

City of Bloomington Common Council

LEGISLATIVE PACKET

Meetings for the week of 8-12 June 2020

Wednesday, 10 June 2020

Special Session

6:30 PM

Sustainable Development Committee

No earlier than 6:45 PM

Legislation and background material on [Ordinance 20-11](#) is contained herein.

Thursday, 11 June 2020

Public Safety Local Income Tax Committee

8:00 AM

Jack Hopkins Social Services Funding Committee

Debriefing Meeting

6:00 PM

Please see the note on the [Agenda](#) addressing public meetings during the public health emergency

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

City of
Bloomington
Indiana



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

Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@bloomington.in.gov

To: Council Members
From: Council Office
Re: Weekly Packet
Date: 5 June 2020

LEGISLATIVE PACKET CONTENTS

SPECIAL SESSION IMMEDIATELY FOLLOWED BY SUSTAINABLE DEVELOPMENT COMMITTEE WEDNESDAY, 10 JUNE 2020 [6:30 PM]

- Memo from Council Office
- Agenda – Special Session immediately followed by Sustainable Development Committee on Wednesday, June 10, 2020 at 6:30 pm
- Notice of Special Session immediately followed by the Sustainable Development Committee on Wednesday, June 10, 2020 at 6:30 pm to be held remotely – Zoom meeting link: <https://bloomington.zoom.us/j/98271938550>
- Notice of Public Safety Local Income Tax (PS LIT) Committee (of the PS LIT Council) – Second Meeting for 2020 on Thursday, June 11, 2020 at 8:00 am to be held remotely – Zoom meeting link: <https://bloomington.zoom.us/j/91520852542>
- Notice of Jack Hopkins Social Services Funding Committee – Debriefing Meeting for 2020 on Thursday June 11, 2020 at 6:00 pm to be held remotely – Zoom meeting link: <https://bloomington.zoom.us/j/99387977115>

Special Session – First Readings –

- **Ordinance 20-11** - An Ordinance Recommending that Portions of the Bloomington Municipal Code be Temporarily Suspended Due to the Ongoing Public Health Emergency
 - Memo to Council, from Mike Rouker, City Attorney [Attachment to the Ordinance]
 - Temporary Waivers to BMC 20.04.100 (Signs) - highlighted
 - Temporary Waivers to BMC 12.06 (Sidewalk Seating and Merchandizing Encroachments) – highlighted (*Rough – see staff for precise changes*)

Contact

Mike Rouker, roukerm@bloomington.in.gov, 812-349-3426
Jackie Scanlan, Scanlanj@bloomington.in.gov, 812-349-3423
Alex Crowley, crowleya@bloomington.in.gov, 812-349-3477

Sustainable Development Committee

- **Ordinance 20-11** – *See materials listed above under Special Session - First Readings*

PRELIMINARY MATTERS – REMINDERS FOR THE WEEK, ETC.

WEDNESDAY

June 10, 2020 at 6:30 p.m. – Special Session immediately followed by the Sustainable Development Committee to be held remotely – **Zoom meeting link:**
<https://bloomington.zoom.us/j/98271938550>

THURSDAY

June 11, 2020 at 8:00 am – Public Safety Local Income Tax (PS LIT) Committee (of the PS LIT Council) – Second Meeting for 2020– to be held remotely – **Zoom meeting link:**
<https://bloomington.zoom.us/j/91520852542>

June 11, 2020 at 6:00 pm – Jack Hopkins Social Services Funding Committee – Debriefing Meeting for 2020 – to be held remotely – **Zoom meeting link:**
<https://bloomington.zoom.us/j/99387977115>

SPECIAL SESSION – FIRST READINGS - NEW MATERIALS - SUMMARY

Item 1:

Ordinance 20-11 - An Ordinance Recommending that Portions of the Bloomington Municipal Code be Temporarily Suspended Due to the Ongoing Public Health Emergency

Ordinance 20-11 proposes the temporary relaxation/suspension of some business regulations in order to help economic recovery from the COVID-19 public health emergency. The relaxation effects regulations of signs in Title 20 (Unified Development Ordinance) and sidewalk seating and merchandising encroachment in Title 12 (Streets, Sidewalks and Storm Sewers), and would be effective through September 30th, with an option to extend beyond that date, if needed.

These measures are unusual and arose from a confluence of circumstances, including:

- the COVID-19 public health emergency and its damaging effect on businesses;
- the recent street improvements on Kirkwood, which make the street more amenable to festivals; and
- a request from the downtown business community to ease sign regulations, simplify the application process, and close portions of Kirkwood Avenue to expand encroachments for outdoor dining and retail activities for certain periods in the next few months.

Temporary Suspension of Regulations for Temporary and Sandwich Board Signs along with Temporary Waiver of Fees for Temporary and Permanent Signs (BMC 20.04.100)

The ordinance requests and allows the City to exercise discretion to temporarily waive/suspend certain sign regulations. As stated in the Memo from Mike Rouker, City Attorney, the goal of this suspension is “to simplify the signage process for businesses and organizations in order to:

- help them communicate their safety protocols to potential customers/visitors during the COVID-19 reopening;
- remove barriers in the sign process during economically challenging times; and
- allow for smooth transition back to normal sign requirements when the adjustments expire.”

In brief the ordinance:

- suspends fees for temporary signs (now \$75) and permanent signs (now \$125) throughout the City;
- simplifies and streamlines the application and permitting process for temporary signs throughout the City; and
- relaxes the restrictions on the number, size, and duration of temporary signs and the number and placement of sandwich board signs in the Mixed-Use Downtown (MD) district.

Please see the charts in Rouker’s Memo and the ordinance, and note the highlighted portions of BMC 20.04.100, which is included in the packet, for more detail on the suspensions/waivers.

Suspension of Some Sidewalk Seating and Encroachment Regulations (BMC 12.06)

At the request of the Administration, the ordinance also “support[s] the Kirkwood Community Association’s (KCA) request to test a periodic closure of portions of Kirkwood and loosen seating encroachment requirements ... , with the possibility of allowing further temporary encroachments or closures as determined by the Board of Public Works.” The first closure would be from 5 pm Friday June 19th to 9 pm Sunday, June 21st. If successful, more closures could likely follow. Please note that the Board of Public Works is expected to hear a proposal consistent with this ordinance at its June 9th meeting in order to have everything in place for the June 19th closure.

Along with closing the street, providing directional signage, promoting the event, and contacting food truck operators, the Administration is proposing the relaxation of various provisions of BMC 12.06 (Sidewalk Seating and Merchandizing), which are set forth in Section 2 of the ordinance and read as follows:

- (1) “Allow the Kirkwood Community Association to submit a single seating encroachment application on behalf of all of the business that will be expanding their seating during the time(s) when the Board of Public Works shuts down Kirkwood Avenue to allow expanded seating for local businesses;

- (2) Suspend fees charged for seating encroachments within the right-of-way; and
- (3) Simplify and streamline the application process for Title 12 seating encroachments in a manner consistent with the applicable portions of the Memo from the Administration, which is attached and made a part of this ordinance.”

Please see Rouker’s Memo and a highlighted version of BMC 12.06 (Sidewalk Seating and Merchandizing Encroachments), which are included in this packet, for more details on the relaxation of these regulations. And, please note that this is in conjunction with the Board of Works authority to close-off streets for festivals and other purposes.

Possible Extensions -Transitioning from the COVID-19 Emergency

The ordinance notes that the requests for suspensions expire after September 30, 2020, requests that the Plan Commission be informed of this initiative, and sets forth some scenarios under which the waiver/suspensions may be extended.

First, in the event, the declared disaster emergency for COVID-19 continues past September 30, 2020, the City Council, at its discretion, may take up a *resolution* to request that these formalities be waived for a longer period of time.

Second, in the event, the declared disaster emergency for the COVID-19 pandemic ends prior to September 30, 2020, the City Council, at its discretion, may take up a *resolution* to request that formalities regarding Title 12 be waived for a longer period of time.

Third, again, in the event the declared disaster emergency for the COVID-19 pandemic ends prior to September 30, 2020, this ordinance serves as an invitation for the Plan Commission to take steps to extend these temporary waivers or suspensions involving specified provisions of Title 20 (Unified Development Ordinance) based upon recommendations from the Planning and Transportation Department.

