

# City of Bloomington Common Council

## Legislative Packet

**09 July 2014**

**Special Session and Committee of the Whole**

*For legislation and material regarding Appropriation Ordinance 14-01,  
please consult the [02 July 2014 Legislative Packet](#).*

*All other material contained herein.*

Office of the Common Council  
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## Packet Related Material

### Memo Agenda Calendar

#### Notices and Agendas:

- **Notice of Special Session** on Wednesday, July 9, 2014 at 7:30 pm in the Council Chambers (immediately before the previously scheduled Committee of the Whole)

### Legislation Listed in the Proposed Order of Consideration at the Two Meetings Scheduled for Wednesday, July 9th:

#### Special Session – Introduction and/or Proposed Consideration

- **Ord 14-12 To Amend Chapter 20 (Unified Development Ordinance) of the Bloomington Municipal Code (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and to Render Applicable Sections Reflective of the City’s Practices and Policies)**
  - Memo to Council from Patty Mulvihill, Assistant City Attorney;
  - Strikeout version of Code pursuant to amendments (hardcopies made available upon request to the Council Office);

*Contact: Patty Mulvihill at 349-3426, [mulvihill@bloomington.in.gov](mailto:mulvihill@bloomington.in.gov)*

#### **Material Regarding Res 14-13 (Approving Collective Bargaining Agreement with Firefighters, Local 586) and Ord 14-13 (Amending the Applicable Salary Ordinance to Reflect Changes in 2014 Salaries)**

- Memo from Mike Rouker, Assistant City Attorney
- Insert indicating strike-through version of Agreement is available in the Council Office
- Collective Bargaining Agreement Between City and Bloomington Metropolitan Professional Firefighters, Local 586

- **Res 14-13** To Approve and Authorize the Execution of a Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Professional Firefighters, Local 586
- **Ord 14-13** To Amend Ordinance 13-15 which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2014 - Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department

*Contact:*

*Margie Rice at 349-3426 or ricem@bloomington.in.gov*

*Mike Rouker at 349-3426 or roukerm@bloomington.in.gov*

- **App Ord 14-01** Additional Appropriation for Bloomington Transportation Corporation for 2014 (For Downtown Transit Center, New Transit Bus, and Professional Services)

*Contact: Lew May at 332-5688 or mayl@bloomingtontransit.com*

*Please see the [2 July 2014 Legislative Packet](#) for the legislation, summary, and other material regarding this item.*

**Legislation for First Reading at Special Session and Discussion at the Committee of the Whole on Wednesday, July 9<sup>th</sup> :**

- **Ord 14-14** To Amend Ordinance 13-16 which Fixed the Salaries of Appointed Officers, Non-Union and A.F.S.C.M.E. Employees for All the Departments Of The City Of Bloomington, Monroe County, Indiana, For The Year 2014 - Re: Adding a Position in the Office of the City Clerk (Records Archivist)
  - Memo to Council from Regina Moore, City Clerk; Job Description; Memo to Regina Moore from Ginger Thomas, Assistant Director of Human Resources – Re: Job Evaluation Process for Archivist Position;

*Contact: Regina Moore at 349-3408 or moorer@bloomington.in.gov*

## Memo

### **Proposed Consideration of Legislation at the Special Session and Committee of the Whole Scheduled for July 9<sup>th</sup> – Procedure for Passage of Ordinance on Same Night it is Introduced**

The order of the packet memo and materials is the result of a discussion conducted under Council Schedule last night (July 2<sup>nd</sup>). In light of the nature of legislation to be considered before the Summer Recess (starting July 17<sup>th</sup> and ending with the Departmental Budget Hearings on August 18<sup>th</sup>), the seven members present Wednesday night agreed to use the Special Session next week to consider three pieces of legislation on the same night they are introduced and one piece that was introduced on July 2<sup>nd</sup>.

Two of the three pieces of legislation scheduled for action on the same night they are introduced are ordinances that can only proceed if all Council members agree to consider them that night and 2/3s majority vote in favor of their passage. (See BMC 2.04.300)<sup>1</sup> These include Ord 14-12 which carries forward reorganizational changes adopted by the Council this week to Title 20 and Ord 14-13, which amends the Police and Fire Salary Ordinance for 2013 in accordance with a Collective Bargaining Agreement scheduled for consideration that night via Res 14-13. The firefighters ratified the contract on June 4<sup>th</sup> and Council action next week will allow them to enjoy a week's more of some of the compensation provided for in the Agreement.

The last ordinance scheduled for action at the Special Session is an additional appropriation for Bloomington Transit (App Ord 14-01) (included in last week's packet) to cover additional costs for the Downtown Transit Facility, a new bus for the campus route, and annual costs for the online bus-locator application. Please note that the public comment portion of the agenda will constitute the legally-advertised public hearing on that appropriation.

The Committee of the Whole will include discussion of an amendment to this year's general Salary Ordinance to allow an additional position in the Office of City Clerk (included in this material).

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<sup>1</sup> **2.04.300 Ordinances and resolutions—Readings required.** “(a) Every ordinance shall be given two readings before a vote may be taken on its passage and no ordinance shall be passed on the same day or at the same meeting as it is introduced except by unanimous consent of the members present, at least two-thirds of the members being present and voting. An ordinance may not be debated or amended at its first reading or introduction unless state or federal requirements provide otherwise.”

In the event, the aforementioned ordinances are not considered at the Special Session, they, too, would be discussed at this meeting as well.

### **Proposed Consideration of Legislation at the Special Session Next Wednesday**

#### **Item One – Ord14-12 – To Amend Title 20 (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and to Render Applicable Sections Reflective of the City’s Practices and Policies)**

Ord 14-12 makes changes to Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code and is a companion piece to Ords 14-10 and 14-11. Passed by the Council on July 2, Ords 14-10 and 14-11 authorize certain re-organizational changes within the City. Some of the key changes authorized by that legislation were the renaming of the Planning Department to the “Planning and Transportation Department” and the shifting of engineering responsibilities from the Department of Public Works to the Planning and Transportation Department. Recall that the intent of the shift was to comprehensively and holistically address transportation planning and to implement public infrastructure designs consistent with the planning, development, and growth policies of the City.

Ord 14-12 is largely a housekeeping measure to bring Title 20 in line with the City’s new organizational structure. The ordinance:

- changes departmental and staff references throughout Title 20 to reflect the new name and expanded charge of the City’s Planning and Transportation Department
- cleans up some typographical errors
- renders Title 20 language gender neutral, and
- brings Code language in line with current City policies and practice.

The Plan Commission will consider this package of amendments (ZO-18-14) on Monday, June 7, 2014. The action of the Commission must be certified to the Council before Ord 14-12 is introduced.

The following provides a brief review of the changes proposed by Ord 14-12. Please consult the attached Memo from Patty Mulvihill, Assistant City Attorney, for further details. Mulvihill has also provided a strikeout version of Title 20 that tracks the changes proposed by Ord 14-12 against current language.

## Departmental and Staff References

Ord 14-12 changes departmental name and staff references to reflect the Planning and Transportation Department's new name and charge, such that:

- references to the "Planning Department" become the "Planning and Transportation Department"
- references to the "Planning Director" become the "Planning and Transportation Director"
- references to "Planning Staff" become "Staff"
- references to the "Public Works Director" become "Planning and Transportation Director"
- references to the "Engineering Department" become the "Planning and Transportation Department"
- references to the "City Engineer" become the "Transportation and Traffic Engineer"

## Reflecting Current City Policy and Practice

Ord 14-12 also cleans up language to reflect current City policies and practice:

- The demolition delay provision of Title 20 provides for an emergency waiver of the waiting period where an emergency condition that is dangerous to life, health or property exists. At present, the engineering department has the authority to grant such waivers. Ord 14-12 amends this provision by locating the authority to grant waivers with HAND. This change comports with HAND's responsibility for enforcement of the City's Unsafe Building Law.
- Recall that with Ord14-11, the Administration moved the procedures for "determinate sidewalk variances" from Title 12 and proposed to locate the procedures to Title 20. Ord 14-12 makes this change. This relocation is intended to assure that the Board of Zoning Appeals is acting within its statutory purview.<sup>2</sup> Mulvihill notes that this provision has also been changed to allow a hearing officer to grant variances and has been formatted to track the conventions of Title 20. The provision has also been changed to reproduce the requirements of approval for both sidewalk variances and determinate sidewalk variances outlined by IC §36-7-4-918.5.

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<sup>2</sup> The BZA is responsible for granting these variance; under State statute, the BZA only has jurisdiction over matters located within the zoning ordinance

- Previously, the provisioning for grading permits was split between engineering and planning. This ordinance reconfigures 20.09.240 to locate all responsibility for grading permits with the Planning and Transportation Department.

#### Typographical Errors and Gender Neutrality

The ordinance also uses this Code update as an opportunity to correct some typographical errors and to render those provisions of the UDO affected by this ordinance, gender neutral.

#### **Item 2 - Res 14-13 – Approving the Proposed Collective Bargaining Agreement Between the City and its Firefighters and**

#### **Item 3 - Ord 14-13 – Amending the Police and Fire Salary Ordinance for 2014 (Ord 13-15) to Reflect the Terms of the Proposed Agreement**

The following paragraphs briefly explain two companion pieces of legislation coming forward before the Summer Recess. They are **Res 14-13**, which approves a three-year collective bargaining agreement (Agreement) between the City of Bloomington and Bloomington Metropolitan Firefighters, Local 586, and **Ord 14-13**, which amends the Police and Fire salary ordinance for 2014 (Ord 13-15) in order to reflect the terms of that Agreement.

As noted above, these items are scheduled for action at the Special Session next Wednesday under Second Readings and Resolutions. In the event, the ordinance does not receive unanimous consent for consideration that night, it would be discussed at the Committee of the Whole later than night and be ready for formal action at the Regular Session on July 16<sup>th</sup>. It's my understanding that delay of a week would have a monetary consequence for the firefighters who ratified this Agreement on June 4<sup>th</sup>.

Consideration of the Agreement is the culmination of a year-long process that began last summer. As Mike Rouker, Assistant City Attorney, writes in his Memo to the Council (Memo), the parties met multiple occasions in 2013 but, despite “genuine efforts” and working “diligently,” were unable to come to an understanding until mid-2014. During that time, three votes were taken on three versions of the Agreement, the prior contract expired,<sup>3</sup> and the parties engaged in federal mediation. Margie Rice, Corporation Counsel, served as Chief Negotiator

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<sup>3</sup> As Rouker notes, the prior contract included an “evergreen clause” which, absent a new contract, kept the terms of the prior contract in place for duration of 2014.

for the City and negotiated with a team representing the Bloomington Metropolitan Firefighters, Local 586, led by Bob Loviscek (as President of the local bargaining unit).

The remainder of this summary borrows from the Memo to the Council (along with previous Council summaries) to review the changes between the existing and proposed contract and highlight the fiscal impact associated with the amendments to the Police and Fire salary ordinance for 2014. Please note that the three-year term may lessen the chance that the City will negotiate with more than one union in any one year.

### Monetary Package

In consultation with the Controller, the memo estimates that the Agreement would cost the City an additional \$471,693 over its three-year term. This appears to be less than half as much per year as the estimated value of the last contract.<sup>4</sup> The reduction in value was largely driven by the desire of the administration to “confront declining property taxes proactively.” In that regard, the memo sets forth the increase in the property tax levy from 2003 to 2014, which shows an increase of 4.8% at the start, an increase of about 4.0% in the middle, and an increase of 2.6% at the end of the period. This trend of declining revenue increases is determined by a rolling average of non-farm income over the previous six years.

### **Base Pay - Article V. Parts A-C of Agreement (but Causing No Change in the Salary Ordinance for 2014)**

The base pay of firefighters will stay the same in 2014 (as was true with the first year of the AFSCME contract approved in 2013), then will increase 1.0% in 2015, and 1.5% in 2016. The base salaries for Firefighter 1<sup>st</sup> Class, Sergeant, and Captain over the term of the agreement are as follows:<sup>5</sup>

	2014 (0%)	2015 (1%)	2016 (1.5%)
Firefighter 1 <sup>st</sup> Class	\$48,740	\$49,227	\$49,965

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<sup>4</sup> The memo from 2010 estimated the value of the 4-year contract at \$1.42 million which prorated over three years (at \$355,00/year) would have equaled \$1.065 million.

<sup>5</sup> Please note that the salaries and benefits for some of the non-union, management personnel (i.e. the Deputy Chief and the four Battalion Chiefs) are kept the same as union personnel in order to keep their pay commensurate with their duties and consistent with the pay accorded under the Agreement (and in order to avoid “wage compression.”)



Sergeant	\$50,541	\$51,172	\$51,940
Captain	\$54,541	\$55,086	\$55,912

**Longevity Increases – Article VI A. of the Agreement and Section 1 of the Ordinance**

The longevity pay will increase by \$500 for firefighters with one to nineteen years of service and by \$1,250 for firefighters with twenty or more years of service. Since the pay at 20 years of service determines the amount of pension received by retired firefighters, this change will also benefit all retired firefighters. Here is the breakdown of those increases:

<u>Years of Service</u>	<u>Amount (From – To)</u>
1	\$0
2 - 3	\$300 to \$800
4 - 5	\$600 to \$1,100
6 - 13	\$900 to \$1,400
14 - 17	\$1,200 to \$1,700
18 – 19	\$1,400 to \$1,900
20 and up	\$2,000 to \$3,250

**Professional Pay (Certifications, Command Appointments, and One-Time Lump Sum Payment) – Article VI, Parts B, C & F of the Agreement and Sections 2 & 3 of the Ordinance**

Under the prior agreement, firefighters could receive up to \$4,800 additional money for:

- certifications they earned and kept current, which could not exceed \$1,000, except for an EMT certification, which was worth an additional \$500;
- professional and command appointments they held, which ranged from \$400 for Headquarters Sergeant to \$1,200 for Rescue Technician; and
- education they have obtained, which included \$500 for Level 1 (a two-year Associate degree) and \$1,200 for Level 2 (a four-year Bachelor degree).

The Agreement buys-out three categories of incentive pay, which are “quickly becoming extinct,” with a one-time lump sum of \$1,000 per firefighter. One of these categories is for an EMT certification, which is now required of all new firefighters and, therefore, essentially a condition of employment that needs no

incentive pay. The other two categories of incentives relate to “command appointments” for the Confined Space Rescue Team and its Coordinator. These appointments are no longer necessary because the duties are now being performed by the department’s Tactical Rescue Team.

**Other Compensation Remains the Same – Clothing Allotment (Article VII), Holiday Pay (Article VIII), Unscheduled Duty, Holdover, and Mandatory Training Pay (Article XIII), and Acting (Reassignment) Pay (Article XIV) and Section 1 B. of Ordinance 13-15 (under “Other”)**

Firefighters receive other compensation which will *remain the same* under this agreement. Here are ones that appear in the 2014 Salary Ordinance:

- Unscheduled Duty Pay - \$25 per hour (minimum 2 hours – no maximum);
- Holdover Pay - \$12.50 per half hour (minimum of 0.5 hours – no maximum);
- Mandatory Training Pay - \$25 per hour while off duty (minimum 2 hours – maximum 8 hours);
- Holiday Pay - \$100 per scheduled tour of duty;
- Clothing Allotment - \$1,600 (in two equal installments delivered no later than June 15<sup>th</sup> and December 15<sup>th</sup>); and
- Reassignment Pay - \$10 per tour-of-duty.

**Vacation/City Days, Sick Days, and Bereavement Days - Largely Unchanged.**

Under the old Agreement, firefighters could take five tours-of-duty (equivalent to a 24-hour shift) off as vacation after 12 months of service<sup>6</sup> and also take four “City days” off (and in half-day increments). Given some reporting protocols and the possible risk of being processed for a medical disability pension, firefighters could have unlimited sick time with full pay. Lastly, they could also take up to two “tours of duty” for bereavement leave. After much discussion about unlimited sick leave, the one change between the new and old agreement “overhauls” the bereavement provision, so that it is consistent with the policies for other City employees and, therefore, more fair and easier to administer across departments.

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<sup>6</sup> Firefighters receive additional vacation time based upon years of service which gradually increases up to a maximum of 12 tours-of-duty after 24 years of service.

## Non-Monetary Aspects of the Agreement

There are a few non-monetary changes to the Agreement worth mentioning this time around. First, the provision on Personnel Service Records (Article XXI) was changed to allow management to consider older “adverse Personnel actions.” Under the prior agreement, “the department could not consider adverse personnel actions taken more than three years from the date of the second adverse personnel action.” Under this agreement, the department may do so if the actions “were serious enough to warrant Board of Public Safety involvement.” Second, references to “pregnancy” were removed from the Agreement as the rules regarding pregnancy leave are well-established by law and need not be enshrined in contract.

## **Items Scheduled or Introduction at the Special Session and Discussion at the Committee of the Whole Next Wednesday**

### **Ord 14-14**

#### **(Amending the General Salary Ordinance for 2014 to Add a Records Archivist Position in the Office of City Clerk)**

Ord 14-14 adds a Records Archivist (Grade 5) position in the Office of City Clerk for 2014. It does so by amending Ord 13-15, which set the salaries for most employees of the City for this year, and would be introduced at the Special Session next Wednesday and discussed at the Committee of the Whole scheduled for later that evening.

## Digitization and Preservation Project

The Memo from the City Clerk reminds the Council of her commitment to digitizing and preserving records of the Council and explains that her use of interns and temporary employees in the past was “somewhat helpful (but) not satisfactory.” Her “mission is to create a system of easily accessed legislation, available to the public and city staff who need to research a particular topic.” Ultimately, she sees a “navigable on-line collection (of) documents of legislation and supplemental but relevant documents ... (that) will allow citizens and staff a more in-depth exploration of the issues involved in legislation.” The ordinance and materials highlight the following benefits: more transparency, greater accessibility and convenience, reduced risk of damage and loss, and a richer view of the City’s legislative history.

The scope of the project includes some “19,000 individual records”<sup>7</sup> that are in the following forms over the following periods: 1) hand written (~1845 - ~1926); 2) typewritten (~1926 - ~1990s); and, electronic (~1990s into the future). The digitization of the early records will require the most care (with the need for “camera work,” “imaging,” “file manipulation,” “transcribing” and “coordinating the project with internal and external partners”). The work on the “mid-century records” will require scanning, compiling, and categorizing,” and the work with the electronic records will merely require continuing existing practices.

### Records Archivist Position

The materials include a Job Description for the Records Archivist position, which was the result of consultations between the City Clerk and Doris Sims, Director of Human Resources regarding the project, and the duties and requisites of the position primarily implementing it (along with fulfilling other duties as necessary). The Job Description calls for at least an Associates Degree in a relevant field, knowledge of strategic planning and project management, knowledge of document preservation and cataloguing (with experience preferred), a high level of skill operating imaging and related tools, an ability to work with a high degree of accuracy, and ability to work with internal and external partners needed to carryout this project. The difficulty of work was tied to the risk of loss or damage to records as well as the discretion, composure, and independent judgment needed to handle constituent complaints.

There is also a memo from Ginger Thomas, Assistant Director of Human Resources, which explains the process used to assign a grade to a position in the Salary Ordinance. That process entails the Human Resources department independently rating each position on a “point factor” system. That system assigns points over seven categories which include: complexity, experience and knowledge, direction of others, professional designation of non-supervisory positions, environmental strain, independent judgment and consequence of errors, and external work relations. As a result of assigning and tallying those points, the evaluators agreed that this position rated a Grade 5.

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<sup>7</sup> The third whereas clause indicates that about 2,500 are “already available online.”

### Fiscal Impact of Additional Position

According to the Memo and conversations with the City Clerk, this will be a Regular, Part-Time position (34 hours/week) that, if approved for 2014, will be part of future budgets. The salary will be in the lower end of the range for a Grade 5 position which if a Regular, Full-Time position (rather than a Regular, Part-Time position) would be \$30,192 - \$47,224. After applying unspent money in the Temporary Employee line, the Clerk estimates that her office will need an additional \$11,800 to cover salary and benefits for the rest of this year. With the approval of the Council, some of those funds may be transferred within her budget for this purpose.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL SPECIAL SESSION AND  
COMMITTEE OF THE WHOLE  
7:30 P.M., WEDNESDAY, JULY 09, 2014  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. LEGISLATION FOR FIRST READING**

1. Ordinance 14-12 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and to Render Applicable Sections Reflective of the City's Practices and Policies)
2. Ordinance 14-13 To Amend Ordinance 13-15 Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2014 – Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department
3. Ordinance 14-14 To Amend Ordinance 13-16 Which Fixed the Salaries of Appointed Officers, Non-Union and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana, for the Year 2014 – Re: Adding a Position in the Office of the City Clerk (Records Archivist)

**IV. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Ordinance 14-12 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and to Render Applicable Sections Reflective of the City's Practices and Policies)

*Note: This item was introduced this evening, and therefore requires unanimous consent to consider and a 2/3s majority to pass.*

2. Resolution 14-13 To Approve and Authorize the Execution of a Collective Bargaining Agreement Between the City of Bloomington and the Bloomington Metropolitan Professional Firefighters, Local 586

Committee Recommendation: None (*not heard by Committee*)

3. Ordinance 14-13 To Amend Ordinance 13-15 Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2014 – Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department

*Note: This item was introduced this evening, and therefore requires unanimous consent to consider and a 2/3s majority to pass.*

4. Appropriation Ordinance 14-01 Additional Appropriation for Bloomington Transportation Corporation for 2014 (For Downtown Transit Center, New Transit Bus, and Professional Services)

**Public Hearing**

Committee Recommendation: None (*not heard by Committee*).

**V. COUNCIL SCHEDULE**

**VI. ADJOURNMENT**

*to be immediately followed by a  
(over)*

**COMMITTEE OF THE WHOLE**

**Chair: Andy Ruff**

1. Ordinance 14-12 To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and to Render Applicable Sections Reflective of the City's Practices and Policies)

*Note: This item will not be heard if approved for hearing during the Special Session.*

Asked to Attend: Patty Mulvihill, Assistant City Attorney

2. Ordinance 14-13 To Amend Ordinance 13-15 Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2014 – Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department

*Note: This item will not be heard if approved for hearing during the Special Session.*

Asked to Attend: Margie Rice, Corporation Counsel

Mike Rouker, Risk Manager/Assistant City Attorney

3. Ordinance 14-14 To Amend Ordinance 13-16 Which Fixed the Salaries of Appointed Officers, Non-Union and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana, for the Year 2014 – Re: Adding a Position in the Office of the City Clerk (Records Archivist)

Asked to Attend: Regina Moore, City Clerk



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

To Council Members  
From Council Office  
Re Weekly Calendar – 07-12 July 2014

**Monday, 07 July**

4:30 pm Plat Committee, Hooker Room  
5:00 pm Redevelopment Commission, McCloskey  
5:30 pm Plan Commission, Council Chambers

**Tuesday, 08 July**

4:00 pm Bloomington Community Farmers' Market – Madison St. between 6<sup>th</sup> and 7<sup>th</sup>  
4:30 pm Commission on Aging, Hooker Room  
6:00 pm Bloomington Commission on Sustainability, McCloskey  
6:30 pm Sister Cities International – CubAmistad, Dunlap  
6:30 pm Sister Cities International – Posoltega, Kelly  
7:30 pm Sister Cities International, Kelly

**Wednesday, 09 July**

2:00 pm Hearing Officer, Kelly  
5:00 pm Bloomington Arts Commission, McCloskey  
5:30 pm Commission on the Status of Black Males, Hooker Room  
7:30 pm Common Council Special Session and Committee of the Whole, Council Chambers

**Thursday, 10 July**

12:00 pm Housing Network, McCloskey  
4:00 pm Monroe County Solid Waste Management District – Courthouse, Judge Nat U. Hill III Room  
5:00 pm Bloomington Historic Preservation Commission, McCloskey

**Friday, 11 July**

*No meetings are scheduled for this date.*

**Saturday, 12 July**

8:00 am Bloomington Community Farmers' Market – Showers Common, 401 N Morton St.

*Posted and Distributed: Thursday, 03 July 2014*

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**City Hall**

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

**NOTICE**

**SCHEDULING OF A  
SPECIAL SESSION**

A Special Session will be held at  
**7:30p, Wednesday, 09 July 2014**  
immediately before the previously scheduled Committee of the Whole

The meeting will be held in the Council Chambers, Suite 115  
City Hall  
401 N. Morton

Posted: Thursday, 03 July 2014

**ORDINANCE 14-12**

**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)  
OF THE BLOOMINGTON MUNICIPAL CODE  
(Codifying Departmental Reorganization Proposed in Ordinance 14-10  
and Using this Occasion to Fix Typographical Errors and to  
Render Applicable Sections Reflective of the City's Practices and Policies)**

WHEREAS, in an effort to effectively and efficiently operate, the City's Administration has proposed a number of organizational changes via Ordinance 14-10;

WHEREAS, the Common Council passed Ordinance 14-10 on July 2, 2014;

WHEREAS, adoption of Ordinance 14-10 requires numerous changes to the Title 20 of the Bloomington Municipal Code to reflect the aforementioned reorganization;

WHEREAS, these changes include renaming City departments and reassigning job duties; fixing typographical errors; and making other changes to provide that the Bloomington Municipal Code mirrors current City practice;

WHEREAS, On July 7, 2014, the Plan Commission considered this case, ZO-18-14, and made a positive recommendation in favor of the package of amendments to the UDO, as described herein;

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

SECTION 1. The Section heading for Section 20.01.390, currently entitled "Planning Department", shall be renamed to read "Planning and Transportation Department" and the name change shall be reflected in the table of contents for Chapter 20.01.

SECTION 2. Wherever the term "Planning Department" is referenced in the *subheadings* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Planning and Transportation Department":

- Subsection 20.04.080(e)
- Subsection 20.04.090(e)
- Subsection 20.09.180(e)
- Subsection 20.09.190(e)
- Subsection 20.09.240(f)
- Subsection 20.09.250(e)
- Subsection 20.09.260(f)
- Subsection 20.09.270(f)
- Subsection 20.09.340(e).

SECTION 3. Wherever the term "Planning Department" is referenced in the *sections* or *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Planning and Transportation Department":

- Subsection 20.01.300(c)
- Subsection 20.01.370(a)(11)
- Subsection 20.01.370(e)
- Subsection 20.01.380(e)
- Subsection 20.01.390(a)
- Subsection 20.01.390(b)
- Subsection 20.01.390(b)(2)
- Subsection 20.01.390(c)(1)
- Subsection 20.01.390(c)(2)
- Subsection 20.01.390(d)
- Subsection 20.01.390(h)
- Subsection 20.04.080(b)(1)
- Subsection 20.04.080(b)(2)

Subsection 20.04.080(b)(3)  
Subsection 20.04.080(d)(1)  
Subsection 20.04.080(e)(1)  
Subsection 20.04.080(f)(3)  
Subsection 20.04.090(d)(1)(L)  
Subsection 20.04.090(e)(1)(A)  
Subsection 20.04.090(e)(1)(C)  
Subsection 20.04.090(e)(2)  
Subsection 20.04.090(f)(2)  
Subsection 20.05.041(a)(7)(D)  
Subsection 20.05.048(d)(5)(E)  
Subsection 20.05.048(d)(5)(E)(i)  
Subsection 20.05.048(d)(5)(E)(i)(b)  
Subsection 20.05.048(d)(5)(E)(ii)  
Subsection 20.05.048(d)(5)(E)(iii)  
Subsection 20.05.048(d)(5)(E)(iii)(a)  
Subsection 20.05.048(d)(5)(E)(iii)(b)  
Subsection 20.05.048(d)(5)(E)(iv)  
Subsection 20.05.052(c)(3)  
Subsection 20.05.052(c)(6)(A)  
Subsection 20.05.052(c)(6)(B)  
Subsection 20.05.070(e)(2)(B)  
Subsection 20.05.070(m)(2)(C)  
Subsection 20.05.076(b)  
Subsection 20.05.080(a)(6)(B)  
Subsection 20.05.093(b)(1)  
Subsection 20.07.070(e)(7)(B)  
Subsection 20.07.070(e)(7)(F)  
Subsection 20.07.070(e)(8)(B)  
Subsection 20.07.070(e)(8)(D)  
Subsection 20.07.070(e)(9)(B)  
Subsection 20.07.070(e)(9)(D)  
Subsection 20.07.070(e)(10)(B)  
Subsection 20.07.070(e)(10)(D)  
Subsection 20.08.030(c)  
Section 20.08.040  
Subsection 20.09.030(a)(2)(A)  
Subsection 20.09.030(d)  
Subsection 20.09.050(e)  
Subsection 20.09.060(b)  
Subsection 20.09.060(d)(5)  
Subsection 20.09.070(c)  
Subsection 20.09.080(a)  
Subsection 20.09.080(b)  
Subsection 20.09.090(d)  
Subsection 20.09.090(g)(2)  
Subsection 20.09.120(e)(1)(B)  
Subsection 20.09.120(e)(3)  
Subsection 20.09.180(f)(4)  
Subsection 20.09.180(h)(10)  
Subsection 20.09.190(g)(12)  
Subsection 20.09.210(d)(K)  
Subsection 20.09.220(b)(6)  
Subsection 20.09.230(b)(2)  
Subsection 20.09.230(d)(4)  
Subsection 20.09.250(c)(2)  
Subsection 20.09.260(c)  
Subsection 20.09.260(f)(2)(C)  
Subsection 20.09.270(c)  
Subsection 20.09.280(d)  
Subsection 20.09.290(e)  
Subsection 20.09.300(d)

Subsection 20.09.310(e)  
Subsection 20.09.350(c)  
Subsection 20.10.020(h)(1)  
Subsection 20.10.020(h)(2).

SECTION 4. Wherever the term "Planning Department" is referenced in the *definitions* noted herein, all located in Section 20.11.020, entitled "Defined Words", the same shall be renamed to read "Planning and Transportation Department":

"Easement, Tree Preservation"  
"Green Building Worksheet"  
"Master Thoroughfare Plan"  
"Planning Director"  
"Planning Staff".

