary front [yard], [is] where people typically enter the building, and the secondary front [yard], [is] the non-addressed side which functions as a side yard, but is still along a public street.” The ordinance accomplishes this by adding a definition for the “Secondary Front Building Wall,” which is associated with the street frontage which may have a higher fence. The definition reads as follows:

“Secondary Front Building Wall” means the non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

Add Fence Provisions Regarding Corner Lots. The ordinance includes provisions for corner lots with more lax standards for the fence heights along the side of the primary structure with secondary building wall. Here, fences must be no more than four feet high if built at the build-to line (which is where a building must be built)⁵ or setback line (which is the closest distance from property line that a building may be built),⁶ whichever applies,⁷ but can be as high as eight feet if behind the applicable line.

Note: The memo acknowledges that the proposal will not solve all problems and the change gives the Director of Planning and Transportation the authority to determine questions regarding which building-face serves as the “secondary front building wall.” Imagine, for example, a corner lot that is also a through lot.

Add Fence Provisions Regarding Through Lots. The ordinance also adds similar fence-height provisions for through lots, which designate the placement of higher fences based upon the road-classification of the public street along the secondary

⁴ The reference to “rear” appears to have been error which is corrected by this ordinance.

⁵ “Build-to Line” means an alignment establishing a certain distance from the front property line where a building must be constructed.

⁶ “Setback” means the minimum required distance between a structure or parking area and the lot lines of the lot on which they are located.”

⁷ Chapter 20.02 (Zoning Districts) sets forth the requirement for each district.

front building wall. In secondary front yards along neighborhood and secondary collector streets, fences higher than four feet, but not exceeding eight feet, must meet the building setback. Such fences along primary collector and arterial streets must be set back at least 10 feet from the property line.

Alternatives Considered by the Plan Commission. As mentioned above, the memo states that “this change will not solve all the problems or prevent all variance requests, but will allow for some additional options for property owners.” It notes that Commission considered “a flat setback distance from a property line or transparency standards for fences over 4 feet ... but chose the building setback line or build-to-line” on the secondary front yard for fences higher than four feet because these were places that a building (which is much more imposing than a fence) could be built.

Council Review

The Plan Commission voted on February 5th in favor of these changes by a vote of 8-0-0 and this action was certified to the Council on February 13th.

The Council is required to vote on an amendment to a zoning ordinance within ninety days of certification from the Plan Commission. That period expires in mid-May. Having come forward with a positive recommendation from the Plan Commission, failure of the Council to act within that time frame would result in the ordinance taking effect after 90 days.

Indiana Code § 36-7-4-603 directs that, in amending a zoning ordinance, the legislative body “shall pay reasonable regard” to the following:

- the comprehensive plan (the Growth Policies Plan);
- current conditions and the character of current structures and uses in each district;
- the most desirable use for which the land in each district is adapted;
- the conservation of property values throughout the jurisdiction; *and*
- responsible development and growth. (I.C. § 36-7-4-603)

Importantly, these are factors a legislative body must *consider* when making a change in the text or maps within the UDO. Nothing in statute requires that the Council find absolute conformity with each of the factors outlined above. Instead, the Council is to take into consideration the criteria as a whole, balancing these statutory factors.

Item 2 – Ord 18-06 Amending Title 16 (Residential Rental Unit and Lodging Establishment Inspection Program) to Repeal Invalid Chapters

The second item to be introduced next Wednesday is **Ord 18-06**. It amends Title 16 (Residential Rental Unit and Lodging Establishment Inspection Program) by repealing chapters that were rejected either by the State of Indiana Fire Prevention and Building Safety Commission (Commission) or a court. These chapters were enacted with the adoption of Ord 12-17 in November 2012 and include:

- Chapter 16.06 – Public Health and Safety
- Chapter 16.07 – Smoke Detectors
- Chapter 16.08 – Carbon Monoxide Detectors
- Chapter 16.09 – Fire Extinguishers

According to the memo prepared by Chris Wheeler, Assistant City Attorney, three of these chapters (Chapter 16.06, Chapter 16.08 & Chapter 16.09) were, at the time of adoption, considered “building laws” and/or “fire safety laws” which, under IC §22-13-2-5, needed to be approved by the Commission before going into effect. Those chapters were submitted to the Commission, which in January 2013, denied them. As such, these chapters were never put in effect, never enforced and will, by this ordinance, be removed from local code.

At the time of adoption, the fourth chapter, Chapter 16.07 (Smoke Detectors), was not considered by staff⁸ as a local law that needed to be reviewed by the Commission and was enforced by the City upon adoption. According to Wheeler’s memo, “the main goal of Chapter 16.07 was to raise the standard of fire safety in all buildings by requiring hardwiring⁹ of all smoke detectors.” However, the provision setting forth that requirement was challenged in local court and found to conflict with State law which, it concluded, allowed property owners to use battery-powered smoke detectors.

At the same time, the Court ruled that the City should submit Chapter 16.07 to the Commission for review and approval before it could be enforced. The memo notes that absent this key provision, Chapter 16.07 “more or less mirrors state law regarding installation and maintenance of smoke detectors.” Given that Chapter 16.07 offers little more than what the HAND department may already do and the prior stance of the Commission regarding the City’s efforts to enhance local safety, the memo recommends that Chapter 16.07 be repealed rather than be submitted to the Commission.

⁸ According to the memo, staff in this case, also included an attorney for the Commission.

⁹ Hardwiring entails connecting smoke detectors into the building’s power supply.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL
REGULAR SESSION AND COMMITTEE OF THE WHOLE
6:30 P.M., WEDNESDAY, MARCH 7, 2018
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

REGULAR SESSION

- I. ROLL CALL**
- II. AGENDA SUMMATION**
- III. APPROVAL OF MINUTES FOR:** 07 February 2018 – Regular Session
- IV. REPORTS** (A maximum of twenty minutes is set aside for each part of this section.)
 - 1. Councilmembers**
 - 2. The Mayor and City Offices**
 - 3. Council Committees**
 - 4. Public***
- V. APPOINTMENTS TO BOARDS AND COMMISSIONS**
- VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Ordinance 18-01 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (BMC) – Re: Sidewalk Requirements and Sidewalk Variances Set Forth in BMC 20.05.010, 20.05.051, 20.09.130, 2.09.135 & 20.11.020

Committee Recommendation: Do Pass 1 – 0 – 8

VII. LEGISLATION FOR FIRST READING

1. Ordinance 18-04 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (BMC) - Re: Amending Fencing and Wall Standards and Some Related Definitions Set Forth in BMC 20.05.046(d) and BMC 20.11.020

2. Ordinance 18-06 To Amend Title 16 of the Bloomington Municipal Code Entitled “Residential Rental Unit and Lodging Establishment Inspection Program” - Re: Repeal of Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers)

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

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

(To be immediately followed by a)

COMMITTEE OF THE WHOLE

Chair: Cm. Allison Chopra

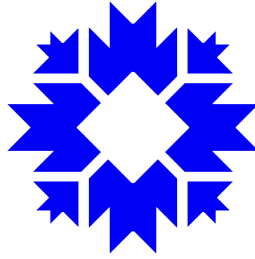
1. Ordinance 18-06 To Amend Title 16 of the Bloomington Municipal Code Entitled “Residential Rental Unit and Lodging Establishment Inspection Program” - Re: Repeal of Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers)

Asked to Attend: Chris Wheeler, Assistant City Attorney

2. Ordinance 18-04 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Amending Fencing and Wall Standards and Some Related Definitions -- Set Forth in BMC 20.05.046(d) and BMC 20.11.020

Asked to Attend: Amelia Lewis, Zoning and Long Range Planner

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



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

NOTICE

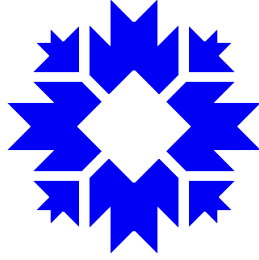
Members of the Bloomington Common Council
have been invited to attend

**Dimension Mill and Trades District
Groundbreaking**

**Tuesday, 06 March 2018
2:00 pm**

334 W 11th Street, Bloomington

As a quorum of the Council may be present, this gathering may constitute a meeting of the Common Council under Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.



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

NOTICE

**Initial Meeting of the
Council Sidewalk
Committee**

**Monday, 12 March 2018
12:00pm
Council Library (Suite #110)
City Hall, 401 North Morton**

Posted: Friday, 02 March 2018



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

NOTICE

Common Council Jack Hopkins Social Services Funding Committee

The *2018 Jack Hopkins Social Services Funding Committee* will meet on the following dates:

- **Monday, 23 April 2018, 5:30pm**
Committee meets to discuss applications
Council Library (Room #110)
- **Thursday, 03 May 2018, 5:30pm**
Agency Presentations
Council Chambers (Suite #115)
- **Monday, 21 May 2018, 5:30pm**
Pre-allocation Meeting
Council Library (Room #110)
- **Thursday, 24 May 2018, 5:00pm**
Allocation Hearing
Council Chambers (Suite #115)
- **Tuesday, 05 June 2018, 5:30 pm**
Debriefing Meeting
Council Library (Room #110)

Pursuant to Indiana Open Door Law (I.C. §5-14-1.5), this provides notice that these meetings will occur and are open for the public to attend, observe, and record what transpires.

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812.349.3409 or e-mail council@bloomington.in.gov.

Dated and Posted: 02 March 2018

ORDINANCE 18-04
TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE (BMC)
- Re: Amending Fencing and Wall Standards and Some Related Definitions
Set Forth in BMC 20.05.046(d) and BMC 20.11.020

- WHEREAS, the Unified Development Ordinance (“UDO”) regulates development and architectural standards within the City of Bloomington; and
- WHEREAS, the UDO contains regulations related to fence heights; and
- WHEREAS, as written, lots with two or more street frontages are considered to have at least two front yards; and
- WHEREAS, property owners with corner lots are prohibited from building fencing exceeding 4 feet in height along any of the street-facing frontages; and
- WHEREAS, said regulation was primarily written to prevent tall privacy fences from being placed adjacent to sidewalks negatively impacting the pedestrian experience and to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages; and
- WHEREAS, this is a common variance request as well as a common enforcement issue that the Planning and Transportation Department (“Department”) faces; and
- WHEREAS, the Department proposes to amend the UDO fence rules related to corner lots to distinguish between the primary front, where the main entrance of a building is, and the secondary front, the non-addressed side which functions as a side yard, but is still along a public street; and
- WHEREAS, the Plan Commission considered this case, ZO-46-17, on February 5, 2018 and made a positive recommendation in favor of the amendment to the UDO, as described herein.