Unusual Legislation

A caution to Council members on using this approach in the future. The argument for the City’s authority to take these measures starts with the inherent discretion of the Administration to enforce regulations. While the ordinance may look like an amendment to Title 20, it isn't and does not follow the procedures for an amendment. It is done during an emergency, is temporary, and addresses impacts of the emergency on the business community. The specificity is an effort to make the City’s intent to not enforce certain regulations known to the public and to provide for an orderly implementation in these extraordinary times.

SUSTAINABLE DEVELOPMENT COMMITTEE

Item 1:

(See Special Session – First Reading – above)

Originally envisioned as a resolution, Ordinance 20-11 comes to the Sustainable Development Committee upon the referral of the Council President. Given the approaching summer recess, as well as the purpose of the legislation itself, the Committee should consider reporting back to the full Council with its recommendation at the Regular Session scheduled for June 17.

**NOTICE AND AGENDA
THE BLOOMINGTON COMMON COUNCIL**

**SPECIAL SESSION
WEDNESDAY, 10 JUNE 2020 AT 6:30 PM**

**FOLLOWED BY
SUSTAINABLE DEVELOPMENT COMMITTEE
TO BEGIN NO EARLIER THAN 6:45 PM**

Per Executive Orders issued by the Governor, this meeting will be conducted electronically. The public may access the meeting at the following link: <https://bloomington.zoom.us/j/98271938550>

I. ROLL CALL

II. AGENDA SUMMATION

III. REPORTS

1. The Mayor and City Offices

IV. APPOINTMENTS & HIRINGS

V. LEGISLATION FOR FIRST READING AND RESOLUTIONS

1. Ordinance 20-11 – An Ordinance Recommending that Portions of the Bloomington Municipal Code be Temporarily Suspended Due to the Ongoing Public Health Emergency

VI. COUNCIL SCHEDULE

VII. ADJOURNMENT

(followed by the Sustainable Development Committee)

Statement on public meetings during public health emergency:

As a result of Executive Orders issued by the Governor, the Council and its committees may adjust normal meeting procedures to adhere to guidance provided by state officials. These adjustments may include:

- allowing members of the Council or its committees to participate in meetings electronically;*
- posting notices and agendas for meetings solely by electronic means;*
- using electronic meeting platforms to allow for remote public attendance and participation (when possible);*
- encouraging the public to watch meetings via Community Access Television Services broadcast or livestream, and encouraging remote submissions of public comment (via email, to council@bloomington.in.gov).*

Please check <https://bloomington.in.gov/council> for the most up-to-date information about how the public can access Council meetings during the public health emergency.

(Continued on Next Page)

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL**

**SUSTAINABLE DEVELOPMENT COMMITTEE
TO BEGIN NO EARLIER THAN 6:45 PM**

WEDNESDAY, 10 JUNE 2020

Per Executive Orders issued by the Governor, this meeting will be conducted electronically. The public may access the meeting at the following link: <https://bloomington.zoom.us/j/98271938550>

Chair: Sue Sgambelluri

1. Ordinance 20-11 – An Ordinance Recommending that Portions of the Bloomington Municipal Code be Temporarily Suspended Due to the Ongoing Public Health Emergency

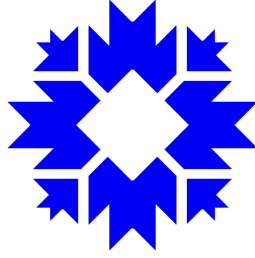
Asked to attend: Mike Rouker, City Attorney
 Jacqueline Scanlan, Development Services Manager
 Alex Crowley, Director, Economic and Sustainable Development

Statement on public meetings during public health emergency:

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

NOTICE

Wednesday, 10 June 2020 at 6:30 PM

***Special Session followed by
Sustainable Development Committee
to begin no earlier than 6:45 PM***

***Per [Executive Orders](#) issued by the Governor, this meeting will be conducted electronically. The public may access the meeting at the following link:
<https://bloomington.zoom.us/j/98271938550>***

Statement on public meetings during public health emergency

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As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the 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.

Posted: Friday, 05 June 2020

NOTICE

THE PUBLIC SAFETY LOCAL INCOME TAX COMMITTEE (PS-LIT COMMITTEE) OF THE THE MONROE COUNTY LOCAL INCOME TAX COUNCIL (TAX COUNCIL)

WILL MEET AS FOLLOWS:

THURSDAY, JUNE 11, 2020 AT 8:00 AM

Per [Executive Orders](#) issued by the Governor, this meeting will be conducted electronically. The public may access the meeting at the following link:

<https://bloomington.zoom.us/j/91520852542>

THE TAX COUNCIL SERVES AS THE "ADOPTING BODY" IN REGARD TO CERTAIN LOCAL INCOME TAX RATES PER IC 6-3.6 ET AL. IT IS MADE UP OF FOUR MEMBERS - THE: BLOOMINGTON COMMON COUNCIL, ELLETTSVILLE TOWN COUNCIL, MONROE COUNTY COUNCIL, AND STINESVILLE TOWN COUNCIL. REPRESENTATIVES OF THE MEMBERS SIT ON THE PS LIT COMMITTEE, WHICH WILL MEET AS INDICATED ABOVE TO DISCUSS THE PROCESS OF REVIEWING APPLICATIONS FROM QUALIFYING SERVICE PROVIDERS (QSPs) FOR FUNDING UNDER IC 6-3.6-6-8(c) AND MAKING RELATED RECOMMENDATIONS TO THE TAX COUNCIL.

PURSUANT TO INDIANA OPEN DOOR LAW (I.C. 5-14-1.5), THIS PROVIDES NOTICE THAT THIS MEETING WILL OCCUR AND IS OPEN FOR THE PUBLIC TO ATTEND, OBSERVE, AND RECORD WHAT TRANSPIRES.

<u>Member</u>	<u>Address</u>	<u>Phone / Email</u>
Bloomington Common Council	401 N. Morton St. (Room 110) P.O. Box 100 Bloomington, IN 47402	812-349-3409 / council@bloomington.in.gov
Ellettsville Town Council	1150 W. Guy McCown Drive P.O. Box 8 Ellettsville, IN 47429	812-876-3860 / clerktreasurer@ellettsville.in.us
Monroe County Council	100 W. Kirkwood Ave (Room 306) Bloomington IN 47404 - 5140	812-349-7312 / counciloffice@co.monroe.in.us
Stinesville Town Council	P.O. Box 66 Stinesville, IN 47464	812-876-8303 / stinesville@bluemarble.net

Statement on public meetings during public health emergency

As a result of Executive Orders issued by the Governor, certain normal meeting procedures may be modified to adhere to guidance provided by state officials. These adjustments may include:

- allowing governing bodies to participate in meetings electronically;
- posting notices and agendas for meetings solely by electronic means;
- using electronic meeting platforms to allow for remote public attendance and participation; and
- encouraging the public to watch meetings via Community Access Television Services broadcast or livestream and encouraging remote submissions of public comment.



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

NOTICE

Jack Hopkins Social Services Funding Committee Debriefing Meeting

Thursday, 11 June 2020, 6:00pm

Per [Executive Orders](#) issued by the Governor, this meeting will be conducted electronically. The public may access the meeting at the following link:

<https://bloomington.zoom.us/j/99387977115>

Statement on public meetings during public health emergency

As a result of Executive Orders issued by the Governor, the Council and its committees may adjust normal meeting procedures to adhere to guidance provided by state officials. These adjustments may include:

- *allowing members of the Council and its committees to participate in meetings electronically;*
- *posting notices and agendas for meetings solely by electronic means (See <https://bloomington.in.gov/council>);*
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As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the 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.