SECTION 5. Wherever the term "Planning Director" is referenced in the *sections* or *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Planning and Transportation Director":

Subsection 20.01.070(f)  
Subsection 20.01.210(d)  
Subsection 20.01.300(a)  
Subsection 20.01.300(b)  
Subsection 20.01.320(a)  
Subsection 20.01.330(e)  
Subsection 20.01.390(a)  
Subsection 20.04.080(g)(2)(B)  
Subsection 20.04.090(e)(1)(A)  
Subsection 20.04.090(e)(1)(B)  
Subsection 20.04.090(e)(1)(C)  
Subsection 20.04.090(e)(1)(D)  
Subsection 20.04.090(h)(1)  
Subsection 20.05.009(d)(1)(A)  
Subsection 20.05.009(d)(2)  
Subsection 20.05.010(b)(4)(B)  
Subsection 20.05.010(b)(5)(C)  
Subsection 20.05.010(b)(6)(B)  
Subsection 20.05.010(b)(6)(C)  
Subsection 20.05.010(b)(7)(C)  
Subsection 20.05.014(a)(1)  
Subsection 20.05.020(k)(1)  
Subsection 20.05.020(k)(2)  
Subsection 20.05.031(e)  
Subsection 20.05.035(l)(2)  
Subsection 20.05.044(a)(4)  
Subsection 20.05.048(d)(2)  
Subsection 20.05.049(e)(1)  
Subsection 20.05.057(b)(1)  
Subsection 20.05.064(c)  
Subsection 20.05.070(e)(2)(A)  
Subsection 20.07.090(e)  
Subsection 20.07.140(b)  
Subsection 20.07.140(g)  
Subsection 20.07.180(c)  
Subsection 20.07.200(e)(1)  
Subsection 20.09.060(e)(2)  
Subsection 20.09.120(e)(1)(A)(vi)  
Subsection 20.09.120(e)(9)(B)  
Subsection 20.09.160(f)(2)  
Subsection 20.09.180(i)(2)  
Subsection 20.09.180(j)  
Subsection 20.09.190(c)

Subsection 20.09.190(e)(2)(C)  
Subsection 20.09.190(e)(2)(D)  
Subsection 20.09.210(e)(2)  
Subsection 20.09.250(e)  
Subsection 20.09.260(f)(2)(A)  
Subsection 20.09.260(f)(2)(B)  
Subsection 20.09.260(f)(2)(C)  
Subsection 20.09.340(c)  
Subsection 20.09.340(e)(1)  
Subsection 20.09.340(e)(2)  
Subsection 20.09.340(f)(1)  
Subsection 20.09.340(f)(2)  
Subsection 20.09.340(f)(2)(A)  
Subsection 20.09.340(i)(1)  
Subsection 20.09.350(b)(2)  
Section 20.10.010  
Subsection 20.10.020(f)  
Subsection 20.10.020(g)(1)(A)  
Subsection 20.10.020(g)(1)(C)  
Subsection 20.10.020(h)(1)  
Section 20.10.030  
Subsection 20.10.050(a)  
Subsection 20.10.050(d)  
Subsection 20.10.050(e).

SECTION 6. Wherever the term "Planning Director " is referenced in the *definitions* noted herein, all located in Section 20.11.020, entitled "Defined Words", the same shall be renamed to read "Planning and Transportation Director":

"Director"  
"Official zoning map"  
"Planning director"  
"Planning staff"  
"Waiver, design standards".

SECTION 7. Wherever the term "Planning staff" is referenced in the *sections* or *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Staff":

Subsection 20.01.370(a)(9)  
Subsection 20.01.370(a)(21)  
Subsection 20.01.370(f)  
Subsection 20.01.380(g)(1)  
Subsection 20.01.390(b)(4)  
Subsection 20.01.390(c)(1)  
Subsection 20.01.390(d)  
Subsection 20.01.390(e)  
Subsection 20.01.390(f)  
Subsection 20.01.390(g)  
Subsection 20.01.440(d)  
Section 20.03.020  
Section 20.03.030  
Section 20.03.090  
Section 20.03.100  
Section 20.03.160  
Section 20.03.170  
Section 20.03.230  
Section 20.03.240  
Section 20.03.300  
Section 20.03.310  
Section 20.03.370  
Section 20.03.380

Subsection 20.04.080(b)(1)  
Subsection 20.04.080(b)(2)  
Subsection 20.04.080(b)(3)  
Subsection 20.04.080(d)(4)(B)  
Subsection 20.04.080(d)(4)(H)  
Subsection 20.04.080(e)(1)  
Subsection 20.04.080(f)(4)  
Subsection 20.04.090(e)(2)  
Subsection 20.05.015(c)(1)(I)  
Subsection 20.05.016(b)(1)(K)  
Subsection 20.05.020(a)  
Subsection 20.05.079(k)  
Section 20.08.030  
Section 20.08.040  
Subsection 20.08.060(f)  
Subsection 20.08.070(e)  
Subsection 20.09.030(a)(2)(G)  
Subsection 20.09.030(a)(2)(K)  
Subsection 20.09.030(b)  
Subsection 20.09.030(c)  
Subsection 20.09.030(d)  
Subsection 20.09.030(g)  
Subsection 20.09.050(a)(1)  
Subsection 20.09.060(a)  
Subsection 20.09.060(e)(2)  
Subsection 20.09.070(a)  
Subsection 20.09.070(b)(1)  
Subsection 20.09.070(c)  
Subsection 20.09.080(a)  
Subsection 20.09.090(a)  
Subsection 20.09.090(b)  
Subsection 20.09.090(c)  
Subsection 20.09.090(c)(10)  
Subsection 20.09.090(f)(1)  
Subsection 20.09.090(g)(1)  
Subsection 20.09.100(a)  
Subsection 20.09.120(d)(1)  
Subsection 20.09.120(d)(6)  
Subsection 20.09.120(d)(6)(A)(ii)  
Subsection 20.09.120(d)(9)  
Subsection 20.09.120(e)(1)  
Subsection 20.09.120(e)(1)(B)  
Subsection 20.09.120(e)(2)  
Subsection 20.09.120(e)(3)  
Subsection 20.09.120(e)(4)  
Subsection 20.09.120(e)(9)  
Subsection 20.09.120(e)(9)(A)  
Subsection 20.09.120(e)(9)(C)  
Subsection 20.09.130(g)  
Subsection 20.09.140(g)  
Subsection 20.09.150(f)(1)(B)  
Subsection 20.09.160(c)(1)(A)  
Subsection 20.09.160(c)(1)(B)  
Subsection 20.09.160(c)(1)(C)  
Subsection 20.09.180(b)(1)  
Subsection 20.09.180(b)(2)  
Subsection 20.09.180(e)(1)  
Subsection 20.09.190(e)(1)  
Subsection 20.09.190(e)(2)(A)  
Subsection 20.09.190(e)(2)(B)  
Subsection 20.09.190(e)(2)(D)  
Subsection 20.09.190(f)(1)(A)

Subsection 20.09.190(f)(1)(D)  
Subsection 20.09.190(g)  
Subsection 20.09.200(e)(1)(A)  
Subsection 20.09.200(e)(1)(B)  
Subsection 20.09.200(e)(1)(C)  
Subsection 20.09.210(d)(2)(D)(ii)  
Subsection 20.09.220(a)  
Subsection 20.09.220(b)(5)  
Subsection 20.09.230(b)(1)  
Subsection 20.09.230(b)(2)  
Subsection 20.09.240(f)(1)  
Subsection 20.09.250(b)(2)  
Subsection 20.09.250(d)  
Subsection 20.09.260(e)(8)  
Subsection 20.09.260(f)(1)  
Subsection 20.09.270(e)  
Subsection 20.09.270(e)(5)  
Subsection 20.09.270(f)  
Subsection 20.09.280(b)(3)  
Subsection 20.09.290(b)(3)  
Subsection 20.09.340(f)(1)(A)  
Subsection 20.09.340(f)(2)(A)  
Subsection 20.09.360(c)  
Subsection 20.09.360(d)  
Subsection 20.09.360(f)(1)  
Subsection 20.09.360(f)(2)

SECTION 8. Wherever the term "Planning staff " is referenced in the *definitions* noted herein, all located in Section 20.11.020, entitled "Defined Words", the same shall be renamed to read "Staff":

"Hearing officer"

SECTION 9. Wherever the term "Engineering Department" is referenced in the *subheadings* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Planning and Transportation Department":

Subsection 20.09.320(c)  
Subsection 20.09.330(c)

SECTION 10. Wherever the term "Engineering Department" is referenced in the *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be renamed to read "Planning and Transportation Department":

Subsection 20.05.010(b)(3)(D)(ii)  
Subsection 20.05.010(c)(5)(C)  
Subsection 20.05.035(i)  
Subsection 20.05.035(j)  
Subsection 20.05.040(a)(4)(G)  
Subsection 20.05.040(a)(4)(N)  
Subsection 20.05.052(d)(2)(E)  
Subsection 20.05.072(a)(3)  
Subsection 20.05.076(a)  
Subsection 20.05.076(d)  
Subsection 20.05.076(f)  
Subsection 20.05.112(a)(2)  
Subsection 20.05.112(b)  
Subsection 20.07.040(g)  
Subsection 20.07.120(b)(1)  
Subsection 20.07.120(c)(4)  
Subsection 20.07.140(h)  
Subsection 20.07.160(c)(3)

Subsection 20.07.160(e)  
Subsection 20.07.180(b)(4)  
Subsection 20.07.190(c)(1)  
Subsection 20.09.030(a)(2)(F)  
Subsection 20.09.190(e)(2)(F)  
Subsection 20.09.190(f)(1)(F)  
Subsection 20.09.200(f)(6)(B)  
Subsection 20.09.240(e)(2)  
Subsection 20.09.320(a)  
Subsection 20.09.320(c)(1)  
Subsection 20.09.320(c)(1)(A)  
Subsection 20.09.320(c)(2)  
Subsection 20.09.320(c)(3)  
Subsection 20.09.320(d)(2)  
Subsection 20.09.320(d)(3)  
Subsection 20.09.320(d)(4)  
Subsection 20.09.320(e)(1)  
Subsection 20.09.330(b)  
Subsection 20.09.330(c)(1)  
Subsection 20.09.330(c)(2)  
Subsection 20.09.330(c)(3)  
Subsection 20.09.330(c)(4)  
Subsection 20.09.330(c)(5)(A)(i)  
Subsection 20.09.330(c)(5)(A)(ii)  
Subsection 20.09.330(c)(5)(B).

SECTION 11. Wherever the term "he" is referenced in the *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be amended to add the words "or she" immediately thereafter such reference:

Subsection 20.01.330(e)  
Subsection 20.01.370(g)(1)  
Subsection 20.04.090(e)(1)(B)  
Subsection 20.04.090(e)(1)(C)  
Subsection 20.09.340(f)(2).

SECTION 12. Wherever the term "his" is referenced in the *sections* or *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", the same shall be amended to add the words "or her" immediately thereafter such reference:

Subsection 20.01.390(a)  
Subsection 20.09.150(f)(1)(A)  
Subsection 20.09.180(i)(2)  
Subsection 20.09.230(b)(1)  
Subsection 20.09.260(f)(2)(B)  
Section 20.10.010  
Section 20.10.030  
Subsection 20.10.050(a)  
Subsection 20.10.050(d)  
Subsection 20.10.050(e).

SECTION 13. Section 20.04.090(e)(1)(A) shall be amended to add the words "or her" immediately after the word "him".

SECTION 14. Section 20.09.060(d)(1) shall be amended to add the words "or herself" immediately after the word "himself".

SECTION 15. Wherever the terms "Public Works Director" or "Director of the Public Works Department" are referenced in the *subsections* noted herein, all located in Title 20, entitled "Unified Development Ordinance", either shall be renamed to read "Planning and Transportation Director":



Subsection 20.05.009(d)(1)(B)  
Subsection 20.05.009(d)(2)  
Subsection 20.05.010(b)(3)(D)(ii)  
Subsection 20.05.049(e)(2)  
Subsection 20.07.200(e)(2)  
Subsection 20.09.330(c)(3).

SECTION 16. A new Section shall be added to Chapter 20.09 (Processes, Permits and Fees), entitled "Section 20.09.135 Sidewalk and Determinate Sidewalk Variances" which shall be listed as such in the table of contents for this Chapter and shall read as follows:

Section 20.09.135 Sidewalk and Determinate Sidewalk Variances

- (a) Intent. The purpose of this section is:
- (1) To outline the process by which petitions for a sidewalk variance and a determinate sidewalk variance are considered;
  - (2) To provide a mechanism to approve these petitions that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of Section 20.05.010(b)(3) will result in practical difficulties, and so that the spirit of Section 20.05.010(b)(3) shall be observed and substantial justice done.
- (b) Applicability. The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in Chapter 20.09, Processes, Permits and Fees, may grant sidewalk variances and determinate sidewalk variances.
- (c) Findings of Fact for Sidewalk Variance. Pursuant to Indiana Code 36-7-4-918.5, the board of zoning appeals or hearing officer may grant a variance from Section 20.05.010(b)(3) of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:
- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - (2) The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and
  - (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties; and
  - (4) That the topography of the lot or tract together with the topography of adjacent lots or tract and the nature of the street right-of-way make it impractical for the construction of a sidewalk as required by Section 20.05.010(b)(3); and
  - (5) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which the new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians.
- (d) Findings of Fact for Determinate Sidewalk Variance. Pursuant to Indiana Code 36-7-4-918.5, the board of zoning appeals or hearing officer may grant a determinate variance from Section 20.05.010(b)(3) of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:
- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - (2) The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and

- (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties; and
  - (4) The adjacent lot or tracts are at present undeveloped, but it appears that at some future date these lots or tracts will be developed, increasing the need for sidewalks for the protection and convenience of pedestrians; and
  - (5) The location of the lot or tract is such that the present pedestrian traffic does not warrant the construction of sidewalks, but it appears that in the future the pedestrian traffic may increase; and
  - (6) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.
- (e) Notification. The staff shall furnish the petitioner with a copy of the decision of the board of zoning appeals or hearing officer.
  - (f) Duration. Unless otherwise specified at the time of approval
    - (1) In the event that the board of zoning appeals or hearing officer authorizes a determinate variance, such variance shall continue in effect until the date at which the board of zoning appeals or hearing officer shall set to reconsider variances granted under the authority of this section. All such variances which were granted by the board of zoning appeals or hearing officer shall expire at that time unless an extension is granted. Should no extension be applied for, or the board of zoning appeals or hearing officer denies such application for extension, the owner of the lot or tract shall be required to construct a sidewalk on the lot or tract at that time.
    - (2) Any person who has been granted a determinate variance by the board of zoning appeals or hearing officer and subsequently transfers to another party any recordable interest in the lot or tract shall cause such conveyance to be made subject to the variance and cause the variance to be noted on the instrument of conveyance to be recorded.

SECTION 17. Subsection 20.09.240(f), entitled "Planning Department", and Subsection 20.09.240(g), entitled "City Engineering Department", shall be deleted in their entirety and replaced with the following, and the entire Section shall be renumbered accordingly:

- (f) Planning and Transportation Department.
  - (1) Review. The staff shall review a grading permit upon the receipt of a complete application and all supportive documents.
  - (2) Decision. The staff shall approve or deny the application within twenty working days of the receipt of a complete application and all supportive documents.
  - (3) Pre-construction Conference. For all sites of one acre or more, a pre-construction conference is required before any land-disturbing activity can commence. This conference will be between the staff and the petitioner. If land-disturbing activity commences without the benefit of a pre-construction conference, it shall be considered a violation of the Unified Development Ordinance. This conference shall include but not be limited to the proposed:
    - (A) Construction schedule;
    - (B) Memorandum of erosion control responsibility;
    - (C) Permit conditions of approval;
    - (D) Compliance with Section 20.05.041, EN-03 (Environmental standards—Siltation and erosion prevention);
    - (E) Identification of types of soil stock piles (working versus storage) and seeding requirements for such piles that achieve the objectives of this chapter.

- (4) Inspection. Prior to the initiation of site grading, the staff shall inspect the erosion and sedimentation controls installed by the petitioner to ensure that they meet or exceed the measures in the approved construction plan.
- (5) Correction of Deficiencies. The staff shall apprise the petitioner in writing of any deficiencies in the installation of the erosion and sedimentation control measures. The petitioner shall schedule a follow-up inspection once the deficiencies have been corrected.
- (6) Commencement of Grading. Grading shall not commence until the has approved the installation of the erosion and sedimentation control measures for the site. Initiation of grading prior to receiving approval from the staff shall constitute a violation of the Unified Development Ordinance, and shall be addressed as provided in Chapter 20.10, Enforcement and Penalties.
- (7) Record. The staff shall maintain records of all applications, plans, and permits filed for a grading permit.

SECTION 18. Subsection 20.01.370(a)(3) shall be amended by deleting the word "therefor" in its entirety and be replaced with the word "therefore".

SECTION 19. Subsection 20.05.10(b)(6)(C) shall be amended by deleting the words "city parks administrator" and be replaced with the words "Director of Parks and Recreation".

SECTION 20. Subsection 20.05.020(k)(1) shall be amended by deleting the words ", the city engineering department," in their entirety.

SECTION 21. Subsection 20.05.076(b) shall be amended by deleting the words ", the city engineering department," in their entirety.

SECTION 22. Subsection 20.07.120(c)(4) shall be amended by deleting the words "city engineer" and be replaced with the words "Transportation and Traffic Engineer".

SECTION 23. Subsection 20.07.140(g) shall be amended by deleting the words ", after consultation with the city engineering department" in their entirety.

SECTION 24. Subsection 20.07.180(c) shall be amended by deleting the words ", the city engineering department," in their entirety.

SECTION 25. Subsection 20.08.030(c)(2) shall be amended by deleting the words "Section 17.08.030(7)" in their entirety.

SECTION 26. Subsection 20.09.030(e) shall be amended by deleting the words "city engineering department and/or planning" in their entirety.

SECTION 27. Subsection 20.09.120(d)(7) shall be amended by deleting the word "planning" in its entirety, and be further amended by deleting the words "or the engineering department" in their entirety.

SECTION 28. Subsection 20.09.230(c)(3) shall be amended by deleting the word "engineering" in its entirety and be replaced with the word "HAND".

SECTION 29. Subsection 20.09.240(i)(2) shall be amended by deleting the words "city engineering department" in their entirety.

SECTION 30. Subsections 20.09.240(j)(1) and (2) shall be amended by deleting the words "city engineering department" in their entirety.

SECTION 31. Subsection 20.09.320(c)(1)(E) shall be amended by deleting the words "city engineer" in their entirety and be replaced with the words "Transportation and Traffic Engineer".

SECTION 32. Subsection 20.10.050(e)(4) shall be amended by deleting the words ", with permission of the manager of engineering services" in their entirety.

SECTION 33. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 34. The City Clerk is authorized to work with the codifier to correct scrivener's errors after consultation with the Council Office and review of strikeout documents used to prepare this ordinance.

SECTION 35. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, with approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_ day of \_\_\_\_\_, 2014.

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DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

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REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_ day of \_\_\_\_\_, 2014.

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REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_ day of \_\_\_\_\_, 2014.

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MARK KRUZAN, Mayor  
City of Bloomington

## SYNOPSIS

This ordinance is a sister ordinance to Ordinance 14-10 and Ordinance 14-11. Because of the changes enacted by Ordinance 14-10 and Ordinance 14-11, Title 20 of the Bloomington Municipal Code needs to be changed. Three general types of changes occur with this ordinance: (1) the renaming of departments, job titles, and the reassignment of duties; (2) fixing typographical errors; and (3) changes which allow Title 20 to reflect the actual practices and policies of the City.

# MEMO:

**To: City of Bloomington Common Council**

**From: Patty Mulvihill, Assistant City Attorney**

**Date: July 1, 2014**

**Re: Ordinance 14-12 Municipal Code Changes Necessitated by Ordinance 14-10**

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If this Council adopts Ordinance 14-10 and Ordinance 14-11 it will necessitate the changing of Title 20 of the Bloomington Municipal Code ("Code"), know as the Unified Development Ordinance ("UDO").

This ordinance suggests three types of changes. The first change involves renaming departments, job descriptions, and reassigning job duties. These changes are primarily necessitated by the merging of the current Planning and Engineering Departments. The second change involves fixing typographical errors. The third type of change involves bringing the municipal code in line with actual City policies and procedures.

A general description of the specific types of changes in this Ordinance are:

1. Changing all references to the Planning Department in the current UDO to the Planning and Transportation Department. There are 93 sections or subsections of the Code impacted by this change.
2. Changing all references to the Planning Director in the current UDO to the Planning and Transportation Director. There are 73 sections or subsections of the Code impacted by this change.
3. Changing all references to the Planning Staff in the current UDO to Staff. There are 112 sections or subsections of the Code impacted by this change.
4. Changing references to the Engineering Department in the current UDO to the Planning and Transportation Department. There are 46 sections or subsections of the Code impacted by this change.
5. Ensuring gender neutrality exists in those sections of the UDO which are being changed as a result of this Ordinance. There are 17 sections or subsections of the Code impacted by this change.
6. Changing references to the Public Works Director in the current UDO to the Planning and Transportation Director. There are 6 sections or subsections of the Code impacted by this change.
7. Ordinance 14-11 deleted any reference to determinate sidewalk variances because the Board of Zoning Appeals really only has jurisdiction over matters referenced in the zoning title, in our case the UDO. This current Ordinance creates a new

subsection of the UDO, Section 20.09.135, entitled Sidewalk and Determinate Sidewalk Variances. This new Section is formatted differently than the current section found in Title 12 in order to ensure consistency with the UDO. Also of note is this new Section 20.09.135 specifically notes that these types of variances can be granted by the hearing officer as well as the Board of Zoning Appeals.

8. This Ordinance also merges two subsections of the current Section 20.09.240, entitled "Grading Permits". This merger combines the Planning Department and Engineering Department into the newly established Planning and Transportation Department.
9. There are approximately 15 changes which do not fall into one general category, although none are truly substantive. A brief summary follows:
  - a) Fixing the spelling of a word;
  - b) Noting the correct title for the Director of Parks & Recreation;
  - c) Deleting references to the Engineering Department, when it simply needs to be deleted and not also replaced with a reference to the new Planning and Transportation Department;
  - d) Changing references to the City Engineer to that of the newly created Transportation and Traffic Engineer;
  - e) Deleting a code reference that was deleted in Ordinance 14-11;
  - f) Deleting a reference to the Engineering Department and replacing it with the HAND Department (HAND handles Unsafe Building Law and the reference here is directly related to that job duty).



# **CHANGES TO BLOOMINGTON MUNICIPAL CODE PROPOSED BY ORDINANCE 14-12**

## Strikeout Version

An ~180 page strikeout version of all changes to the Bloomington Municipal Code proposed by Ordinance 14-12 has been included in the Council's Online Packet prepared for the 09 July 2014 meetings.

*This material was not included in the hardcopy of the Weekly Packet mailed out on Thursday, July 3<sup>rd</sup>, but is available in the Council Office upon request.*



## Chapter 20.01, Ordinance Foundation

### **Chapter 20.01 ORDINANCE FOUNDATION**

#### **Sections:**

20.01.010 Title.

20.01.020 Authority.

20.01.030 Purpose.

20.01.040 Jurisdiction.

20.01.050 General applicability.

20.01.060 Repeal of preexisting ordinances.

20.01.070 Rules of interpretation.

20.01.080 Effective date.

20.01.090 Severability.

20.01.100 Transition rules—General.

20.01.110 Uses rendered conditional uses.

20.01.120 Uses rendered nonconforming.

20.01.130 Buildings, structures, and lots rendered nonconforming.

20.01.140 Previously granted variances.

20.01.150 Previously granted conditional use permits.

20.01.160 Previously granted special exceptions.

20.01.170 Previously granted certificates of appropriateness for properties designated historic.

20.01.180 Previously approved planned developments.

20.01.190 Previously approved site plans.

20.01.200 Previously approved subdivisions.

20.01.210 Effect of change in the law after filing of complete application.

20.01.220 Petitions for variance or rezoning (map change other than PUD).

20.01.230 Standard zoning districts—Establishment.

20.01.240 Standard zoning districts—Labeling.

20.01.250 Overlay districts—Establishment.

20.01.260 Planned unit development districts—Establishment.

20.01.270 Planned unit development districts—Labeling.

20.01.280 District land uses.

- 20.01.290 Unlisted or questionable land uses.
- 20.01.300 Official zoning map.
- 20.01.310 Designation of zoning district.
- 20.01.320 Regular revisions.
- 20.01.330 Standards.
- 20.01.340 Overlay district applicability.
- 20.01.350 Summary of authority.
- 20.01.360 Common council.
- 20.01.370 Plan commission.
- 20.01.380 Board of zoning appeals.
- 20.01.390 Planning and transportation department.
- 20.01.400 Hearing officer.
- 20.01.410 Plat committee.
- 20.01.420 Growth policies plan (comprehensive plan).
- 20.01.430 Subarea plans.
- 20.01.440 Thoroughfare plan.

**20.01.070 Rules of interpretation.**

- (a) Minimum Requirements. The provisions of this title shall be construed to achieve the purposes for which they are adopted. In interpreting and applying the provisions of this title, these provisions shall be held to be the minimum requirements for the protection and the promotion of the public health, safety, morals, comfort, convenience, and general welfare.
- (b) Conflicts or Inconsistency.
  - (1) Internal. Unless otherwise specifically stated within this title, and unless the context clearly indicates the contrary, if two or more provisions of this title are in conflict or are inconsistent with each other, then the most restrictive provision shall apply.
  - (2) Federal, State and Local.
    - (A) Whenever a provision of this title imposes a greater restriction or a higher standard than is required by any state or federal law or regulation, or other county or city ordinance or regulation, the provision of this title shall apply.
    - (B) Whenever a provision of any state or federal law or regulation, or other county or city ordinance or regulation imposes a greater restriction or a higher standard than

is required by this title, the provision of the state or federal law or regulation, or other county or city ordinance or regulation shall apply.

- (3) Other. Whenever a private covenant, contract, commitment, agreement, or other similar private land use restriction imposes a greater restriction or a higher standard than is required by a provision of this title, the more restrictive provision shall apply. This section shall not be interpreted to mean that the city is obligated to enforce the provisions of private covenants, contracts, commitments, agreements, or other similar restrictions; rather, the city shall make an effort to respect such agreements, and this title shall not have the effect of abrogating or annulling any such private restriction. Where this title imposes a greater restriction or a higher standard than is required by a private covenant, contract, commitment, agreement, or other similar private land use restriction, the provisions of this title shall govern.
- (c) Text to Govern. In case of any difference of meaning or implication between the text of this title and any caption, illustration, figure, summary table, or illustrative table, the text shall control.
- (d) Illustrations. All illustrations in this title are intended to help the reader understand terminology and concepts utilized in this title, unless otherwise indicated. Illustrations are not to be interpreted as examples of character or design that must be matched.
- (e) Time Frames. Any time frames stated within this title shall be calculated to include weekdays, weekends, and holidays, unless stated otherwise. If a time frame ends on a Saturday, Sunday, or holiday on which the city offices are closed, the time frame will be extended to the end of the next business day unless specifically stated otherwise within this title.
- (f) Delegation of Authority. If a provision in this title requires the planning and transportation director or other city official to perform an act or duty, that provision shall also include designated subordinates unless specified otherwise.
- (g) Fractions. Where application of a numerical standard results in a fraction, the fraction shall be rounded as follows:
  - (1) Where the standard is a minimum requirement, the fraction shall be rounded up the nearest whole number; and
  - (2) Where the standard is a maximum allowed or permitted under this title, the fraction shall be rounded down to the nearest whole number.
- (h) Rules of Word Usage. The following rules of word usage apply to the text of this title:
  - (1) The particular shall control the general.
  - (2) The words "shall" and "must" are always mandatory and not discretionary. The words "may" and "should" are permissive.
  - (3) Unless the context clearly indicates otherwise, words used in a specific tense (past, present or future) shall be construed to include all tenses; words used in the singular number shall include the plural, and the plural the singular; and, use of gender-specific pronouns shall be interpreted to include both sexes.

- (4) A "building" or "structure" includes any part thereof unless the context clearly indicates otherwise.
- (5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - (A) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - (B) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (C) "Either...or" indicates that the connected items, conditions, provision, or events shall apply singly but not in combination.
  - (D) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (6) Terms not defined herein shall have the meanings customarily assigned to them in common, ordinary usage, except that legal or technical terms shall be interpreted in their legal or technical sense.
- (i) Material Incorporated by Reference. As required per Indiana Code 36-1-5-4, two copies of any material incorporated into the Unified Development Ordinance by reference are on file in the city clerk's office for public inspection.

**20.01.210 Effect of change in the law after filing of complete application.**

- (a) For any application filed with the city prior to March 15, 2006 for any permit or approval listed in subsection (b) of this section, the effect of any change in the applicable law after such application but prior to the grant or denial of the permit or approval sought shall be governed by the transition rules of the prior zoning ordinance that was in effect on the date of application.
- (b) Whenever a complete application is filed with the city on or after March 15, 2006 for any of the permits or approvals listed in subsection (c) of this section, the grant or denial of such permit or approval, and the grant or denial of any secondary, additional or related permit or approval required by the city with respect to the general subject matter of the first complete application, shall be governed by the statutes, ordinances, rules, development standards, and regulations applicable to the property in question (hereinafter "Requirements") that were in effect at the time of the first complete application, for the time periods listed in subsection (d) of this section, notwithstanding any change in such requirements that occurs after such first application but prior to the grant or denial of such permit or approval, except as otherwise provided herein.