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

SECTION 1. Section 20.05.046(d), entitled “Fence and Wall Standards, General: Maximum Height,” shall be deleted and replaced with the following:

20.05.046(d) Fence and Wall Standards, General: Maximum Height

(d) Maximum Height:

(1) Interior Lots

(A) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.

(B) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.

(2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.

(A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).

(B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.

(C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.

(D) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.

(3) Through Lots: On through lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.

- (A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).
 - (B) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a neighborhood street or secondary collector street, shall meet the building setback.
 - (C) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least ten (10) feet from the property line.
- (4) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.

SECTION 2. Section 20.11.020, entitled “Defined Words” shall be amended by deleting the definition of “Lot, Interior” and replacing it with the following:

Lot, Interior. “Lot, Interior” means any lot, the side property line of which abuts the real property line of one (1) or more lots, and which is not separated by a public street.

SECTION 3. Section 20.11.020, entitled “Defined Words” shall be amended to add the following new definition:

Secondary Front Building Wall. “Secondary Front Building Wall” means the non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

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

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and in accordance with I.C. §36-7-4-607.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2018.

DOROTHY GRANGER, 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 _____, 2018.

NICOLE BOLDEN, CLERK
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2018.

JOHN HAMILTON, MAYOR
City of Bloomington

SYNOPSIS

This ordinance amends the Unified Development Ordinance, Title 20 to change the fence height regulations for properties with more than one street frontage. The current regulation was added to the UDO in 2006 to prevent tall privacy fences adjacent to sidewalks and to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages. However, this is a common variance request and an enforcement dilemma for the Planning and Transportation Department (“Department”). Therefore, the Department proposes the changes to clarify said regulations.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 18-04 is a true and complete copy of Plan Commission Case Number ZO-46-17 which was given a recommendation of approval by a vote of 8 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on February 5, 2018.

Date: February 8, 2018


 Terri Porter, Secretary
 Plan Commission

Received by the Common Council Office this 13th day of February, 2018.


 Nicole Bolden, City Clerk

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

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

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

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

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

Signature of Controller

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

Yes _____ No _____

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

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

Interdepartmental Memo

To: Members of the Common Council
From: Amelia Lewis, Zoning and Long Range Planner
Re: Ordinance #18-04
Date: February 8, 2018

Attached is the staff memo and supporting documents pertaining to Plan Commission case #ZO-46-17, presented to the Common Council as Ordinance #18-04. The Plan Commission heard this petition at its February 5, 2018 hearing and voted 8-0 to send to the Common Council with a positive recommendation.

The Plan Commission approved changes to the height of fences addressed in FW-01 Fence and Wall Standards in the Unified Development Ordinance (UDO). As written, the UDO counts any street-facing property line as a front yard. Lots with two or more street frontages are considered to have two front yards. Property owners with corner lots are prohibited from building fencing exceeding 4 feet in height forward of the front wall of the building along any of the street-facing frontages.

This regulation was added to the UDO in 2006 to prevent tall privacy fences from being placed adjacent to sidewalks negatively impacting the pedestrian experience. It was also intended to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages.

The existing regulations for the primary front yard would remain the same in order to keep the pedestrian realm along streets open. This amendment will clarify front yards on corner lots between the primary front, where people typically enter a building, and the secondary front, the non-addressed side which functions as a side yard, but is still along a public street.

Alternative options were considered such as a flat setback distance from a property line or transparency standards for fences over 4 feet. The Department chose the building setback line or the build-to-line as the secondary front yard setback line for fences as the UDO permits a building at this spot on the lot, and a fence would not be more intrusive than a wall at this location. This change will not solve all problems or prevent all variance requests, but will allow for some additional options for property owners.

The changes proposed are described below:

1. Amend the definition of *Interior Lot*.

Lot, Interior: Any lot, the side property line of which abuts the real property line of one (1) or more lots, and which is not separated by a public street.

2. Add a new definition for *Secondary Front Building Wall*.

Secondary Front Building Wall: The non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

3. Changes to corner lot standards. On the secondary front, the non-addressed portion of the lot, fences up to eight (8) feet in height would be permitted up to the building setback line or the build-to-line, whichever applies. This would ensure the fences maintain a distance from the sidewalk and adjacent street while still providing the ability to place a fence in a functioning side yard.
4. Changes to through lot standards. When considering through lots within the city, the most desirable location for taller fences was determined by the surroundings, primarily the adjacent roadway. For the secondary front on through lots, the setback of fences up to eight (8) feet in height will be determined by the classification of the adjacent road. When the frontage is adjacent to a neighborhood street or secondary collector street, fences taller than four (4) feet in height shall meet the building setback. When the frontage is adjacent to a primary collector street or arterial street, fences exceeding four (4) feet shall be located at least ten (10) feet from the property line.

Proposed Amendment:

20.11.020 Defined Words

Lot, Interior: Any lot, the side property line of which abuts the rear property line of one (1) or more lots, and which is not separated by ~~an alley or any other public way~~ a public street.

Secondary Front Building Wall: The non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

~~20.05.046 FW-01 [Fence and Wall Standards, General]~~

~~(d) Maximum Height:~~

- ~~(a) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.~~
- ~~(b) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.~~
- ~~(c) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.~~

20.05.046 FW-01 [Fence and Wall Standards, General]

(d) Maximum Height:

(1) Interior Lots

- (A) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.

- (B) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.
- (2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.
 - (A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).
 - (B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.
 - (C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.
 - (D) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.
- (3) Through Lots: On through lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.
 - (A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).
 - (B) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a neighborhood street or secondary collector street, shall meet the building setback.
 - (C) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least ten (10) feet from the property line.
- (4) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.

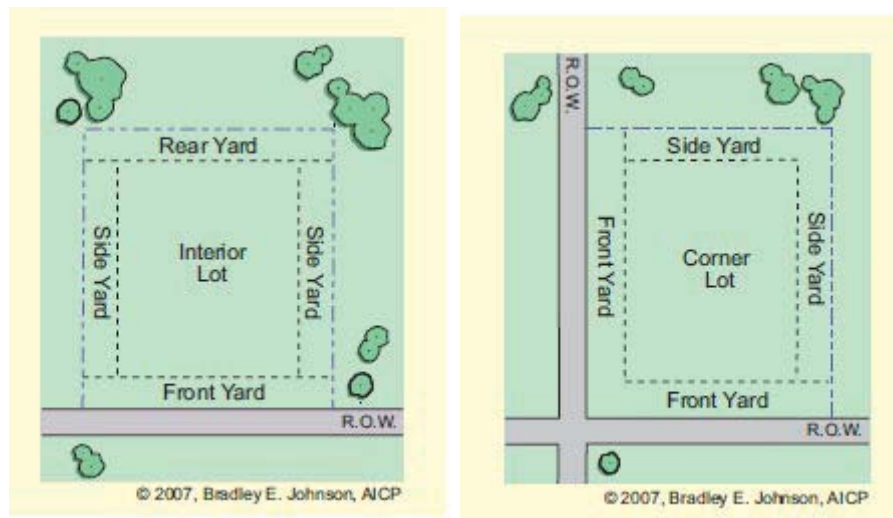
ZO-46-17 MEMO:

To: Plan Commission
From: Amelia Lewis, Zoning and Long Range Planner
Date: February 5, 2018
Re: Amendments to the Unified Development Ordinance concerning fence standards for corner lots and through lots (2nd hearing)

The Planning and Transportation Department proposes to amend 20.05.046, FW-01 Fence and Wall Standards in the Unified Development Ordinance (UDO). Currently, fences forward of the front wall of the building are not permitted to exceed 4 feet in height.

As written, the UDO counts any street-facing property line as a front yard. Lots with two or more street frontages are considered to have two front yards. Property owners with corner lots are prohibited from building fencing exceeding 4 feet in height along any of the street-facing frontages.

This regulation was added to the UDO in 2006. It was primarily written to prevent tall privacy fences from being placed adjacent to sidewalks negatively impacting the pedestrian experience. It was also intended to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages.



This is a common variance request as well as a common enforcement issue that the Department faces. Since 2007, there have been 15 approved variances for fences in front yards, 4 that were denied and 3 that were withdrawn. Since 2016 there have been 5 UReport complaints about properties with fences not meeting compliance standards.

The proposed amendment would clarify front yards on corner lots between the primary front, where people typically enter a building, and the secondary front, the non-addressed side which functions as a side yard, but is still along a public street.

The existing regulations for the primary front yard would remain the same in order to keep the pedestrian realm along streets open.

Changes to Corner Lots

On the secondary front, the non-addressed portion of the lot, fences up to eight (8) feet in height would be permitted up to the building setback line or the build-to-line, whichever applies. This would ensure the fences maintain a distance from the sidewalk and adjacent street while still providing the ability to place a fence in a functioning side yard.

Alternative options were considered such as a flat setback distance from a property line or opacity standards for fences over 4 feet. The Department chose the building setback line or the build-to-line as the secondary front yard setback line for fences as the UDO permits a building at this spot on the lot, and a fence would not be more intrusive than a wall at this location. This change will not solve all problems or prevent all variance requests, but will allow for some additional options for property owners.

Changes to Through Lots

Following discussion at the January 8th Plan Commission meeting further revisions to the through lot fence standards have been included. When comparing different examples of through lots within the city, the most desirable location for taller fences was determined by the surroundings, primarily the adjacent roadway.

For the secondary front on through lots, the setback of fences up to eight (8) feet in height will be determined by the classification of the adjacent road. When the frontage is adjacent to a neighborhood street or secondary collector street, fences taller than four (4) feet in height shall meet the building setback. When the frontage is adjacent to a primary collector street or arterial street, fences exceeding four (4) feet shall be located at least ten (10) feet from the property line.

Proposed Amendment:

20.11.020 Defined Words

Lot, Interior: Any lot, the side property line of which abuts the rear property line of one (1) or more lots, and which is not separated by ~~an alley or any other public way~~ a public street.