Posted: Friday, 05 June 2020

ORDINANCE 20-11

AN ORDINANCE RECOMMENDING THAT PORTIONS OF THE BLOOMINGTON MUNICIPAL CODE BE TEMPORARILY SUSPENDED DUE TO THE ONGOING PUBLIC HEALTH EMERGENCY

- WHEREAS, the City of Bloomington, along with the rest of the country, remains in the midst of a public health emergency due to the COVID-19 pandemic; and
- WHEREAS, both state and federal governments have declared a disaster emergency for the COVID-19 pandemic; and
- WHEREAS, on March 16, 2020, Governor Holcomb issued Executive Order 20-04, which ordered food service establishments to close service to in-person patrons; and
- WHEREAS, on March 23, 2020, Governor Holcomb issued Executive Order 20-08, which ordered all non-essential businesses to close; and
- WHEREAS, businesses throughout Bloomington have suffered due to the ongoing pandemic and subsequent economic fallout from required closures; and
- WHEREAS, in accordance with *Ordinance 20-09 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" and to Grant Authority to Act in Accordance with Declared Disaster Emergencies - Re: Amending 2.22.030 Entitled "Employee Policies" and Complying with the State of Indiana's Declaration of Disaster Emergency under I.C. § 10-14-3-12* and the powers it may exercise under Home Rule, the City is taking several proactive measures to assist the Bloomington business community's recovery; and
- WHEREAS, among the measures being taken by the City to address the economic fallout felt by Bloomington's local business community is a plan to request that the Board of Public Works close portions of Kirkwood Avenue to vehicular traffic in order to expand seating capacity into the right-of-way so that local businesses may safely serve additional patrons; and
- WHEREAS, a temporary relaxation of the City's sign regulations and seating encroachment regulations would also assist the local business community with its ongoing recovery; and
- WHEREAS, the City possesses discretion to not enforce portions of its Municipal Code during these extraordinary times and would like to make clear to all affected persons and businesses which local regulations will not be enforced; and
- WHEREAS, for a temporary period of time, as described below, the City will be relaxing and/or waiving certain formalities related to sign regulations in order to facilitate a recovery for the local business community;

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

SECTION 1. Through September 30, 2020, the City of Bloomington Common Council hereby requests that the City exercise its discretion to temporarily waive certain formalities during the ongoing public health emergency with regard to the following sections of Title 20 of the Bloomington Municipal Code and as described below:

Standard	BMC Section / Administrative Change	Requested Temporary Waiver
Temporary Signs: Permits	Staff Adjustment of Permit Application	Simplify the temporary sign permit form by eliminating the site plan attachment requirements.
Temporary Signs: Number	20.04.100(L)(6)(B) i.-iii.	Allow for a maximum of 2 additional temporary signs, for a total of 5 (currently 3 total are allowed)
Temporary Signs: Size	20.04.100(L)(6)(D)	Increase size allowance for each sign by 25%, to twenty total square feet
Temporary Signs: Duration	20.04.100(L)(6)(G)	Suspend the thirty-day limitation period so that temporary signs may be posted continuously until September 30, 2020
Sandwich Board Signs: Number	20.04.100(L)(7)(A)	Allow multiple sandwich board signs to be placed within 6 feet of each other (currently they must be 8 feet apart)
Sandwich Board Signs: Placement	20.04.100(L)(7)(C) i.	Allow sandwich board signs on sidewalks with minimum width of 6 feet (currently 7 feet), but in cases of smaller sidewalks require that sandwich board be placed parallel with building facade to allow maximum passage
Permit Fees – Temporary and Permanent Signs	Fee Schedule 20.06.040(c)(3)	Waive permit application fees for temporary signs (\$75) and permanent signs (\$125)

SECTION 2. Through September 30, 2020, the City of Bloomington Common Council requests that seating encroachment requirements contained in Title 12 of the Bloomington Municipal Code be suspended so as to:

- (1) Allow the Kirkwood Community Association to submit a single seating encroachment application on behalf of all of the business that will be expanding their seating during the time(s) when the Board of Public Works shuts down Kirkwood Avenue to allow expanded seating for local businesses;
- (2) Suspend fees charged for seating encroachments within the right-of-way; and
- (3) Simplify and streamline the application process for Title 12 seating encroachments in a manner consistent with the applicable portions of the Memo from the Administration, which is attached and made a part of this ordinance.

SECTION 3. The City Council notes that this ordinance only requests a suspension of the regulations herein described through September 30, 2020 and, further, requests that the Plan Commission be informed of this initiative. In the event, the declared disaster emergency for COVID-19 continues past September 30, 2020, the City Council, at its discretion, may take up a resolution to request that these formalities be waived for a longer period of time. In the event, the declared disaster emergency for the COVID-19 pandemic ends prior to September 30, 2020, the City Council, at its discretion, may take up a resolution to request that formalities regarding Title 12 be waived for a longer period of time. And, again, in the event the declared disaster emergency for the COVID-19 pandemic ends prior to September 30, 2020, this ordinance serves as an invitation for the Plan Commission to take steps to extend these temporary waivers or suspensions involving specified provisions of Title 20 (Unified Development Ordinance) based upon recommendations from the Planning and Transportation Department.

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 force and effect from and after its passage by the Common Council and approval of the Mayor.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2020.

STEPHEN VOLAN, 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 _____, 2020.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2020.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance is a request from the Common Council to waive certain formalities contained in the Bloomington Municipal Code related to signs and seating encroachments. The ordinance allows temporary suspension of these formalities in order to assist the local business community with its recovery following ordered closures due to the COVID-19 pandemic. These temporary measures will last until September 30, 2020, but may be extended, as needed, beyond that date.

ORDINANCE 20-11

**AN ORDINANCE RECOMMENDING THAT PORTIONS OF THE BLOOMINGTON
MUNICIPAL CODE BE TEMPORARILY SUSPENDED DUE TO THE ONGOING
PUBLIC HEALTH EMERGENCY**

ATTACHMENT

MEMO TO THE COUNCIL FROM MIKE ROUKER, CITY ATTORNEY



MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: Common Council
FROM: Michael Rouker, City Attorney
RE: Ordinance 20-11 – Temporary Relaxing of Sign and Seating Requirements to Assist Downtown Businesses
DATE: June 5, 2020

In response to the economic fallout caused by the Covid-19 pandemic, the local business community has requested that the City take several proactive and temporary steps to encourage economic recovery. The business community has asked (1) that the City ease sign regulations for downtown businesses, (2) that the City simplify the procedure for obtaining a sign permit, (3) that the City close portions of Kirkwood Avenue to pedestrian traffic, and (4) that the City allow seating encroachments to be expanded. Staff agrees that these are worthwhile measures to help the business community get back on its feet after all of the mandatory closings necessitated by the ongoing pandemic, and Ordinance 20-11 works to achieve these goals. Each measure is discussed in greater detail below.

Easing Sign Regulations and Simplifying the Permit Procedure

The goal of easing sign regulations is to simplify the signage process for businesses and organizations in order to (1) help them communicate their safety protocols to potential customers/visitors during reopening, (2) remove barriers in the sign process during economically challenging times, and (3) allow for a smooth transition back to normal sign requirements when adjustments expire.

To that end, through September 30, 2020, Ordinance 20-11 implements the following temporary measures with regard to signs:

1. Ordinance 20-11 suspends fees for temporary sign permits, which cost \$75.
2. Ordinance 20-11 suspends fees for permanent sign permits, which cost \$125.
3. Ordinance 20-11 simplifies and streamlines the application and permitting process for temporary sign permits.
4. Ordinance 20-11 relaxes certain restrictions on temporary signs and sandwich boards in the Mixed-Use Downtown District.

These changes, and the affected code sections, are identified in the chart below:

Standard	BMC Section	Requested Temporary Waiver
Temporary Signs: Permits	20.04.100(L)(6)(A)	Simplify the temporary sign permit form by eliminating the attachment requirements.
Temporary Signs: Number	20.04.100(L)(6)(B) i.-iii.	Allow for a maximum of 2 additional temporary signs, for a total of 5 (currently 3 total are allowed)
Temporary Signs: Size	20.04.100(L)(6)(D)	Increase size allowance for each sign by 25%, to twenty total square feet
Temporary Signs: Duration	20.04.100(L)(6)(G)	Suspend the thirty-day limitation period so that temporary signs may be posted continuously until September 30, 2020
Sandwich Board Signs: Number	20.04.100(L)(7)(A)	Allow multiple sandwich board signs to be placed within 6 feet of each other (currently they must be 8 feet apart)
Sandwich Board Signs: Placement	20.04.100(L)(7)(C) i.	Allow sandwich board signs on sidewalks with minimum width of 6 feet (currently 7 feet), but in cases of smaller sidewalks require that sandwich board be placed parallel with building facade to allow maximum passage
Permit Fees – Temporary and Permanent Signs	Fee Schedule	Waive permit application fees for temporary signs (\$75) and permanent signs (\$125)

Seating Encroachments and Closing Portions of Kirkwood Avenue

In addition to easing sign restrictions, the City has asked the Board of Public Works to temporarily close portions of Kirkwood Avenue to pedestrian traffic and to expand seating available in the public right of way. This will help local businesses provide additional capacity for patrons while keeping an appropriate distance between customers. At the moment, the closure is planned for the weekend of June 19 through June 21, 2020, (starting at 5:00 PM on Friday, June 19), though additional closures may be possible going forward. Therefore the administration recommends that Council support the Kirkwood Community Association’s (“KCA”) request to test a periodic closure of portions of Kirkwood and loosen seating encroachment requirements as detailed below, with the possibility of allowing further temporary encroachments or closures as determined by the Board of Public Works:

1. Allow KCA to submit a single application for an additional Seating & Merchandizing Encroachment on behalf of all participating restaurants.
2. City staff place bollards to close off the east west blocks of Kirkwood between Grant and Dunn, and Dunn and Indiana for the selected weekend.