- (c) The permits and approvals covered by this section are:
  - (1) Certificate of zoning compliance (Section 20.09.220);
  - (2) Site plan review (Section 20.09.120);
  - (3) Conditional use (Section 20.09.150);
  - (4) Preliminary plat (Section 20.09.180);
  - (5) Final plat (Section 20.09.190);
  - (6) Grading permit (Section 20.09.240);
  - (7) Planned unit development (Sections 20.04.080 and 20.04.090).
- (d) The requirements in effect at the time of the first complete application for a permit or approval described in subsection (b) of this section shall continue to govern such first complete application and any secondary, additional or related permits described in that subsection for a period of at least three years from the date of the first complete application. If no construction or other activity to which the permit or approval relates is commenced within that three-year period, then thereafter the renewal of any expired permit, and the grant or denial of any new application for any secondary, additional or related permit, shall be governed by then current regulations if the planning and transportation director, based upon advice from the legal department, determines that such action is lawful and does not deprive the owner or applicant of any vested right. Moreover, if construction or other activity to which the permit or approval relates is not completed within ten years of the date upon which such construction or other activity commenced, then thereafter the renewal of any expired permit, and the grant or denial of any new application for any secondary, additional or related permit, shall be governed by then current regulations if the planning and transportation director, based upon advice from the legal department, determines that such action is lawful and does not deprive the owner or applicant of any vested right.
- (e) Where a permit or approval is rendered pursuant to this section, any construction, use or other activity authorized by such permit or approval shall be treated as lawfully nonconforming to the extent such activity does not conform to the current requirements of this title and shall be subject to the provisions of Chapter 20.08, Nonconforming Lots, Sites, Structures and Uses.
- (f) For purposes of this section, amendment or modification to an application for a permit or approval shall not constitute a new application unless the changes are such that the proposed activity is substantially greater in scope, complexity or process of review, or otherwise significantly increases the land use issues and impacts that are presented, compared to the original application.

### **20.01.300 Official zoning map.**

- (a) The location and boundaries of the zoning districts are hereby established on a map entitled "Official Zoning Map," as it may be amended from time to time, which accompanies and is

hereby incorporated in and made a part of this title. The official zoning map is a geographic coverage layer entitled "Zoning" that is maintained as part of the city's geographic information system (GIS) under the direction of the planning and transportation director.

- (b) The planning and transportation director may authorize printed copies of the official zoning map to be produced, and shall maintain digital or printed copies of superseded versions of the official zoning map for historical reference.
- (c) Two copies of the official zoning map shall be on file and available for public inspection in the planning and transportation department.

#### **20.01.320 Regular revisions.**

- (a) Only persons authorized by the planning and transportation director may revise the official zoning map when amendments are passed. Such revisions shall be made as soon as possible after the effective date of the amendment.
- (b) During the time it takes for the formal electronic version of the official zoning map to be reprinted for public display, hand-drawn lines and text on an authorized printed copy of the previous official zoning map will be appropriate to note zoning district changes. Revisions may be made at any time to correct drafting or clerical errors and omissions in the official zoning map, but shall not have the effect of amending the official zoning map.

#### **20.01.330 Standards.**

Zoning district boundaries on the official zoning map shall be interpreted as follows:

- (a) Zoning district boundaries shown within or parallel to the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the centerline of the affected road, easement, or right-of-way.
- (b) Zoning district boundaries indicated as following or being parallel to section or fractional sectional lines, lot lines, or city corporate boundary lines shall be construed as following or paralleling such lines.
- (c) Zoning district boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
- (d) Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall thereafter be subject to all regulations of the extended zoning districts. In the

event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

- (e) Any disputes as to the exact zoning district boundaries shall be determined by the planning and transportation director. The planning and transportation director may refuse to make a determination when he or she cannot definitely determine the location of a zoning district boundary. In such cases, the planning and transportation director shall refer the interpretation to the plan commission. The plan commission may then interpret the location of the zoning district boundary with reference to the scale of the official zoning map and the purposes set forth in all relevant provisions of the Unified Development Ordinance. All zoning district boundary determinations made pursuant to this subsection may be appealed to the board of zoning appeals.

#### **20.01.370 Plan commission.**

- (a) Jurisdiction and Authority. The plan commission shall have the following jurisdiction and authority subject to the provisions of this title and the applicable provisions of the Indiana Code.
  - (1) To initiate, hear, review, and certify recommendations to the common council on replacement or amendment of the growth policies plan and this title, including the official zoning map;
  - (2) To hear, review, and make recommendations to the common council on the PUD district ordinance and preliminary plan for a proposed planned unit development. When stipulated by the plan commission at the time of preliminary approval, to review and approve the final plan for a planned unit development;
  - (3) To authorize a hearing officer pursuant to Indiana Code 36-7-4-923, and to establish rules prescribing and limiting the authority and procedures therefore pursuant to Indiana Code 36-7-4-923 and Indiana Code 36-7-4-924;
  - (4) To hear, review, and make recommendations to the board of zoning appeals on use variance petitions involving multifamily or nonresidential uses;
  - (5) To review and approve or disapprove site plans and amendments to site plans, as required pursuant to Section 20.09.120, Site plan review, which shall include the power to approve with conditions, to permit or require commitments, and to require bonding or other financial assurances for public improvements;
  - (6) To aid and assist the common council and the mayor in implementing the city's adopted comprehensive plan and in planning, developing, and completing specific projects;
  - (7) To review and report on any matters referred to it by the common council or the mayor;
  - (8) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board, or commission of the city to aid them in the

performance of their respective duties relating to the planning and development of the city;

- (9) To delegate responsibilities relating to ordinance administration and enforcement to the ~~planning~~ staff and to other appropriate executive departments and personnel;
  - (10) To review and approve or disapprove plats and replats of subdivisions;
  - (11) To supervise and make rules for the administration of the affairs of the plan commission, including but not limited to adopting and maintaining a schedule of uniform fees for permits, processes and official actions of the common council and the planning and transportation department;
  - (12) To prescribe uniform rules pertaining to investigations and hearings;
  - (13) To keep a complete record of all proceedings;
  - (14) To record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the plan commission;
  - (15) To prepare, publish and distribute reports, ordinances and other materials relating to the activities authorized under this chapter;
  - (16) To adopt a seal;
  - (17) To certify to all official acts;
  - (18) To make recommendations to the common council or other bodies concerning any other matter within the jurisdiction of the plan commission, as authorized by the advisory planning law (Indiana Code 36-7-4: Local Planning and Zoning);
  - (19) To approve or delegate the assignment of street numbers to lots and structures and the naming of streets, including renumbering or renaming;
  - (20) To authorize a plat committee pursuant to Indiana Code 36-7-4-701(e);
  - (21) To permit, require, modify and terminate commitments, and to hear appeals from final plan decisions by ~~planning~~ staff; as authorized elsewhere in Indiana Code Title 36; and
  - (22) To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this title.
- (b) Membership, Term and Organization. The plan commission shall be composed as set forth in Chapter 2.13, Plan Commission of the Bloomington Municipal Code in accordance with Indiana statute.
- (c) Quorum and Official Action. No official action shall be taken by the plan commission without a quorum being present. A quorum is defined by Indiana Code 36-7-4-301 as a majority of the entire membership of the plan commission, who are qualified by Indiana Code 36-7-4-300 Series: Plan Commission Organization to vote. Official action of the plan commission requires authorization by a majority of the entire membership of the plan commission at a regular or special meeting.
- (d) Meetings—Hearings—Procedures.
- (1) Regular meetings of the plan commission shall be held as provided by the plan commission rules of procedure.



- (A) All meetings and hearings of the plan commission shall be open to the public except when closed pursuant to the provisions of applicable state law.
- (B) The plan commission shall adopt its own rules of procedure, subject to the limitations of the Indiana Code. The adoption, amendment, or revision of such rules shall be by a majority vote of all members of the plan commission.
- (2) Special meetings of the plan commission may be called as provided by Indiana Code 36-7-4-307.
- (e) Record. The transcript of testimony, if any; minutes; all applications, exhibits, and papers filed in any proceeding before the plan commission; the staff report; and the decision of the plan commission shall constitute the record. The record shall be maintained for public inspection in the planning and transportation department.
- (f) Decisions. Every recommendation or decision of the plan commission upon an application filed pursuant to this title shall be repeated in the summary minutes prepared by the planning staff. Where required by law, such decisions shall include written findings of fact upon criteria used in making the decision. The minutes shall expressly set forth any limitations, commitments or conditions recommended or imposed by the plan commission.
- (g) Conflicts.
  - (1) Pursuant to Indiana Code 36-7-4-223, a member of either the plan commission or the common council may not participate in a hearing or decision of the plan commission or common council concerning a zoning matter in which he or she has a direct or indirect financial interest. The plan commission or common council shall enter in its records the fact that its member has such a disqualification. As used in this section, "zoning matter" does not include the preparation or adoption of a comprehensive plan.
  - (2) A member of the plan commission or the common council may not directly or personally represent another person in a hearing before the plan commission or common council concerning a zoning matter.

**20.01.380 Board of zoning appeals.**

- (a) Jurisdiction and Authority. The board of zoning appeals shall have the following jurisdiction and authority subject to the provisions of this title:
  - (1) To hear and decide upon applications for development standards variances from this title;
  - (2) To hear and decide upon applications for use variances from this title;
  - (3) To hear and decide upon applications for conditional use permits;
  - (4) To establish or extend time limitations placed upon variances and conditional uses;
  - (5) To permit or require commitments under Indiana Code 36-7-4-921 as a condition of approval of a variance or conditional use;
  - (6) To hear and determine appeals from:

- (A) Any order, requirement, decision, or determination made by an administrative office, hearing officer, or staff member under this title;
  - (B) Any order, requirement, decision, or determination made by an administrative board or other body except the plan commission in relation to the enforcement of this title;
  - (C) Any order, requirement, decision, or determination made by an administrative board or other body except the plan commission in relation to the enforcement of this title requiring the procurement of a certificate of zoning compliance or certificate of occupancy.
- (7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board, or commission of the city, to aid them in the performance of their respective duties relating to this title and its administration; and
  - (8) To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this title.
- (b) Membership, Term and Organization. The board of zoning appeals shall be composed as set out in Chapter 2.15, Advisory Board of Zoning Appeals of the Bloomington Municipal Code in accordance with Indiana statute.
  - (c) Quorum and Official Action.
    - (1) Three members shall constitute a quorum to conduct business.
    - (2) Three concurring votes of the board of zoning appeals membership shall be required for rendering a final decision on any matter.
  - (d) Meetings and Procedures.
    - (1) Meetings of the board of zoning appeals shall be conducted in accordance with the rules established by the board of zoning appeals;
    - (2) The board of zoning appeals shall adopt rules of procedure, which may not conflict with this title, concerning the:
      - (A) Filing of appeals;
      - (B) Application for use variances, development standards variances, and conditional uses;
      - (C) Giving of notice;
      - (D) Conduct of hearings; and
      - (E) Determination of whether a variance application is for a use variance or development standards variance.
    - (3) The board of zoning appeals may also adopt rules of procedure:
      - (A) Governing the creation, form, recording, modification, enforcement and termination of commitments.
      - (B) Designating those specially affected persons and classes of specially affected persons who are entitled to enforce commitments.

- (4) Rules adopted by the board of zoning appeals shall be printed and be made available to all applicants and other interested persons.
- (e) Record. The transcript of testimony, if any; minutes; all applications, exhibits, and papers filed in any proceeding before the board of zoning appeals; the staff report and the decision of the board of zoning appeals shall constitute the record. The record shall be maintained for public inspection in the planning and transportation department.
- (f) Decisions. The board of zoning appeals shall keep minutes of its proceedings and record the vote on all actions taken, which shall expressly set forth any limitations or conditions imposed. All minutes and records shall be filed in the office of the board of zoning appeals and are public records. The board of zoning appeals shall, in all cases heard by it, make written findings of fact.
- (g) Conflicts.
  - (1) A person shall not communicate with any member of the board of zoning appeals before hearings with intent to influence the member's action on a matter pending before the board of zoning appeals. A member who feels his or her impartiality has been compromised in this manner is allowed to disqualify himself or herself. The ~~planning~~ staff may, however, file with the board of zoning appeals a written statement setting forth any facts or opinions relating to the matter no less than five days before the hearing.
  - (2) A member of the board of zoning appeals shall not participate in a hearing or decision of the board of zoning appeals concerning a zoning matter in which he or she has a direct or indirect financial interest. The board of zoning appeals shall enter in its records the fact that a member has such a disqualification and the name of the alternate member, if such an alternate member is appointed under Section 2.15.030, Terms of the BMC, who participates in the hearing or decision in place of the regular member.

#### **20.01.390 Planning and transportation department.**

- (a) Authority. Pursuant to Chapter 2.14, Planning and Transportation Department of the Bloomington Municipal Code, the planning and transportation director or his or her designee, hereinafter referred to as "~~planning~~ staff," shall be charged with the administration of this title and, in particular, shall have the jurisdiction, authority and duties described in this chapter:
  - (1) To meet with and counsel those persons maintaining an interest in this title, other questions of land use, and related city ordinances, plans and policies;
  - (2) To conduct zoning compliance reviews regarding any permit pertaining to the alteration, erection, construction, reconstruction, moving, division, enlargement, demolition, use or maintenance of lands, buildings or structures, and to issue or refuse to issue certificates of zoning compliance;

- (3) To approve temporary uses requiring administrative approval;
  - (4) To review any site plan submitted for such review, which shall include the power to approve with conditions, to permit or require commitments, and to require bonding or other financial assurance for public improvements, and to make decisions or recommendations to the plan commission, as appropriate and as authorized in Section 20.09.120, Site plan review;
  - (5) To make written interpretations of permitted use and other specific provisions of this title pursuant to the provisions of Section 20.09.340, Administrative interpretations;
  - (6) To approve, or forward to the plan commission, applications for approval of planned unit development final development plans, which shall include authority to permit or require commitments and impose reasonable conditions, as authorized elsewhere in this title;
  - (7) If authorized by the plan commission, to approve final plats of subdivisions pursuant to this title; and
  - (8) To exercise such other powers and perform such other duties as are allowed by Indiana law.
- (b) Staff Assistance to the Board of Zoning Appeals and Plan Commission. The planning and transportation department shall make staff and consulting assistance available to the board of zoning appeals and the plan commission, and to any hearing officer or plat committee as may be authorized by the plan commission in its rules, and shall in that capacity:
- (1) Attend the meetings of each such body;
  - (2) Inform each such body of all facts and information at the planning and transportation department's disposal with respect to any matter brought before each such body;
  - (3) Assist each such body by performing research and making recommendations on matters brought before each such body; and
  - (4) Perform such other duties as may be assigned to the planning staff by this title.
- (c) Records.
- (1) The planning staff shall maintain permanent and current records of this title, including all maps, amendments, conditional use, site plan, variance and planned unit development approvals and denials, interpretations, and decisions rendered respectively by the board of zoning appeals, the hearing officer, the plan commission, the plat committee, and the planning staff, together with relevant background files and materials. The records shall be maintained for public inspection in the planning and transportation department.
  - (2) The city shall maintain a current geographic information system (GIS). All applicants shall have the affirmative duty to inform the planning and transportation department in writing of any errors in the GIS maps they receive or have access to as part of the application process.
- (d) Zoning Text and Map. The planning staff shall prepare and have available for examination in the planning and transportation department:

- (1) The compiled text of this title, including all amendments thereto; and
  - (2) The official zoning map of this title, showing the zoning districts, divisions and classifications, including all amendments thereto.
- (e) Receipt, Processing, and Referral of Applications. The ~~planning~~ staff shall receive all applications for any petition, permit or process required to be filed pursuant to this title. Upon receipt of any such application, the ~~planning~~ staff shall see to its processing, which may include its prompt referral to and retrieval from each official, department, board or commission of the city or any other governmental unit or agency with any interest or duty with respect to such application.
- (f) Investigation of Application. Whenever the plan commission, the board of zoning appeals, or the common council shall so request, by general rule or specific direction, the ~~planning~~ staff may conduct or cause to be conducted such surveys, investigations, and field studies and may prepare or cause to be prepared such reports, maps, photographs, charts and exhibits as may be necessary and appropriate to the processing of any application filed pursuant to this title.
- (g) Inspection and Enforcement. To ensure enforcement of this title, the ~~planning~~ staff may initiate investigations and inspections as warranted, and may take all actions necessary and appropriate to abate and redress such violations, pursuant to the provisions of Chapter 20.10, Enforcement and Penalties of this title.
- (h) New Technologies. The planning and transportation department shall be responsible for investigating and evaluating the feasibility of adopting new technologies, such as three-dimensional architectural computer modeling, that will enable it, other city departments, the plan commission, board of zoning appeals, and common council to make better, more informed decisions about the visual impact that proposed developments will have on surrounding structures.

#### **20.01.440 Thoroughfare plan.**

The thoroughfare plan is a component of the growth policies plan that:

- (a) Establishes functional classification of public ways;
- (b) Determines locations for new, extended, widened, or narrowed public ways;
- (c) Constitutes a criterion used by the board of zoning appeals in the consideration of certain conditional use permits;
- (d) Provides the ~~planning~~ staff guidance for site plan reviews of projects near mass transit or alternative transportation facilities, including bike paths; and
- (e) Establishes conceptual road and bicycle/pedestrian networks for the purpose of right-of-way dedication and construction Standards.

## **Chapter 20.03, Overlay Districts**

### **20.03.020 Courthouse square overlay (CSO)—Review process.**

Review by ~~Planning~~ Staff. ~~Planning s~~Staff shall review any proposal that complies with all of the standards in Section 20.03.050, Courthouse square overlay (CSO)—Development standards and Section 20.03.060, Courthouse square overlay (CSO)—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(e)(1)(A): Site Plan Review Process, Plan Commission;

Any proposal that does not comply with all of the standards of Section 20.03.050, Courthouse square overlay (CSO)—Development standards and Section 20.03.060, Courthouse square overlay (CSO)—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, upper floor units: above thirty bedrooms.

Retail, high intensity: greater than fifteen thousand square feet gross floor area.

Parking garage/structure: as a primary use; and

Any proposal adjacent to a residentially zoned district or a residential use.

### **20.03.030 Courthouse square overlay (CSO)—Review standards.**

~~Planning~~ Staff Review. ~~Planning s~~Staff shall approve any project that:

Complies with all the standards of Section 20.03.050, Courthouse square overlay (CSO)—Development standards and Section 20.03.060, Courthouse square overlay (CSO)—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.050, Courthouse square overlay (CSO)—Development standards and Section 20.03.060, Courthouse square overlay (CSO)—Architectural standards; and complies with all review standards of Section 20.09.120, Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.050, Courthouse square overlay (CSO)—Development standards and Section 20.03.060, Courthouse square overlay (CSO)—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.070, Courthouse square overlay (CSO)—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

#### **20.03.090 Downtown core overlay (DCO)—Review process.**

Review by Planning Staff. Planning staff shall review any proposal that complies with all of the standards in Section 20.03.120, Downtown core overlay—Development standards and Section 20.03.130, Downtown core overlay—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(e)(1)(A), Site Plan Review Process, Plan Commission;

Any proposal that does not comply with all of the standards of Section 20.03.120, Downtown core overlay—Development standards and Section 20.03.130, Downtown core overlay—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, multifamily: above one hundred bedrooms.

Retail, high intensity: greater than thirty thousand square feet gross floor area.

Parking garage/structure: as a primary use.

Any proposal adjacent to a residentially zoned district or a residential use.

**20.03.100 Downtown core overlay (DCO)—Review standards.**

~~Planning~~ Staff Review. ~~Planning s~~Staff shall approve any project that:

Complies with all the standards of Section 20.03.120, Downtown core overlay—Development standards and Section 20.03.130, Downtown core overlay—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.120, Downtown core overlay—Development standards and Section 20.03.130, Downtown core overlay—Architectural standards; and complies with all review standards of Section 20.09.120, Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.120, Downtown core overlay—Development standards and Section 20.03.130, Downtown core overlay—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.140, Downtown core overlay—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

**20.03.160 University village overlay (UVO)—Review process.**

Review by ~~Planning~~ Staff. ~~Planning s~~Staff shall review any proposal that complies with all of the standards in Section 20.03.190, University village overlay (UVO)—Development standards and Section 20.03.200, University village overlay (UVO)—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(E)(1)(A), Site Plan Review Process, Plan Commission;



Any proposal that does not comply with all of the standards of Section 20.03.190, University village overlay (UVO)—Development standards and Section 20.03.200, University village overlay (UVO)—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, upper floor units: above fifty bedrooms.

Residential dwelling, multifamily: ground floor units in the Kirkwood Corridor or restaurant row.

Retail, high intensity: greater than fifteen thousand square feet gross floor area.

Parking garage/structure: as a primary use.

Any proposal adjacent to a residentially zoned district or a residential use.

#### **20.03.170 University village overlay (UVO)—Review standards.**

~~Planning~~ Staff Review. ~~Planning s~~Staff shall approve any project that:

Complies with all the standards of Section 20.03.190, University village overlay (UVO)—Development standards and Section 20.03.200, University village overlay (UVO)—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.190, University village overlay (UVO)—Development standards and Section 20.03.200, University village overlay (UVO)—Architectural standards; and complies with all review standards of Section 20.09.120, Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.190, University village overlay (UVO)—Development standards and Section 20.03.200, University village overlay (UVO)—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.210, University village overlay (UVO)—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

#### **20.03.230 Downtown edges overlay (DEO)—Review process.**

Review by ~~Planning~~ Staff. ~~Planning s~~Staff shall review any proposal that complies with all of the standards in Section 20.03.260, Downtown edges overlay (DEO)—Development standards and Section 20.03.270, Downtown edges overlay (DEO)—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(E)(1)(A), Site Plan Review Process, Plan Commission;

Any proposal that does not comply with all of the standards of Section 20.03.260, Downtown edges overlay (DEO)—Development standards and Section 20.03.270, Downtown edges overlay (DEO)—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, upper floor units: above thirty bedrooms.

Any proposal adjacent to a residentially zoned district or a residential use.

#### **20.03.240 Downtown edges overlay (DEO)—Review standards.**

~~Planning~~ Staff Review. ~~Planning s~~Staff shall approve any project that:

Complies with all the standards of Section 20.03.260, Downtown edges overlay (DEO)—Development standards and Section 20.03.270, Downtown edges overlay (DEO)—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.260, Downtown edges overlay (DEO)—Development standards and Section 20.03.270, Downtown edges overlay (DEO)—Architectural standards; and complies with all review standards of Section 20.09.120, Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.260, Downtown edges overlay (DEO)—Development standards

and Section 20.03.270, Downtown edges overlay (DEO)—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.280, Downtown edges overlay (DEO)—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

### **20.03.300 Downtown gateway overlay (DGO)—Review process.**

Review by Planning Staff. Planning Staff shall review any proposal that complies with all of the standards in Section 20.03.330, Downtown gateway overlay (DGO)—Development standards and Section 20.03.340, Downtown gateway overlay (DGO)—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(E)(1)(A), Site Plan Review Process, Plan Commission;

Any proposal that does not comply with all of the standards of Section 20.03.330, Downtown gateway overlay (DGO)—Development standards and Section 20.03.340, Downtown gateway overlay (DGO)—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, upper floor units: above thirty bedrooms.

Residential dwelling, multifamily: ground floor units.

Retail, high intensity: greater than thirty thousand square feet gross floor area.

Parking garage/structure: as a primary use.

Any proposal adjacent to a residentially zoned district or a residential use.

### **20.03.310 Downtown gateway overlay (DGO)—Review standards.**

Planning Staff Review. Planning Staff shall approve any project that:

Complies with all the standards of Section 20.03.330, Downtown gateway overlay (DGO)—Development standards and Section 20.03.340, Downtown gateway overlay (DGO)—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.330, Downtown gateway overlay (DGO)—Development standards and Section 20.03.340, Downtown gateway overlay (DGO)—Architectural standards; and complies with all review standards of Section 20.09.120, Downtown gateway overlay (DGO)—Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.330, Downtown gateway overlay (DGO)—Development standards and Section 20.03.340, Downtown gateway overlay (DGO)—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.350, Downtown gateway overlay (DGO)—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

### **20.03.370 Showers technology park overlay (STPO)—Review process.**

Review by Planning Staff. Planning Staff shall review any proposal that complies with all of the standards in Section 20.03.400, Showers technology park overlay (STPO)—Development standards and Section 20.03.410, Showers technology park overlay (STPO)—Architectural standards, except where the proposal meets one of the criteria for plan commission review in this section.

Review by Plan Commission. The plan commission shall review:

Any proposal identified for plan commission review in Section 20.09.120(e)(1)(A), Site Plan Review Process, Plan Commission;

Any proposal that does not comply with all of the standards of Section 20.03.400, Showers technology park overlay (STPO)—Development standards and Section 20.03.410, Showers technology park overlay (STPO)—Architectural standards;

Any development that includes any of the following uses:

Residential dwelling, upper floor units: above thirty bedrooms.

Residential dwelling, multifamily: ground floor units.

Retail, high intensity: greater than fifteen thousand square feet gross floor area.

Parking garage/structure: as a primary use.

Any proposal adjacent to a residentially zoned district or a residential use.

### **20.03.380 Showers technology park overlay (STPO)—Review standards.**

~~Planning~~ Staff Review. ~~Planning s~~Staff shall approve any project that:

Complies with all the standards of Section 20.03.400, Showers technology park overlay (STPO)—Development standards and Section 20.03.410, Showers technology park overlay (STPO)—Architectural standards; and

Complies with all review standards of Section 20.09.120, Site plan review.

Plan Commission Review. The plan commission shall approve any project that:

Complies with all the standards of Section 20.03.400, Showers technology park overlay (STPO)—Development standards and Section 20.03.410, Showers technology park overlay (STPO)—Architectural standards; and complies with all review standards of Section 20.09.120, Site plan review.

The plan commission may approve any project that does not comply with all the standards of Section 20.03.400, Showers technology park overlay (STPO)—Development standards and Section 20.03.410, Showers technology park overlay (STPO)—Architectural standards if the commission finds that the project:

Complies with all review standards of Section 20.09.120, Site plan review, and

Satisfies the design guidelines set forth in Section 20.03.420, Showers technology park overlay (STPO)—Design guidelines.

The plan commission is encouraged to consider building designs which may deviate in character from the architectural standards of this section but add innovation and unique design to the built environment of this overlay area.

The plan commission is encouraged to consider the degree to which the site plan incorporates sustainable development design features such as vegetated roofs, energy efficiency, and resource conservation measures.

## **Chapter 20.04, Planned Unit Development Districts**

### **20.04.080 Process—PUD district ordinance and preliminary plan.**

#### **(a) Purpose and Intent.**

- (1) PUD District Ordinance. The purpose of the PUD district ordinance is to:
  - (A) Designate a parcel of real property as a planned unit development zoning district;
  - (B) Specify uses or a range of uses permitted in the planned unit development zoning district;
  - (C) Specify development requirements in the planned unit development zoning district;
  - (D) Specify the plan documentation and supporting documentation that may be required;
  - (E) Specify any limitation applicable to the planned unit development zoning district; and
  - (F) Meet the requirements of Indiana Code 36-7-4-1500 et seq.
- (2) Preliminary Plan. The purpose of a preliminary plan is to delineate the location of basic elements such as land uses, vehicular and pedestrian traffic routes, drainage, perimeter buffer yards, and other site planning elements.

#### **(b) Prerequisites.**

- (1) Pre-submittal Meeting. Prior to submitting a planned unit development application, the petitioner shall meet with the planning and transportation department to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property. The ~~planning~~ staff shall aid and advise the petitioner in preparing the application and supportive documents as necessary.
- (2) Development Review Committee. After the required pre-submittal meeting, and after the planning and transportation department determines that it has received a submittal that is sufficiently complete for development review committee review, the ~~planning~~ staff may place the item on an agenda of the development review committee and inform the petitioner of the time, date, and place of the meeting.
- (3) Neighborhood Meeting. The petitioner shall conduct a neighborhood meeting prior to filing a petition to rezone a site to a planned unit development. Notice of the

neighborhood meeting shall be made to any neighborhood association on record with the city within a five hundred foot radius of the boundaries of the proposed planned unit development. Such notice shall be made to the neighborhood associations and the planning and transportation department at least seven days in advance of the meeting. ~~Planning department s~~Staff may require additional neighborhood meetings if significant changes are made to a planned unit development proposal after the initial neighborhood meeting occurs.