Secondary Front Building Wall: The non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

~~20.05.046 FW-01 [Fence and Wall Standards, General]~~

~~(d) Maximum Height:~~

- ~~(a) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.~~
- ~~(b) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.~~

- ~~(e) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.~~

20.05.046 FW-01 [Fence and Wall Standards, General]

(d) Maximum Height:

(1) Interior Lots

(A) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.

(B) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.

(2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.

(A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).

(B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.

(C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.

(D) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.

(3) Through Lots: On through lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.

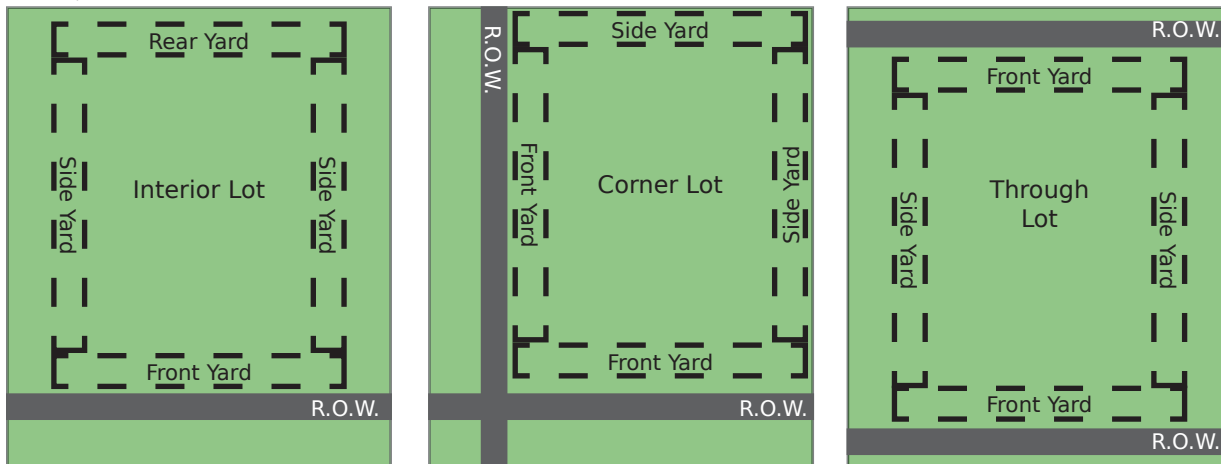
(A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).

(B) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a neighborhood street or secondary collector street, shall meet the building setback.

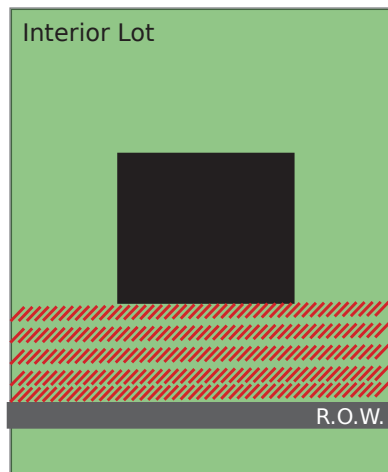
(C) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least ten (10) feet from the property line.

(4) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.

Lot Type and Yard Classification



Interior Lots

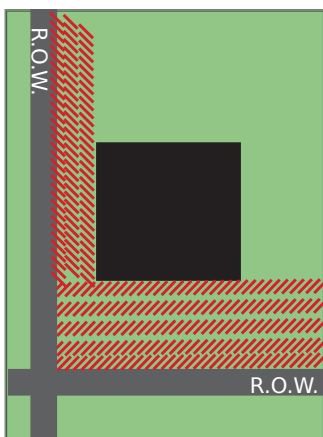


The regulations for interior lots will remain the same. The proposed amendment would make a distinction on corner lots and through lots between the primary front, where people typically enter their house, and the secondary front, the non-addressed side which functions as a side yard, but is still along a public street. The existing regulations for the primary front yard would remain the same.

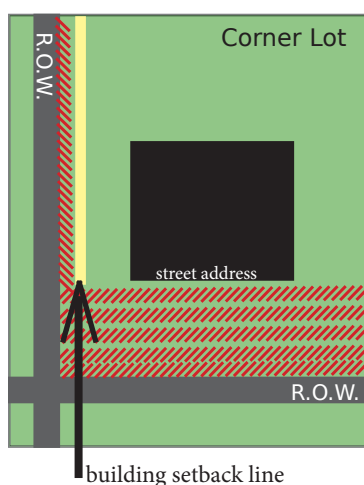
Fences in the red area can not exceed 4 feet in height.

Corner Lots

Existing Regulations



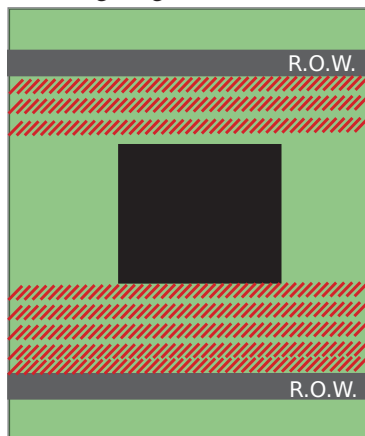
Proposed Regulations



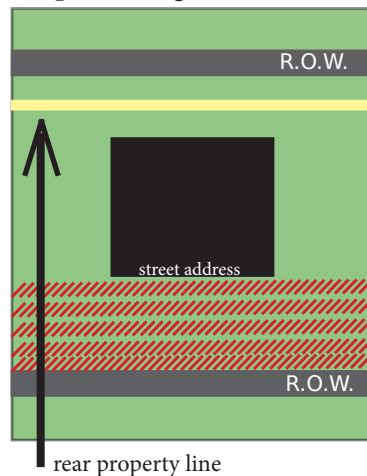
For corner lots, on the secondary front, the non-addressed portion of the lot, fences up to eight (8) feet in height would be allowed up to the building setback line or the build-to-line, whichever applies. This would ensure the fences maintain a distance from the sidewalk and adjacent street while still providing the ability to place a fence in a functioning side yard. Fences in the red area can not exceed 4 feet in height.

Through Lots

Existing Regulations



Proposed Regulations



For the secondary front on through lots, the setback of fences up to eight (8) feet in height will be determined by the classification of the adjacent road. When the frontage is adjacent to a neighborhood street or secondary collector street, fences taller than four (4) feet in height shall meet the building setback. When the frontage is adjacent to a primary collector street or arterial street, fences exceeding four (4) feet shall be located at least ten (10) feet from the property line. Fences in the red area can not exceed 4 feet in height.

CHANGES TO TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE) PROPOSED BY ORD 18-04 (FENCING STANDARDS AND RELATED DEFINITIONS) - ANNOTATED

Title 20 UNIFIED DEVELOPMENT ORDINANCE

Chapters:

Chapter 20.01 - ORDINANCE FOUNDATION

Chapter 20.02 - ZONING DISTRICTS

Chapter 20.03 - OVERLAY DISTRICTS

Chapter 20.04 - PLANNED UNIT DEVELOPMENT DISTRICTS

Chapter 20.05 - DEVELOPMENT STANDARDS

Chapter 20.06 - SUBDIVISION REGULATIONS

Chapter 20.07 - DESIGN STANDARDS

Chapter 20.08 - NONCONFORMING LOTS, SITES, STRUCTURES AND USES

Chapter 20.09 - PROCESSES, PERMITS AND FEES

Chapter 20.10 - ENFORCEMENT AND PENALTIES

Chapter 20.11 - DEFINITIONS

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Chapter 20.05 DEVELOPMENT STANDARDS [1]

Sections:

20.05.001 Introduction.

20.05.002 How to use this chapter.

20.05.003 Icon key.

20.05.004 AS-01 (Accessory structures—General).

20.05.005 AS-02 (Accessory structures—Residential).

20.05.006 AS-03 (Accessory structures—Manufactured and mobile homes).

20.05.007 AS-04 (Accessory structures; multifamily and commercial).

20.05.008 AS-05 (Accessory structures—Industrial, institutional and quarry).

20.05.009 AH-01 (Affordable housing—General).

20.05.010 AT-01 (Alternative transportation—General).

20.05.011 AT-02 (Alternative transportation—Bicycle parking standards—General).

20.05.012 AT-03 (Alternative transportation—Bicycle parking standards—Exceptions).

20.05.013 AT-04 (Alternative transportation—Bicycle parking standards—Multifamily residential).

20.05.014 AT-05 (Alternative transportation—Bicycle parking standards—Nonresidential and mixed use).

20.05.015 AG-01 (Architectural standards—General).

20.05.016 AG-02 (Architectural standards—Residential).

20.05.017 AG-03 (Architectural standards—Manufactured and mobile homes).

20.05.018 AG-04 (Architectural standards—Commercial downtown).

20.05.019 AG-05 (Architectural standards—West Kirkwood Corridor).

20.05.020 CF-01 (Communication facility—General).

20.05.021 CF-02 (Communication facility—Residential).

20.05.022 CF-03 (Communication facility—Commercial downtown).

20.05.023 CU-01 (Conditional use—General standards).

20.05.024 CU-02 (Conditional use—Floodway and floodway fringe development).

20.05.025 CU-03 (Conditional use—Historic adaptive reuse).

20.05.026 CU-04 (Conditional use—Bed and breakfast establishments).

20.05.027 CU-05 (Conditional use—Communication facility).

20.05.028 CU-06 (Conditional use—Retail low intensity and restaurant limited service).

20.05.029 CU-07 (Conditional use—Adult day care center).

20.05.030 CU-08 (Conditional use—Child day care center).

20.05.031 CU-09 (Conditional use—Kennel).

20.05.032 CU-10 (Conditional use—Jail/prison/juvenile detention facility).

20.05.033 CU-11 (Conditional use—Quarry adaptive reuse).

20.05.0331 CU-12 (Conditional use—Business, standardized).

20.05.034 DS-01 (Drainage standards—General).

20.05.035 ED-01 (Entrance and drive standards—General).

20.05.036 ED-02 (Entrance and drive standards—Single-family).

20.05.037 ED-03 (Entrance and drive standards—Manufactured or mobile home park).

20.05.038 EN-01 (Environmental standards—General).

20.05.039 EN-02 (Environmental standards—Steep slopes).

20.05.040 EN-03 (Environmental standards—Siltation and erosion prevention).

20.05.041 EN-04 (Environmental standards—Riparian buffer).

20.05.042 EN-05 (Environmental standards—Karst Geology).

20.05.043 EN-06 (Environmental standards—Wetlands).

20.05.044 EN-07 (Environmental standards—Tree and forest preservation).

20.05.045 EN-08 (Environmental standards—Lake watershed areas).

20.05.046 FW-01 (Fence and wall standards—General).

20.05.047 FW-02 (Fence and wall standards—Prohibitions).

20.05.048 FP-01 (Floodplain standards—General).

20.05.049 GD-01 (Green development incentives—General).

20.05.050 HT-01 (Height standards—General).

20.05.051 HO-01 (Home occupation—General).

20.05.052 LA-01 (Landscaping standards—General).

20.05.053 LA-02 (Landscaping standards—General parking).

20.05.054 LA-03 (Landscaping standards—Multifamily residential).

20.05.055 LA-04 (Landscaping standards—Commercial downtown).

20.05.056 LA-05 (Landscaping standards—Nonresidential).

20.05.057 LA-06 (Landscaping standards; vacant lot landscaping).

20.05.058 Exhibits LA-A: Permitted plant species by characteristics and location.

20.05.059 Exhibit LA-B: Invasive species, species with poor characteristics and noxious or detrimental plants.

20.05.060 LG-01 (Lighting standards—General).

20.05.061 LG-02 (Lighting standards—Multifamily residential).

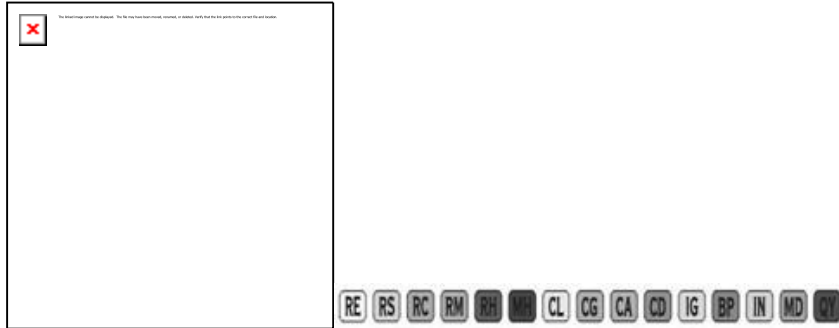
20.05.062 LG-03 (Lighting standards—Nonresidential).

20.05.063 LD-01 (Loading standards).
20.05.064 MS-01 (Municipal services—General).
20.05.065 OT-01 (Outdoor storage standards—Storage and parking of vehicles).
20.05.066 OT-02 (Outdoor storage standards—Miscellaneous).
20.05.067 OT-03 (Outdoor storage standards—Trash receptacles).
20.05.068 OT-04 (Outdoor storage standards—Outdoor merchandising).
20.05.069 OT-05 (Outdoor storage standards—Miscellaneous).
20.05.070 PK-01 (Parking standards—General).
20.05.071 PK-02 (Parking standards—Residential).
20.05.072 PK-03 (Parking standards—Core residential).
20.05.073 PK-04 (Parking standards—Manufactured/mobile home park residential).
20.05.074 PK-05 (Parking standards—Commercial downtown).
20.05.075 Exhibit PK-A (Maximum number of permitted parking spaces by land use.)
20.05.076 PI-01 (Public improvement standards—General).
20.05.077 SB-01 (Setback standards—General).
20.05.078 SX-01 (Sexually oriented businesses—General).
20.05.079 SI-01 (Sign standards—General).
20.05.080 SI-02 (Sign standards—Residential).
20.05.081 SI-03 (Sign standards—Nonresidential).
20.05.082 SI-04 (Sign standards—Commercial limited).
20.05.083 SI-05 (Sign standards—Commercial downtown).
20.05.084 SC-01 (Special conditions—Artist studio).
20.05.085 SC-02 (Special conditions—Auto body shop/vehicle repair).
20.05.086 SC-03 (Special conditions—Brewpub).
20.05.087 SC-04 (Special conditions—Car wash).
20.05.088 SC-05 (Special conditions—Community center).
20.05.089 SC-06 (Special conditions—Convenience store (with gas or alternative fuels)).
20.05.090 SC-07 (Special conditions—Crops and pasturage, and accessory chicken flocks).
20.05.091 SC-08 (Special conditions—Drive-through).
20.05.092 SC-09 (Special conditions—Dwelling, multifamily).
20.05.093 SC-10 (Special conditions—Dwelling, single-family attached).
20.05.094 Special conditions—Community garden.
20.05.095 SC-11 (Special conditions—Dwelling, single-family detached).
20.05.096 SC-12 (Special conditions—Dwelling, upper floor units).
20.05.097 SC-13 (Special conditions—Fitness center/gym and fitness/training studio).
20.05.098 SC-14 (Special conditions—Gas station).
20.05.099 SC-15 (Special conditions—Group care home).
20.05.100 SC-16 (Special conditions—Impound vehicle storage).
20.05.101 SC-17 (Special conditions—Limited service restaurant and low intensity retail).
20.05.102 SC-18 (Special conditions—Outdoor storage).
20.05.103 SC-19 (Special conditions—Recreation center).
20.05.104 SC-20 (Special conditions—Rooming house).
20.05.105 SC-21 (Special conditions—Testing lab).
20.05.106 SC-22 (Special conditions—Utility substation and transmission facility).
20.05.107 TU-01 (Temporary uses and structures—General).
20.05.108 TU-02 (Temporary uses and structures—Commercial, industrial, business park, and institutional).
20.05.109 VC-01 (Vision clearance—General).

Ord 18-04 – Section 1

20.05.046 FW-01 (Fence and wall standards—General).

This fence and wall standards section applies to the following zoning districts:



- (a) Orientation. Fences and walls must present the nonstructural face outward towards adjacent parcels and any adjacent public right-of-way.
- (b) Vision Clearance. Fences and walls must meet all vision clearance standards in this chapter.
- (c) Location.
 - (1) Property Line. Fences and walls shall be permitted up to the property line.
 - (2) Easements. No fence or wall shall be located within a public or private easement unless written permission from the easement holder has been granted.
- (d) Maximum Height.
 - ~~(1) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight feet.~~
 - ~~(2) Forward of the front building wall of the primary structure, fences and walls shall not exceed four feet in height.~~
 - ~~(3) Where no primary structure exists on the parcel, fences and walls shall not exceed four feet in height.~~
 - (1) Interior Lots**
 - (A) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.**
 - (B) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.**
 - (2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.**
 - (A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).**
 - (B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.**

(C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.

(D) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.

(3) Through Lots: On through lots where the structure has two front building walls, one frontage shall be the considered a secondary front building wall.

(A) Fences and walls along the front setback of the front building wall shall abide by 20.05.046(d)(1).

(B) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a neighborhood street or secondary collector street, shall meet the building setback.

(C) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least ten (10) feet from the property line.

(4) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.

(e) Exceptions.

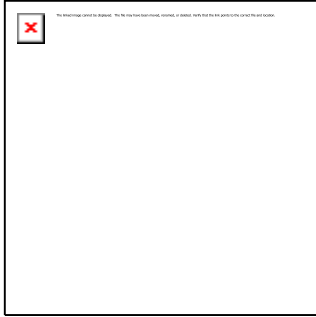
- (1) Fences and walls used to screen trash receptacles, mechanical equipment, and other areas requiring screening are exempt from the height limits in subsection (d), Maximum Height of this section; however they shall not be less than six feet in height.
- (2) Utility substation and transmission facilities, quarry and stone processing, jails, detention facilities, kennels, and prisons are exempt from subsection (d), Maximum Height of this section.
- (3) Retaining walls are exempt from the height standards, but must be constructed in accordance with manufacturer's specifications or generally accepted engineering standards.
- (4) Fences and walls used to screen swimming pools shall not be less than five feet in height or greater than eight feet in height.
- (5) Fences and walls located in the RE, IG, IN and QY zoning districts are exempt from height standards.
- (6) Decorative features of fences such as post tops are exempt from height requirements provided they extend no more than twelve inches from the top of the fence and are spaced at least eight feet apart.

(Ord. 06-24 § 3 (part), 2006).

(Ord. No. 09-12, 9-16-2009)

20.05.047 FW-02 (Fence and wall standards—Prohibitions).

This fence and wall standards section applies to the following zoning districts:



- (a) The following shall be prohibited from use as a component of a fence or wall:
- (1) Barbed wire;
 - (2) Security wire;
 - (3) Sharpened top spikes;
 - (4) Electrified wires; and
 - (5) Other similar elements or materials.

(Ord. 06-24 § 3 (part), 2006).

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Chapter 20.11 DEFINITIONS

Sections:

20.11.010 General.

20.11.020 Defined words.

20.11.010 General.

The definitions contained in this chapter shall be observed and applied in the interpretation of all chapters in the Unified Development Ordinance, except where the context clearly indicates otherwise. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular; words used in the masculine gender shall include the feminine.

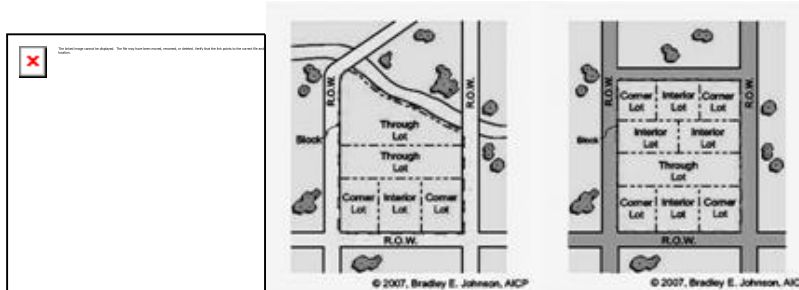
(Ord. 06-24 § 3 (part), 2006).