3. City staff place “no parking” signage on affected blocks to facilitate elimination of parked cars.
4. City staff communicate with food trucks that they will not have access to affected blocks during the closure period.
5. City staff place signage at both ends of each closed block to redirect pedestrian throughflow into traffic lanes.
6. The following portions of the City’s application for a seating encroachment should be suspended:

Under Seating and Retail Requirements:

Suspend:

“(1) Proposed use, materials, colors and design”

“(2) Relationship of the outdoor seating to the adjacent existing building with identified uses and entrances;”

“(5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;”

Add:

Require proof of approval from the Monroe County Department of Health and, where applicable, Indiana Alcohol and Tobacco Commission.

Under Additional Requirements:

Suspend:

“(2) Application / Renewal Fee: To process an initial application, or renewal, for an outdoor seating or merchandising encroachment permit at a specific location, the fee is \$100.00. Only payment by cash, check or money order made payable to the City of Bloomington will be accepted. No application will be processed until the fee is collected in full.”

“(3) No fee shall be charged for processing applications for encroachments that will be limited to four days or less in a calendar year.”

“(4) No refund shall be made where a permit is revoked or suspended for any reason.”

Add:

Each participating business must submit a certificate of insurance to the Planning and Transportation Department establishing proof of a comprehensive general liability policy naming the City of Bloomington as additional insured

to the extent of at least \$500,000 bodily injury and \$100,000 property damage, which shall be in effect during the term of this authorization.

Under Permit Issuance and Conditions:

Add:

“(1) Each permit shall be effective for *the period of approval granted by the Board of Public Works or staff, as the case may be.*”

“(7) All signage must be in compliance with the Bloomington Municipal Code *and/or any temporarily altered signage requirements.*”

Staff is excited about the opportunity to see how these temporary relaxations of sign and seating encroachments impact our local businesses, and is hopeful that these measures will play a small role in helping our community recover from the economic fallout of the ongoing global pandemic. Therefore staff recommends that the Common Council adopt Ordinance 20-11.

ORDINANCE 20-11

**AN ORDINANCE RECOMMENDING THAT PORTIONS OF THE BLOOMINGTON
MUNICIPAL CODE BE TEMPORARILY SUSPENDED DUE TO THE ONGOING
PUBLIC HEALTH EMERGENCY**

SUPPLEMENTAL MATERIAL

**WAIVERS/SUSPENSIONS ASSOCIATED WITH TITLE 20 (UNIFIED
DEVELOPMENT ORDINANCE)**

FEE SCHEDULE

20.04.100 (SIGNS)

20.04.100 Signs

(a) Purpose

The intent of these sign standards is to:

- (1) Accomplish the goals of the Comprehensive Plan;
- (2) Avoid unnecessary proliferation of signs;
- (3) Provide developments with appropriate identification;
- (4) Create a consistent streetscape;
- (5) Maintain and enhance the aesthetic environment of the city and its City;
- (6) Eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and
- (7) Promote the health, safety, and welfare of the residents of the City of Bloomington.
- (8) No part of these standards shall in any way be interpreted to infringe upon those rights guaranteed by the First Amendment to the United States Constitution or Article 1, Section 9 of the Indiana Constitution.

(b) Applicability

No sign or advertising device shall be established, altered, changed, erected, constructed, reconstructed, moved, divided, enlarged, demolished or maintained except in compliance with this Section 20.04.100.

(c) Permit Requirements

(1) Generally

A sign permit shall be required for all signs located, erected, constructed, reconstructed, moved, or altered unless specifically exempted by this Section 20.04.100.

(2) Signs not Requiring a Permit

The following signs are exempt from the requirement to obtain a sign permit, unless specifically required by another subsection of this Section 20.04.100.

(A) Public Signs

Any signs erected, or required to be erected, by a unit of local, state, or federal government.

(B) Small Signs

Any sign of not more than one and one-half square feet in area.

(C) Temporary Signs

- i. In all zoning districts, each property is allowed to have two signs, neither of which shall exceed five square feet in area, and one additional sign that shall not exceed eight square feet in area.
- ii. In nonresidential and mixed-use zoning districts, each vacant property, or property that is under construction, is allowed to have one sign that shall not exceed 32 square feet in area.
- iii. In all nonresidential and mixed-use zoning districts, each vacant tenant space, or tenant space that is under construction, is allowed to have one sign that shall not exceed 32 square feet in area that shall be attached to the wall of the vacant space.

(D) Murals

Murals are exempt from the requirement to obtain a sign permit.

(E) Window Signs

Window signs shall not exceed 25 percent of the glass area of any individual window or glass door frame and shall not count towards the wall sign allowance of the use or property.

(F) Sandwich Board Signs

Sandwich board signs shall comply with the standards of this Section.

(d) Sign Measurements

Sign height and sign area measurements shall be calculated as follows:

(1) Wall Signs

The area of wall signs shall be calculated as the smallest regular geometric figure needed to circumscribe any images, text, or other identifying trait placed on a structure.

(2) Freestanding Signs

(A) The area of freestanding signs shall be calculated as the smallest regular geometric figure needed to circumscribe the sign, exclusive of supporting structures.

(B) The height of a freestanding sign shall be measured from the grade beneath the sign or from the crown of the adjacent street, whichever is higher. The ground beneath a sign shall not be raised to artificially change the point at which the sign height is measured.

(3) Double-faced Signs

For all freestanding, projecting, or temporary signs permitted by this chapter, a double-faced sign may be erected. Only the face area of one of the two sides shall be considered the face area of the entire sign. In such cases, the two sign faces shall be identical in area, shall be placed back to back, and shall be separated by a distance of no more than two feet.

(e) Prohibited Sign Types

The following signs are prohibited in all zoning districts unless specifically authorized by another provision of this Section 20.04.100:

(1) Animated Signs

Signs that use any motion picture, laser, or visual projection of images or text.

(2) Bench Signs

A sign located on the seat or back of a bench placed on or adjacent to a public right-of-way.

(3) Imitation of Public Signs

Signs that purport to be, are in imitation of, or resemble a public sign as described by the Manual on Uniform Traffic Control Devices. Examples include but are not limited to stop signs, yield signs, or pedestrian crossing signs.

(4) Off-premise Signs

Signs advertising goods, products, services, events or activities not located, sold or offered on the premises on which the sign is located, except for signs as provided in Section 20.04.100(c)(2)(B), Section 20.04.100(c)(2)(C), Section 20.04.100(k)(7), and Section 20.04.100(l)(7).

(5) Vehicle Signs

Vehicles, vans, trailers or trucks that are parked continuously in the same general location to be used to display signs. This does not prohibit vehicle or trailer owners from having vehicles or trailers with signs, provided the vehicles or trailers are in use on a regular basis, are not continuously parked in one parking lot or parking space, and are not being used to serve in the same manner as an additional freestanding sign or temporary sign.

(6) Intermittent Lights

Signs that have intermittent blinking, flashing, or fluttering lights, including any device that has a changing light intensity, brightness of color, or gives such illusion, including but not limited to strobe lights.

(7) Pole Signs

Signs that are mounted on a freestanding pole or other support that is not part of or attached to a building or structure.

(8) Temporary Signs

Any temporary sign not specifically permitted in Section 20.04.100(i)(9), Section 20.04.100(j)(7), Section 20.04.100(k)(5), and Section 20.04.100(l)(6) or specifically exempted in Section 20.04.100(c)(2)(C), including but not limited to pennants, streamers, balloons, inflatable signs, spinners, feather flags, and banners.