- (c) Applicability. This section is applicable to new planned unit development proposals, and to any proposed amendment to an existing planned unit development that would affect either the text of the PUD district ordinance or the general layout of any element of the preliminary plan.
- (d) Application. An application for a planned unit development shall not be considered complete until all information and documentation required by this subsection has been submitted and all meetings required by subsection (b) of this section have been completed. Applications shall include, but not be limited to, the following documents:
  - (1) Application Form. An application form as provided by the planning and transportation department.
  - (2) PUD District Ordinance. A narrative document that provides the following information:
    - (A) Proposed Uses.
      - (i) A list of the specified zoning districts to be used for use regulation in each land use component; or
      - (ii) A specific list of uses for each land use component area.
    - (B) Proposed Development Standards.
      - (i) A list of the specified zoning districts to be used for development standards regulation in each land use component; and
      - (ii) Any deviation from the standards in each land use component.
    - (C) Proposed Design Standards. Any deviations or additions to the design standards of Chapter 20.07, Design Standards.
  - (3) Preliminary Plan. A drawing of the planned unit development shall be prepared and shall show enough details to indicate the character of the proposed development. The submission shall include:
    - (A) Map data including the name of development, north point, scale and date of preparation;
    - (B) Existing Conditions.
      - (i) A current topographic survey including two-foot contours and a location map,
      - (ii) Existing conditions on adjoining land: land use, topography, use and location of buildings, railroads, and utilities; name of any adjoining subdivision plat,
      - (iii) Existing streets on and adjacent to the tract, including street name, right-of-way width, pavement width, and pedestrian facilities,

- (iv) Existing utilities on the tract,
  - (v) Any land on the tract within the regulated floodplain, including a delineation of floodway and floodway fringe,
  - (vi) Streets and other major improvements planned by the public for future construction on or adjacent to the tract as indicated by the Master Thoroughfare Plan and other relevant documents;
  - (C) Boundary lines and acreage of each proposed land use component;
  - (D) Conceptual location of roads, buildings, structures, and parking areas;
  - (E) Location, acreage, use and description of open space areas;
  - (F) Other conditions on the tract, including water courses, wetlands, rock outcrops, wooded areas, isolated trees six inches dbh, surface karst features, steep and excessive slopes, existing structures and other significant features.
- (4) Supportive Information.
- (A) Infrastructure Plan. Preliminary concepts and feasibility reports for roads, utilities, stormwater management and pedestrian ways.
  - (B) Traffic Analysis. If requested by the ~~planning~~ staff or the plan commission, a study of the impact caused by the planned unit development and any measures proposed to accommodate that impact.
  - (C) Description of Character. A written description explaining the character of the planned unit development. The description shall include a specific explanation of how the proposed planned unit development meets the objectives of all adopted land use policies of the city.
  - (D) Ownership. Statement of present and proposed ownership of all land within the project including ownership of any open space.
  - (E) Development Schedule. Development schedule indicating the stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.
  - (F) Environmental Plan. Documentation necessary to demonstrate compliance with Chapter 20.05, EN: Environmental Standards, where applicable.
  - (G) Architectural Character. Narrative, renderings, representative photographs, or other materials that illustrate the proposed architectural character of development within the planned unit development. Such material shall clearly depict the massing, scale and architectural detail of the proposed development.
  - (H) Additional Information. Such other additional information as may be required by the ~~planning~~ staff to evaluate the application. The ~~planning~~ staff shall inform the applicant of any additional documents or data requirements after the pre-application conference.
- (e) Planning and Transportation Department.



- (1) Review. The planning and transportation department shall review the PUD district ordinance and preliminary plan and shall forward the application and the results of the review to the plan commission for its consideration, public hearing and recommendations together with the planning staff's report and such other documents as may be pertinent to the planned unit development.
- (f) Plan Commission.
- (1) Decision. The plan commission shall:
    - (A) Forward the petition to the common council with:
      - (i) A favorable recommendation;
      - (ii) A favorable recommendation and conditions, commitments, and/or changes to the PUD district ordinance or to the preliminary plan;
      - (iii) A negative recommendation; or
      - (iv) No recommendation; or
    - (B) Continue the petition to a definite future meeting date.
  - (2) Changes by Plan Commission. The plan commission may vote to favorably recommend a proposal with changes to the PUD district ordinance or to the preliminary plan if the petitioner agrees in writing to the changes. If the petitioner is unable to respond to the proposed changes prior to the vote, then such motion and vote shall be in the alternative: either for favorable recommendation, with the changes, contingent upon the petitioner's acceptance of the changes in writing within ten days of the plan commission's approval, or, in the alternative, if the petitioner fails to accept the changes in writing within said specified time, the plan commission's motion and vote shall be to continue the application to the next plan commission meeting. The plan commission shall permit the petitioner to comment upon changes to the PUD district ordinance or to the preliminary plan made by the plan commission after a motion to approve with changes is made but prior to the vote, and the plan commission may amend its motion accordingly.
  - (3) Revisions. Following plan commission approval, the petitioner shall submit revised copies of the PUD district ordinance and preliminary plan that address the comments, concerns, and conditions of approval of the plan commission. The petitioner shall refer to the application form to determine the format and number of copies of the revised plans to deliver to the planning and transportation department.
  - (4) Final Plan Review Authority. In general, the plan commission shall review all final plans. When adequate detail has been provided on a preliminary plan, the plan commission may, at the time of its favorable recommendation of a planned unit development, delegate the review of final plans to the planning staff. If the plan commission recommends denial of a planned unit development or provides no recommendation on the planned unit development, and the common council approves the planned unit development, the plan commission shall review all final plans.
- (g) Common Council.

- (1) Action. The common council shall vote on the proposal within ninety days after the plan commission certifies the proposal. The common council may adopt or reject the proposal and may also exercise powers set forth under Indiana Code 36-7-4-1500 et seq. Those powers include imposing reasonable conditions, conditioning the issuance of a certificate of zoning compliance on bonds or certain guarantees, and allowing or requiring the owner of real property to make written commitments. If the plan commission has given the proposal a favorable recommendation and the common council fails to act on the proposal within ninety days, the ordinance codified in this chapter takes effect as if it had been adopted (as certified) ninety days after certification. If the plan commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the common council fails to act on the proposal within ninety days, the proposal is defeated.
- (2) Effect of Approval of a PUD District Ordinance and Preliminary Plan.
  - (A) When a PUD district ordinance and preliminary plan for a planned unit development have been approved by the common council, the PUD district ordinance and preliminary plan shall become effective and its location shall be shown on the zoning map. The zoning map shall be amended to designate the site as a planned unit development zoning district.
  - (B) For PUDs located adjacent to existing public streets, all required right-of-way for such public streets shall be dedicated in compliance with the thoroughfare plan. Such dedication shall take place within one hundred eighty days of approval of the PUD district ordinance. The one hundred eighty day time limit may be extended by the planning and transportation director, but not unless the requirement is clearly specified in a recordable zoning commitment approved by the city.
  - (C) Upon such amendment of the zoning map, the use and development of the site shall be governed by the PUD district ordinance and preliminary plan, subject to approval of a final plan.
  - (D) No permit of any kind shall be issued until the final plan has been approved.
- (h) Review Considerations. In their consideration of a PUD district ordinance and preliminary plan, the plan commission and common council shall consider as many of the following as may be relevant to the specific proposal. The following list shall not be construed as providing a prioritization of the items on the list. Each item shall be considered individually as it applies to the specific planned unit development proposal.
  - (1) The extent to which the proposed preliminary plan meets the requirements, standards, and stated purpose of Chapter 20.04, Planned Unit Development Districts.
  - (2) The extent to which the proposed preliminary plan departs from the Unified Development Ordinance provisions otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest.
  - (3) The extent to which the planned unit development meets the purposes of this title, the growth policies plan, and any other adopted planning objectives of the city. Any specific benefits shall be specifically cited.

- (4) The physical design of the planned unit development and the extent to which it:
    - (A) Makes adequate provision for public services;
    - (B) Provides adequate control over vehicular traffic;
    - (C) Provides for and protects designated common open space; and
    - (D) Furthers the amenities of light and air, recreation and visual enjoyment.
  - (5) The relationship and compatibility of the proposed preliminary plan to the adjacent properties and neighborhood, and whether the proposed preliminary plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
  - (6) The desirability of the proposed preliminary plan to the city's physical development, tax base and economic well-being.
  - (7) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.
  - (8) The proposal preserves significant ecological, natural, historical and architectural resources.
  - (9) The proposal will not be injurious to the public health, safety, and general welfare.
  - (10) The proposal is an effective and unified treatment of the development possibilities on the PUD site.
- (i) Duration.
- (1) Abandonment. The preliminary plan shall be considered abandoned if, three years after the approval of the preliminary plan by the common council, no final plan approval has been granted for any section of the planned unit development. In such cases, the plan commission shall determine if the preliminary plan should be extended for a period up to a maximum of one hundred eighty days. If no extension is sought for the planned unit development, and the three-year period since common council approval has elapsed, the plan commission may initiate a proposal to rezone the area designated as a planned unit development to an appropriate zoning district. Any such rezoning must follow the process provided in Section 20.09.160, Amendment to zoning map. The owner or owners of any property proposed to be rezoned by the plan commission under the provisions of this subsection shall be notified at least twenty-one days in advance of the plan commission public hearing on the proposed rezoning.
  - (2) Review. If, ten years after the approval of the preliminary plan by the common council, final plan approval has been granted for one or more sections of the planned unit development, but sections of the planned unit development remain without approved final plans, the plan commission may, on its own initiative, make a recommendation to the common council to rezone those portions of the planned unit development that do not have approved final plans to an appropriate zoning district.
- (j) Changes or Amendments.
- (1) PUD District Ordinance. Amendments to the PUD district ordinance shall follow the procedure for creating a new PUD district ordinance pursuant to this section.

- (2) Preliminary Plan. To the extent that a preliminary plan is a conceptual and general rendering of a proposed development conforming to the PUD district ordinance, a final plan may deviate from the approved preliminary plan in some respects without necessitating an amendment to the preliminary plan. However, any deviation from an approved preliminary plan that alters the concept or intent of the planned unit development shall be subject to the procedure for approval of a new preliminary plan. The plan commission may require that an application for preliminary plan amendment encompass the entire planned unit development. Deviations that require a preliminary plan amendment include, but are not limited to, the following:
- (A) Changes in the location, proportion or allocation of uses, or changes to the types of uses allowed;
  - (B) Increases in residential density;
  - (C) More than a ten percent change to the proportion of housing types;
  - (D) Substantial increase in the cube of a building;
  - (E) More than a one percent reduction of proposed open space;
  - (F) Changes in functional uses of open space, where such change constitutes an intensification of open space usage;
  - (G) Substantial change in the ratio of off-street parking spaces to use;
  - (H) Substantial changes in standards, continuity, or general location of roads, utilities, or stormwater management features; or
  - (I) Substantive changes in the covenants, conditions and restrictions, or other governing agreements, that affect any matter regulated by this title.

#### **20.04.090 Process—Final plan.**

- (a) Purpose and Intent. The purpose of the final plan is to designate with particularity the controls for development of the planned unit development. The final plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.
- (b) Prerequisites. The final plan shall conform to the PUD district ordinance and preliminary plan as approved.
- (c) Applicability.
  - (1) Effect of Approval of Final Plan. No permit of any kind shall be issued for any purpose within a planned unit development zoning district except in accordance with the approved final plan.
  - (2) No permit of any kind shall be issued until the final plan has been approved.

(d) Application.

- (1) Supportive Documentation. The application shall include, but not be limited to, the following documents:
  - (A) An accurate map exhibit of the entire phase for which final plan approval is being requested.
  - (B) Such additional information as may have been required by the preliminary plan approval.
  - (C) An accurate map exhibit of each separate unsubdivided use area, including open space.
  - (D) If land to be subdivided is included in the planned unit development, a preliminary plat meeting the requirements of Chapters 20.06, Subdivision Regulations and 20.07, Design Standards and the PUD district ordinance shall be submitted.
  - (E) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise location of buildings on each lot, but plans shall show setback and other bulk constraints.
  - (F) Design and precise location of all streets, drives and parking areas, including construction details, center line elevations, pavement type, curbs, gutters, and culverts.
  - (G) Location of all utility lines and easements.
  - (H) A final, detailed landscape plan, including size and species, installation specifications, identification of vegetation to be preserved and the measures to accomplish preservation, and conservation easements where required.
  - (I) Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
  - (J) Projected construction schedule.
  - (K) Agreements and covenants which govern the use, maintenance, and continued protection of the planned unit development and its common spaces, shared facilities, and private roads.
  - (L) Additional Information. Such other additional information as may be required by the planning and transportation department or other members of the development review committee to evaluate the application. Such additional information may include a three-dimensional scale, model, either physical or computer generated that shows the proposed development in the context of all properties whose boundary lines touch that of the proposed development. If a physical model is provided, it must be accompanied by a digital video archival file showing the physical model in three hundred sixty degrees.

(e) Planning and Transportation Department.

- (1) Decision.

- (A) Planning and Transportation Department Approval. The planning and transportation director shall review all final plans that have been delegated to him or her by the plan commission. The planning and transportation director may permit or require the petitioner to make a written commitment, and may also impose reasonable conditions of approval.
- (B) Minor Deviations from Preliminary Plan. If the planning and transportation director finds the final plan proposes minor deviations from the approved preliminary plan that do not require a PUD district ordinance amendment or a preliminary plan amendment pursuant to Section 20.04.080(j)(2), and that do not change the concept or intent of the development, he or she may review and approve or deny the final plan without public notice or a public hearing, as authorized by rule of the plan commission. The planning and transportation director's decision is subject to appeal under *Subdivision 20.04.090(e)(1)(D)*.
- (C) Determination that Amendment is Required. If the planning and transportation director finds the final plan proposes changes to the approved PUD district ordinance, or deviations from the approved preliminary plan that require a preliminary plan amendment pursuant to Section 20.04.080(j)(2)(A), he or she shall not approve the final plan, but shall notify the petitioner that a PUD amendment is required pursuant to the procedures for approval of a new PUD district ordinance or preliminary plan. If the petitioner disagrees with the planning and transportation director's determination, he or she may request that the plan commission review the final plan and determine whether such amendment is required. Such request must be submitted in writing to the planning and transportation department not later than fourteen days after the planning and transportation director's determination is made. The plan commission procedure upon such review shall be the same as for an appeal pursuant to subsection (e)(1)(D) below. If the plan commission determines that no amendment to the PUD district ordinance or preliminary plan is required, the plan commission shall review and act upon the final plan. In this case, the plan commission decision shall be final and appealable pursuant to Indiana Code 36-7-4-1016. If the plan commission determines that an amendment is required pursuant to Section 20.04.080(j)(2)(A), the plan commission shall review the proposal as a PUD amendment application and shall forward a recommendation to the common council, pursuant to the procedures for approval of a new PUD district ordinance or preliminary plan.
- (D) Appeal to Plan Commission of Planning and Transportation Director Decision. Interested parties, as defined by the plan commission rules of procedure, affected by the decision of the planning and transportation director upon review of a final plan may within five days of such decision request that the plan commission review the planning and transportation director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the plan commission rules of procedure. The plan commission may affirm, reverse, or modify the planning and transportation director decision.
- (2) Revisions. Following ~~planning~~ staff approval, the petitioner shall submit revised copies of the final plan that address the comments and concerns of the ~~planning~~ staff. The petitioner shall refer to the final plan application form to determine the format and

number of copies of the revised plans to deliver to the planning and transportation department.

(f) Plan Commission.

- (1) Review. At their regularly scheduled public meeting, the plan commission shall review:
  - (A) The written statement and supportive material submitted by the petitioner;
  - (B) The PUD district ordinance;
  - (C) The preliminary plan;
  - (D) The final plan;
  - (E) Any commitments or conditions of approval attendant to prior approvals;
  - (F) Any applicable section of the Unified Development Ordinance;
  - (G) Additional information as may be required by the plan commission to evaluate the application.
- (2) Revisions. Following plan commission approval, the petitioner shall submit revised copies of the final plan that address the comments and concerns of the plan commission. The petitioner shall refer to the final plan application form to determine the format and number of copies of the revised plans to deliver to the planning and transportation department.
- (3) All development shall be in conformity with the approved final plan. Any material deviation from the final plan is subject to appropriate enforcement action.

(g) Duration.

- (1) Abandonment. The final plan shall be considered abandoned if no grading permits or building permits have been obtained and are still valid for the area contained in the final plan within three years after final plan approval has been granted, or if such permits have been obtained but are no longer valid per the terms of this title.
- (2) Extension. An extension, not to exceed twelve months, may be granted by the plan commission for good cause shown. The plan commission may grant one, twelve-month extension.

(h) Changes or Amendments.

- (1) Minor Changes. The planning and transportation director may approve minor changes to an approved final plan, if the changes do not change the concept or intent of the development, without a public hearing or public notice as authorized by rule of the plan commission. Such decisions shall be subject to appeal pursuant to subsection (e)(1)(D) of this section. This shall include the following:
  - (A) Minor changes in the location and siting of buildings and structures;
  - (B) Changes in height of less than one story, but not over eight feet in any case;
  - (C) Minor changes to an approved landscape plan that do not alter the general concept or screening effectiveness of the landscaping;
  - (D) Minor changes to the internal street system and off-street parking areas; and

- (E) Changes in the exact type of use in any particular location within the development, as long as the type of use is allowed by the PUD district ordinance and preliminary plan in that general location.
  - (F) Changes of less than ten percent of the gross floor area of an approved building.
- (2) Major Changes. Changes requiring a new final plan shall include the following provided that this subsection shall not be interpreted to allow any change that would otherwise require an amendment to the PUD district ordinance and/or the preliminary plan:
- (A) Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
  - (B) Changes in site design requirements, such as location or design of required landscaping, signage, building heights or footprints, setbacks, encroachment into areas slated for preservation under any of the sections of Chapter 20.05, EN: Environmental Standards, or other such development or design standards in the PUD district ordinance;
  - (C) Changes in access to the development site, where such change amounts to an intensification of traffic patterns on roadways;
  - (D) Any reduction in aesthetic treatment.

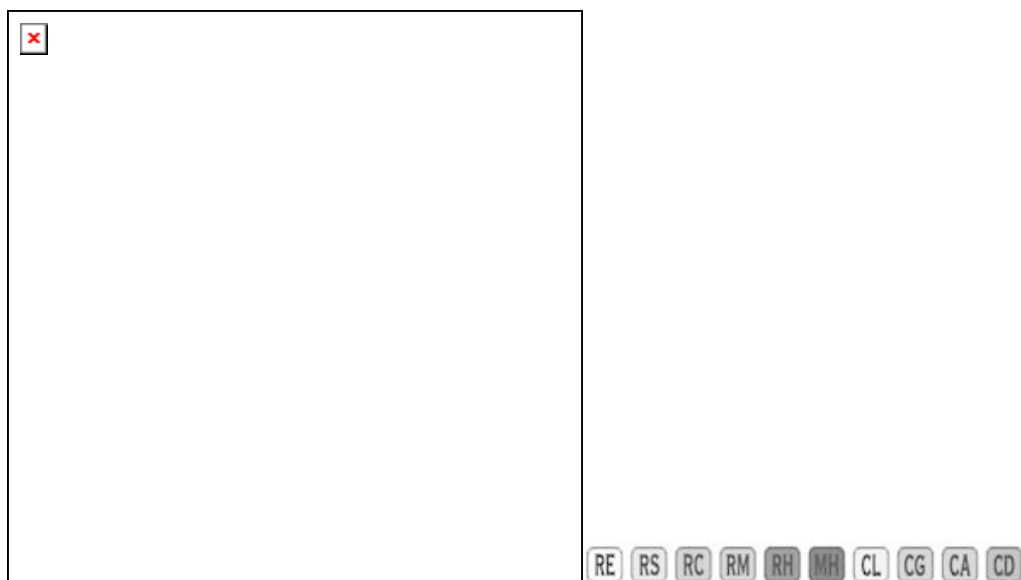


## Chapter 20.05, Development Standards

### **20.05.009 AH-01 (Affordable housing—General).**

Purpose. Within the city of Bloomington, it is acknowledged that there is a need to provide affordable housing for very low- to moderate-income households. It is necessary to help maintain a diverse housing stock and to allow working people to have better access to jobs and to upgrade their economic status.

This affordable housing standards section applies to the following zoning districts:



- (a) Prohibitions. No person shall sell, rent, purchase, or lease an affordable unit created pursuant to this section except to income-eligible households and in compliance with the provisions of this section.
- (b) Eligibility. To qualify for the development standard incentives outlined in this section, petitioners must enter into an affordable housing program administered by the federal, state, or local governments.
- (c) Location. When built as part of a larger development that also includes market rate housing, all affordable units constructed or rehabilitated under this section shall not be situated within the development in less desirable locations than market-rate units and shall not, on average, be less accessible to public amenities, such as open space, than the market rate units. Affordable housing shall be integrated with the rest of the development and shall be

compatible with the market rate units in design, appearance, construction and quality of materials.

(d) Incentives. The following incentives may be used to build affordable housing units:

(1) Waiver of Fees.

(A) Filing fees for the plan commission and/or board of zoning appeals may be waived by the planning and transportation director.

(B) Fees associated with right-of-way excavation permits may be waived by the planning and transportation director of the public works department.

(C) Sewer hook-on fees may be waived or reduced by the utilities service board.

(2) Sidewalk Construction. Where deemed appropriate by the director of the public works department and the planning and transportation director, the construction of sidewalks and installation of street trees may be done by the city.

(3) Single-Family Residential Parking. Parking requirements may be reduced to a maximum of one on-site parking space per single-family house when adequate adjacent on-street parking is available.

(4) Reduced Bulk Requirements—Single-Family Lots. The following reductions in development standards may be applied to single-family residential lots and may be approved by the planning staff:

(A) Lot area: minimum lot area standards may be reduced up to forty percent.

(B) Lot width: minimum lot width standards may be reduced up to twenty percent.

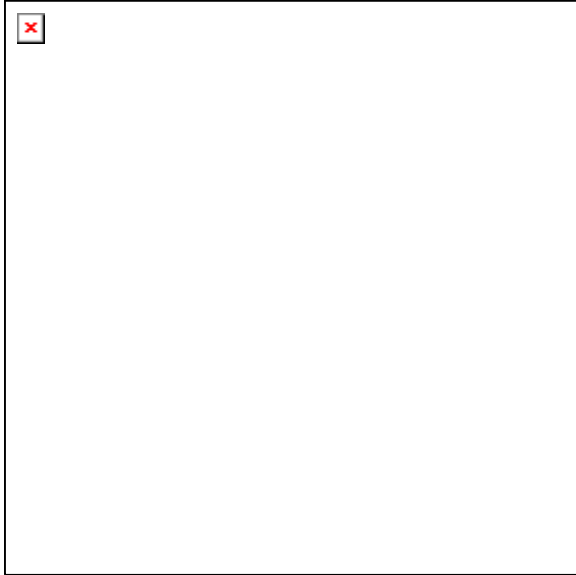
(C) Side building setbacks: side building setbacks may be reduced to five feet regardless of the number of stories.

(D) Rear building setbacks: rear building setbacks may be decreased to fifteen feet.

#### **20.05.010 AT-01 (Alternative transportation—General).**

Purpose. To reduce traffic congestion in the city of Bloomington and improve the health, fitness and quality of life of Bloomington's residents by providing safe, convenient, and attractive alternative transportation paths, sidewalks, trails, and other facilities throughout the city.

This alternative transportation standards section applies to the following zoning districts:



- (a) Inspection and Acceptance. Prior to the issuance of a final certificate of occupancy, all alternative transportation facilities located within the adjoining public right-of-way or dedicated easements shall be inspected for compliance with city of Bloomington, Bloomington Public Transportation Corporation, and/or AASHTO standards.
- (b) Paths, Sidewalks and Trails.
  - (1) Construction Standards. All path, sidewalk, and trail improvements shall be constructed as per the city of Bloomington standards and/or AASHTO requirements.
  - (2) Additional Facility Amenities. The following amenities shall be required in accordance with the design standards identified in the bicycle and pedestrian transportation and greenways system plan:
    - (A) Informational signage;
    - (B) Pavement marking; and
    - (C) Safety bollards.
  - (3) Sidewalks. Sidewalks shall be provided as follows:
    - (A) Minimum Width. Five feet.
    - (B) Surface. Sidewalks shall be constructed of concrete.
    - (C) Location.
      - (i) External Sidewalks. Sidewalks shall be located one foot inside the public right-of-way or within a pedestrian easement along all abutting street frontages.
      - (ii) Internal Sidewalks. Sidewalks shall be provided that link abutting streets to facilities on the site, link separate facilities within the site to each other, and provide access to adjoining transit stops. Internal sidewalks shall not be required for single-family residential lots.

- (D) Separation. Sidewalks shall have a minimum separation of five feet from the curb, or edge of pavement where no curb exists. In situations where the minimum separation cannot be achieved due to constraints such as limited public right-of-way, mature trees, or unsuitable topography, the sidewalk location may be designed to avoid the constraints, provided that a pedestrian easement is established for any locations where the sidewalk is not within the public right-of-way, and that the minimum five-foot separation is maintained.
- (i) In situations where the sidewalk must be located within a pedestrian easement on private property, the portions of the sidewalk within the pedestrian easement shall not count toward the maximum impervious surface coverage for the property.
  - (ii) In situations where the ~~city engineering~~ **planning and transportation** department has determined that a pedestrian easement is not feasible, the ~~public works~~ **planning and transportation** director may approve the following design options:
    - a. A five-foot wide sidewalk with reduced vegetated plot width.
    - b. A six-foot wide monolithic sidewalk and curb.
- (E) Cross-Slopes. Sidewalks shall be constructed in such a manner to ensure that the cross-slopes over entrances and drives comply with ADA requirements.
- (4) Sidepaths. Where sidepaths are identified on the bicycle and pedestrian transportation and greenways system plan, or as construction of new streets warrants the provision of sidepaths, such facilities shall be provided as follows:
- (A) Minimum Width. Eight feet.
  - (B) Surface. Sidepaths shall be paved with asphalt. Alternative surface materials, such as ADA-compliant permeable pavers, may be authorized by the **planning and transportation** director in order to mitigate environmental impacts.
  - (C) Location. Sidepaths shall be constructed one foot inside the public right-of-way line.
- (5) Bike Lanes. Where development projects include the construction of new public streets that are identified as having bike lanes in the bicycle and pedestrian transportation and greenways system plan, such facilities shall be provided as follows:
- (A) Minimum Width. Five feet. Any adjacent curb and gutter shall not be included in the bike lane width measurement.
  - (B) Location. Striped bike lanes shall be located at the outer edge of the street, adjacent to the curb.
  - (C) Substitution. Substitution of an eight-foot wide sidepath may be allowed per the **planning and transportation** director.
- (6) Multiuse Trails. Where multiuse trails are identified on the bicycle and pedestrian transportation and greenways system plan, such facilities shall be provided as follows:
- (A) Minimum Width. Pavement width shall be a minimum of twelve feet, and the paved trail shall have two-foot wide crushed stone shoulders on both sides.

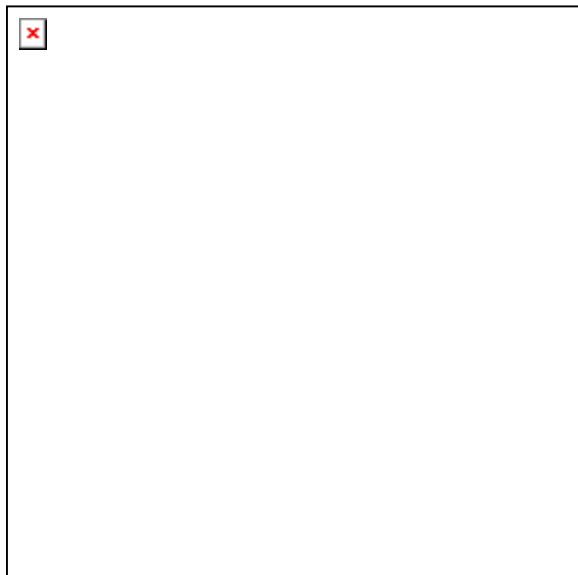
- (B) Surface. Multiuse trails shall be paved with asphalt. Alternative surface materials, such as ADA-compliant permeable pavers, may be authorized by the planning and transportation director in order to mitigate environmental impacts.
  - (C) Dedication. All multiuse trails shall be dedicated to the city parks department within rights-of-way of fifty feet in width. Right-of-way width for multiuse trails may be reduced by the planning and transportation director upon approval by the ~~city parks administrator~~ director of parks and recreation.
- (7) Connector Paths. Where a development is adjacent to a public park, school, commercial area, or existing or proposed multiuse trail as identified in the bicycle and pedestrian transportation and greenways system plan, connector paths shall be provided as follows:
- (A) The design of any required connector path that will connect to a public park or multiuse trail shall be subject to the approval of the city parks and recreation department. The parks and recreation department may waive the connector path requirement if it determines that the proposed connection to a public park or multiuse trail is not desirable or is redundant to existing facilities.
  - (B) Minimum Width. Eight feet.
  - (C) Surface. Connector paths shall be constructed of asphalt or concrete. Alternative surface materials may be authorized by the planning and transportation director in order to mitigate impacts to environmental constraints.
  - (D) Easement. Connector paths shall be contained within pedestrian easements of at least fifteen feet in width.
  - (E) Recording of Easements. Refer to Chapter 20.07, EA: Easement Standards.
  - (F) Undeveloped Properties. Where vacant or undeveloped properties are adjacent to a property under development, connector paths shall be stubbed to the property line to allow for future connection when adjacent properties are developed.
- (c) Transit Facility Standards.
- (1) General Standards.
    - (A) For the purposes of this section, transit facilities shall include:
      - (i) Benches;
      - (ii) Shelters; or
      - (iii) Other similar transit stop amenities.
    - (B) Where a development is required to install one or more transit facilities, the type and location of such facilities shall be as determined by the Bloomington Public Transportation Corporation. Where such facilities are proposed within the public right-of-way, board of public works approval shall also be required.
    - (C) The Bloomington Public Transportation Corporation may waive a required transit facility if deemed unnecessary based on existing facilities.
  - (2) Existing Public Transportation Routes.