20.11.020 Defined words.

The following terms shall have the following meanings:

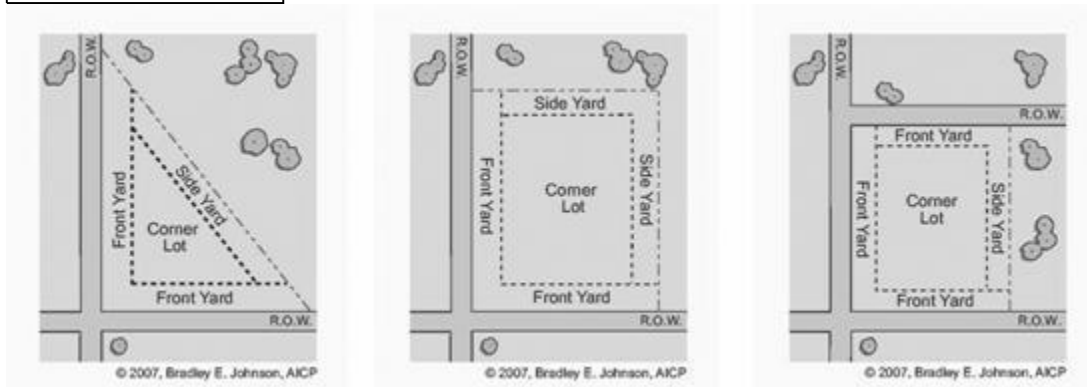
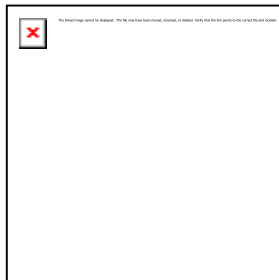
Ord 18-04 – Section 2

"Lot" means a contiguous parcel of land in identical ownership throughout, bounded by other lots or streets, and used or set aside and available for use as the site of one or more buildings or other definite purpose. For the purpose of this title, a lot may or may not coincide with a lot of record and shall be duly recorded.



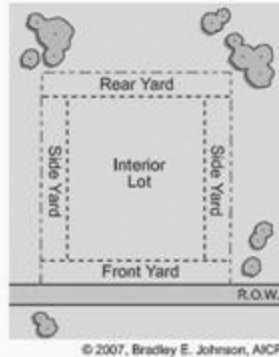
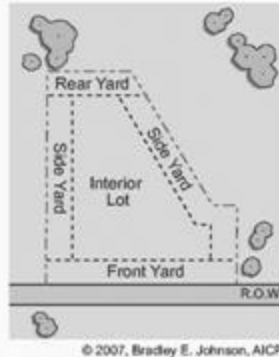
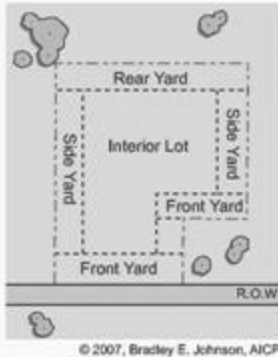
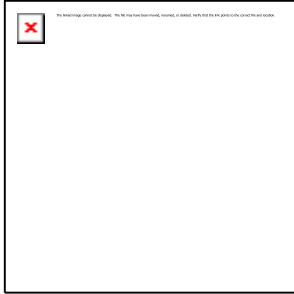
"Lot Area" means the computed area contained within the boundary of all perimeter lot lines.

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



"Lot depth" means the horizontal distance between the front and rear lot lines.

Lot, Interior. "Interior lot" means any lot, the side property line of which abuts the rear property line of one (1) or more lots, and which is not separated by a n alley or any other public way public street.



Lot, Lawful Nonconforming. "Lawful nonconforming lot" means any lot of record that does not conform with one or more provisions of this title, but which lawfully existed upon the effective date of the provisions of this title with which the lot does not conform.

Lot Line, Corner. "Corner lot line" means the point at which two lot lines meet.

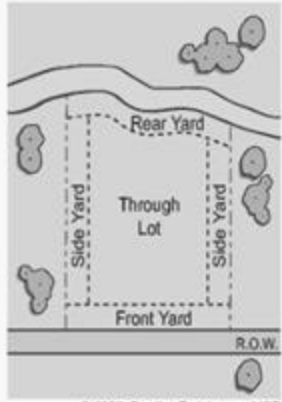
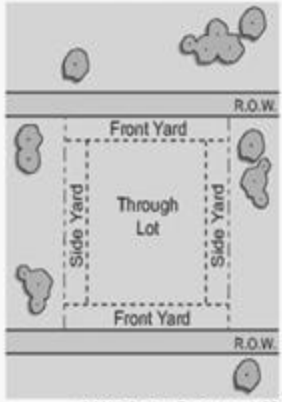
Lot Line, Front. "Front lot line" means that portion of a lot which abuts and runs parallel to a street. For corner lots, both sides that abut a street are front lot lines.

Lot Line, Rear. "Rear lot line" means the line dividing one lot from another and on the opposite side of the lot from the front lot line; and in the case of an irregular or triangular shaped lot, a line ten feet inside the lot boundary, parallel to and at the maximum distance from the front lot line.

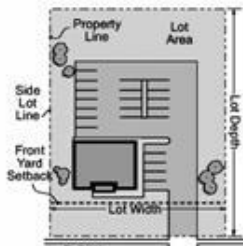
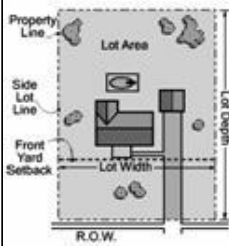
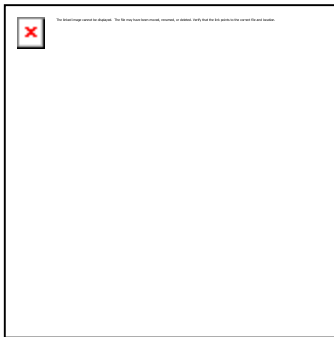
Lot Line, Side. "Side lot line" means any lot line that is not a front lot line or a rear lot line.

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

Lot, Through. "Through lot" means a lot having a pair of opposite lot lines along two more or less parallel public streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.



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



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

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Ord 18-04 – Section 3

"Front building wall" means the building elevation which fronts on a public street, public parking lot, private parking lot available to the general public, or pedestrian walk where customer access to a structure is available.

Secondary Front Building Wall. "Secondary Front Building Wall" means the non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

ORDINANCE 18-06

**TO AMEND TITLE 16 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “RESIDENTIAL RENTAL UNIT AND LODGING
ESTABLISHMENT INSPECTION PROGRAM”**

**- Re: Repeal of Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors),
16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers)**

- WHEREAS, Bloomington Municipal Code Chapter 16.06, titled Public Health and Safety, purports to regulate accessibility to bathrooms, safe egress from buildings, climate control and prohibited uses; and
- WHEREAS, Bloomington Municipal Code Chapter 16.07, titled Smoke Detectors, purports to regulate the manner in which smoke detectors shall be employed in residential rental units and lodging establishments and its primary thrust was to require hardwiring of all smoke detectors in residential rental units and lodging establishments; and
- WHEREAS, Bloomington Municipal Code Chapter 16.08, titled Carbon Monoxide Detectors, purports to regulate the manner in which carbon monoxide detectors shall be employed in residential rental units and lodging establishments; and
- WHEREAS, Bloomington Municipal Code Chapter 16.09, titled Fire Extinguishers, purports to regulate the manner in which fire extinguishers shall be employed in residential rental units and lodging establishments; and
- WHEREAS, Bloomington Municipal Code Chapters 16.06, 16.07, 16.08 and 16.09 were enacted by the City with the adoption of Ordinance 12-17 on November 14, 2012; and
- WHEREAS, Chapters 16.06, 16.08, and 16.09 were not to go into effect until they had been reviewed and approved by the Indiana Fire Prevention and Building Safety Commission since these chapters contained regulations that qualify as either a “building law” or a “fire safety law”; and
- WHEREAS, On or about the 3rd day of January, 2013, the Indiana Fire Prevention and Building Safety Commission voted to not approve Chapters 16.06, 16.08 and 16.09 and therefore these chapters never went into effect; and
- WHEREAS, On or about the 10th day of February, 2014, the Monroe Circuit Court I, Monroe County, found that Section 16.07.030, which requires all smoke detectors to be hardwired, was in conflict with Indiana Code § 22-11-18-3.5 and was therefore unenforceable; and
- WHEREAS, The Monroe Circuit Court I, Monroe County, further found in its Order of February 10, 2014, that the rest and remainder of Chapter 16.07 qualified as a “fire safety law” and therefore must first be reviewed and approved by the Indiana fire Prevention and Building Safety Commission before the City of Bloomington may enforce the same; and

WHEREAS, Since the primary thrust of Chapter 16.07 was found to be unenforceable, and given the Indiana fire Prevention and Building Safety Commission's disapproval of each of the other Chapters in Title 16 that contained regulations that qualify as either a "building law" or a "fire safety law," it is realistic to believe that the rest and remainder of Chapter 16.07 would be met with disfavor by the Indiana fire Prevention and Building Safety Commission and would not be approved; and

WHEREAS, Bloomington Municipal Code Chapters 16.06, 16.07, 16.08 and 16.090 should now be repealed in their entirety;

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

SECTION 1. Bloomington Municipal Code Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers) shall be repealed in their entirety.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and all other requirements of the Indiana Code.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2018.

DOROTHY GRANGER, 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 _____, 2018.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2018.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends the Bloomington Municipal Code Title 16 by repealing Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers) in their entirety. Chapters 16.06, 16.08 and 16.09 never went into effect, having never been approved by the Indiana Fire Prevention and Building Safety Commission, as required by state statute. Chapter 16.07 went into effect but was later found to be unenforceable by the Monroe Circuit Court I. As such, Chapters 16.06, 16.07, 16.08 and 16.09 should be repealed in their entirety.

MEMORANDUM

TO: Mayor Hamilton, City Council
FROM: Christopher J. Wheeler
CC: Doris Sims, Dan Sherman
RE: Amendment to Title 16 - Residential Rental & Lodging Establishment Inspection Program by repealing Chapters 16.06, 16.07, 16.08 and 16.09 in their entirety

On November 14, 2012, the City Council passed and adopted Ordinance 12-27 which was a major re-write of Title 16 - Residential Rental & Lodging Establishment Inspection Program. The re-write included, among other things, four new chapters. Those new chapters were:

Chapter 16.06 - Public Health and Safety
Chapter 16.07 - Smoke Detectors
Chapter 16.08 - Carbon Monoxide Detectors
Chapter 16.09 - Fire Extinguishers

When this new ordinance was drafted, Mara Snyder, council to the State of Indiana Fire Prevention and Building Safety Commission (The Commission), was consulted and she determined that Chapters 16.06, 16.08 and 16.09 were all “building laws” and/or “fire safety laws” and would therefore need to be presented to the Commission for review and approval before they could be enforced, pursuant to Indiana Code 22-13-2-5. However, oddly enough, Mrs. Snyder did not believe Chapter 16.07 fell into either of those categories and therefore did not need Commission review and approval. As such, Ordinance 12-27 as passed properly contained language that Chapters 16.06, 16.08 and 16.09 could not be enforced until approved by the Commission.