(9) Projecting Signs

Any sign that projects outward more than 12 inches from the facade of a building in, except as provided in Section 20.04.100(l).

(10) Electronic Reader Board Signs

Any electronic reader board sign not specifically permitted in Section 20.04.100(g)(3).

(f) Prohibited Sign Locations

Signs shall not be installed at any of the following locations:

(1) Public Easement

In any public easement, unless the sign is a public sign authorized by Section 20.04.100(c)(2)(A), or is further authorized by the city.

(2) Public Right-of-Way

In any public right-of-way, unless the sign is authorized by Section 20.04.100(k)(7), or the sign is authorized by Section 20.04.100(l)(3), or the sign is authorized by Section 20.04.100(l)(7), or the sign is a public sign authorized by Section 20.04.100(c)(2)(A) and is further authorized by the city;

(3) Roofs

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

(4) Vision Clearance Triangle

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

(5) Miscellaneous

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

(g) General Design Standards

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

(1) Freestanding Signs

All freestanding signs shall comply with the following standards:

(A) Setback

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

(B) Mounting

All freestanding signs shall be permanently affixed to the ground.

(C) Base

Sign bases shall conform to the following standards:

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

(D) Cap

A decorative cap may extend up to 18 inches above the height limit specified in this Section 20.4.100. The decorative cap shall have no identifying text, images, or identifying traits.

(E) Landscaping

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

(F) Illumination

Sign lighting shall comply with the light trespass regulations in Section 20.04.090 (Outdoor Lighting).

(2) Changeable Copy

Unless specified otherwise in this UDO, signs may incorporate areas for changeable copy, provided that the changeable copy area does not exceed 40 percent of the total sign area.

(3) Electronic Reader Boards

Unless otherwise provided in this UDO, electronic reader boards may only be utilized when incorporated into permanent signage, provided that they do not exceed more than 40 percent of the total area of any sign face, and that information is displayed in increments of no less than 20 seconds.

(h) Waiver of Right to Damages

- (1) The Plan Commission, the Board of Zoning Appeals, and the City Planning and Transportation Department are each authorized to request waivers of the right to and receipt of damages pursuant to Indiana Code 22-13-2-1.5, Indiana Code 36-7-2-5.5, and Indiana Code 32-24, in connection with any petition for a permit or other approval that may involve erection of a new sign or removal or alteration of a lawfully erected sign, including a lawful nonconforming sign.
- (2) Waivers may be requested from the following:
 - (A) The petitioner;
 - (B) The property owner;
 - (C) The sign owner;and
 - (D) Any other person with an interest in the site or the sign.
- (3) The owner and/or the petitioner shall be responsible for obtaining waivers from all persons listed in Section 20.04.100(h)(2).

(i) Residential District Sign Standards

(1) Applicability

This section applies to the RE, R1, R2, R3, R4, RM, RH, and RMH zoning districts.

(2) Single-Family and Condominium Subdivision

Each subdivision shall be permitted one freestanding sign per development entrance, subject to the following standards:

(A) Freestanding Sign Area

The maximum sign area shall not exceed 32 square feet per side.

(B) Freestanding Sign Height

The maximum height shall not exceed six feet in height.

(C) Changeable Copy

Changeable copy shall be prohibited as part of a freestanding sign.

(D) Number

The permitted subdivision sign may be replaced with two signs of a maximum 16 square feet in area per sign if a sign is placed on each side of the entrance.

(E) Wall Signage

No wall signage is permitted.

(3) Multifamily

- (A) Multifamily developments containing between three and 14 dwelling units shall be permitted one wall sign not to exceed 24 square feet per development.
- (B) Multifamily developments containing at least 15 dwelling units shall be permitted:
 - i. One freestanding sign per development vehicle entrance, not to exceed 32 square feet per side in maximum sign area and not to exceed six feet in height; and
 - ii. One wall sign per building not to exceed 24 square feet each.

(4) Conforming Nonresidential Uses

For any nonresidential use approved as a permitted use or conditional use, the provisions of Section 20.04.100(k) shall apply. These provisions may be modified by action of the Board of Zoning Appeals as part of a conditional use approval.

(5) Legal Nonconforming Multifamily Residential Uses

Legal nonconforming multifamily residential uses in single family zoning districts with at least three units shall be permitted wall signage not to exceed 10 square feet in area but shall not be permitted any freestanding signs. This subsection supersedes Section 20.04.100(i)(3)(A).

(6) Legal Nonconforming Nonresidential Uses

Legal nonconforming nonresidential uses shall be permitted:

- (A) Wall signage not to exceed 10 square feet in area and;
- (B) On lots with less than 30 feet of street frontage, no additional freestanding signs; and
- (C) On lots with 30 feet or more of street frontage, one additional freestanding sign not to exceed 12 square feet in maximum area per side, and not to exceed four feet in height.

(7) Illumination

Signs within residential districts shall not be internally illuminated.

(8) Window Signs

Window signs are not permitted for residential uses.

(9) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), conforming nonresidential uses and multifamily structures with at least 15 dwelling units are permitted to display temporary signage provided that the temporary signs comply with the following standards:

- (A) All temporary signs shall receive a sign permit from the City Planning and Transportation Department before being displayed;
- (B) A maximum of three temporary signs per display period described below are permitted;
- (C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8);
- (D) Temporary signs shall not exceed 16 square feet in area per side;
- (E) Freestanding temporary signs shall not exceed six feet in height; and
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted for a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

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

(1) Applicability

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

(2) Wall Signs

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

(A) Allowance

i. Individual Nonresidential Uses

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

ii. Multi-tenant Nonresidential Center

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

iii. Size Limits

No use shall be limited to less than 30 square feet of wall signage and no use shall be permitted to exceed 300 square feet of wall signage.

(B) Maximum Projection

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

(C) Location

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

(D) Multi-tenant Nonresidential Centers

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

(3) Freestanding Signs

The following standards shall apply to all freestanding signs:

(A) Number

- i. Freestanding signs shall not be permitted on lots with 30 feet or less of public street frontage.
- ii. Lots with greater than 30 feet and less than 500 feet of frontage on a public street are permitted one freestanding sign.
- iii. Lots with 500 feet or more of public street frontage, one freestanding sign shall be permitted for each 250 feet of public street frontage.

- iv. The number of signs allowed per street frontage shall be determined based on the length of frontage on each street. Each frontage is regulated separately, and total square footages may not be aggregated.
- v. In no case shall any lot have more than four freestanding signs.

(B) Area

i. Individual Nonresidential Uses

- 1. Freestanding signs on lots with greater than 30 feet and less than 50 feet of public street frontage shall not exceed 20 square feet.
- 2. Freestanding signs on lots with at least 50 feet and less than 75 feet of public street frontage shall not exceed 30 square feet.
- 3. Freestanding signs on lots with at least 75 feet of public street frontage shall not exceed 45 square feet.
- 4. Where a lot has more than one public street frontage, each street frontage shall be regulated independently.

(4) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage square footage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display cabinet, measured at the outer edge of the cabinet frame.
- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(5) Drive-Through Uses

In addition to the signs listed in this Section 20.04.100:

- (A) Structures with a drive-through shall be permitted one additional sign at the entrance to or for each area connected to a drive-through lane, provided that the sign has only one face, the maximum area of that sign face does not exceed 36 square feet, and the height of the sign does not exceed six feet.
- (B) Structures with a drive-through shall be permitted two additional freestanding signs, with a maximum sign face area that does not exceed four square feet, and the height of the sign does not exceed four feet.

(6) Multifamily Dwelling Uses

Developments containing at least 15 dwelling units shall be permitted up to 24 square feet of wall signage per development and one freestanding sign per vehicle entrance. The freestanding sign shall not exceed 32 square feet and the height of the sign shall not exceed six feet.

(7) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following

standards:

- (A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.
- (B) The following numbers of signs are permitted:
 - i. Individual nonresidential uses shall be permitted a maximum of three temporary signs.
 - ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of three temporary signs.
 - iii. Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.

- (C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8).
- (D) Temporary signs shall not exceed 16 square feet.
- (E) Freestanding temporary signs shall not exceed six feet in height.
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted for a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

(k) MN District Sign Standards

(1) Applicability

This sign standards section applies to the MN zoning districts.