- (A) Transit Facility. For any multifamily development of at least twenty dwelling units, or for any nonresidential development of at least twenty thousand square feet gross floor area, developed adjacent to one or more public transportation routes, a transit facility shall be constructed on all routes for which one or more of the following criteria are met:
    - (i) Usage. The proposed development is expected to generate public transit usage; or
    - (ii) Proximity. The nearest existing transit facility on the route is more than one-fifth of one mile (one thousand fifty-six feet) away from the closest primary building on the site, measured along rights-of-way; or
    - (iii) Route Overlap. The routes do not cross or overlap in a fashion that would allow the placement of a single transit facility to serve all routes.
  - (B) Location. The transit facility shall occupy:
    - (i) A site within or adjacent to the right-of-way on which the public transportation route is established; or
    - (ii) Another site as approved by the public transportation authority. Such site shall be contained within a transit facility easement.
  - (C) Pedestrian Accessibility. Transit facilities shall be connected to the public sidewalk system and ADA-accessible routes.
- (3) Future Public Transportation Routes.
- (A) Transit Facility Easement. For any development where one or more public transportation routes are reasonably expected to exist on adjacent public streets in the future, and where the development is expected to generate public transit usage, transit facility easements shall be established on each future route if one or more of the following criteria exist:
    - (i) Route Overlap. The routes do not cross or overlap in a fashion that would allow the placement of a single transit facility to serve all routes; or
    - (ii) Insufficient Right-of-way. Insufficient right-of-way exists to reasonably allow a transit facility and/or transit service access.
  - (B) Location. Transit facility easements shall occupy:
    - (i) A site adjacent to the right-of-way on which the public transportation route is established; or
    - (ii) Another site as approved by the public transportation authority.
- (4) Transit Facilities and Easements.
- (A) Pedestrian Traffic. Public transit facilities shall be designed such that they will not interfere with the normal flow of pedestrian traffic on public or private sidewalks.
  - (B) Construction Standards. Public transit facilities, shelters, and appurtenant amenities shall be built to meet the requirements of the Bloomington Public Transportation Corporation.

- (C) Setback Exemption. Public transit facilities, shelters, and appurtenant amenities shall be exempt from the setback standards of the zoning district.
  - (D) Minimum Easement Depth. Ten feet.
  - (E) Minimum Easement Width. Fifteen feet.
  - (F) Recording of Easements. Refer to Chapter 20.07, EA: Easement Standards.
- (5) Bus Turnout Areas.
- (A) Bus Turnout. Bus turnout areas shall be constructed in conjunction with a given transit route if a transit stop is warranted, and the street on which the public transportation route is established is classified as a primary arterial on the master thoroughfare plan.
  - (B) Dimensional Standards. Bus turnout areas shall be built to the dimensional requirements of the Bloomington Public Transportation Corporation.
  - (C) Construction Standards. The engineering design of bus turnout areas shall be coordinated with the city engineering planning and transportation department.

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

This alternative transportation standards section applies to the following zoning districts:



- CL
- CG
- CA
- CD
- IG
- BP
- IN
- MD
- QY

- (a) Nonresidential Uses.
  - (1) Number. Developments shall provide one Class II bicycle parking space per fifteen required vehicular parking spaces, or a minimum of four bicycle parking spaces,

whichever is greater. The planning and transportation director may approve a reduced number of bicycle parking spaces for a development within the CD zoning district where existing bicycle parking facilities located within the public right-of-way are within one hundred feet of the building's main entrance, provided that a minimum of four bicycle parking spaces are provided on-site.

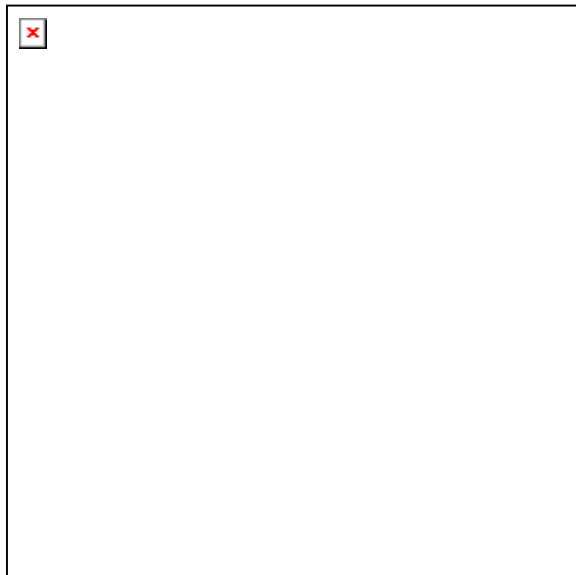
- (2) Location. A dedicated bicycle parking area, equipped with bicycle racks, shall be located within fifty feet of the main entrance of each primary building on site.
- (3) Covered. Developments with more than twenty thousand square feet of gross floor area shall provide Class II covered bicycle parking spaces for all required spaces.

(b) Mixed Uses.

- (1) Developments with both nonresidential and residential uses shall provide the cumulative required number of bicycle parking spaces as calculated for the respective nonresidential and residential requirements in Sections 20.05.012, AT-03 (Alternative transportation—Bicycle parking standards—Exceptions), 20.05.014, AT-05 (Alternative transportation—Bicycle parking standards—Nonresidential and mixed use), and this section.

**20.05.015 AG-01 (Architectural standards—General).**

This architectural standards section applies to the following zoning districts:



CL CG CA IG BP IN MD

- (a) Applicability. The following architectural standards shall apply to the construction of new buildings on parcels located wholly or partially within three hundred feet of the centerline of



a primary arterial, or five hundred feet of the centerline of a freeway/expressway, as classified by the master thoroughfare plan.

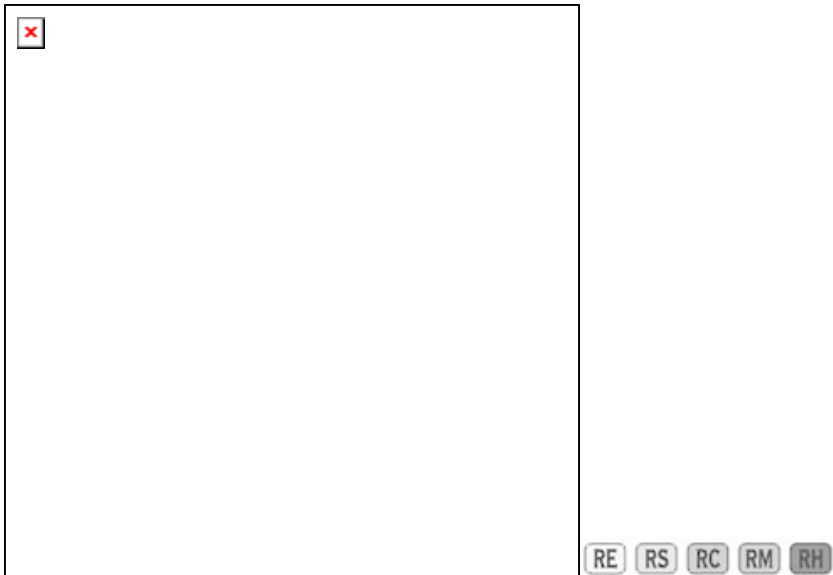
- (b) Exceptions. Single-family dwelling units shall not be subject to the architectural standards of this section. Such residential dwelling units shall be subject to the architectural standards found in Section 20.05.016, AG-02 (Architectural standards—Residential).
- (c) Standards. The following architectural standards shall apply:
  - (1) Materials. Primary exterior building materials for facades visible from a primary arterial or freeway/expressway shall consist of one or more of the following:
    - (A) Cementitious siding;
    - (B) EIFS;
    - (C) Masonry;
    - (D) Natural stone;
    - (E) Precast concrete;
    - (F) Split-faced block;
    - (G) Transparent glass;
    - (H) Wood;
    - (I) Other products that replicate the appearance and durability of the above materials, as approved by the ~~planning~~ staff.
  - (2) Exterior Facades. No building facade visible from a primary arterial or freeway/expressway shall have a blank, uninterrupted length exceeding forty feet without including three or more of the following design elements:
    - (A) Awning or canopy;
    - (B) Change in building facade height (minimum of five feet of difference);
    - (C) A regular pattern of transparent glass which shall comprise a minimum of fifty percent of the total wall/facade area of the first floor facade/elevation facing a street;
    - (D) Wall elevation recesses and/or projections, the depth of which shall be at least three percent of the horizontal width of the building facade.
  - (3) Patterns. Building facades visible from a primary arterial or freeway/expressway shall contain the following color and texture changes:
    - (A) Facades shall consist of at least one primary and one secondary color.
    - (B) At least one of these elements, either texture or color, shall repeat horizontally across the facade.
    - (C) Variations in texture and color elements shall repeat vertically every thirty feet.
  - (4) Eaves and Roofs. Buildings with sloped roofs (those greater than three is to twelve pitch) visible from a primary arterial or freeway/expressway shall contain overhanging

eaves, extending no less than two feet past the supporting walls. Flat roofs (those less than three is to twelve pitch) shall include a parapet on supporting walls.

- (5) Three Hundred Sixty-Degree Architecture. Those sides of a building that are not visible from a primary arterial or freeway/expressway shall have a finished facade that is complementary to the visible facades in terms of materials and architectural detailing.
- (6) Primary Pedestrian Entry. One primary pedestrian entrance shall be provided for any facade which contains at least sixty-six feet of frontage along a primary arterial or freeway/expressway. The pedestrian entry shall contain at least three of the following architectural details:
  - (A) Pilasters or facade modules;
  - (B) Public art display;
  - (C) Prominent building address, building name, and lighting;
  - (D) Raised corniced entryway parapet; or
  - (E) Buttress and arched entry.

**20.05.016 AG-02 (Architectural standards—Residential).**

This architectural standards section applies to the following zoning districts:



- (a) Applicability. The following architectural standards shall apply to the construction, expansion, or alteration of any building used for residential occupancy.
- (b) Standards. The following architectural standards shall apply:

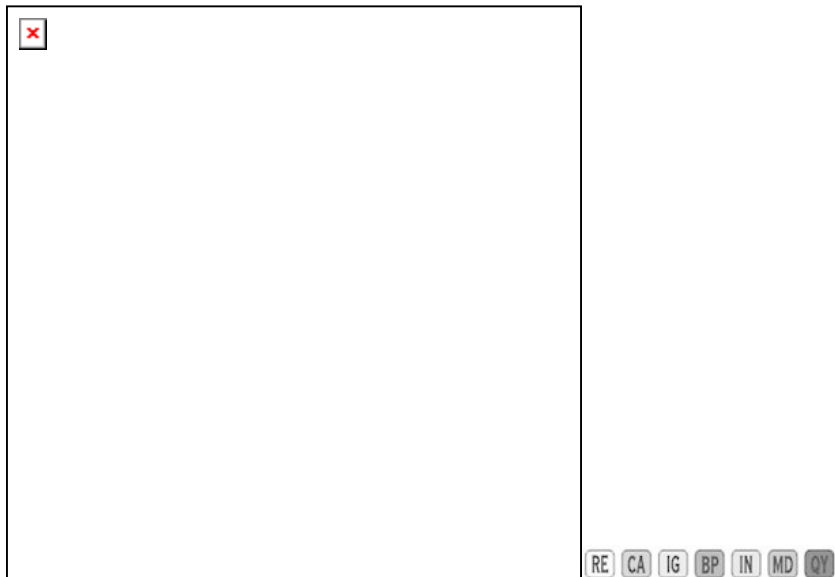
- (1) Materials. Primary exterior finish building materials used on residential dwellings shall consist of any of the following:
  - (A) Horizontal lap siding (e.g., vinyl, cementitious, wood);
  - (B) V-grooved tongue-and-groove siding;
  - (C) Wood-grained vertical siding materials in a board-and-batten or reverse batten pattern;
  - (D) Cedar or other wood materials;
  - (E) Stucco, plaster, or similar systems;
  - (F) Stone;
  - (G) Split face block, ground face block, or brick;
  - (H) Cast or cultured stone;
  - (I) Cast in place concrete;
  - (J) Earthen structural materials;
  - (K) Other materials that replicate the look and durability of the above materials, as approved by the ~~planning~~ staff.
- (2) Minimum Coverage. Siding materials listed above, or a combination of such materials, shall extend from roofline to within six inches of finished grade.
- (3) Foundations. All buildings shall be placed on permanent foundations.
- (4) Roofs.
  - (A) Attached and detached single-family dwelling units shall have sloped roofs consisting of shingles, shakes, tile, standing-seam metal, or V-grain metal. Additions to attached or detached single-family dwelling units may use flat roofs.
  - (B) Multifamily structures may utilize a flat roof with a parapet or a sloped roof consisting of the materials listed in subsection (a)(4)(A) above.
- (5) Rain Gutters and Downspouts. Rain gutters and downspouts are required.
- (6) Uniform Architecture. When the rear or side facade of a newly constructed building is adjacent to a street, the architecture of these facades shall be made to match that of the front facade. Such matching shall occur through use of similar materials, window/doorway openings, variation in rooflines, or fenestration.
- (7) Anti-monotony Standards. In the case of new construction of multifamily units, any development containing more than three individual buildings shall incorporate the following variations to break up monotony in design:
  - (A) Differences in rooflines;
  - (B) Differences in building footprint;
  - (C) Differences in the number of floors per building.

- (8) Attached Garages. In the RC zoning district, attached garages shall not exceed five hundred eighty square feet in area.

**20.05.020 CF-01 (Communication facility—General).**

Purpose. The purpose of these standards is to provide sensible and reasonable development standards for the provision of reliable public and private telecommunication service; and whereas, there is a need to maximize the use of any communication transmission towers in order to reduce the total number of towers needed to serve the communications needs of the area; and whereas, there is a need to minimize the adverse, undesirable visual effects of such communication towers and to provide for the reasonable location of such towers in the city.

This communication facility standards section applies to the following zoning districts:



All communication facilities must comply with the following provisions:

- (a) All communication facilities in this section shall be subject to ~~planning~~ staff site plan review and shall meet the following requirements and all other requirements of this title.
- (b) Buffer Requirements. The location of the tower and equipment buildings shall comply with all local, state and federal natural resource protection standards. The following buffer plantings shall be located around the outermost perimeter or security fence of a communication facility:
  - (1) An evergreen screen consisting of a hedge, planted at a maximum of three feet on center, or a row of evergreen trees planted at a maximum of ten feet on center shall be planted around the entire communication facility and each of the guy wires and anchors, if used. The height of all plants at the time of planting shall be no less than five feet.

- (2) An eight-foot high wood fence or brick masonry wall shall completely surround the entire communication facility, excluding the guy wires and anchors.
- (c) Access to Site. Proposed communication towers and antennas shall meet the following access requirements:
- (1) Vehicular access to the tower and equipment building shall be provided along an existing driveway, whenever feasible.
  - (2) The communication facility shall be fully automated and unattended on a daily basis, and may be visited only for periodic maintenance, emergencies, installations, or equipment removal.
- (d) Design Requirements. Proposed communication towers and antennas shall meet the following design requirements:
- (1) All communication towers shall be a monopole design.
  - (2) Communication towers and antennas shall be designed to blend into the surrounding environment through the use of color, camouflaging, landscaping, materials, and architectural treatment, except in an instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration (FAA).
  - (3) Only lighting that is for safety or security reasons, or required by the FAA or other federal or state authority shall be permitted. All required lighting shall be oriented inward so as not to project onto surrounding properties.
  - (4) The use of any portion of a communication facility for signs other than warning or equipment signs shall be prohibited.
- (e) Setbacks.
- (1) Communication towers shall be set back from any property line a distance equal to at least eighty percent of the height of the tower.
  - (2) No tower shall be placed closer to any residential structure than five hundred feet.
  - (3) Communication towers are generally not permitted in front yards, except where evidence provided by the petitioner demonstrates that placement in a front yard would provide the best camouflage for the tower.
- (f) Maximum Height.
- (1) Tower. One hundred ninety-nine feet;
  - (2) Accessory Structure. Fifteen feet.
- (g) Collocation Requirements. Proposed communication towers and antennas shall meet the following collocation requirements:
- (1) At a minimum, all proposed monopoles shall be constructed to support the initial user plus the anticipated loading of the number of additional users required in accordance with this title.
  - (2) Any proposed communication tower shall be designed, and engineered structurally, electrically and in all other respects, to accommodate both the proposed user and the number of additional users as required in accordance with this title. Communication

towers shall be designed to allow for future rearrangement of communication equipment and antennas upon the tower and to accept communication equipment and antennas mounted at varying heights.

- (3) A minimum of four additional antenna sites shall be provided on a tower of one hundred fifty feet or more in height.
- (h) Siting Requirements. A proposal for a new communication tower shall not be approved unless the petitioner submits verification that the communication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or buildings or other structure due to one or more of the following reasons:
- (1) The planned communication equipment would exceed the structural capacity of the existing or approved towers, buildings, or structures as documented by a qualified and licensed professional engineer, and the existing or approved towers, buildings or structures cannot be reinforced, modified, or replaced to accommodate the planned communication equipment at a reasonable cost.
  - (2) The planned communication equipment would cause interference impacting the usability of other existing communication equipment at the site if placed on existing structures. A qualified and licensed professional engineer shall submit supportive documentation indicating that the interference cannot be prevented at a reasonable cost.
  - (3) The existing or approved towers, buildings or structures within the search radius cannot accommodate the planned communication equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
  - (4) Other unforeseen reasons that make it infeasible or impossible to locate the planned communication equipment upon an existing or approved tower, building or structure.
  - (5) Additional land area is not available at the base of existing towers, buildings or structures to accommodate the proposed communication facility.
- (i) Construction Requirements. All antennas, communication towers, accessory structures and any other wiring shall comply with the following requirements:
- (1) All applicable provisions of this title and of the Indiana Building Code, as amended, and the Federal Communications Commission (FCC) when applicable.
  - (2) All communication towers and communication equipment shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the International Building Code, as amended, and the Electronics Industry Association.
  - (3) With the exception of necessary electric and telephone service and connection lines approved by the board of zoning appeals, no part of any communication equipment or communication tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, trail, or property line without appropriate approval in writing.
  - (4) All communication towers and communication equipment shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.

- (5) All communication towers and communication equipment shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).
  - (6) All signal and remote control conductors of low energy extending between a communication tower and other communication equipment, or between communication towers, shall be at least ten feet above the ground at all points, unless buried underground.
  - (7) All communication towers and communication equipment shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.
  - (8) An engineer's certification shall be submitted for all communication towers and all other communication equipment to document and verify the design specifications, including, but not limited to, the foundation for all towers, anchors for all guy wires (if used), the location of all collocation sites, and strength requirements to withstand natural forces such as ice, wind, and earth movements.
  - (9) All communication towers and communication equipment shall be designed and constructed, at a minimum, to withstand wind gusts of at least eighty miles per hour with one-half inch of ice and to accommodate all collocation sites as required by this title.
- (j) Existing Structures. The following shall apply to existing antennas, communication towers and communication equipment:
- (1) Existing structures shall not be replaced or significantly structurally altered without complying in all respects to the requirements set out in this title.
  - (2) Any request for the modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment which does not substantially change the physical dimensions of such tower or base station shall be approved as required by federal law.
- (k) Inspection of Towers. The following shall apply to the inspection of communication towers:
- (1) All communication towers may be inspected at least once every five years, or more often as needed to respond to complaints received, by the **planning and transportation director**, ~~the city engineering department~~, and/or a qualified and licensed consulting engineer to determine compliance with the original construction standards. Deviation from original construction for which any permit was obtained shall constitute a violation of the Unified Development Ordinance.
  - (2) Notices of violation shall be sent by registered mail to the owner and the owner will have thirty days from the date the notification is issued to make repairs. The owner is required to notify the **planning and transportation director** that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results of same.
- (l) Abandoned Towers. Any tower unused or left abandoned for six months shall be removed by the tower owner at the owner's expense. Should the communication tower owner fail to

remove the tower after thirty days from the date a notice of violation is issued, the city may remove the tower and bill the owner for the costs of removal and cleanup of the site.

**20.05.031 CU-09 (Conditional use—Kennel).**

This conditional use standards section applies to the following zoning districts:



- (a) Minimum Building Setbacks.
  - (1) Front: per Chapter 20.02, Zoning Districts.
  - (2) Side: fifty feet.
  - (3) Rear: fifty feet.
  - (4) Outdoor Activities. Animals shall not be permitted outside except within a secure animal run, and no outdoor animal run shall be permitted within two hundred feet of any adjacent residential district or use.
- (b) Minimum Lot Area. Three acres.
- (c) Minimum Lot Width. Two hundred feet.
- (d) Perimeter Fencing. The perimeter of the kennel operation shall be enclosed with an opaque fence that meets the following standards:
  - (1) Minimum depth underground: twelve inches.
  - (2) Minimum height: eight feet from grade.
  - (3) Minimum gauge of chain-link fence: eleven.



- (4) Minimum fence setback: twenty feet from any adjoining property line.
- (e) License. Prior to establishment, the property owner, or the kennel operator if the operator is not the property owner, shall provide proof of all necessary licenses to the planning and transportation director.
- (f) Sanitary Facilities. A plan for management of animal wastes shall be submitted with the conditional use application.

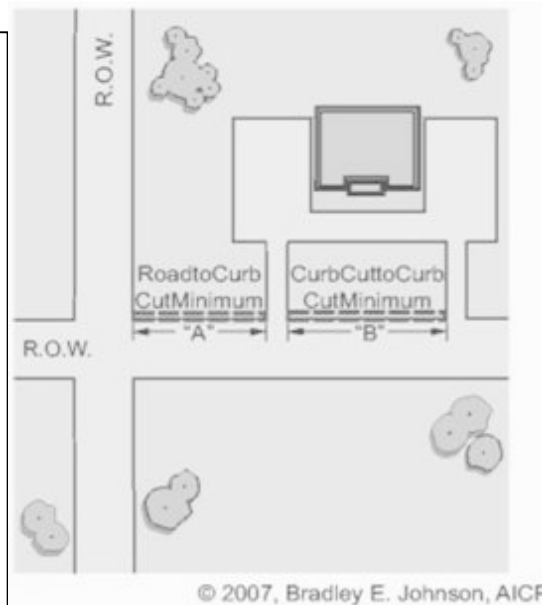
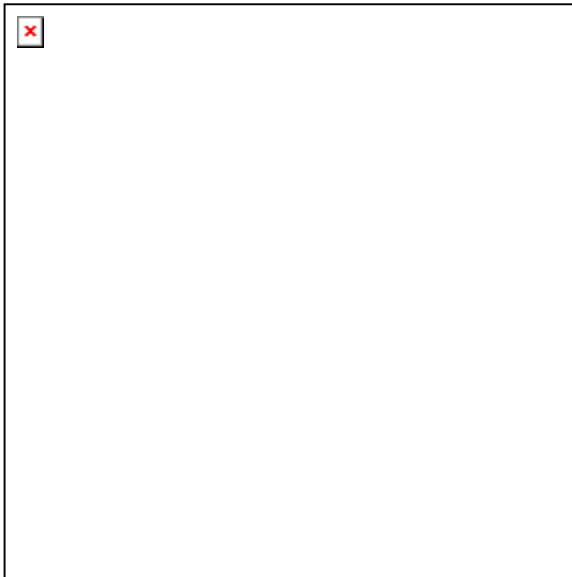
**20.05.035 ED-01 (Entrance and drive standards—General).**

This entrance and drive standards section applies to the following zoning districts:



- (a) The classification of all streets shall be as indicated on the master thoroughfare plan as contained in the growth policies plan.
- (b) No entrance or drive shall be installed:
  - (1) Within one hundred fifty feet of any intersecting street if along an arterial or collector street. If the parcel is not large enough to achieve a one-hundred-fifty-foot separation, then the drive shall be installed at a location farthest from the intersection.
  - (2) Within one hundred feet of any intersecting street if along a neighborhood street. If the parcel is not large enough to achieve a one-hundred-foot separation, then the drive shall be installed at a location farthest from the intersection.
  - (3) Within fifty feet of any intersection.
  - (4) Within the front parking setback running less than forty five degrees from parallel to the street right-of-way or ingress/egress easement.

- (5) Within one hundred feet of another entrance if along an arterial or collector street.
- (6) Within fifty feet of another entrance if along a neighborhood street.
- (c) The distances for the standards outlined in Section 20.05.035(b) shall be determined as follows:
  - (1) Intersection and Drive Separation. By measuring from the intersection right-of-way line to the back of curb or edge of pavement (whichever is less) of the entrance or drive.
  - (2) Separation Between Drives. By measuring from the back of curb or edge of pavement to the back of curb or edge of pavement (whichever is less) of each entrance or drive.

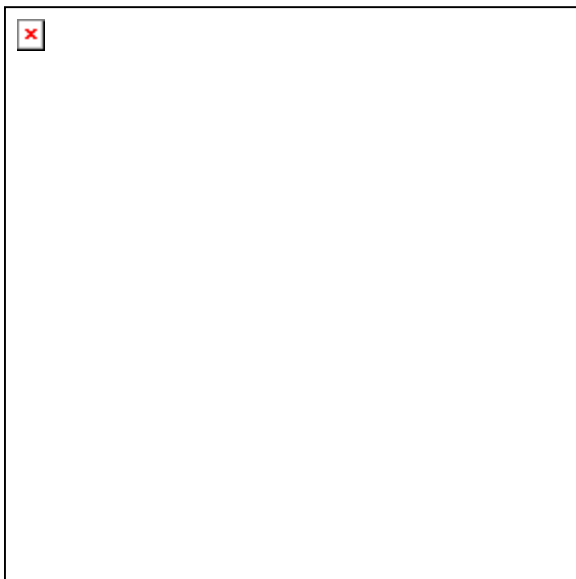


- (d) No property shall be permitted to have more than two drives per street frontage.
- (e) No entrance or drive shall exceed the following pavement widths for two-way traffic (if one-way, the measurements shall be one-half of the below requirements):
  - (1) Thirty-four feet if from a nonresidential use onto an arterial or collector street.
  - (2) Twenty-four feet if from a nonresidential use onto a neighborhood street.
  - (3) Twenty-four feet if from a multifamily residential use onto any type of street.
- (f) The distances for the standards outlined in subsection (e) of this section shall be determined by measuring from the back of curb or edge of pavement to the back of curb or edge of pavement (whichever is less) of each entrance or drive.
- (g) For nonresidential uses located on corner lots, drive access shall be located on the street assigned the lower functional classification according to the master thoroughfare plan.
- (h) Single-family residential uses shall be limited to a single drive access point regardless of the number of street frontages contained on the parcel.
- (i) The ~~city engineering~~ **planning and transportation** department shall determine if the following improvements are necessary:

- (1) Acceleration or deceleration lane, or
- (2) Passing blister.
- (j) The ~~city engineering~~ **planning and transportation** department shall determine curb radii and other construction standards for all entrances.
- (k) Sidewalk crossings over entrances and drives must maintain cross-slopes necessary to comply with ADA requirements.
- (l) Surface Material.
  - (1) Unless specifically stated otherwise in the unified development ordinance, all entrances and drives shall be asphalt, concrete, or other approved material.
  - (2) The **planning and transportation** director may approve structurally-engineered, permeable parking pavers for entrances and drives provided these areas are intended for low intensity or intermittent vehicular use and pavers are designed and used to mitigate the negative environmental impacts of impervious surfaces.
  - (3) Areas utilizing permeable pavers shall not be counted in impervious surface calculations.
  - (4) All driveway aprons onto a street shall be constructed of concrete.

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

This environmental standards section applies to the following zoning districts:



RE RS RC RM RH **MH** CL CG CA CD IG BP IN MD QY

(a) Siltation and Erosion Prevention.

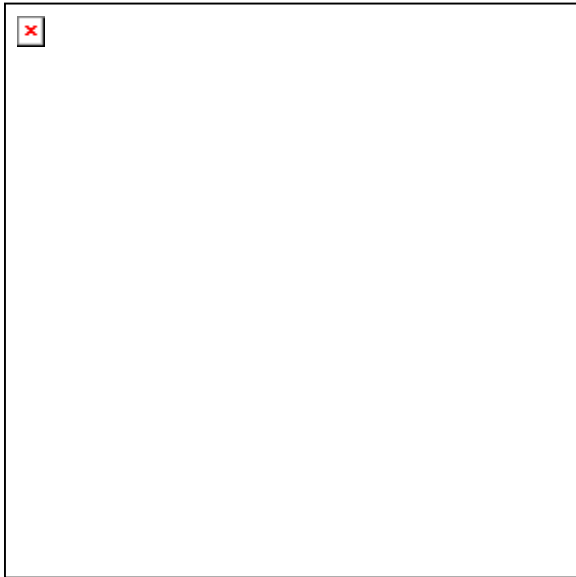
- (1) Applicability. This subsection applies to any land development or land-disturbing activities that include one or more of the following conditions:
  - (A) That disturbs a surface of one thousand square feet or more;
  - (B) That involves excavation or filling of forty cubic yards or more of dirt, sand, or clean fill;
  - (C) That involves street, highway, or bridge construction, enlargement, relocation or reconstruction; or
  - (D) That involves the laying, repairing, replacing, or enlarging of an underground pipe, facility, or any utility for a distance of fifty feet or more.
- (2) All municipal government departments, including the city utilities department, are bound by this section.
- (3) Maintenance of Control Measures. Sedimentation basins and other control measures necessary to meet the requirements of subsection (a) of this section shall be maintained by the property owner during construction.
- (4) Erosion and Pollutant Control Requirements.
  - (A) Environmental Constraints. For land-disturbing activities that occur adjacent to environmentally sensitive areas, as regulated in this chapter, redundant erosion control measures, such as additional barriers and reduced timelines for soil stabilization, shall be required.
  - (B) Waste and Material Disposal. Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of and shall be prevented from going off-site or into storm sewers.
  - (C) Tracking. Each site shall have crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Any sediment reaching a public or private street shall be removed by street cleaning (not flushing) by those responsible before the end of each workday.
  - (D) Drain Inlet Protection. All storm inlets shall be protected with best management practices (BMPs) meeting accepted design criteria, standards and specifications.
  - (E) Sediment Control. Sediment shall be controlled and contained on-site and control measures shall prevent damage to existing vegetation or pavement.
  - (F) Ground Cover. Vacant land held for development shall be planted with grass or other vegetative ground cover.
  - (G) Inspection. All erosion control measures shall be installed by the developer, and inspected and approved by the ~~city engineering department and/or planning~~ **and transportation** department before land-disturbing activity may take place. Developers shall follow their self monitoring inspection program throughout construction as outlined in Bloomington Municipal Code Section 10.21.070.