Unfortunately, the Commission, on January 3, 2013, denied Chapters 16.06, 16.08 and 16.09. The effect of this denial was that 16.06, 16.08 and 16.09 never took effect and were never enforced by the City of Bloomington.

Chapter 16.07, on the other hand, went into effect and was enforced by the City up until July of 2013 when a lawsuit alleging unenforceability of the chapter was initiated against the City. On February 10, 2014, the Circuit Court I, Monroe County, found that Chapter 16.07 did in fact qualify as a “fire safety law” and was therefore unenforceable until approved by the Commission. The Court also found that section 16.07.030 – Power Supplies, was in conflict with Indiana Code § 22-11-18-3.5 and was therefore unenforceable. Section 16.07.030 required all smoke detectors to be powered by the building’s permanent wiring, thereby making battery powered smoke detectors illegal. The State, on the other hand, did allow buildings to only use battery powered smoke detectors.

The main goal of Chapter 16.07 was to raise the standard of fire safety in all buildings by requiring hardwiring of all smoke detectors. The City believed that to be the best and safest practice. Without section 16.07.030, the importance of Chapter 16.07 is dramatically lessened as

it more or less mirrors state law already in place regarding installation and maintenance of smoke detectors. HAND is still able to effectively enforce all state laws, rules and regulations pertaining to the proper installation and maintenance of smoke detectors through other Chapters in Title 16. As such, the rest and remainder of Chapter 16.07 is not necessary.

Staff Recommendation: Since Chapters 16.06, 16.08 and 16.09 are unenforceable they should be repealed in their entirety. Since the main goal of Chapter 16.07 was stricken by court order, and the rest of Chapter 16.07 can effectively be enforced through other Chapters of Title 16, Chapter 16.07 should also be repealed in its entirety.

CHANGES TO TITLE 16 PROPOSED BY ORD 18-06 (REPEALING CHAPTERS 16.06 – 16.09) - ANNOTATED

Title 16 RESIDENTIAL RENTAL UNIT AND LODGING ESTABLISHMENT INSPECTION PROGRAM [m1](#)

Chapters:

Chapter 16.01 - ORDINANCE FOUNDATION

Chapter 16.02 - DEFINITIONS

Chapter 16.03 - ADMINISTRATION OF RESIDENTIAL RENTAL UNITS

Chapter 16.04 - PROPERTY MAINTENANCE

Chapter 16.05 - LODGING ESTABLISHMENTS

Chapter 16.06 - PUBLIC HEALTH AND SAFETY

Chapter 16.07 - SMOKE DETECTORS

Chapter 16.08 - CARBON MONOXIDE DETECTORS

Chapter 16.09 - FIRE EXTINGUISHERS

Chapter 16.10 - ENFORCEMENT, PENALTIES, APPEALS AND VARIANCES

FOOTNOTE(S):

--- (1) ---

Editor's note— Ord. No. 12-27, § 1, adopted Nov. 14, 2012, repealed and re-enacted Title 16 in its entirety to read as herein set out. Former Title 16 pertained to housing inspection and derived from Ord. No. 78-56, § 1 (part), 1978; Ord. No. 78-86, § 8, 1978; Ord. No. 79-17, § 1 (part), 1979; Ord. No. 79-19, § 1 (part), 1979; Ord. No. 81-97, § 1, 1981; Ord. No. 86-19, §§ 16, 19, 1986; Ord. No. 88-40, § 1, 1988; Ord. No. 90-51, § 2, 1990; Ord. No. 93-41, §§ 12, 13, 1993; Ord. No. 97-06, §§ 37—45, 1997; Ord. No. 98-09, §§ 2—4, 1998; Ord. No. 03-08, §§ 1 (part), 2, 2003; Ord. No. 03-25, §§ 9—11, 2003. [\(Back\)](#)

Ord 18- 06 – Section 1

Chapter 16.06 — PUBLIC HEALTH AND SAFETY

Sections:

16.06.010 Bathroom accessibility.

16.06.020 Prohibited occupancy.

16.06.030 Water systems.

16.06.040 Heating facilities.

16.06.050 Ground fault circuit interrupter protection.

16.06.060 Means of egress.

16.06.010 — Bathroom accessibility.

- (a) ~~Every bedroom shall have access to at least one bathroom without passing through another bedroom.~~
- (b) ~~The following shall be required for each residential rental unit built prior to 1973:~~
 - (1) ~~Every bedroom shall have access to at least one bathroom located in the same story as the bedroom or on an adjacent story;~~
 - (2) ~~Every residential rental unit shall have at least one bathroom containing a sink, shower/tub and a toilet; and~~
 - (3) ~~A kitchen sink shall not be used as a substitute for a bathtub or shower.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.06.020 — Prohibited occupancy.

~~Kitchens and non-habitable spaces shall not be used for sleeping purposes.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.06.030 — Water systems.

- (a) ~~All kitchen sinks, bathroom sinks, bathtubs and showers shall be supplied with hot or tempered and cold running water.~~
- (b) ~~Rainwater and other runoff may be collected for outdoor and non-potable indoor water use.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.06.040 — Heating facilities.

- (a) Residential rental units and lodging establishments shall be provided with heating facilities capable of maintaining a room temperature at the temperature required at the time of construction or of sixty-five degrees Fahrenheit if no temperature was required when the residential rental unit was constructed in all habitable rooms and bathrooms. Cooking appliances and portable space heaters (or other similar devices) shall not be used to provide space heating to meet the requirements of this section.
- (b) When the outdoor temperature is below the winter outdoor design temperature for the city, maintenance of the minimum room temperature shall not be required provided that the heating facility is operating at its full design capacity.

(Ord. No. 12-27, § 1, 11-14-2012)

16.06.050 — Ground fault circuit interrupter protection.

- (a) Any receptacle in a wet location that is deemed to be faulty shall be replaced with a ground fault circuit interrupter protection.
- (b) Any new receptacle in a wet location shall have ground fault circuit interrupter protection.

(Ord. No. 12-27, § 1, 11-14-2012)

16.06.060 — Means of egress.

- (a) A safe, continuous and unobstructed path of travel shall be provided from any point in any residential rental unit or lodging establishment to the public way.
- (b) The required width of aisles shall be unobstructed.
- (c) All doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.

(Ord. No. 12-27, § 1, 11-14-2012)

Chapter 16.07 — SMOKE DETECTORS

Sections:

16.07.010 Smoke detectors required in residential rental units.

16.07.020 Installation.

16.07.030 Power supplies.

16.07.040 Equipment performance.

16.07.050 Interconnection of detectors.

16.07.060 Tenant's responsibilities regarding smoke detectors.

16.07.070 Owner's responsibilities regarding smoke detectors.

16.07.080 Documentation.

16.07.090 Effective date.

16.07.010 — Smoke detectors required in residential rental units.

Every residential rental unit shall be equipped with at least one approved smoke detector in accordance with the standards and guidelines promulgated by the National Fire Alarm Code, 2007 edition, as established by National Fire Protection Association 72.

(Ord. No. 12-27, § 1, 11-14-2012)

16.07.020 — Installation.

(a) Approved single and multiple station smoke detectors shall be installed as follows:

(1) In all sleeping rooms;

(2) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms;

(3) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit; and

- ~~(4) On every level of a dwelling unit, including basements.~~
- ~~(b) Smoke detectors shall be arranged so that the operation of any smoke detector causes all alarms within the dwelling unit to sound.~~
- ~~(c) All smoke detectors shall be installed in accordance with the manufacturer's published instructions and applicable electrical standards.~~
- ~~(d) All smoke detectors shall be so located and mounted so that accidental operation is not caused by jarring or vibration.~~
- ~~(e) All smoke detectors shall be mounted so as to be supported independently of its attachment to wires.~~
- ~~(f) Smoke detectors mounted on a flat ceiling shall be located no closer than four inches from the adjoining wall surface.~~
- ~~(g) Smoke detectors mounted on a peaked ceiling shall be located within thirty-six inches horizontally of the peak, but not closer than four inches vertically to the peak.~~
- ~~(h) Smoke detectors mounted on a sloped ceiling having a rise greater than one foot in eight feet horizontally shall be located within thirty-six inches of the high side of the ceiling, but no closer than four inches from the adjoining wall surface.~~
- ~~(i) Smoke detectors mounted on walls shall be located no closer than four inches from the adjoining ceiling surface and not farther than twelve inches from the adjoining ceiling surface.~~
- ~~(j) The installation of smoke detectors shall comply with the following requirements:~~
- ~~(1) Smoke detectors shall not be located where ambient conditions, including humidity and temperature, are outside the limits specified by the manufacturer's published instructions.~~
 - ~~(2) Smoke detectors shall not be located within unfinished attics or garages or in other spaces where temperatures can fall below forty degrees Fahrenheit or exceed one hundred degrees Fahrenheit.~~
 - ~~(3) Where the mounting surface could become considerably warmer or cooler than the room, such as a poorly insulated ceiling below an unfinished attic or an exterior wall, smoke detectors shall be mounted on the inside wall.~~
 - ~~(4) Smoke detectors installed within a twenty-foot horizontal path of a cooking appliance shall be equipped with an alarm-silencing means or be of the photoelectric type.~~
 - ~~(5) Smoke detectors shall not be installed within a thirty-six-inch horizontal path from a door to a bathroom containing a shower or tub.~~
 - ~~(6) Smoke detectors shall not be installed within a thirty-six-inch horizontal path from the supply registers of a forced air heating or cooling system and shall be installed outside of the direct airflow from these registers.~~
 - ~~(7) Smoke detectors shall not be installed within a thirty-six-inch horizontal path from the tip of the blade of a ceiling-suspended (paddle) fan.~~
 - ~~(8) Where stairs lead to other occupied levels, a smoke detector shall be located so that smoke rising in the stairway cannot be prevented from reaching the smoke detector by an intervening door or obstruction.~~
 - ~~(9) For stairways leading up from a basement, smoke detectors shall be located on the basement ceiling near the entry to the stairs.~~
 - ~~(10) For tray-shaped ceilings (coffered ceilings) smoke detectors shall be installed on the highest portion of the ceiling or on the sloped portion of the ceiling within twelve inches vertically down from the highest point.~~
- ~~(j) Smoke detectors shall be replaced in accordance with the manufacturer's instructions.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.07.030 — Power supplies.