(2) Wall Signs

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

(A) Allowance

i. Individual Nonresidential Uses

The cumulative square footage of all wall signs shall not exceed one square foot per lineal foot of primary structure that faces a public or private street.

ii. Multi-tenant Centers

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

iii. Limits

No property shall be limited to less than 20 square feet of wall signage and no use or tenant shall be permitted to exceed 100 square feet of wall signage.

(B) Location

No wall signage shall be located on a side or rear building façade facing a residential use.

(C) Maximum Projection

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

(3) Freestanding Signs

The following standards apply to permanent freestanding signs:

- (A) Lots with 30 feet or less of public street frontage shall not be permitted any freestanding signs. Lots with more than 30 feet of public street frontage on a single street are permitted a maximum of one freestanding sign.
- (B) No freestanding sign shall exceed 15 square feet in area per side.
- (C) No freestanding sign shall exceed four feet in height.

ii. Multi-tenant Nonresidential Centers

1. Freestanding signs for centers with less than 20,000 square feet of gross floor area are permitted a maximum sign area based on individual nonresidential use allowances listed in the above section 20.04.100(j)(3)(B)i.
2. Freestanding signs for centers with at least 20,000 and less than 35,000 thousand square feet of gross floor area shall not exceed 60 square feet.
3. Freestanding signs for centers with at least 35,000 and less than 50,000 square feet of gross floor area shall not exceed 75 square feet.
4. Freestanding signs for centers with at least 50,000 square feet of gross floor area shall not exceed 125 square feet.
5. Individual tenant panels shall not exceed 36 square feet.
6. Outlots that are not counted toward center square footages shall be permitted freestanding signage based on individual nonresidential uses in Section 20.04.100(j)(3)(B)i.
7. Replacement or switch-out of individual tenant panels on a multi-tenant sign shall not require compliance of the entire freestanding sign but shall require a sign permit.
8. The gross floor area calculations described in this Section 20.04.100(j)(3)(B)ii shall not include any square footage associated with a residential use.

(C) Height

- i. For individual nonresidential uses and multi-tenant centers of less than 20,000 square feet of gross floor area, the maximum freestanding sign height shall be six feet.
- ii. For multi-tenant centers with at least 20,000 square feet and less than 50,000 square feet of gross floor area, the maximum freestanding sign height shall be eight feet.
- iii. For multi-tenant centers with at least 50,000 square feet of gross floor area, the maximum sign height shall be 15 feet.
- iv. The gross floor area calculations described in this Section 20.04.100(j)(3)(C) shall not include any square footage associated with a residential use.

(D) Separation

Where a lot is permitted multiple freestanding signs, no two freestanding signs shall be within 100 feet of each other, as measured along the public right-of-way.

(E) Changeable Copy

A maximum of 80 percent of any freestanding sign may be dedicated to changeable copy.

(4) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display, measured at the outer edge of the cabinet frame.
- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(5) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following standards:

- (A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.
- (B) The following numbers of signs are permitted:
 - i. Individual nonresidential uses shall be permitted a maximum of three temporary signs.
 - ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of three temporary signs.
 - iii. Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.
- (C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8).
- (D) Temporary signs shall not exceed 16 square feet.
- (E) Freestanding temporary signs shall not exceed six feet in height.
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted for up to a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.

(6) Electronic Reader Boards

Electronic reader boards are not permitted in this zoning district.

(7) Sandwich Board Signs

Properties immediately adjacent to a public sidewalk shall be permitted to place sandwich board signs in the public sidewalk provided the following criteria are met.

(A) Number

Each property shall be permitted one sandwich board sign. If a property contains more than one tenant, additional sandwich board signs shall be permitted, provided the number of sandwich boards in front of a single property shall be limited to ensure that no sandwich board sign shall be placed within eight linear feet of another sandwich board sign, measured from the base of each sign.

(B) Design

- i. Sign face area shall not exceed five square feet.
- ii. Sign face width shall not exceed two feet, nine inches measured at the widest point of the sign face.
- iii. Sign height shall not exceed four and one-half feet measured from the ground to the top of the sign.
- iv. Signs shall be truly portable and shall not be permanently affixed to any structure or sidewalk.

(C) Placement

Sandwich board signs shall meet the following placement criteria.

- i. Signs shall be placed only on sidewalks with a minimum width of seven feet.
- ii. Signs shall be removed from the public sidewalk at the end of each business day.
- iii. Signs shall be located a maximum of two feet from the building; or in the tree plot outside of the sidewalk.
- iv. Signs shall be placed a minimum of 48 inches from all obstructions within the sidewalk including newspaper boxes, outdoor tables and seating, trees and tree grates, bicycle racks, trash receptacles and any other item impeding pedestrian or wheelchair movement.
- v. Signs shall be placed a minimum of eight feet from a building corner or pedestrian crosswalk.
- vi. Sign placement shall meet all requirements of the Americans with Disabilities Act (ADA).
- vii. Signs shall not be placed within the right-of-way of the B-Line Trail. Sandwich board signs for properties with frontage along the trail shall be placed on the property between the building and the trail right-of-way.

(I) MD District Sign Standards**(1) Applicability**

This sign standards section applies to the MD zoning districts.

(2) Wall Signs

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

(A) Allowance**i. Individual Nonresidential Uses**

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

ii. Multi-tenant Centers**1. First Story**

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

2. Upper Story Retail Uses

[a] Retail uses located above the first story shall be permitted a wall sign allowance equal to 50 percent of the total allowance permitted for first story uses as provided in Section 20.04.100(l)(2)(A)ii.1 above.

[b] The sign shall be located on the lease space or along a wall within five feet of the lease space.

3. Upper Story Office Uses

Non-retail tenants without first story street frontage shall be permitted to display a maximum of four-square feet of signage at the exterior entrance.

4. Additional Sign

Multi-tenant centers shall be permitted a single wall sign that does not exceed 20 square feet in area. .

iii. Multifamily

Developments containing more than two units shall be permitted wall signage that shall not cumulatively exceed 24 square feet.

iv. Limits

No property shall be limited to less than 20 square feet of wall signage and no use or tenant shall exceed 100 square feet of wall signage.

(B) Location

Wall signs for individual tenants within a multi-tenant center shall be located on the tenants lease space, except as regulated in Section 20.04.100(l)(2)(A)ii.2 above.

(C) Maximum Projection

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

(3) Projecting Signs

The following standards apply to projecting signs:

- (A) Any property that uses a freestanding sign shall be prohibited from using a projecting sign.
- (B) A maximum of one projecting sign is permitted per tenant per street frontage.
- (C) A minimum separation of 100 feet shall be provided between all projecting signs on the same building facade.
- (D) Projecting signs shall be limited to a maximum of 54 square feet in area.
- (E) Projecting sign areas shall count toward overall wall sign square footage allowance.

- (F) No part of a projecting sign shall protrude more than 96 inches from the wall or face of the building to which it is attached. Those support structures located between the building and the sign only shall be counted toward this allowance.
- (G) Projecting signs shall be located adjacent to the tenant's lease space and shall be installed at least seven feet above the pavement.
- (H) The petitioner for a projecting sign shall provide information verifying that the building facade containing the projecting sign can tolerate anticipated wind loading.

(4) Freestanding Signs

The following standards apply to permanent freestanding signs.

- (A) The erection of freestanding signs shall be prohibited on any property frontage immediately adjacent to the B-Line Trail right-of-way.
- (B) Lots with 30 feet or less of public street frontage are not permitted any freestanding signs. Properties with more than 30 feet of public street frontage on a single street are permitted a maximum of one freestanding sign.
- (C) Freestanding signs shall not exceed 15 square feet.
- (D) Freestanding signs shall not exceed four feet in height.
- (E) No freestanding sign shall be allowed unless the primary structure on a lot is set back from the public right-of-way by a minimum of 15 feet.
- (F) Internally illuminated signs are prohibited.
- (G) Changeable copy shall be prohibited as part of a freestanding sign.

(5) Permanent Display Cabinets

Permanent display cabinets shall be subject to the following standards:

- (A) Permanent display cabinets may incorporate interchangeable signage such as banners, flyers, posters, and menus.
- (B) Permanent display cabinets shall count toward the wall signage allowance of the use.
- (C) Individual display cabinets shall not exceed 16 square feet in area per display, measured at the outer edge of the cabinet frame.
- (D) A permanent display cabinet shall not exceed eight feet in height from ground level.
- (E) The permanent display cabinet shall be framed with wood, metal, or other durable material, and enclosed with a transparent cover.