- (H) Finished Grade. Disturbed areas that are at finished grade with installed utilities shall be permanently seeded within seven days.
  - (I) Unfinished Grade. Areas that have undergone land-disturbing activities and are not yet at finished grade, and that have no construction activity as indicated in the construction plan for fifteen days or more, shall be established with temporary vegetation or mulching.
  - (J) Soil Stockpiles. All soil stockpile areas that remain inactive for seven days or more shall be seeded, covered, or protected by erosion control barriers.
  - (K) Single-Family Lots. Single-family lots that remain inactive for fifteen days or more shall be established with temporary vegetation.
  - (L) Channelized Runoff. Channelized runoff from off-site areas passing through a construction site shall be diverted around disturbed areas. Sheet flow runoff from off-site areas greater than ten thousand square feet in area shall also be diverted around disturbed areas. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
  - (M) Sedimentation Basins.
    - (i) Disturbance of One or More Acres. For sites with one or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed.
    - (ii) Disturbance of Less Than One Acre. For sites with less than one acre disturbed at one time, filter fences, straw bales or other BMPs shall be placed along all side slopes of the site as an alternative to sedimentation basins. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel. Diversion ditches and other sediment control measures shall be utilized.
    - (iii) Design. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and shall be constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than fifteen microns in size based on the set of two-year design storms having durations from one-half minute to twenty-four hours. The basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel.
  - (N) Sequence of Land-Disturbing Activity. Land-disturbing activity shall be performed in a construction sequence that minimizes the area of bare soil exposed at any one time. Construction sequencing shall be subject to the approval of the city engineering planning and transportation department.
- (5) Additional Requirements. Compliance with the requirements set out in this provision shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5 and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of

Environmental Management; all applicable provisions of Title 10: Wastewater of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the city utilities department regarding stormwater management practices.

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

This environmental standards section applies to the following zoning districts:



RE RS RC RM RH MR CL CG CA CD IG BP IN MD QY

(a) Riparian Buffer.

- (1) Applicability. This subsection shall apply to all land development activities on properties that are contiguous with or contain intermittent or perennial streams. However, platted lots of record of less than one acre in size shall not be subject to subsection (a)(6), Intermediate Zone Design nor (a)(7), Fringe Zone Design of this section.
- (2) Adjacent Properties. Where intermittent or perennial streams are present on adjacent properties, and where required buffer zones for such streams would extend onto the subject property, such buffer zones shall be established according to the provisions of this subsection.
- (3) Easements. All riparian buffer zones required to be preserved subject to this section shall be placed within riparian buffer easements pursuant to the standards of Chapter 20.07, Design Standards.

- (4) Graduated Buffer Zones. All intermittent or perennial streams shall be protected by a riparian buffer composed of three distinct zones. These zones shall be defined as:
  - (A) Streamside Zone (Zone 1). The primary function of the streamside zone is to ensure stream-bank stabilization.
  - (B) Intermediate Zone (Zone 2). The primary function of the intermediate zone is to protect soil particles that trap nutrients and chemicals.
  - (C) Fringe Zone (Zone 3). The primary function of the fringe zone is to filter runoff, and to maximize infiltration, water storage, and nutrient absorption.
- (5) Streamside Zone Design. The streamside zone (Zone 1) shall be designed as follows:
  - (A) Location. Immediately adjacent to the stream channel.
  - (B) Buffer Width. The width of this zone shall be a minimum of twenty-five feet on each side of the top of stream bank. The buffer width shall be measured perpendicular to the adjoining top of stream bank, following the natural curvature of the stream channel.
  - (C) Vegetation Requirements. All vegetative cover within this zone shall consist of undisturbed, existing vegetation. In cases where little or no existing vegetation is present, only native, water tolerant species shall be planted. Appropriate species for planting within buffer zones are listed in Section 20.05.058(c), Shrubs, Bushes and Hedges. Plant spacing and density for new vegetation within buffer zones shall be per specifications of the natural resources conservation service for each plant type.
  - (D) Disturbance Activities. Only the following land disturbance activities may be allowed within this zone, subject to planning department approval:
    - (i) Utility installation; if no alternative location is available;
    - (ii) Street crossings, where necessary to achieve connectivity;
    - (iii) Bicycle and/or pedestrian crossings, where necessary to achieve connectivity;
    - (iv) Connector path, if constructed with a permeable surface.
- (6) Intermediate Zone Design. The intermediate zone (Zone 2) shall be designed as follows:
  - (A) Location. Immediately outside the streamside zone (Zone 1).
  - (B) Buffer Width. The required width shall be a minimum twenty-five feet on each side of Zone 1.
  - (C) Vegetation Requirements. Vegetative cover within this zone shall consist of undisturbed, existing vegetation, supplemented by native, groundcover and edge vegetation. In cases where little or no existing vegetation is present, only native, water tolerant species shall be planted. Appropriate species for planting within buffer zones are listed in Section 20.05.058(c), Shrubs, Bushes, and Hedges. Plant spacing and density for new vegetation within buffer zones shall be per specifications of the natural resources conservation service for each plant type.
  - (D) Disturbance Activities. Only the following land-disturbing activities may be allowed within this zone, subject to planning department approval:

- (i) All activities allowed in Zone 1 (streamside zone);
  - (ii) Stormwater management facilities;
  - (iii) Removal of nonnative or invasive species;
  - (iv) Multiuse trails.
- (7) Fringe Zone Design. The fringe zone (Zone 3) shall be designed as follows:
- (A) Location. Immediately outside the intermediate zone (Zone 2).
  - (B) Buffer Width. The required width shall be a minimum of twenty-five feet measured perpendicular from the outer boundary of Zone 2.
  - (C) Vegetation Requirements. The vegetative cover for the outer zone shall be native grasses, sedges, and forbs that perform phytofiltration. In addition, woody plants may be utilized where appropriate. Appropriate species for planting within buffer zones are listed in Section 20.05.058(c), Shrubs, Bushes, and Hedges. Plant spacing and density for new vegetation within buffer zones shall be per specifications of the natural resources conservation service for each plant type.
  - (D) Disturbance Activities. Only the following land-disturbance activities may be allowed within this zone, subject to planning and transportation department approval:
    - (i) All activities allowed within Zones 1 and 2.
    - (ii) Streets, as needed to achieve connectivity.
- (8) Additional Riparian Buffer Design Standards.
- (A) Riparian buffer design shall be fitted to the topography and soil conditions of the site. Preference shall be given to preserving existing vegetation within riparian buffer areas. Protection of tree crowns and root zones within the drip-line shall be required for all trees planned for retention.
  - (B) Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New plantings shall be given sufficient water and protection to ensure reestablishment.
  - (C) In order to ensure vegetative diversity, a minimum of nine different plant species shall be utilized within the overall riparian buffer area. At least three of these species must be trees selected from Section 20.05.058(c), Shrubs, Bushes, and Hedges; Plants and Trees Suitable for Wet Areas.
  - (D) No alteration to the shoreline or bed of a stream or creek shall be made unless written approval is obtained from the appropriate governmental agencies. Alterations subject to this requirement include, but are not limited to, filling, damming, or dredging of a stream, creek, ditch, or wetland.
- (9) Riparian Buffer Maintenance. Management of riparian buffers shall be limited to the minimum necessary, with no alterations of forest understory, except for the removal of nonnative or invasive species. Limited mowing may occur in Zone 3, but shall be prohibited in Zones 1 and 2.

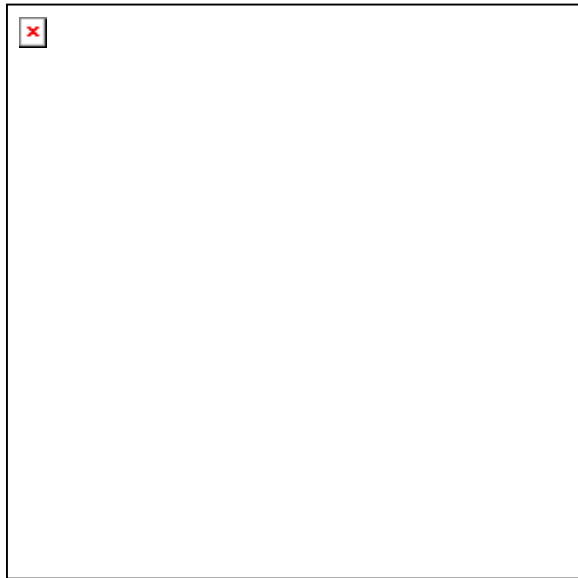


(10) Any new, non-single family development which is exempt from providing riparian buffer zones as outlined in Section 20.05.041(a)(1), shall provide at least a twenty-five-foot wide streamside buffer zone in compliance with the design standards of Section 20.05.041(a)(5). Additionally, two of the following best management practices, including plans for post-installation maintenance of such practices, shall be incorporated into the site design:

- (A) Use of one hundred percent native vegetation;
- (B) Use of permeable pavement for at least fifty percent of all on-site parking areas;
- (C) Biofiltration swales;
- (D) Rain gardens; or
- (E) Fifty percent vegetated roof.

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

This environmental standards section applies to the following zoning districts:



RE RS RC RM RH MH CL CG CA CD IG BP IN MD QY

(a) Tree and Forest Preservation.

- (1) Applicability. This section shall apply to all land-disturbing activities on properties containing wooded areas.
- (2) Retention of Existing Canopy. The following table shall be used to determine the minimum amount of existing vegetation canopy that must be retained during land-disturbance activity.

Baseline Canopy Cover	Retained Canopy Cover
80—100%	0.50 × Baseline canopy cover
60—79%	0.60 × Baseline canopy cover
40—59%	0.70 × Baseline canopy cover
20—39%	0.80 × Baseline canopy cover
0—19%	0.90 × Baseline canopy cover

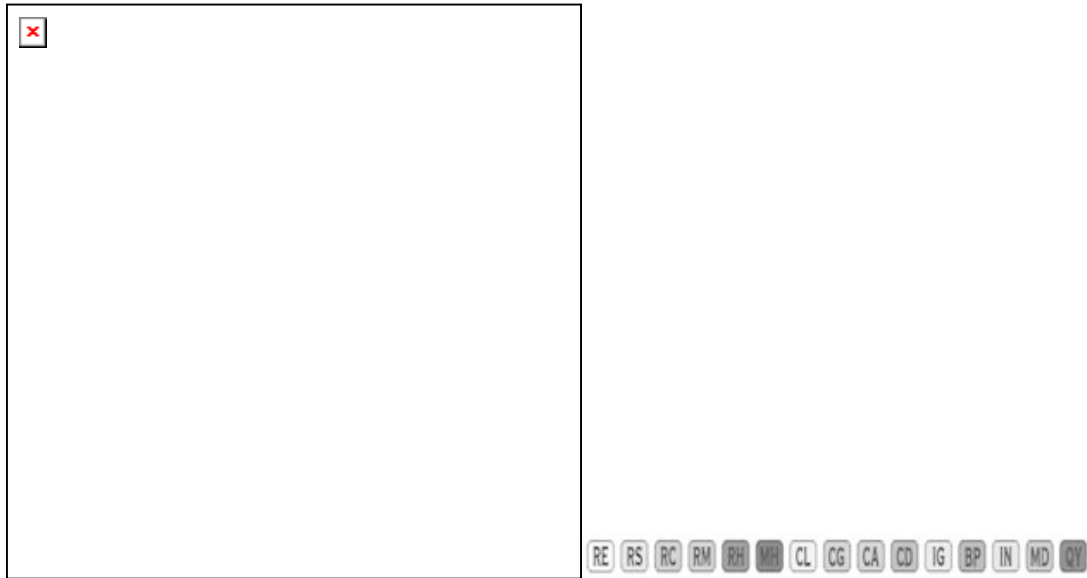
Example: For a property of twenty acres with fifty percent canopy cover (i.e., ten acres), a development would be required to maintain at least seven acres (ten acres × 0.70) of canopy cover.

- (3) Preference to Stands of Vegetation. The retention standards outlined above shall be applied to retain high-quality stands of native trees, undisturbed woodlands, and corridors of contiguous vegetation in priority over individual specimen trees, or younger stands of vegetation. No more than ten percent of the canopy retention standard shall be met by preserving individual trees not included within preferred wooded areas as defined in this subsection. Where individual specimen trees are to be preserved, preference shall be given to protecting heritage trees that are of particular value due to their type, size or age.
- (4) Smaller Parcels. For parcels of land less than two acres, the preservation standards outlined in subsection (a)(2), Retention of Existing Canopy of this section may be altered by the planning and transportation director to allow preservation of individual specimen trees or tree lines along property borders.
- (5) Overlapping Preservation Areas. Where acreage set aside to fulfill the conservation or buffer requirements found in Sections 20.05.039, EN-02 (Environmental standards—Steep slopes), 20.05.041, EN-04 (Environmental standards—Riparian buffer), 20.05.042, EN-05 (Environmental standards—Karst Geology), and 20.05.043, EN-06 (Environmental standards—Wetlands) also meets the requirements for tree and forest preservation under subsection (a) of this section, such acreage shall be counted toward fulfillment of all applicable requirements.
- (6) Where contiguous areas of at least one-half acre of tree cover are required to be preserved, a conservation and/or tree preservation easement shall be required per Chapter 20.07, Design Standards. The edges of such easements shall be delineated ten feet beyond the driplines of the trees to be preserved.

**20.05.048 FP-01 (Floodplain standards—General).**

Purpose. The floodplain standards are intended to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, reduce the potential for extraordinary public expenditures for flood protection and relief, and make federally subsidized flood insurance available for existing structures and their contents by fulfilling the requirements of the National Flood Insurance Program.

This floodplain standards section applies to the following zoning districts:



- (a) Development in the Floodplain. Development shall be prohibited within the floodplain, except as specified in this section.
- (b) Floodwater Storage Capacity. Under no circumstance shall there be a net loss of floodwater storage capacity. No development or other activity which might impair the flow of water in the floodplain shall be permitted. No development that may cause any increase in the elevation of the regulatory flood shall be permitted.
- (c) Jurisdictional Boundary for the Floodplain Standards. The jurisdictional boundaries for the floodplain standards shall be as shown on the Flood Insurance Rate Maps (FIRM) prepared under the National Flood Insurance Program by FEMA. The areas included in the floodplain are the floodway, floodway fringe, and the floodplain, as defined in subsection (d)(3), Floodplain Features below.
- (d) Additional Development Standards for Floodplain Areas.
  - (1) Warning and Disclaimer of Liability. It is not represented herein that flooding will be limited to those areas designated as floodplain or flood hazard areas or to the conditions of the regulatory flood. It is asserted that there is no liability on the part of the city or the state or any employee thereof for any flood damage that may occur as a result of reliance upon, or conformance with, these regulations.

- (2) Duties of Administrator. The planning and transportation director or their designee shall be the administrator of the floodplain standards, as required by the Federal Emergency Management Agency (FEMA).
- (3) Floodplain Features. For the purpose of these regulations, the following features are established:
  - (A) Floodway. That portion of the flood hazard area required to store, convey, and discharge the peak flood flow of the regulatory flood. The floodway shall include the floodway as shown on the Flood Insurance Rate Map (FIRM) prepared under the National Flood Insurance Program by FEMA.
  - (B) Floodway Fringe. Those portions of the floodplain outside the floodway.
  - (C) Floodplain. The channel proper and the areas adjoining wetlands, lakes or watercourses which have been or hereafter may be covered by the regulatory flood. The floodplain includes the floodway and the floodway fringe features. The floodplain is also referred to as the Special Flood Hazard Area (SFHA).
- (4) Permitted and Conditional Uses.
  - (A) Permitted Uses.
    - (i) Floodway. The following are permitted in the floodway provided that no structure, obstruction, deposit or excavation is involved:
      - a. Pasturage;
      - b. Forestry;
      - c. Wildlife areas;
      - d. Nature preserves;
      - e. Riparian buffers;
      - f. Storm sewers;
      - g. New and replacement utility pipelines; and
      - h. Parks and recreational open space.
    - (ii) Floodway Fringe. The following are permitted in the floodway fringe provided that no structure, obstruction, deposit or excavation is involved:
      - a. Pasturage;
      - b. Forestry;
      - c. Wildlife areas;
      - d. Nature preserves;
      - e. Storm sewers;
      - f. New and replacement utility pipelines;
      - g. Parks and recreational open space; and

- h. Open areas used to meet lot area, setback, density and impervious surface coverage requirements for structures and uses located outside the floodplain or floodway boundaries.
  - (B) Conditional Uses.
    - (i) Floodway Fringe. The following are conditional uses in the floodway fringe:
      - a. Transportation facilities, including, but not limited to, bridges, streets or drives;
      - b. Water related urban uses, such as wastewater treatment facilities, electric generating and transmission facilities and water treatment facilities;
      - c. Any other flood-tolerant or open space uses, such as storage of materials not subject to flood damage that do not contain hazardous pollutants;
      - d. Parking lots constructed solely of permeable pavers; and
      - e. Recreational equipment.
- (5) Floodplain Boundaries.
- (A) Location. The locations of the floodplain boundaries are based upon the regulatory flood elevation, floodway, and floodway fringe limits for the studied special flood hazard areas of the City of Bloomington as delineated on the 100-year profiles in the Flood Insurance Study of Monroe County and Incorporated Areas and the corresponding flood insurance rate map prepared by the Federal Emergency Management Agency and dated December 17, 2010. The flood profiles, and the special flood hazard areas delineated on the December 17, 2010 FIRM are a component of the official zoning map. The regulatory flood elevation, floodway, and fringe limits for each unstudied special flood hazard area of the City of Bloomington delineated as an "A Zone" on the FIRM of the Monroe County and Incorporated Areas prepared by the Federal Emergency Management Agency and dated December 17, 2010, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
  - (B) Disputed Boundaries. The elevation of the regulatory flood profile for the point in question shall be the governing factor in locating the boundary on the land. Any person contesting the location of the boundaries on the FIRM maps may apply to FEMA for a letter of map amendment (LOMA) to establish that the property is not located in a flood hazard area (FHA). Any person who believes the FIRM maps to be in error in the location of the flood districts, delineations, and/or elevations may apply to FEMA for a letter of map revision (LOMR) for an official revision to the FIRM maps.
  - (C) Structures Located on Boundary Lines. Where a floodplain boundary line divides a structure, these regulations shall apply to the entire structure.
  - (D) Subdivision Plats. Developers shall record the base flood elevation and delineate the floodplain boundary on all final plats prior to submitting the final plats for approval by the plan commission.

- (E) Site Plans. Upon receipt of an application for a site plan review and/or a certificate of zoning compliance, the planning and transportation department shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain.
- (i) Floodway. If the site is in an identified floodway, the planning and transportation department shall require the applicant to forward the application, along with all pertinent plans and specifications, to DNR and apply for a permit for construction in a floodway.
    - a. Under the provisions of Indiana Code 14-28-1, a permit from DNR is required prior to the issuance of a local certificate of zoning compliance for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc., undertaken before the actual construction of the building.
    - b. No action shall be taken by the planning and transportation department until a permit for construction in the floodway has been issued by DNR. Once a permit has been issued by DNR, and provided the applicant has received approval as necessary from the board of zoning appeals under Sections 20.09.130, Development standards variance or 20.09.150, Conditional use, the planning and transportation department may issue a certificate of zoning compliance provided the provisions of this title have been met. The certificate of zoning compliance and standards of site plan review may not be less restrictive than the permit issued by DNR.
  - (ii) Floodway Fringe. If the site is located in an identified floodway fringe, the planning and transportation department may issue a certificate of zoning compliance provided the provisions of this title, and particularly the provisions of Chapter 20.05, FL: Floodplain Standards, have been met.
  - (iii) Floodplain with Drainage Area Greater Than One Square Mile. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the planning and transportation department shall require the petitioner to forward the application, along with all pertinent plans and specifications, to DNR for review and comment.
    - a. No action shall be taken by the planning and transportation department until either a permit for construction in the floodway or a letter stating that no permit is required citing the base flood elevation and the recommended flood protection grade has been received from DNR.
    - b. Once a permit for construction in the floodway or a letter stating that no permit is required has been issued by DNR, and provided the petitioner has received approval as necessary from the board of zoning appeals under Section 20.05.024, CU-02 (Conditional use—Floodway and floodway fringe development) of this title, the planning and transportation department may issue a certificate of zoning compliance provided the

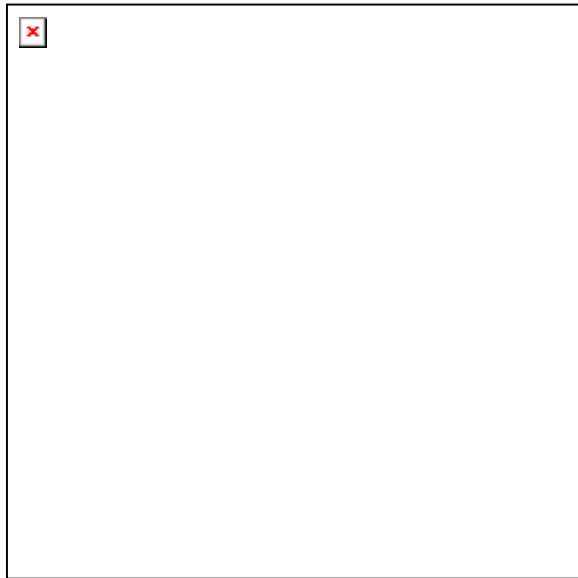
provisions of this title have been met. The certificate of zoning compliance and standards of site plan review may not be less restrictive than the permit for construction in the floodway issued by DNR.

- (iv) Floodplain with Drainage Area Less Than One Square Mile. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the planning and transportation department shall require the petitioner to provide an engineering analysis from a certified professional engineer showing the limits of the floodway, floodway fringe and base flood elevation for the site. Once the planning and transportation department has verified that the proposed development will not cause any increase in the elevation of the regulatory flood, the planning and transportation department may issue a certificate of zoning compliance provided the provisions of this title have been met.
- (6) Watercourse Alterations. No alteration shall be made to any watercourse in any floodplain area as shown on the official zoning map or any area otherwise subject to the jurisdiction of DNR or FEMA without first securing a LOMR from FEMA, as well as any necessary permits and approvals from DNR, IDEM, and the Army Corps of Engineers. Prior to any alteration or relocation of a watercourse, the city shall notify any applicable adjacent communities and the state floodplain coordinator. Copies of such notifications shall also be submitted to FEMA. Maintenance of any altered or relocated watercourse is required in order to ensure that no diminishing of flood-carrying capacity occurs.
- (7) No local floodplain development permit shall be issued unless all necessary federal or state permits have been received. Copies of such permits are to be maintained on file with the floodplain development permit.
- (8) Record Keeping. The city shall maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, LOMA, LOMR, copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (9) Construction of Utilities and Waste Disposal Systems. Public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed so as to minimize or eliminate flood damage. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

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

Purpose. The growth policies plan recognizes sustainability as a key component of nurturing Bloomington's environmental integrity. As a result, incentives are being provided to encourage the use of sustainable development practices throughout the planning jurisdiction. Implementation of these practices will help to make Bloomington a more sustainable community.

This green development incentives section applies to the following zoning districts:



RE RS RC RM RH MH CL CG CA CD IG BP IN MD QY

- (a) Sustainable Development Practices. The following sustainable development practices may be incorporated into a development in order to achieve development standards bonuses as provided in subsections (b), Level One Incentives, (c), Level Two Incentives and (d), Level Three Incentives of this section. Any development that incorporates these practices shall indicate such inclusion at the site plan review stage. The reviewing authority shall determine whether any particular project meets the goals set forth herein, taking into account the combination of sustainable development practices proposed; the land use patterns, infrastructure, and transportation patterns of the surrounding area; the zoning of any developed land in the surrounding area; and other such factors as may be relevant to the individual project. Where the reviewing authority determines that the proposal meets the goals set forth herein, the reviewing authority may waive the applicable development standards and grant the bonuses set forth herein.
  - (1) Goal 1. Structures and developments that demonstrate exceptional efficiency in the use of energy and resources and minimize their impact on the natural environment. Examples of designs that may qualify as meeting this goal include but are not limited to the following:
    - (A) Installation of a vegetated roof covering at least fifty percent of the total roof area. Incorporation of this practice shall conform to the provisions of SS Credit 7.2: Heat Island Effect: Roof as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.



- (B) Demonstrate a percentage improvement in the proposed building performance rating compared to the baseline building performance rating per the most current version of the LEED for New Construction Rating System as approved by plan commission. Incorporation of this practice shall conform to the provisions of EA Credit 1: Optimize Energy Performance as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (C) Incorporate non-polluting and/or renewable on-site energy sources including, but not limited to, solar, wind, geothermal, biomass and bio-gas energy sources. Incorporation of this practice shall conform to the provisions of EA Credit 2: On-Site Renewable Energy as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (D) Recycling and/or salvaging of at least fifty percent of non-hazardous construction and demolition debris. Incorporation of this practice shall conform to the provisions of MR Credit 2: Construction Waste Management as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (E) Utilization of building materials or products that have been extracted, harvested or recovered, as well as manufactured, within five hundred miles of the project site for a minimum of ten percent (based on cost) of the total materials value. Incorporation of this practice shall conform to the provision of MR Credit 5: Regional Materials as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
- (2) Goal 2. A landscaping and site design that makes an exceptional contribution to the quality of the natural environment. Examples of designs that may qualify as meeting this goal include but are not limited to the following:
- (A) Use of permeable pavement materials for at least fifty percent of all private driveways, pathways, and parking areas.
  - (B) Use of native vegetation, permeable man-made materials, biofiltration swales, rain gardens and other conservation design techniques to convey and filter stormwater.
  - (C) Use of stormwater systems to capture and reuse at least fifty percent of stormwater for common and public space irrigation.
  - (D) Placement of all slopes of twelve percent or greater within conservancy easements to ensure that they are not developed, nor disturbed during the development of remaining portions of the site, as well as the retention of at least ninety percent of existing tree canopy cover in compliance with Section 20.05.044(a)(2) of this chapter.
- (3) Goal 3. A commitment to serve, in an exceptional manner, important public policy such as pedestrian-friendly, mixed use development, affordable housing, or reduction in automobile travel. Examples of commitments that may qualify as meeting this goal include but are not limited to the following:
- (A) Incorporation of a mix of residential and nonresidential land uses either within the development or within individual buildings.

- (B) Provision of one hundred percent of the required bicycle parking spaces as either long-term Class I bicycle parking facilities or covered, Class II bicycle parking facilities, or a combination of those two bicycle parking facility types.
  - (C) Provision of automobile parking at least twenty-five percent below permitted maximums, coupled with provision of bicycle parking at least fifty percent above required minimums.
  - (D) Provision of subsidized Bloomington Transit passes or provision of a private van or shuttle.
- (4) Goal 4. A location that provides an exceptional opportunity for residents to walk or use public transit in lieu of automobile travel. Examples of locations that may qualify as meeting this goal include but are not limited to the following:
- (A) Location of the development within one-fourth mile of a Bloomington Transit stop, provided that the transit facility is accessible using pedestrian facilities.
  - (B) Location of the development within one-fourth mile of a neighborhood, community, or regional activity center, or downtown, as mapped in the growth policies plan, provided these commercial areas are accessible using pedestrian facilities.
  - (C) Location of the development within one-fourth mile of a public school or park, provided these public facilities are accessible using pedestrian facilities.
  - (D) Location of the development within one-fourth mile of a public multiuse trail facility, provided the development can be connected with pedestrian facilities to the public trail facility.
- (b) Level One Incentives.
- (1) A development may utilize the level one incentives detailed in subsection (b)(2) of this section if the reviewing authority determines that the development meets all four goals listed in subsection (a), Sustainable Development Practices, of this section through the incorporation of the following:
    - (A) At least two sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and
    - (B) At least one sustainable development practice from each of Goals 2, 3 and 4 as specified in subsections (a)(2), (a)(3) and (a)(4) above.
  - (2) Developments described in subsection (b)(1) above may utilize the following changes to development standards:
    - (A) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to six feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by twenty-five percent.
    - (B) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to twenty feet. For nonresidential districts, rear building setback requirements shall be reduced by twenty-five percent.

(C) Density. For multifamily districts and nonresidential districts where multifamily uses are permitted, maximum residential density shall be increased by twenty-five percent.

(c) Level Two Incentives.

(1) A development may utilize the level two incentives detailed in subsection (c)(2) of this section if the reviewing authority determines that the development meets all four goals listed in subsection (a), Sustainable Development Practices, of this section through the incorporation of the following:

(A) At least three sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and

(B) At least two sustainable development practices from each of Goals 2, 3 and 4 as specified in subsections (a)(2), (a)(3) and (a)(4) above.

(2) Developments described in subsection (c)(1) above may utilize the following changes to development standards:

(A) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to five feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by fifty percent.

(B) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to fifteen feet. For nonresidential districts, rear building setback requirements shall be reduced by fifty percent.

(C) Density. For multifamily districts and nonresidential districts where multifamily uses are permitted, maximum residential density shall be increased by fifty percent.

(d) Level Three Incentives.

(1) A development may utilize the level three incentives detailed in subsection (a)(2) of this section if the reviewing authority determines that the development meets all four goals listed in subsection (a), Sustainable Development Practices, of this section through the incorporation of the following:

(A) At least four sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and

(B) At least two sustainable development practices from each of Goals 2, 3 and 4 as specified in subsections (a)(2), (a)(3) and (a)(4) above.

(C) An allocation of at least fifteen percent of the total number of housing units located in the development as affordable housing. Such housing units must be entered into an affordable housing program administered by the local, state or federal governments.

(2) Developments described in subsection (d)(1) above may utilize the following changes to development standards:

(A) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to five feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by fifty percent.