- (a) Primary Power Source. Smoke detectors shall be powered by the building's permanent wiring and said wiring shall not contain a disconnecting switch, unless the switch is required for over-current protection.
- (b) Secondary (Standby) Power Source. Smoke detectors shall also be equipped with batteries to act as a secondary power source if the primary power source is disabled or malfunctions.

(Ord. No. 12-27, § 1, 11-14-2012)

16.07.040 — Equipment performance.

Each smoke detector shall detect abnormal quantities of smoke, shall operate in the normal environmental conditions, and shall be in compliance with applicable standards such as ANSI/UL 268, Standards for Safety Smoke Detectors for Fire Alarm Signaling Systems, or ANSI/UL 217, Standard for Safety Single and Multiple Station Smoke Detectors.

(Ord. No. 12-27, § 1, 11-14-2012)

16.07.050 — Interconnection of detectors.

- (a) The interconnection of smoke detectors shall comply with the following:
 - (1) Smoke detectors shall not be interconnected in numbers that exceed the manufacturer's published instructions;
 - (2) In no case shall more than twelve smoke detectors be interconnected where the interconnecting means is not supervised;
 - (3) In no case shall more than forty-two smoke detectors be interconnected where the interconnecting means is supervised; and
 - (4) Smoke detectors shall not be interconnected with alarms from other manufacturers unless listed as being compatible with the specific model.
- (b) All smoke alarms shall be interconnected in such a manner that the actuation of one alarm will activate all alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
- (c) Smoke alarms may be interconnected via radio frequencies.
- (d) A single fault on the interconnecting means between multiple-station smoke detectors shall not prevent single-station operation of any of the interconnected alarms.
- (e) Remote notification appliance circuits of multiple-station alarms shall be capable of being tested for integrity by activation of the test feature on any interconnected alarm. Activation of the test feature shall result in the operation of all interconnected notification appliances.

(Ord. No. 12-27, § 1, 11-14-2012)

16.07.060 — Tenant's responsibilities regarding smoke detectors.

- (a) It is the responsibility of a tenant to test the smoke detectors within his residential rental unit at least one time every month.

~~(b) The tenant is responsible for replacement of any required batteries in the smoke detector in the tenant's residential rental unit, except that the owner shall ensure that the batteries are in operating condition at the time the tenant takes possession of the residential rental unit.~~

~~(c) The tenant shall be responsible for notifying the owner if the tenant becomes aware of an inoperable or deficient smoke detector within his residential rental unit.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

~~16.07.070 — Owner's responsibilities regarding smoke detectors.~~

~~(a) It is the responsibility of the owner to ensure that any batteries necessary to supply the smoke detector with secondary power in his residential rental unit operational are provided to the tenant at the time the tenant takes possession of the residential rental unit.~~

~~(b) The owner shall correct any reported deficiencies or inoperabilities in a smoke detector installed in his residential rental unit when made aware of any such deficiency or inoperability within seven working days of being given written notification of the need to repair or replace the smoke detector.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

~~16.07.080 — Documentation.~~

~~The owner of a residential rental unit, upon request, shall provide HAND with the documentation required by Indiana Code 32-31-5-7 showing that the tenant acknowledged, in writing, that he had taken possession of the unit with a functional smoke detector in place.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

~~16.07.090 — Effective date.~~

~~(a) All newly registered residential rental units with applications filed after January 1, 2014, shall comply with this chapter.~~

~~(b) All residential rental units where a certificate of zoning compliance is issued in accordance with BMC 20.09.220 and in conjunction with an application for a permit by the county building department filed after January 1, 2014, shall comply with this chapter.~~

~~(c) All residential rental units with a valid occupancy permit shall comply with this chapter no later than December 31, 2018.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

Chapter 16.08 — CARBON MONOXIDE DETECTORS

Sections:

~~16.08.010 Carbon monoxide detectors required in residential rental units.~~

~~16.08.020 Location.~~

~~16.08.030 Power supplies.~~

~~16.08.040 Equipment performance.~~

~~16.08.050 Installation.~~

~~16.08.060 Maintenance and testing.~~

~~16.08.070 Tenant's responsibilities regarding carbon monoxide detectors.~~

~~16.08.080 Owner's responsibilities regarding carbon monoxide detectors.~~

~~16.08.090 Effective date.~~

16.08.010 — Carbon monoxide detectors required in residential rental units.

Every residential rental unit shall be equipped with at least one approved carbon monoxide detector in accordance with the standards and guidelines promulgated by the National Fire Alarm Code, 2007 edition, as established by National Fire Protection Association 72 if said unit contains one of the following:

- (1) A fuel-fired heater;
- (2) A fuel-fired appliance;
- (3) A working and accessible fireplace; or
- (4) An attached garage.

(Ord. No. 12-27, § 1, 11-14-2012)

16.08.020 — Location.

- (a) A carbon monoxide detector shall be centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms.
- (b) Each carbon monoxide detector shall be located on the wall or other location as specified in the installation instructions that accompany the detector.

(Ord. No. 12-27, § 1, 11-14-2012)

16.08.030 Power supplies.

- ~~(a) All power supplies shall have sufficient capacity to operate the alarm signals for at least twelve continuous hours.~~
- ~~(b) For electrically powered carbon monoxide detectors, the primary (main) power source shall be ac, unless otherwise permitted by the following:
 - ~~(1) Detectors shall be permitted to be powered by a monitored dc circuit of a control unit when power for the control unit meets the requirements of this section and the circuit remains operable upon loss of primary (main) ac power.~~
 - ~~(2) A detector and a wireless transmitter that serves only that detector shall be permitted to be powered from a monitored battery primary (main) source where part of a listed, monitored, low-power radio (wireless) system.~~~~
- ~~(c) Power Supply— Monitored Battery. Carbon monoxide detectors shall be permitted to be powered by a battery, provided that the battery is monitored to ensure that the following conditions are met:
 - ~~(1) All power requirements are met for at least one year of battery life, including monthly testing.~~
 - ~~(2) A distinctive audible trouble signal sounds before the battery is incapable of operating the detector(s) (from causes such as aging or terminal corrosion) for alarm purposes.~~
 - ~~(3) Automatic transfer is provided from detector to a trouble condition for a unit employing a lock-in alarm feature.~~
 - ~~(4) The detector is capable of producing an alarm signal for at least twelve hours at the battery voltage at which a trouble signal is normally obtained, followed by not less than seven days of trouble signal operation.~~
 - ~~(5) After the initial four minutes of alarm, the five-second "off" time of the alarm signal shall be permitted to be changed to sixty seconds plus or minus ten percent.~~
 - ~~(6) The audible trouble signal is produced at least once every minute for seven consecutive days.~~
 - ~~(7) Acceptable replacement batteries are identified by the manufacturer's name and model number on the detector near the battery compartment.~~
 - ~~(8) A visible indication is displayed when a primary battery is removed from the detector.~~
 - ~~(9) Any detector that uses a non-rechargeable battery as a primary power supply that is capable of a ten-year or greater service life, including testing, and meets the requirements of [Section] 16.08.030(d)(3) shall not require a replacement battery.~~
 - ~~(10) A visible "power on" indicator is provided.~~~~
- ~~(d) Additional power supply. Carbon monoxide detectors are also permitted to obtain their primary power from the building's own permanent wiring provided such wiring is served from a commercial source.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.08.040 Equipment performance.

- ~~(a) Each carbon monoxide detector shall be in compliance with ANSI/UL 2034, Standard for Signal and Multiple Station Carbon Monoxide Alarms.~~
- ~~(b) All signals produced from periodic testing of carbon monoxide detectors shall be identical to the signal produced when the detector is in alarm.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.08.050 — Installation.

- (a) All carbon monoxide detectors shall be installed in accordance with the manufacturer's instructions.
- (b) All carbon monoxide detectors shall be supported independently of their attachment to wires.
- (c) All carbon monoxide detectors shall be located and mounted so that accidental operation will not be caused by jarring or vibration.
- (d) All carbon monoxide detectors shall be tested in accordance with the instructions provided by the supplier or installing contractor to ensure operation after installation.
- (e) All carbon monoxide detectors shall be restored to their normal mode of operation after each alarm test.

(Ord. No. 12-27, § 1, 11-14-2012)

16.08.060 — Maintenance and testing.

- (a) If batteries are used as a source of energy, they shall be replaced in accordance with the instructions provided by the manufacturer.
- (b) Detectors shall be inspected and tested in accordance with the manufacturer's instructions at least once a month.
- (c) The carbon monoxide detectors required under this title shall be either battery-powered, plug-in with battery back-up, or wired into the residential rental unit's electrical system and have a battery backup, or is connected to an electrical system via an electrical panel.
- (d) The carbon monoxide detector shall be operable at the time a tenant takes possession of the residential rental unit.
- (e) The carbon monoxide detector shall meet the performance requirements of 7.4.2 and 7.4.4 of NFPA 72, National Fire Alarm Code and ANSI/UL 2034, Standard for Single and Multiple Station Carbon Monoxide Alarms.
- (f) The carbon monoxide detector shall be installed in accordance with the manufacturer's specifications.

(Ord. No. 12-27, § 1, 11-14-2012)

16.08.070 — Tenant's responsibilities regarding carbon monoxide detectors.

- (a) It is the responsibility of a tenant to test the carbon monoxide detectors within his residential rental unit.
- (b) The tenant is responsible for replacement of any required batteries in the carbon monoxide detector in the tenant's residential rental unit, except that the owner shall ensure that the batteries are in operating condition at the time the tenant takes possession of the residential rental unit.
- (c) The tenant shall be responsible for notifying the owner if the tenant becomes aware of an inoperable or deficient carbon monoxide detector within his residential rental unit.