(6) Temporary Signs

In addition to the temporary signs exempted under Section 20.04.100(c)(2)(C), each property is allowed to display temporary signage provided that the temporary signs comply with the following standards:

- (A) All temporary signs shall receive a sign permit from the Planning and Transportation Department prior to being displayed.
- (B) The following numbers of signs are permitted:
 - i. Individual nonresidential uses shall be permitted a maximum of ~~three~~ **five** temporary signs.
 - ii. Multifamily structures with at least 15 dwelling units shall be permitted a maximum of ~~three~~ **five** temporary signs.

- iii. Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.
- (C) Temporary sign types shall be limited to freestanding portable signs or materials not prohibited in 20.04.100(e)(8).
- (D) Temporary signs shall not exceed ~~46~~ 20 square feet.
- (E) Freestanding temporary signs shall not exceed six feet in height.
- (F) External illumination of temporary signs is prohibited.
- (G) Display of temporary signs shall be permitted **continuously until September 30, 2020**. ~~for up to a maximum of three periods of up to 30 days per period, per calendar year. These permitted periods may be combined into one or two periods per year provided that the total display period does not exceed 90 days.~~

(7) Sandwich Board Signs

Properties immediately adjacent to a public sidewalk shall be permitted to place sandwich board signs in the public sidewalk provided the following criteria are met.

(A) Number

Each property shall be permitted one sandwich board sign. If a property contains more than one tenant, additional sandwich board signs shall be permitted, provided the number of sandwich boards in front of a single property shall be limited to ensure that no sandwich board sign shall be placed within ~~eight~~ **six** linear feet of another sandwich board sign, measured from the base of each sign.

(B) Design

- i. Sign face area shall not exceed five square feet per sign per face.
- ii. Sign face width shall not exceed two feet, nine inches measured at the widest point of the sign face.
- iii. Sign height shall not exceed four and one-half feet measured from the ground to the top of the sign.
- iv. Signs shall be truly portable and shall not be permanently affixed to any structure or sidewalk.

(C) Placement

Sandwich board signs shall meet the following placement criteria.

- i. Signs shall be placed only on sidewalks with a minimum width of ~~seven~~ **six** feet.
- ii. Signs shall be removed from the public sidewalk at the end of each business day.
- iii. Signs shall be located a maximum of two feet from the building; or in the tree plot outside of the sidewalk.
- iv. Signs shall be placed a minimum of 48 inches from all obstructions within the sidewalk including newspaper boxes, outdoor tables and seating, trees and tree grates, bicycle racks, trash receptacles and any other item impeding pedestrian or wheelchair movement.
- v. Signs shall be placed a minimum of eight feet from a building corner or pedestrian crosswalk.
- vi. Sign placement shall meet all requirements of the ADA.

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

CITY OF BLOOMINGTON

Fee Schedule

●Plan Commission/Plat Committee Filing Fees (Application Fees)	
REZONE	
Rezone to Single Family	\$250 + \$25/Acre
Rezone to Non-Single Family	\$500 + \$50/Acre
Rezone to Planned Unit Development	\$1000 + \$100/Acre
Planned Unit Development Amendment	\$500 + \$50/Acre
PLATS	
Preliminary	\$300 + \$25/Lot
Final	\$300 + \$25/Lot
Preliminary & Final	\$300 + \$50/Lot
SITE PLAN/FINAL PLAN	
Remodels	\$200
Residential Addition	\$200 + \$25/Dwelling unit
Residential New Construction	\$400 + \$25/Dwelling unit
Non-Residential/Mixed-Use Addition	\$200 + \$0.10/s.f.
Non-Residential/Mixed-Use New Construction	\$400 + \$0.10/s.f.
●BZA/Hearing Officer Filing Fees (Application Fees)	
VARIANCES	
Use Variance	\$500
Development Standards Variance - Single Family Uses	\$100
Development Standards Variance - Non-Single Family Uses	\$500
CONDITIONAL USE	
Home Occupation	\$100
Other	\$250
●Administrative Fees (ROW Vacation, Permit Fees, Service Fees)	
Right-of-Way Vacation (ROW)	\$500
PERMIT FEES	
Permanent Sign	\$125/per sign
Temporary Sign	\$75/up to (3) 30-day sign permits per year
Change of Use	\$250
Temporary Use	\$250
Outdoor Seating in ROW (Seating & Merchandise Encroachment)	\$100
Right-of-Way Excavation	\$100 minimum (\$50 minimum for boring)
Grading	\$115 per acre (prorated if less than 1 acre)
SERVICE FEES	
Letter of Zoning Verification (Other Services)	\$100
Lot line Adjustment (Other Services)	\$100
Certificate of Occupancy Inspection (Inspection Fees)	\$100

ORDINANCE 20-11

**AN ORDINANCE RECOMMENDING THAT PORTIONS OF THE BLOOMINGTON
MUNICIPAL CODE BE TEMPORARILY SUSPENDED DUE TO THE ONGOING
PUBLIC HEALTH EMERGENCY**

SUPPLEMENTAL MATERIAL

**WAIVERS/SUSPENSIONS ASSOCIATED WITH TITLE 12 (STREETS, SIDEWALKS
AND STORM SEWERS)**

Chapter 12.06 (Sidewalk Seating and Merchandising Encroachments)

Title 12 - STREETS, SIDEWALKS AND STORM SEWERS

SUSPENDED OR WAIVED PROVISIONS PROPOSED BY ORDINANCE 20-11 (AS DRAWN FROM MEMO TO THE COUNCIL AND ROUGHLY APPLIED TO CHAPTER 12.06)

Index to Mark-up/Highlights

Plain Black Font on White – Not Mentioned in Materials – No Change (Unless inconsistent with Suspensions/Waivers

(NEW)

INCLUDED

SUSPENDED

Permit Fees and Process - Relaxed

Chapters:

Chapter 12.04 - GENERAL REGULATIONS

Chapter 12.06 - SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS

Chapter 12.08 - EXCAVATIONS

Chapter 12.12 - UTILITIES IN THE RIGHT-OF-WAY

Chapter 12.20 - THOROUGHFARE PLAN

Chapter 12.24 - TREES AND FLORA

Chapter 12.06 - SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS

Sections:

12.06.010 - Purpose of chapter.

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

(Ord. 01-14 § 5, 2001).

12.06.020 - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 01-14 § 6, 2001).

(Ord. No. 14-11, §§ 81, 82, 7-2-2014)

12.06.030 - Standards for encroachment.

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

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

of the wall that runs along the building side of the sidewalk just south of Kirkwood Avenue on the northern half of that block.

- (4) On the east side of the 200 block of South Grant Street, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further west than parallel to the western edge of the wall that runs along the building side of the sidewalk just south of Fourth Street on the northern half of that block.
 - (5) On the north side of the 200 block of West Kirkwood Avenue, the poles supporting the railroad crossing signal on the northeast corner of the intersection of Kirkwood Avenue and Morton Street shall not be considered obstructions for purposes of this chapter.
 - (6) On the north side of the 200 block of West Kirkwood Avenue, the pole supporting the traffic signal on the northwest corner of the intersection of Kirkwood and College Avenues, and the traffic control box just to the west of that pole, shall not be considered obstructions for purposes of this chapter.
 - (7) On the west side of the 100 block of North College Avenue (west side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 125 North College Avenue shall serve as outermost (building side) edge of the clear straight pathway.
 - (8) On the east side of the 100 block on North Walnut Street (east side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 102 and 106 North Walnut Street shall serve as outermost (building side) edge of the clear straight pathway.
- (d) Encroachment must be a minimum of 54 inches, or the distance indicated for a specific location in 12.06.030(a), from the innermost edge (building side) of streetlights and their bases, signposts, trees, tree and garden plots, tree grates, street furniture or any other fixed sidewalk obstruction.
 - (e) If an encroachment has fencing adjacent to the clear straight pathway, and an object or fixture, including but not limited to a flower box, is attached to the fencing, such objects or fixtures shall be considered part of the encroachment and included in the measurements pertinent to this chapter.
 - (f) The streetside edge of an encroachment shall include any item or object that extends at any height into the right-of-way even if the base or surface level of the item or object is closer to the building side of the encroachment.
 - (g) If a newsbox or movable bicycle rack, encroaches into what would otherwise be the clear straight path, the permittee may, with the written permission of the Department, relocate the object to a location specified by the Department.
 - (h) Subject to the other requirements of this chapter, the encroachment may extend a maximum of 8 feet into sidewalk from building face or property line.
 - (i) Encroachment may only extend along sidewalk directly adjacent to permittee's business (may not extend in front of any other property) unless agreed upon by all parties involved, with proof of agreement presented to the Department, and with approval of the Department.
 - (j) Objects or items within the encroachment area shall not be placed in such a way that obstructs access to utility meters.
 - (k) If a business is required by any other law, statute or regulation—such as, but not limited to, the rules of the Alcohol and Tobacco Commission—to enclose or separate the encroachment from the rest of the public right-of-way, then the method of enclosure or separation, such as a fence, shall be fixed and attached to the right-of-way in a manner prescribed by the Department.
 - (l) If the fencing or partition that is part of an encroachment is solid or imporous or impermeable, then that fencing or partition shall be no greater than 36 inches in height from the ground. If the fencing or partition that is part of an encroachment is porous then that fencing or partition shall