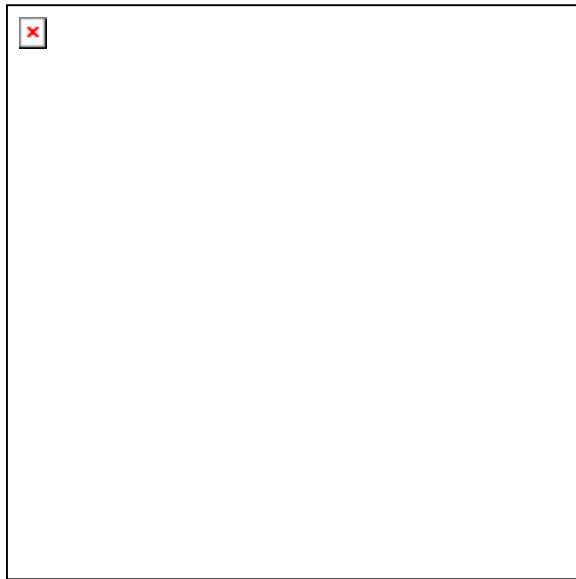
- (B) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to fifteen feet. For nonresidential districts, rear building setback requirements shall be reduced by fifty percent.
  - (C) Density. For multifamily districts and nonresidential districts where multifamily uses are permitted, maximum residential density shall be increased by seventy-five percent.
- (e) Waiver of Fees. All developments utilizing the provisions of this section to achieve the incentives outlined in subsections (b), (c) and (d) of this section shall also be eligible for the following waivers or reductions of fees:
- (1) Filing fees for the plan commission and/or board of zoning appeals may be waived by the planning and transportation director.
  - (2) Fees associated with right-of-way excavation permits may be waived by the planning and transportation director of the public works department.
  - (3) Sewer hook-on fees may be waived or reduced by the utilities service board.
- (f) Application Material and Verification of Compliance. In addition to the standard application requirements specified in Section 20.09.080, Site plan review, the petitioner shall provide the following information:
- (1) A completed green building worksheet shall be submitted and approved at the time of site plan approval. The green building worksheet shall be accompanied by supporting material specifying how the development will incorporate the specific sustainable development practices selected from subsection (a), Sustainable Development Practices, of this section.
  - (2) At the time of site plan approval, the petitioner shall record a commitment verifying that the development will comply or has already complied with the sustainable development practices petitioned for as part of the site plan application. The commitment shall comply with the requirements specified in Section 20.09.100, Commitments—Site plan.

**20.05.052 LA-01 (Landscaping standards—General).**

Purpose. The landscaping standards are intended to improve Bloomington's vegetated environment and foster development that will protect and preserve the appearance, character, health, safety and welfare of the community. Additionally, the standards are intended to foster aesthetically pleasing development that will protect and improve Bloomington's biodiversity and the ecological services provided by native species and ecosystems. Trees, vegetation, irrigation systems, fences, walls, and other landscape elements are essential components of a project.

These components act to enhance the visual quality of developments, screen land uses, and better integrate the built and natural environments.

This landscaping standards section applies to the following zoning districts:



(a) Placement of Landscape Materials.

- (1) Rights-of-way and Easements. It shall be the responsibility of the property owner to install and maintain landscape material in rights-of-way or easements. Plant types shall be approved by either the city or the easement holder.
- (2) Utility Infrastructure. Trees shall be located to avoid significant interference with overhead or underground utilities, including lateral connections. Trees shall be planted at least ten feet from sanitary sewer and water service lines. A tree canopy may project over a right-of-way or easement. All landscaping plans shall be reviewed by the city utilities department in order to ensure that there are no conflicts between proposed landscaping and utility lines.
- (3) Vehicular and Pedestrian Movement. Plant materials shall be located to avoid interference with vehicular and pedestrian movement. Plant materials shall not project over sidewalks, paths, or trails below a height of eight feet. Plant materials shall not project over street curbs or pavement within rights-of-way or access easements below a height of fifteen feet.
- (4) Vision Clearance. Materials shall be located to avoid interference with visibility per this chapter.
- (5) Energy Conservation. Plantings shall be arranged to promote energy conservation.
  - (A) Deciduous Trees. Tall deciduous trees should be placed on the south and west sides of buildings to provide shade from the summer sun, and provide warmth from the winter sun.
  - (B) Evergreens. Evergreens should be planted on the north side of buildings to dissipate the effect of winter winds.

- (6) Distribution. Required landscaping shall be reasonably distributed throughout all open space areas. It is suggested that the required plantings be planted in clusters or irregular patterns, and that native grasses and other native species be used for ornamentation in addition to the required plantings.
- (b) Maintenance. Developers and their successors in interest shall be responsible for the regular maintenance of all landscaping elements in perpetuity. Failure to maintain all landscaping is a violation of this title subject to the provisions of Chapter 20.10, Enforcement and Penalties. Specifically:
  - (1) All plant material shall be maintained alive, healthy, and free from disease and pests.
  - (2) All landscape structures including, but not limited to, fences and walls shall be repaired or replaced periodically to maintain a structurally sound and aesthetic condition.
- (c) Plant Material Standards.
  - (1) Live Plantings. All plant material shall be living species. Dead, diseased or artificial plants shall not be recognized as contributing to required landscaping.
  - (2) Species Diversity. On sites that require an aggregate total of twenty or more new trees, any given species of tree shall be limited to a maximum of thirty-three percent of the total number of newly planted trees on site.
  - (3) Permitted Plant Material. All plant material shall be selected from Exhibit LA-A: Permitted Plant Species by Characteristics. Substitutions to the list shall be submitted to the planning and transportation department for approval.
  - (4) Prohibited Plant Material. Species identified in Exhibit LA-B: Invasive and Poor Characteristics Species shall under no circumstances be planted.
  - (5) New Planting Sizes. The following minimum sizes shall apply to all required plant material:
    - (A) Deciduous Trees. All newly planted deciduous trees shall be at least two inches in caliper.
    - (B) Evergreen Trees. All newly planted evergreen trees shall be at least six feet tall.
    - (C) Shrubs. Shrubs shall be at least three-gallon container size or eighteen inches tall.
  - (6) Substitution.
    - (A) Public Art. The planning and transportation department may reduce the landscaping requirement by up to twenty-five percent if it is replaced with public art. Public art shall not replace required buffer yard landscaping as required by subsection (f), Buffer Yards, of this section.
    - (B) Existing Vegetation. The planning and transportation department may permit the substitution of required landscaping with existing vegetation provided that the existing vegetation is similar in species and location as well as in good health and quality. Vegetation preserved to meet the requirements of Section 20.05.044, EN-07 (Environmental standards—Tree and forest preservation), may be substituted for required landscaping, provided it meets the requirements of subsection (c)(6) of

this section. Qualified existing vegetation shall be credited towards required landscaping based on the following values:

- (i) Deciduous Trees. A credit of one tree per every four inches in caliper of an existing qualified deciduous tree is earned. No single existing tree shall count towards more than five individual required trees.
  - (ii) Evergreen Trees. A credit of one tree per every twelve feet in height of an existing qualified evergreen tree is earned. No single existing tree shall count towards more than three individual required trees.
  - (iii) Shrubs. A credit of one shrub per every one existing qualified shrub is earned.
- (C) Shrubs. Where shrubs are required to be planted by this title, up to twenty percent of the total number of required shrubs may be substituted for with flowering perennials, grasses, or ferns.
- (d) Street Trees.
- (1) Number. A minimum of one canopy tree shall be planted per forty feet of property that abuts a public right-of-way.
  - (2) Location.
    - (A) Freeway/Expressway. Street trees along a limited-access highway shall be planted within fifteen feet of the property line that abuts the limited-access highway. No trees shall be planted in the right-of-way.
    - (B) Arterial, Collector, Local or Private Street. Street trees along an arterial, collector, local or private street shall be planted in the tree plot between the sidewalk and the curb. If a tree plot is not available, then the street trees shall be planted within the front yard immediately adjacent to the street. Street trees planted within the front yard shall not count towards other landscaping requirements.
    - (C) Proximity of Adjacent Street Trees. The spacing between adjacent street trees shall be no less than twenty feet and no more than forty feet.
    - (D) Tree Grates. Where approved by the city's urban forester, street trees may be planted in a minimum twenty-five square foot cutout covered with an ADA compliant tree grate to maintain a flush grade with adjacent sidewalks.
    - (E) Vision Clearance. Street trees shall be planted outside the vision clearance triangle as defined in this chapter. Within fifty feet of an intersection, street trees may be planted behind the sidewalk in order to maintain sight distances for traffic control signs. Low-branching species shall not be allowed within fifty feet of an intersection. Locations for street trees within fifty feet of an intersection shall be approved by the city ~~engineering~~ planning and transportation department. Street trees shall be located a minimum of ten feet from a driveway cut, traffic control sign, or street light, and a minimum of three feet from a fire hydrant.
  - (3) Type. Street tree species shall be subject to approval by the city's urban forester.
- (e) Ground Cover. Grass and other vegetative ground cover shall be used for all open space including parking lot bumpouts and islands. The exceptions are as follows:

- (1) Decorative mulch or stone planting beds shall not extend more than one foot beyond the drip line of shrubbery, and shall be no more than six feet in diameter surrounding the trees.
- (f) Buffer Yards.
- (1) Buffer Yard Requirements. A buffer yard shall be provided along the side and rear property lines of any property where the zoning district of the subject property conflicts with the zoning district of the adjacent property. New landscaping that is required to meet these buffer yard requirements shall not count toward other site or parking landscaping requirements. The buffer yard requirements table below shall be used to determine the type of buffer yard to be installed on the subject property. The following requirements shall apply to all buffer yards:
    - (A) Responsibility. The developer or owner of the property being developed is responsible for installing the buffer yard at the time of that development. The adjacent property owner shall not be required to participate in the installation of the buffer yard.
    - (B) Location. All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by this title. The required buffer yards shall be installed despite the presence of streets, alleys, streams or other features that may separate the two properties.
    - (C) Plant Material. All plant material used to meet the buffer yard requirements shall meet the standards of this section, and shall be selected from the list of permitted plant species in Section 20.05.058, Exhibit LA-A: Permitted Plant Species by Characteristics and Location.
    - (D) Groundcover. All portions of a buffer yard not planted with trees, shrubs, or other required landscape materials shall be covered with grass or similar ground-covering vegetation. Landscaping stone or other non-vegetative materials may not be substituted for ground-covering vegetation. Decorative mulch or stone planting beds may be used around trees, provided that such planting beds are no greater than six feet in diameter.
    - (E) Planned Unit Development. For development adjacent to a planned unit development, or for a planned unit development adjacent to existing development, the zoning district that most closely matches the predominant use of the planned unit development shall be used to determine the buffer yard type.
  - (2) Buffer Yard Types. Required buffer yards shall be installed according to the following standards:
    - (A) Buffer Yard Type 1:
      - (i) A minimum setback of ten feet shall be provided in addition to the setback otherwise required by this title.
      - (ii) One deciduous canopy tree shall be planted in the buffer yard for every thirty feet of boundary between the subject and adjoining properties.
    - (B) Buffer Yard Type 2:



- (i) A minimum setback of fifteen feet shall be provided in addition to the setback otherwise required by this title.
- (ii) One deciduous canopy tree and two evergreen trees shall be planted in the buffer yard for every twenty-five feet of boundary between the subject and adjoining properties.

(C) Buffer Yard Type 3:

- (i) A minimum setback of twenty feet shall be provided in addition to the setback otherwise required by this title.
- (ii) A row of deciduous canopy trees shall be planted parallel to the property line within the buffer yard with one tree placed every twenty feet along the boundary between the subject and adjoining properties.
- (iii) One of the following shall also be provided:
  - a. A six-foot tall opaque fence or brick/stone wall;
  - b. A five-foot tall undulating berm planted with shrubs; or
  - c. A row of evergreen trees, comprised of one tree placed every ten feet along the property boundary.

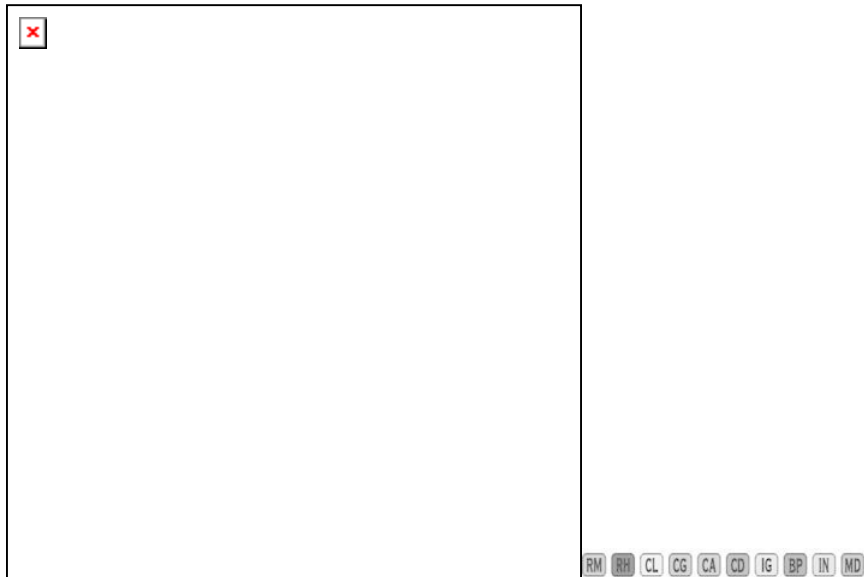
The buffer yard type indicated on the table below shall be provided on the subject property when...

...the zoning for the subject property is...	...and the adjoining property is zoned:														
	RE	RS	RC	RM	RH	MH	CL	CG	CA	CD	IG	BP	IN	MD	QY
RE				1	2	2	2	3	3	3	3	3	3	3	3
RS				1	1	2	1	2	2	2	3	3	2	2	3
RC				1	1	1	1	2	2		3	3	2	2	3
RM	1	1	1			1	1	2	2		3	2	2	2	3
RH	2	1	1			1	1	1	2		3	2	1	1	3
MH	2	1	1	1	1		2	2	2	1	3	2	2	2	3
CL	2	1	1	1	1	2		1	1	1	2	1	1	1	3
CG	3	2	2	2	1	2	1			1	1	1	1	1	2
CA	3	2	2	2	2	2	1			1	1	2	2	2	2
CD	3	2				1	1	1	1		2	2	1	1	
IG	3	3	3	3	3	3	2	1	1	2		1	2	2	1
BP	3	3	3	2	2	2	1	1	2	2	1		1	1	2
IN	3	2	2	2	1	2	1	1	2	1	2	1		1	2
MD	3	2	2	2	1	2	1	1	2	1	2	1	1		3

QY	3	3	3	3	3	3	3	2	2		1	2	2	3	
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**20.05.057 LA-06 (Landscaping standards; vacant lot landscaping).**

This landscaping standards section applies to the following zoning districts:



- (a) Applicability. Any lot with frontage on a public street shall be subject to the requirements of this section.
- (b) Timing. Landscaping or ground cover shall be installed as required in subsection (c) on the lot where demolition activity has occurred within one hundred eighty days after the issuance of a demolition permit, unless:
  - (1) The planning and transportation director has granted an extension of time due to the need for more time to complete demolition activities or due to the presence of seasonal or inclement weather; or
  - (2) A site plan has been approved for the reuse of the property. If an approved site plan has expired and has not been renewed, landscaping as outlined in subsection (c) shall be installed within one hundred eighty days after site plan expiration.
- (c) Planting Requirements.
  - (1) For lots of one-half acre or less, the entire lot containing the demolition activity shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057. No ground cover is required in locations where existing vegetation, remaining structures, or parking areas serving such remaining structures still exist.

(2) For lots greater than one-half acre, one of the following landscaping options must be selected:

(A) The entire area disturbed for demolition shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057; or

(B) A ten-foot wide planting area shall be installed along the property line bordering the entire area disturbed for demolition from any public street. This planting area may either utilize raised planters or be level with street grade. Evergreen shrubs that grow to a minimum height of at least four feet shall be planted every three feet within these planting areas.

(d) Maintenance Requirements.

(1) All plant material shall be maintained alive, healthy, and free from disease and pests;

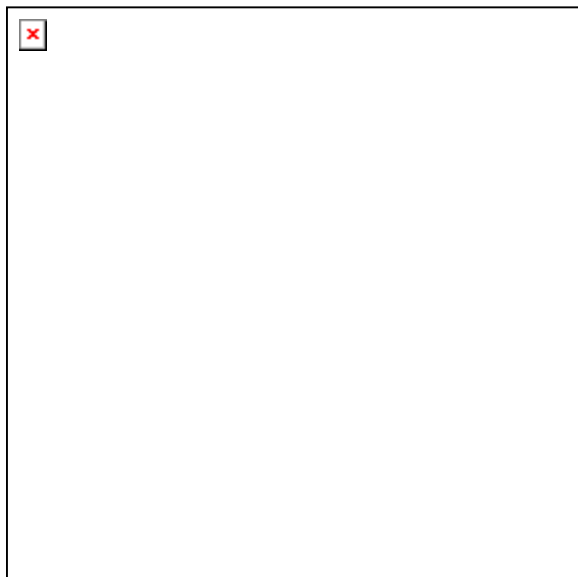
(2) All raised landscape planters shall be repaired or replaced periodically to maintain a structurally sound condition;

(3) Ground cover shall be maintained in compliance with Bloomington Municipal Code Title 6, Health and Sanitation; and

(4) Public sidewalks shall be maintained in compliance with Bloomington Municipal Code Title 12, Streets, Sidewalks, and Storm Sewers.

**20.05.064 MS-01 (Municipal services—General).**

This municipal services standards section applies to the following zoning districts:



RE RS RC RM RH MN CL CG CA CD IG BP IN MD QY

(a) Sewer and Water.

- (1) Municipal sewer and water hookup is required for all developments except for instances where written approvals by the city utilities department and the county health department grant an exception to the hookup requirement.
- (2) All sewer and water facilities shall meet the design specifications of the city utilities department.
- (b) Dry Hydrants. Any development that incorporates a retention pond with a standing pool of water of at least ten thousand cubic feet in volume shall provide a dry hydrant that meets the specifications of the National Fire Protection Association (NFPA) Standard on Water Supplies for Suburban and Rural Fire Fighting, NFPA 1142 Chapter 9 (2001 Edition), or any subsequent amendment thereto.
- (c) Bloomington Digital Underground. Any new development that includes the construction of a new or widened public street shall be required to install underground telecommunications conduit to extend the city's fiber optic network, known as the Bloomington Digital Underground (BDU). Conduit installation shall be in accordance with BDU specifications and permit requirements of the city of Bloomington. This requirement may be waived by the planning and transportation director if the city's director of information and technology services determines that the new conduit is not necessary.

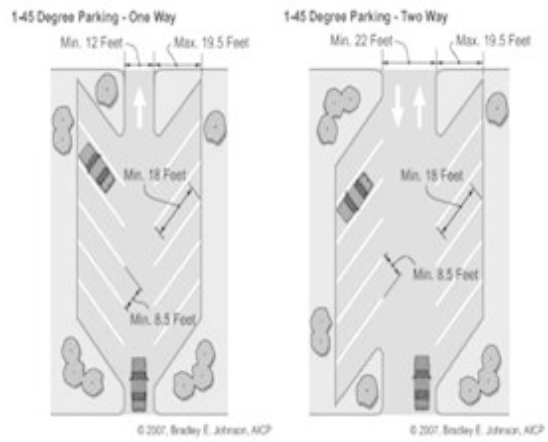
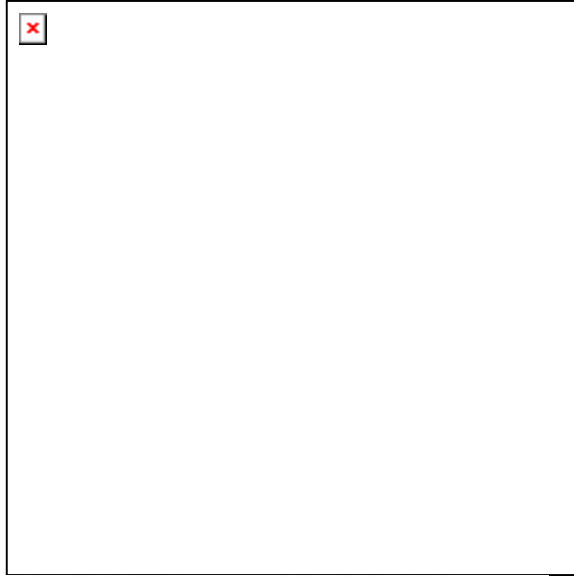
**20.05.070 PK-01 (Parking standards—General).**

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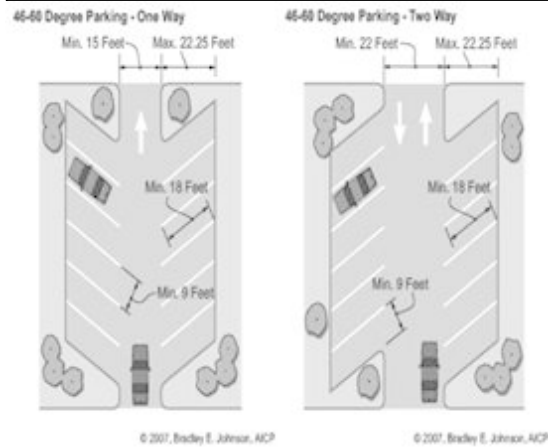
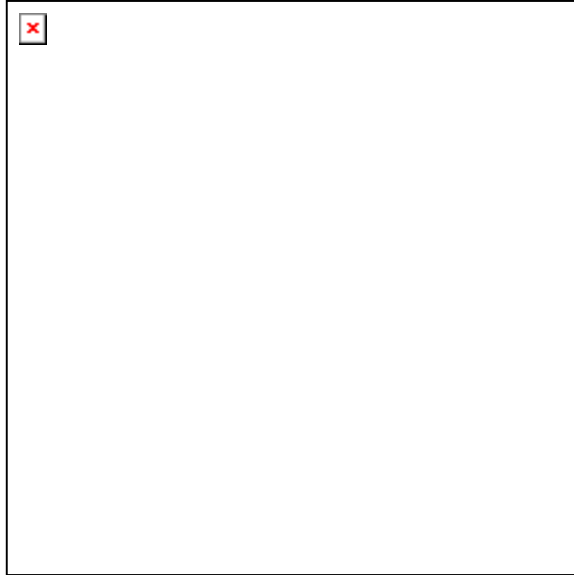
- (e) Location.
  - (1) Rights-of-way. On-site parking spaces shall not be located within public rights-of-way.
  - (2) Shared Parking Facilities.
    - (A) Authorization. In those situations where a minimum number of parking spaces is required, the owners of two or more properties may join together to provide the required parking spaces for their respective uses. Upon request by the owners and after review of the request by the planning and transportation director, the planning and transportation director may authorize the shared use of parking facilities under the following conditions:
      - (i) Minimum. In a shared parking arrangement, each property shall provide a minimum of sixty percent of the individual parking requirements. In no case shall the total combined parking spaces be less than one hundred twenty percent of the greater individual parking requirement.
      - (ii) Proximity. Any property utilizing shared parking facilities shall be located within three hundred feet of such parking facility, using established sidewalks and crosswalks where available.
    - (B) Shared Parking Agreement. The property owner seeking leased spaces shall provide a recordable zoning commitment to the planning and transportation

department stating that in the case where leased spaces are no longer available, that an adequate parking alternative will be provided.

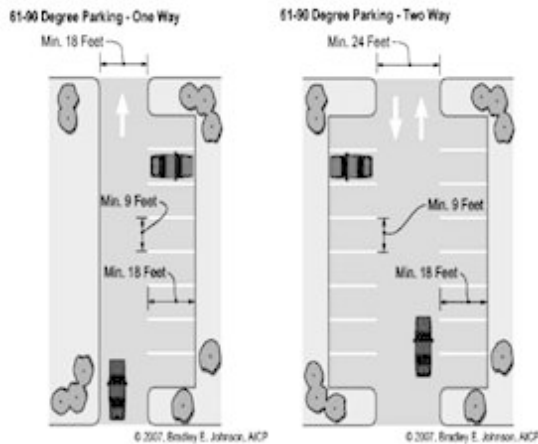
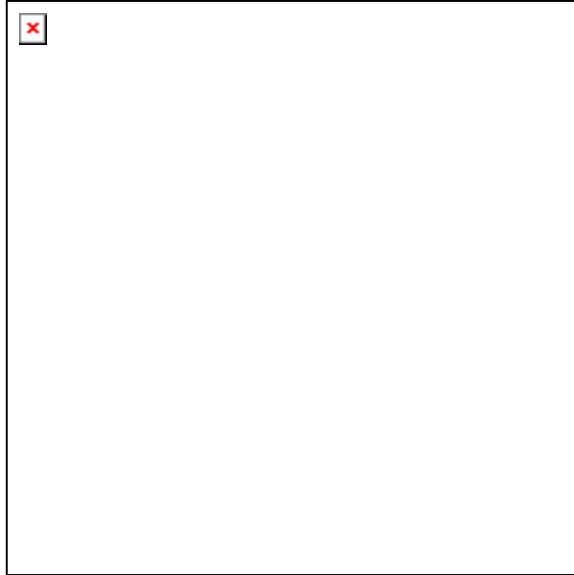
- (f) Stacked Parking. Stacked parking arrangements are permitted.
- (g) Use of Parking Spaces.
  - (1) Exclusive Use. Unless a shared parking agreement has been established in accordance with the requirements of subsection (e)(2), Shared Parking Facilities, of this section, required on-site parking spaces shall be designed, maintained and used exclusively for the tenants, occupants and customers of the buildings or uses on the site.
  - (2) Storage of Vehicles or Equipment. Parking lots and spaces, including both required and excess parking spaces, shall not be used for storing vehicles that are not used in conjunction with the primary use of the lot.
  - (3) Motor Vehicle Repair. Motor vehicle repair work in parking areas shall be permitted in residential districts, provided that the vehicle under repair is owned by the occupant of the residential property; the frequency, duration and scope of such use is reasonable and customary as accessory to the residential use; and no business is being conducted in conjunction with such repair use. Motor vehicle repair work in parking areas, including both required and excess parking spaces, shall be prohibited in all other zoning districts.
- (h) Parking of Nuisance Vehicles.
  - (1) Vehicles and Trailers. The parking of any vehicle or trailer of any type without current license plates or in an inoperable condition shall be prohibited unless completely enclosed within a building or within an approved salvage/scrap yard.
  - (2) Storage, Occupancy, or Similar Uses. Vehicles, campers or tractor/trailers of any type shall not be used for the purpose of storage, occupancy, or similar use.
  - (3) Motor Vehicle Repair. A maximum of three wrecked or inoperable vehicles awaiting repair may be stored on-site at one time. No such vehicle shall be stored on-site in excess of thirty days.
- (i) Parking Aisles.
  - (1) Widths. Parking aisle widths shall be as follows:
    - (A) Parallel Spaces.
      - (i) One-way: twelve-foot wide aisle;
      - (ii) Two-way: twenty-two-foot wide aisle.
    - (B) One Degree—Forty-Five Degrees Angle Space.
      - (i) One-way: twelve-foot wide aisle;
      - (ii) Two-way: twenty-two-foot wide aisle.



- (C) Greater Than Forty-Five Degrees—Sixty Degrees Angle Space.
- (i) One-way: fifteen-foot wide aisle;
  - (ii) Two-way: twenty-two foot wide aisle.



- (D) Sixty Degrees—Ninety Degrees Angle Space.
- (i) One-way: eighteen foot wide aisle;
  - (ii) Two-way: twenty-four foot wide aisle.



- (2) All parking aisles shall terminate with a bump-out for turnaround maneuverability.
- (3) All driving lanes and parking aisles in parking lots shall be clearly striped or shall be curbed.
- (j) Back-out Parking. Unless specifically stated otherwise in the Unified Development Ordinance, all on-site parking areas shall be designed to prevent vehicles from backing onto public streets.
- (k) Back-out Parking Waiver. Back-out parking within the required side or rear setback may be allowed onto adjacent alleys subject to the following standards:
  - (1) The lot in question does not exceed twenty thousand square feet in area;
  - (2) A maximum of eight back-out parking spaces are permitted per site; and
  - (3) Parking shall directly access an improved alley.
- (l) Stormwater Drainage.
  - (1) Parking lots shall be constructed such that all surface water is directed into a stormwater drainage system.



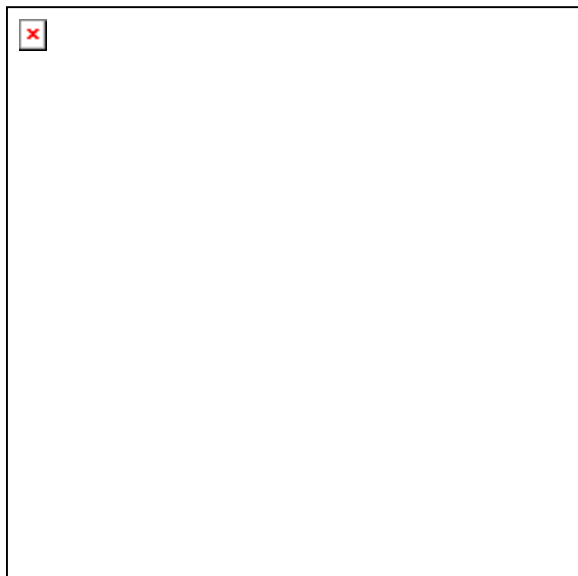
- (2) Water draining from a parking lot shall not flow across a sidewalk.
- (3) Stormwater drainage plans for off-street parking lots shall be reviewed and approved by the city utilities department.
- (4) All parking lots, excluding drives that do not afford direct access to abutting parking spaces, shall have a slope of five percent or less.

(m) Surface Material.

- (1) Unless specifically stated otherwise in the Unified Development Ordinance, all areas used for parking shall be asphalt, concrete, or other approved material.
- (2) For all new parking lots of sixteen spaces or greater, the following best management practices shall be used to improve stormwater infiltration and water quality:
  - (A) permeable pavement materials. If such materials are the only practice employed from this list, then they must cover at least twenty-five percent of the total parking lot area; or
  - (B) treatments such as rain gardens, bioretention basins, or vegetated swales designed to the specifications of City of Bloomington Utilities; or
  - (C) other combinations of best management practices subject to approval by the City of Bloomington Planning and Transportation and Utilities Departments.
- (3) Areas utilizing permeable parking pavers shall not count towards impervious surface calculations.