(Ord. No. 12-27, § 1, 11-14-2012)

~~16.08.080 — Owner's responsibilities regarding carbon monoxide detectors.~~

- ~~(a) It is the responsibility of the owner to ensure that any batteries necessary to make the carbon monoxide detectors in his residential rental unit operational are provided to the tenant at the time the tenant takes possession of the residential rental unit.~~
- ~~(b) The owner shall correct any reported deficiencies or inoperabilities in a carbon monoxide detector installed in his residential rental unit when made aware of any such deficiency or inoperability.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

~~16.08.090 — Effective date.~~

~~This chapter shall go into effect on August 1, 2014.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

Chapter 16.09 — FIRE EXTINGUISHERS

Sections:

~~[16.09.010 Where required.](#)~~

~~[16.09.020 General requirements.](#)~~

~~[16.09.030 Conspicuous location.](#)~~

~~[16.09.040 Unobstructed and unobscured.](#)~~

~~[16.09.050 Hangers and brackets.](#)~~

~~[16.09.060 Obsolete fire extinguishers.](#)~~

~~16.09.010 — Where required.~~

~~Portable fire extinguishers shall be installed in all residential rental units.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

~~16.09.020 — General requirements.~~

~~Portable fire extinguishers shall be selected, installed and maintained in accordance with the Indiana Code.~~

~~(Ord. No. 12-27, § 1, 11-14-2012)~~

16.09.030 — Conspicuous location.

Portable fire extinguishers shall be located in conspicuous (easily seen or noticed) locations where they will be readily accessible and immediately available for use. These locations shall be along normal paths of travel.

(Ord. No. 12-27, § 1, 11-14-2012)

16.09.040 — Unobstructed and unobscured.

Portable fire extinguishers shall not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means shall be provided to indicate the location of extinguishers.

(Ord. No. 12-27, § 1, 11-14-2012)

16.09.050 — Hangers and brackets.

Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on hangers and brackets supplied. Hangers or brackets shall be securely anchored to mounting surfaces in accordance with the manufacturer's installation instructions.

(Ord. No. 12-27, § 1, 11-14-2012)

16.09.060 — Obsolete fire extinguishers.

The following types of fire extinguishers are considered obsolete and shall be removed from service:

- (a) Soda acid.
- (b) Chemical foam (excluding film-forming agents).
- (c) Vaporizing liquid (e.g., carbon tetrachloride).
- (d) Cartridge-operated water.
- (e) Cartridge-operated loaded steam.
- (f) Copper or brass shell (excluding pump tanks) joined by soft solder or rivets.
- (g) Carbon dioxide extinguishers with metal horns.
- (h) Solid charge-type AFFF extinguishers (paper cartridge).
- (i) Pressurized water fire extinguishers manufactured prior to 1971.
- (j) Any extinguisher that needs to be inverted to operate.
- (k) Any stored pressured extinguisher manufactured prior to 1955.
- (l) Any extinguisher with 4B, 6B, 12B, and 16B fire ratings.
- (m) Stored-pressure water extinguishers with fiberglass shells (pre-1976).
- (n) Any fire extinguisher that can no longer be serviced in accordance with the manufacturer's manual is considered obsolete and shall be removed from service.

(Ord. No. 12-27, § 1, 11-14-2012)

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, February 7, 2018 at 6:30pm with Council Vice-President Isabel Piedmont-Smith presiding over the Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
February 7, 2018

Roll Call: Ruff, Sturbaum, Chopra, Sandberg, Volan, Piedmont-Smith, Sims, Rollo (6:31pm)
Members Absent: Granger

ROLL CALL
[6:30pm]

Vice-President Isabel Piedmont-Smith gave a summary of the agenda.

AGENDA SUMMATION
[6:32pm]

Volan moved and it was seconded to approve the minutes of October 10, 2017 as corrected.

APPROVAL OF MINUTES [6:32pm]
October 10, 2017 (Special Session)

Piedmont-Smith noted that the amendments to the Comprehensive Plan referred to in the minutes were available for review in the Clerk's office.

The motion was approved by voice vote.

Volan moved and it was seconded to approve the minutes of December 20, 2017 as corrected. The motion was approved by voice vote.

December 20, 2017 (Regular Session)

Councilmember Chris Sturbaum spoke about Jeannine Butler and her efforts regarding historic preservation.

REPORTS

- COUNCIL MEMBERS
[6:34pm]

Councilmember Allison Chopra spoke about Black History Month.

Councilmember Dave Rollo spoke about the results of the deer cull.

Councilmember Jim Sims welcomed a group of scouts that were in attendance. He also spoke about an event sponsored by Bloomington Transit in honor of Rosa Parks and the importance of Black History Month in relation to the City's bicentennial celebration.

Councilmember Susan Sandberg thanked Police Chief Diekhoff for his work in the downtown area. She also spoke about the consulting team for rewriting the Unified Development Ordinance who had held meetings that week.

Councilmember Steve Volan spoke about his resignation from the Solid Waste Management District Board. He also spoke about Kilroy's Bar and the need for the community to remonstrate against its alcohol permit renewal.

Piedmont-Smith also spoke about Kilroy's and questioned its behavior in the community.

Sandberg moved and it was seconded to reappoint Gabe Coleman to the Bloomington Arts Commission. The motion was approved by voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS
[7:02pm]

Sandberg moved and it was seconded to reappoint Valeri Haughton and Byron Bangert to the Bloomington Human Rights Commission.

Piedmont-Smith noted that the Council had skipped ahead on the agenda and would move back to reports after the appointments.

The motion was approved by voice vote.

Chopra moved and it was seconded to ratify the reappointment of Darcie Fawcett to the Bloomington Urban Enterprise Association. The motion was approved by voice vote.

Chopra moved and it was seconded to appoint Jennifer Donegan and Arlene Flower to the Commission on Aging. The motion was approved by voice vote.

Chopra moved and it was seconded to appoint Diana Powell-Opata to the Housing Quality Appeals Board. The motion was approved by voice vote.

Chopra moved and it was seconded to reappoint Nancy Obermeyer to the Public Transportation Board. The motion was approved by voice vote.

Chopra moved and it was seconded to reappoint David Walter and Sue Sgambelluri to the Redevelopment Commission. The motion was approved by voice vote.

Chopra moved and it was seconded to appoint G. Thomas Rea to the Animal Control Commission. The motion was approved by voice vote.

Chopra moved and it was seconded to reappoint Nicholas Carder to the Board of Housing Quality Appeals. The motion was approved by voice vote.

Chopra moved and it was seconded to reappoint Jo Throckmorton to the Board of Zoning Appeals. The motion was approved by voice vote.

There were no reports from the Mayor or city offices.

- The MAYOR AND CITY OFFICES

There were no reports from Council Committees.

- COUNCIL COMMITTEES

Josh Tapp, President of the Bloomington chapter of the International Association of Firefighters, introduced himself to the Council.

- PUBLIC [7:04pm]

Katie Thompson from the South Central Community Action Program thanked the Council for its support and asked for volunteers.

Rachel Ellenson, Historic Preservation Program Manager, presented an emcomium for Jeannine Butler.

Jeannine Butler spoke and said a lot of historic preservation work had been done by others. She thanked the Historic Preservation Commission and the Council.

Madison Maskovitch thanked the Council for its professionalism.

Volan moved and it was seconded to appoint Nicole Bolden to the Parking Steering Committee. The motion was approved by voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS
(cont'd)

Volan moved and it was seconded that Resolution 18-03 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR SECOND READING AND RESOLUTIONS
[7:15pm]

Volan moved and it was seconded that Resolution 18-03 be adopted.

Resolution 18-03 – To Approve an Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana in Regards to the 2017 Edward Byrne Memorial Justice Assistance Grant (JAG)

Michael Rouker, City Attorney, presented the legislation and gave an accounting of the substantive changes. He noted that the agreement called for the city and county councils to meet in a joint work session to review the central dispatch budget between July 1st and September 1st, and then to vote on that budget within 14 days after the work session. He discussed reserve funds and detailed the duties of the policy board. He said the telecommunications manager would be hired by the Oversight Board. Finally, he said the accounting reports now had a definite due date.

Volan asked if the policy board made recommendations to the Public Safety Local Income Tax Committee (PS-LIT) or vice versa.

Rouker said that it had been done both ways.

Volan asked if the new agreement lightened the load of the PS-LIT committee.

Rouker said that it did not because many of the due dates were proscribed by statute.

Rollo asked what would happen if the budget remained unresolved between the parties.

Rouker said that if both parties approved different budgets, dispatch would only be approved to spend the lesser amount.

Chopra asked why staff came up with the idea of having joint meetings between the city and county.

Rouker said that staff hoped to avoid conflicts by putting all of the parties in the same room at the beginning of the process.

Chopra asked if staff was aware of the council schedule.

Rouker said that they were.

Piedmont-Smith asked if other emergency providers paid for dispatch services.

Rouker said they did not currently pay for them, but it was a possibility for the future, and so having the language in place was useful.

Piedmont-Smith asked why the hiring process was changed for the telecommunications manager.

Rouker said it made more sense to have a smaller group handle the process.

Piedmont-Smith asked if dispatch employees were part of a collective bargaining unit.

Rouker said they were not, but the language was included in case they became unionized in the future.

Piedmont-Smith asked for clarification on Exhibit A to the interlocal agreement.

Rouker said that he would get back to her.

Chopra said that the agreement placed an undue burden on the City Council and showed a failure on the part of the administration to fully negotiate. She said she wished her colleagues would consider postponing the vote.

There was a brief discussion of how a postponement would work.

Sims said that there were statutory constraints that the council needed to follow.

Volan said that if the joint meeting was folded into the budget hearing process it would not be as problematic. He said he was pleased that the issues around the county-wide dispatch center were being smoothed out.

Piedmont-Smith said she understood the possible need for a joint meeting.

The motion to adopt Resolution 18-03 received a roll call vote of Ayes: 7, Nays: 1 (Chopra), Abstain: 0.

Volan moved and it was seconded that Ordinance 18-02 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis.

Volan moved and it was seconded that Ordinance 18-03 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis.

There was a brief discussion regarding the Internal Work Session scheduled for Friday, February 9, 2018 and the State of the City address scheduled for Thursday, February 15, 2018.

Resolution 18-03 (cont'd)

Council Comments:

Vote on Resolution 18-03 [7:44pm]

LEGISLATION FOR FIRST READING [7:44pm]

Ordinance 18-02 - An Ordinance Re-Establishing the Cumulative Capital Development Fund Under IC 36-9-15.5

Ordinance 18-03 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: The Batman-Waldron House at 403 West Kirkwood Avenue (Nancy Garrett, Petitioner)

COUNCIL SCHEDULE

The meeting was adjourned at 7:50pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2017.

APPROVE:

ATTEST:

Dorothy Granger, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

For Approval