be no greater than 46 inches except at the corners of the encroachment and the entryway to the adjacent business.

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

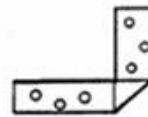
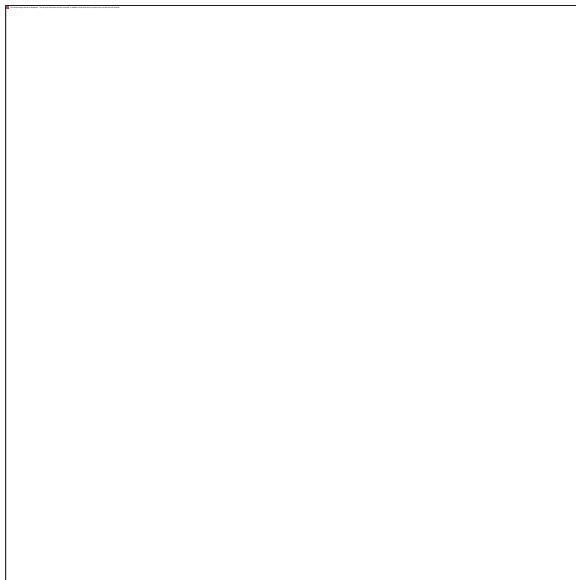


Figure 1 – Permitted

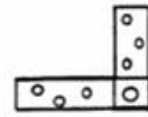


Figure 2 – Prohibited

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

(Ord. 01-46 § 1, 2001; Ord. 01-14 § 7, 2001).

(Ord. No. 14-11, §§ 83, 84, 7-2-2014)

12.06.040 - Applications for encroachments.

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

- (a) Eligible sidewalks shall be all sidewalks where a minimum of 54 inches of clear straight pathway can be maintained.

- (b) Businesses eligible for outdoor seating encroachment permits shall be all businesses who sell retail food items as a primary or secondary part of their daily operations or whose business desires to place outdoor seating for the convenience of their customer and the general public use and whose businesses are housed adjacent to the area of sidewalk requested for outdoor seating use.
- (c) Businesses eligible for a merchandising encroachment permit shall be all businesses conducting retail sales as the major part of their daily operations and whose businesses are housed immediately adjacent to the area of sidewalk requested for merchandising use.
- (d) All requests for encroachments, accompanied by the appropriate application fee as provided in 12.06.090, shall be submitted to the department on a form prescribed by the department and shall for all applicants include the following information:
 - (1) Name, street address and phone number of applicant;
 - (2) Street address of the property where encroachment is requested;
 - (3) A drawing to scale of the proposed encroachment;
 - (4) Length of time requested for the encroachment; and
 - (5) Name and street address of property owner if property owner is not applicant.
- (e) Applications requesting outdoor seating permits should be submitted to the department at least sixty (60) days prior to the date the applicant wishes the encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in Section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to the following:

Suspend

- (1) The proposed use, materials, colors and design;
- (2) Relationship of the outdoor seating to the adjacent existing building with identified uses and entrances;
- (3) Spatial relationship of the proposed outdoor seating to the existing sidewalk and to any existing public improvements, including, but not limited to, benches, lights, light poles, telephone/power poles, fire hydrants, planters, tree plots, tree grates, landscaping, sign posts, newspaper boxes, etc.;

Include

- (4) The exact dimensions and total square footage of the proposed outdoor seating area;
 - (5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;
 - (6) Evidence that abutting property owners and/or lessees have been notified of the proposed encroachment; and,
 - (7) Plans for the operation of the outdoor seating, including, but not limited to, hours of operation, services to be provided, maintenance and cleaning.
- (f) Applications requesting merchandising permits should be submitted to the department at least sixty (60) days prior to the date the applicant wishes the encroachment to begin but no earlier than ninety (90) days prior to the expiration of an existing permit to encroach at the same location. In addition to the information required in Section 12.06.040(d), the applicant is required to submit a detailed site plan including, but not limited to, the following:
 - (1) The proposed use and items to be displayed;
 - (2) Relationship of display to the adjacent existing building with identified uses and entrances;

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

Require proof of approval from the Monroe County Department of Health and, where applicable, Indiana Alcohol and Tobacco Commission. (NEW)

(Ord. 01-46 § 1 and 2, 2001; Ord. 01-14 § 8, 2001). (Ord. No. 14-11, §§ 85, 86, 7-2-2014)

12.06.050 - Permit issuance and conditions.

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

New or Keep

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

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

(Ord. 01-14 § 9, 2001).

(Ord. No. 14-11, §§ 87, 88, 7-2-2014)

12.06.060 - Revocation of a permit.

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

(Ord. 01-14 § 10, 2001).

(Ord. No. 14-11, §§ 89, 90, 7-2-2014)

12.06.070 - Permit renewal.

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

(Ord. 01-46 § 3, 2001: Ord. 01-14 § 11, 2001).

12.06.080 - Duty to maintain.

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

(Ord. 01-14 § 12, 2001).

12.06.090 - Application fees.

(a) The fee to process an initial application for an outdoor seating or merchandising encroachment permit at a specific location shall be \$100.00.

(b) The fee to process a renewal of an outdoor seating or merchandising permit shall be \$100.00. However, a permittee may renew its permit at a fee of \$50.00 if it agrees, as a provision or condition of the permit, that the permit will be valid only for the period beginning March 1 and ending the third Monday of November of the year for which the permit is issued. If the permittee agrees to this limited permit but encroaches at any time before March 1 or after the third Monday in November, the permittee must remit the additional \$50.00 to the Department before encroaching in the period excluded from the original permit, or be subject to the provisions of Section 12.06.110 in addition to being required to pay the additional \$50.00.

(c) No fee shall be charged for processing applications for encroachments that will be limited to four days or less in a calendar year.

(d) No refund shall be made where a permit is revoked or suspended for any reason.

(Ord. 01-14 § 13, 2001).

12.06.100 - Enforcement procedures.

(a) If the planning and transportation director, or his/her designee, collectively referred to as 'Staff', find that any provision of this chapter is being, or has been, violated or that any condition of approval of a permit issued pursuant to Chapter 12.06 has not been met, said person shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing notice of violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: the permittee(s); the property owner(s); persons with any possessory interest in the property; and/or any persons and/or their agents who have caused the violation.

(b) This Notice of Violation (NOV) shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by First Class mail; and/or by placement in a conspicuous place on the property where the violation occurs. The notice shall state:

- (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The period of correction (if any);
 - (4) The daily fine assessed for the violation during the correction period;
 - (5) The increase in fine if violation continues beyond the correction period, if any;
 - (6) That the city may seek additional remedies for violation, if any;
 - (7) That the fine may be paid at the City of Bloomington Planning and Transportation Department;
- and,

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

(Ord. 01-14 § 14, 2001).

(Ord. No. 14-11, §§ 91—93, 7-2-2014)

12.06.110 - Authorized remedies and penalties for violations.

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

(Ord. 01-14 § 15, 2001). (Ord. No. 14-11, § 94, 7-2-2014)

12.06.120 - Appeal of citation and fine.

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

(Ord. 01-14 § 16, 2001).