**20.05.072 PK-03 (Parking standards—Core residential).**

This parking standards section applies to the following zoning districts:



RC

(a) Location.

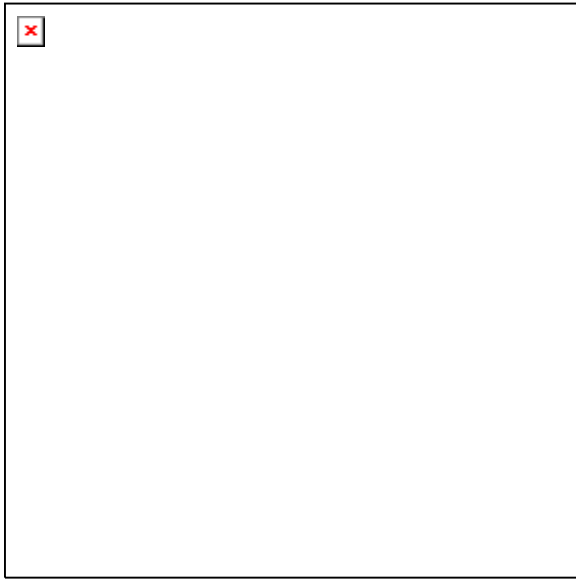
- (1) The parking spaces required for single-family residential uses shall be located on the same lot as the residence.
- (2) Parking for single-family residential uses shall be prohibited within the setback between the street and the building except on a single drive not exceeding eighteen feet in width.
- (3) In cases where the side or rear setback area is accessible via an improved alley, no front yard drive or parking shall be permitted. The required parking area shall directly access the alley and be limited to twenty feet in depth and twenty feet in width. Any necessary determination concerning whether an alley allows for safe access shall be made by the ~~city engineering~~ planning and transportation department.
- (4) Parking spaces that allow users to back out onto a public or private street shall be permitted, except onto those streets classified as arterial streets by the master thoroughfare plan.

(b) Surface.

- (1) Parking spaces shall utilize a dustless, hard surface of concrete, asphalt, crushed stone, or comparable material. Crushed stone parking surfaces shall be contained within a raised, permanent border.
- (2) Under no circumstances shall stone, rock, dirt, sand or grass be permitted as parking areas.
- (3) All new driveway aprons onto a street shall be surfaced with concrete. Enlargement or modification of an existing driveway shall require the driveway apron to be surfaced with asphalt or concrete.

**20.05.076 PI-01 (Public improvement standards—General).**

This public improvement standards section applies to the following zoning districts:



RE RS RC RM RH MR CL CG CA CD IG BP IN MD QY

- (a) Compliance with the Regulations. Developments shall be permitted only if the required on-street public streets, drainage facilities, and utilities are in compliance with the standards outlined in Chapter 20.07, Design Standards, the ~~city engineering~~ **planning and transportation** department standards and any applicable specifications referenced in the city utilities department rules, regulations, and standards of service.
- (b) Interpretation of Public Improvement Standards. The **planning and transportation** department, ~~city engineering department~~, or city utilities department shall be responsible for making determinations regarding necessary street, drainage, and utility improvements, subject to their respective jurisdictions.
- (c) Financial Guarantees. When public improvements are required, the petitioner or authorized representative shall post performance and maintenance guarantees for such improvements. Such financial guarantees shall be submitted, reviewed, and approved per Chapter 20.09, Surety Standards.
- (d) Private Streets. All private streets shall be constructed to the public street standards set forth in Chapter 20.07, Design Standards and the ~~city engineering~~ **planning and transportation** department standards.
- (e) Street Connectivity. Public and private streets shall adhere to the connectivity requirements as set forth in Chapter 20.07, Design Standards.
- (f) Street Names. The names of all new public and private streets are subject to approval by the ~~city engineering~~ **planning and transportation** department in compliance with Emergency-911 street naming procedures and Chapter 20.07, SN (Street Name Standards).
- (g) Manufactured or Mobile Home Park. Manufactured or mobile home park infrastructure shall be installed in accordance with Indiana Code 16-41-27-1 et seq., Rule 410 IAC 6-6 and their

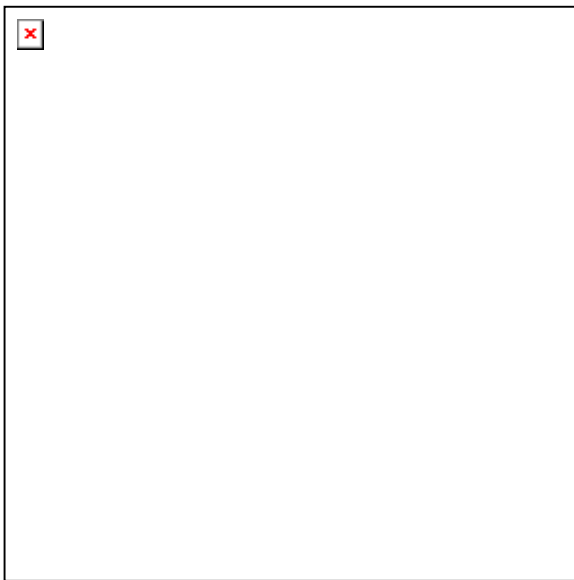
subsequent amendments, the State Board of Health requirements, and the requirements of this title.

**20.05.079 SI-01 (Sign standards—General).**

Purpose. The intent of these sign standards is to:

- A. Accomplish the goals of the growth policies plan;
- B. Avoid unnecessary proliferation of signs;
- C. Provide developments with appropriate identification;
- D. Create a consistent streetscape;
- E. Maintain and enhance the aesthetic environment of the city and its planning jurisdiction;
- F. Eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and
- G. Promote the health, safety, and welfare of the residents of the city of Bloomington and its planning jurisdiction.

This sign standards section applies to the following zoning districts:



- (a) Permit Required. A sign permit shall be required for all signs located, erected, constructed, reconstructed, moved, or altered unless specifically exempted by this chapter.
- (b) Nonconforming Signage. All existing nonconforming signage is subject to the provisions of Chapter 20.08, Nonconforming Lots, Sites, Structures and Uses.
- (c) Sign Measurements. Sign height and sign area measurements shall be calculated as follows:

- (1) The area of wall signs shall be calculated as the smallest regular geometric figure needed to circumscribe any logos, text, or other identifying trait placed on a structure.
  - (2) The area of freestanding signs shall be calculated as the smallest regular geometric figure needed to circumscribe the sign, exclusive of supporting structures.
  - (3) 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.
- (d) **Double-faced Signs.** For all freestanding and projecting 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) **Maintenance.** All signs and components thereof shall be kept in good repair and in safe, clean, neatly painted, and working condition.
- (f) **Abandoned Sign Structures.** On any site where the use has been abandoned for a period of six months or greater, all sign structures, including all poles, frames, supports, and other structural, electrical, mechanical, and other elements, shall be removed by the owner of the premises upon which it is located.
- (g) **Miscellaneous Signs.** The following signs are exempt from permit requirements:
- (1) **Public Signs.** Public signs erected by or on the order of a public officer in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs; signs to indicate transit stops; memorial plaques; signs of historical interest; and signs directing people to public and quasi-public facilities or events.
  - (2) **Private Signs.** Any permanent sign of not more than one and one-half square feet in area.
  - (3) **Flags.** Flags of any nation, state, county, city, university, college, military organization, or place of worship.
  - (4) **Murals.** Murals without a commercial message.
  - (5) **Window Signs.** Window signs shall be subject to the following standards:
    - (A) **Residential Uses.** Window signs are not permitted for residential uses.
    - (B) **Signage Allotment.** Window signs displayed in ground floor windows shall not count toward the wall signage allotment of the use. Window signs displayed in windows on floors above the ground floor shall count toward the wall signage allotment of the use and shall not be exempt from permit requirements.
    - (C) **Area.** Window signage shall not exceed twenty-five percent of the glass area of any individual window pane.
  - (6) **Directional Signs.** Directional signs shall be subject to the following standards:
    - (A) **Area.** Signs shall not exceed four square feet in area per side.

- (B) Height. Signs shall not exceed forty-two inches in height above the ground.
- (7) Construction Signs. Construction signs shall be subject to the following standards:
  - (A) Nonresidential, Multifamily, and Single-family Subdivision Projects. Signs shall not exceed twenty-four square feet in area per side.
  - (B) Individual Single-family Lots. Signs shall not exceed five square feet in area per side.
  - (C) Number. Individual contractors, developers, or financiers may have a maximum of one construction sign.
  - (D) Duration. Construction signs may be displayed throughout the duration of construction and shall be removed upon completion of construction.
- (8) Not-for-profit Signs. Signs advertising special events by a registered not-for-profit organization shall be subject to the following standards:
  - (A) Size. Signs shall not exceed five square feet in area per side.
  - (B) Location. Signs shall not be placed on a property unless permission is granted by the property owner.
  - (C) Duration. Signs shall be displayed no more than seven days prior to the special event and shall be removed within two days after the conclusion of the special event.
- (9) Political Signs. Political signs shall not exceed thirty-two square feet in area per side.
- (10) Real Estate Signs. Real estate signs shall be subject to the following standards:
  - (A) Commercial. Signs advertising the sale or lease of a commercial property or the sale of a multifamily property with at least fifteen units shall be limited to a single sign of a maximum of thirty-two square feet in area per side.
  - (B) Residential. Signs advertising the sale or lease of single-family properties or multifamily properties with less than fifteen units shall be limited to a single sign of a maximum of five square feet per side.
  - (C) Open House Signage.
    - (i) Off-site signage directing the public to an open house is permitted on Friday, Saturday and Sunday of the event weekend.
    - (ii) Individual open house signs shall not exceed five square feet in area per side.
    - (iii) Signage must be placed with the owner's permission.
    - (iv) Signs shall only be placed at corner locations.
    - (v) All open house signage shall be removed the same day that the event ends.
- (11) Street Addresses. Every building shall have its numerical street address posted as follows:

- (A) Single-Family Residential Structures:
  - (i) Street address displays shall consist of Arabic numerals (e.g., 1, 2, 3...) no less than three inches in height.
  - (ii) Street address displays shall be placed on the front of the structure and on the mailbox post where mailboxes are located along the street.
- (B) Multifamily Structures:
  - (i) Street address displays shall consist of Arabic numerals (e.g., 1, 2, 3...) no less than five inches in height and no more than ten inches in height.
  - (ii) Street address displays shall be placed above all exterior entrances visible from a public street, private drive, or parking lot.
- (C) Nonresidential Structures:
  - (i) Street address displays shall consist of Arabic numerals (e.g., 1, 2, 3...) no less than eight inches in height.
  - (ii) Street address displays shall be placed above all exterior entrances visible from a public street, private drive, or parking lot.
- (D) Legibility. All street addresses shall contrast with the color of the surface on which they are mounted, shall consist of reflective materials, and shall be clearly visible and identifiable from the street.
- (h) Prohibited Sign Types. The following signs are prohibited in all zoning districts unless specifically authorized by another section of this title:
  - (1) Animated Signs. Signs that utilize any motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.
  - (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 Official Signs. Signs that purport to be, are in imitation of, or resemble an official traffic sign or signal or which bear the words "Stop," "Slow," "Caution," "Danger," "Warning" or similar words.
  - (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 as provided in Section 20.05.079(g)(8) Not-for-profit Signs and Section 20.05.079(g)(10)(C) Open House Signage.
  - (5) Vehicle Signs. Signs placed on inoperable or unlicensed vehicles parked on public or private property for the apparent purpose of displaying the sign. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not include those displayed on vehicles which are customarily used for transporting persons or properties, and on vehicles parked at a driver's place of residence during nonbusiness hours or for incidental purposes.
  - (6) Intermittent Lights. Signs that have intermittent blinking, flashing, or fluttering lights, including any device which has a changing light intensity, brightness of

color, or gives such illusion. Strobe lights shall be considered intermittent lights for the purposes of subsection (h)(6) of this section.

- (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 20.05.080, SI-02 (Sign standards—Temporary signs), including, but not limited to, pennants, streamers, balloons, inflatable signs, spinners, and banners, except when specifically permitted in Section 20.05.080: SI-02 (Sign standards—Temporary signs).
- (9) Projecting Signs. Any sign that projects outward from the facade of a building in excess of twelve inches, except as provided in Section 20.05.084, SI-06 (Sign standards—Commercial limited) and Section 20.05.085, SI-07 (Sign standards—Commercial downtown).
- (i) Prohibited Sign Locations. Signs shall not be installed at any of the following locations:
  - (1) Public Easement. In any public utility easement, unless authorized by the city.
  - (2) Public Right-of-way. In any public right-of-way, except as provided in subsection (g)(1), Public Signs above.
  - (3) Roofs. On the roof of a structure, or extending above the eave, roof line or parapet of a building.
  - (4) Vision Clearance Triangle. Within a vision clearance triangle as specified in this chapter.
  - (5) Miscellaneous. On any traffic control signs, highway construction signs, fences, utility poles, street signs, trees or other natural objects.
- (j) Design Standards.
  - (1) Freestanding Signs. All freestanding signs shall be designed as follows:
    - (A) Setback. All freestanding signs shall be set back a minimum of two feet from the front property line.
    - (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 forty percent of the total horizontal width of the sign; or have supports that are less than twenty five 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 eighteen inches above the height limit specified in this chapter. The decorative cap shall have no identifying text, logos, or identifying traits.
    - (E) Landscaping: For any new freestanding sign, a landscaped area located around the entire base of a freestanding sign is required. The landscaped area shall

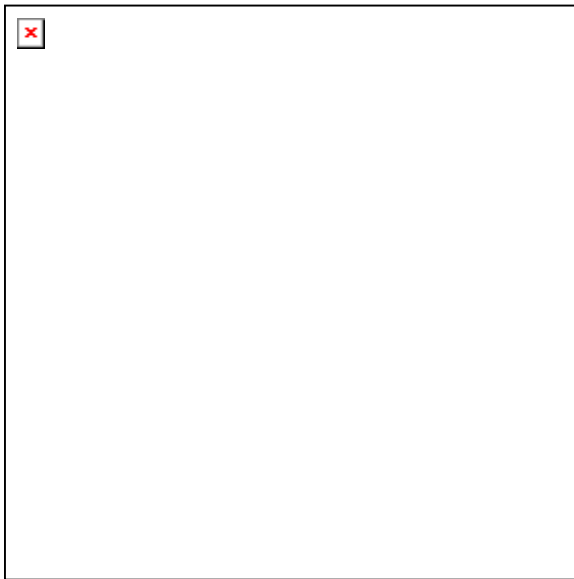


contain materials consisting of shrubs, spread no greater than three feet on center, and densely planted perennial ground cover. The landscaped area shall be greater than or equal to the freestanding sign face area.

- (F) Illumination. Sign lighting shall abide by the light trespass regulations in this chapter.
  - (G) Changeable Copy. Unless specified otherwise in this unified development ordinance, freestanding signs may incorporate areas for changeable copy, provided that the changeable copy area does not exceed forty percent of the total sign area.
- (2) Electronic Reader Boards. Electronic reader boards may be incorporated into freestanding or wall signage. Information may be displayed in increments of no less than twenty seconds. Electronic reader boards shall not comprise more than forty percent of the total area of any sign face.
- (k) Waiver of Right to Damages.
- (1) The plan commission, the board of zoning appeals, and the ~~planning~~ staff 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 application 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 applicant;
    - (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 applicant shall be responsible for obtaining waivers from all persons listed in subsection (k)(2) of this section.
  - (4) An owner or applicant who fails to provide and/or to obtain waivers in accordance with this section may be denied a permit or approval seeking to alter or remove a lawfully erected sign unless the owner or applicant agrees to hold harmless and indemnify the city from any and all claims for damages pursuant to the statutes referenced in subsection (k)(1) of this section.

**20.05.080 SI-02 (Sign standards—Temporary signs).**

This sign standards section applies to the following zoning districts:



RE RS RC RM RH MR CL CG CA CD IG BP IN MD QT

- (a) Nonresidential Uses and Multifamily Complexes. Conforming nonresidential uses and multifamily complexes with at least fifteen dwelling units are permitted to display temporary signage as follows:
  - (1) Area. Temporary signs shall not exceed sixteen square feet in area per side.
  - (2) Height. Freestanding temporary signs shall not exceed six feet in height above the ground.
  - (3) Type. Temporary sign types shall be limited to printed banners or freestanding, portable signs.
  - (4) Lighting. External illumination of temporary signs shall be prohibited.
  - (5) Number.
    - (A) Individual nonresidential uses shall be permitted a maximum of three temporary signs.
    - (B) Multifamily complexes with at least fifteen units shall be permitted a maximum of three temporary signs.
    - (C) Individual tenants within nonresidential centers shall be permitted a maximum of one temporary sign.
  - (6) Display Periods. Temporary signs shall be permitted for the following durations:
    - (A) Display of temporary signs shall be permitted for three periods of up to thirty days per period, per calendar year.
    - (B) All temporary signs shall receive a sign permit from the planning and transportation department prior to being displayed.

(C) The three temporary sign display periods provided in subsection (k)(5)(A) above may be combined, provided that a separate permit is obtained for each display period.

(7) Grand Opening Events.

(A) New businesses, including multifamily complexes of fifteen units or greater, shall be permitted a single grand opening event sign display during which the number, type and size of temporary signs shall not be limited.

(B) Grand opening event sign displays shall not exceed thirty consecutive days, and shall count as one (1) of the permitted display periods as described in subsection (a)(5)(A) above.

(b) Nonresidential Uses in Residential Districts. Temporary signs are not permitted for home occupations and legal nonconforming uses in residential districts.

(c) Temporary Retail Uses. Temporary signage for approved temporary retail uses, such as seasonal sales, shall be subject to the requirements of Section 20.05.110(i).

**20.05.093 SC-07 (Special conditions—Crops and pasturage, and accessory chicken flocks).**

This special conditions standards section applies to the following zoning districts:



(a) Crops and Pasturage—RE Zoning District.

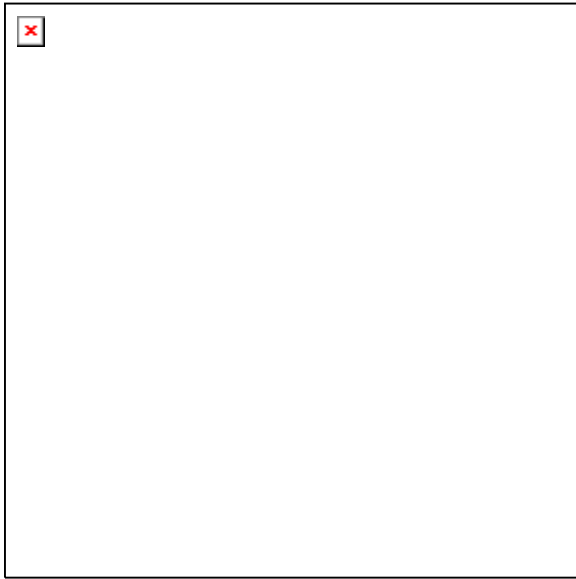
(1) Livestock shall be permitted only in a pasturage context. Pasture use shall be limited to one animal unit per acre of land actually used as pasture and accessible to the livestock.

Land with slope in excess of fifteen percent shall not be considered in determining the total pasture size, and shall not be utilized for pasture purposes.

- (2) Animal units per animal shall be determined as follows:
    - (A) All larger animals, including cattle, horses, swine, ponies, etc., shall equal one animal unit;
    - (B) Goats, sheep, miniature horses, etc., shall equal 0.5 animal unit;
    - (C) All smaller animals including fowl shall equal 0.2 animal unit; and
    - (D) All animals less than four months of age shall be calculated at one-half the unit value of their respective category above.
  - (3) All other agricultural businesses involving livestock are prohibited, including but not limited to concentration points, confined feeding, feedlots, feeder pig operations, livestock auctions, livestock dealers, sale barns, stock yards, and transfer stations.
  - (4) Livestock shall not be kept on any parcel of less than five acres in area and three hundred feet in width, except that chickens and ducks may be kept within the density limits on parcels of two acres or more.
  - (5) Structures containing livestock or livestock waste shall meet the following minimum setbacks:
    - (A) Front setback: seventy-five feet;
    - (B) Side setback: fifty feet;
    - (C) Rear Setback: seventy-five feet.
- (b) Accessory Chicken Flocks—RE and RS Zoning District.
- (1) One chicken flock may be kept as a use accessory to a permitted residential use, provided that such use is permitted by Title 7 of the Bloomington Municipal Code, as it may hereafter be amended, and further provided that such use complies with all regulations of Title 7 of the Bloomington Municipal Code, as it may hereafter be amended. Such regulations of Title 7 of the Bloomington Municipal Code are expressly incorporated herein by reference. In areas that are subject to this title but not within the corporate boundaries of the city of Bloomington, the planning and transportation department shall administer and enforce such regulations.

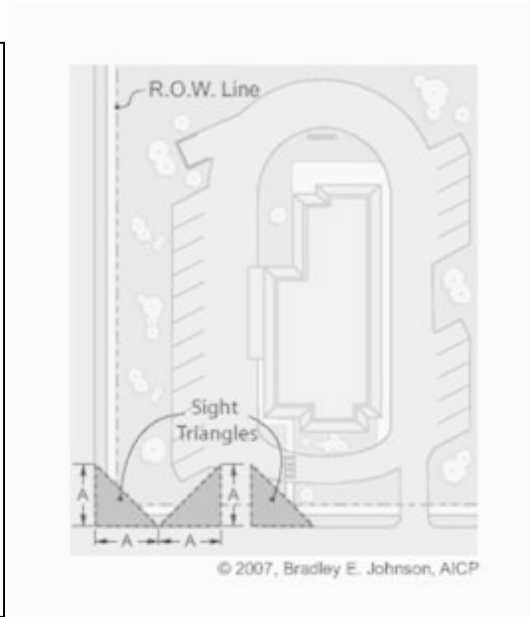
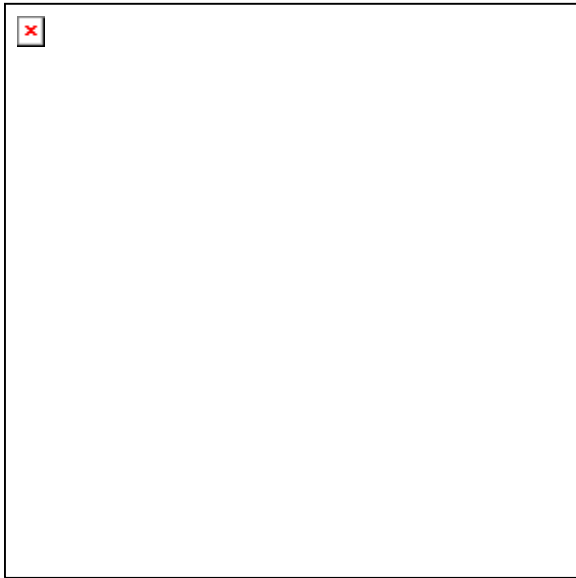
**20.05.112 VC-01 (Vision clearance—General).**

This vision clearance standards section applies to the following zoning districts:



RE RS RC RM RH MH CL CG CA CD IG BP IN MD QY

- (a) Vision Clearance Triangle. A vision clearance triangle shall be maintained at every street intersection.
  - (1) For the purposes of this chapter intersections shall include alley and driveway intersections with streets;
  - (2) Vision clearance triangles for alley and driveway intersections may be reduced upon a determination by the city ~~engineering~~ planning and transportation department that such a reduction would not interfere with the safety of the intersection.
- (b) Vision Clearance Triangle Leg Lengths. The vision clearance triangle leg lengths shall be as specified in the most current edition of the policy on geometric design of highways and streets published by the American Association of State Highway and Transportation Officials. Deviation from these standards shall require written approval from the city ~~engineering~~ planning and transportation department.

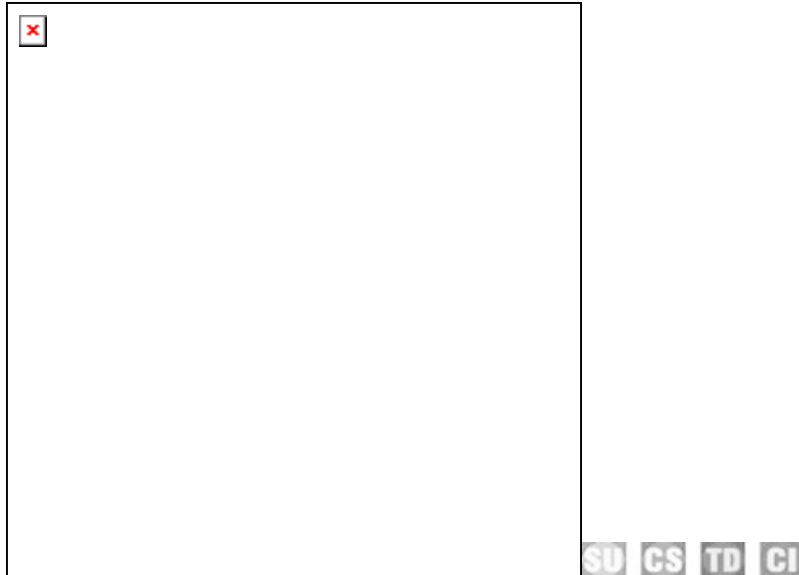


- (c) Vertical Clear Area. No primary or accessory structures, landscaping, fences, walls or signs are allowed to be placed in or to project into the vision clearance triangle between the heights of two and one-half feet and nine feet above the crown of the adjacent street.

## Chapter 20.07, Design Standards

### 20.07.040 AL-01 (Alley standards).

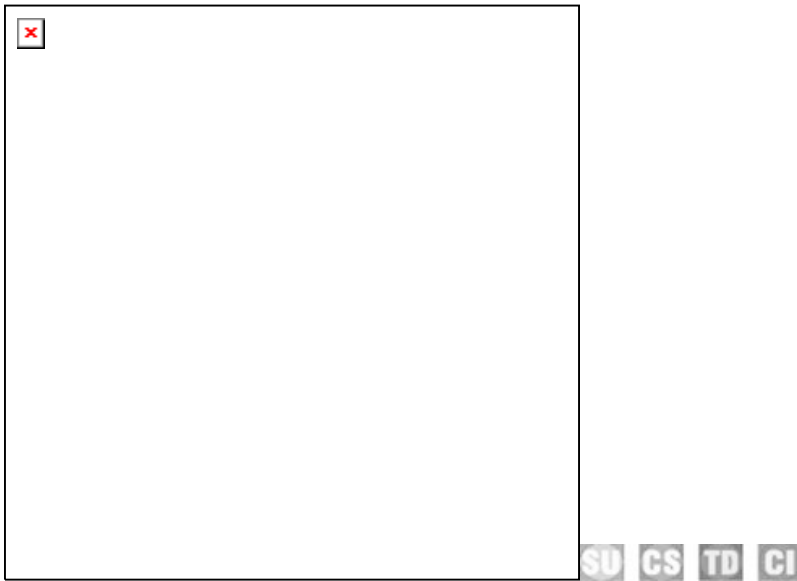
This alley standards section applies to the following types of development:



- (a) General. Alleys are considered an essential part of a traditional neighborhood design; therefore, they shall be integrated into the overall design of traditional neighborhood subdivisions. In other types of subdivisions, alleys may be utilized where they are compatible with surrounding residential development patterns.
- (b) Right-of-way. Alleys shall be public with a minimum of twenty feet of right-of-way.
- (c) Pavement Width. Alleys shall have a minimum of fourteen feet of pavement width.
- (d) Curb. Alleys are not required to have a curb.
- (e) Alley Intersections. Alley intersections with public streets shall not exceed twenty degrees from perpendicular to said streets.
- (f) Minimum Corner Radius. The minimum corner radius at any alley intersection with a public street shall be ten feet.
- (g) Alley Construction. All alleys are to be constructed per standards of the city ~~engineering~~ planning and transportation department.

**20.07.070 EA-01 (Easement standards).**

This easement standards section to the following types of development:



- (a) General. All proposed plats submitted for approval under the provisions of Chapter 20.06, Subdivision Regulations shall allocate sufficient easement areas for features including, but not limited to drainage, utilities, tree preservation, environmental conservation, pedestrian access, vehicular access, and transit facilities, wherever necessary. All easements and corresponding utility location plans shall be approved prior to the approval of the plat. For features required to be in an easement but not required to be within common area, maintenance shall generally be the responsibility of the lot owner, except as expressly provided otherwise in this title or in the development approval. A grant of authority to the city to enter upon an easement for purposes of inspection, maintenance and/or repair of a feature within the easement shall not be construed as relieving the owner or owners of such responsibility. A facilities plan shall also be provided in accordance with Section 20.07.090, FC-01 (Facilities plan standards).
- (b) Recording of Easements. All necessary easements shall be clearly identified on final plats and shall be recorded per processes as defined within Chapter 20.09, Processes, Permits and Fees of the Unified Development Ordinance and shall include a definition consistent with subsection (e), Easement Types, of this section.
- (c) Existing Easements. All proposed plats shall clearly identify all existing easements on the property, including dimensions, bearings, and recorded instrument numbers.
- (d) Environmental Features. All areas that are determined not to be developable per Chapter 20.05, EN (Environmental Standards) shall be placed within preservation/conservation easements on the plat.
- (e) Easement Types. Unless specifically defined on an approved plat or by condition of plat approval, the following requirements shall apply to these easements:
  - (1) Sanitary Sewer Easement.



- (A) Shall allow the city utilities department exclusive access for installation, maintenance, repair, or removal of sanitary sewer facilities.
  - (B) Encroachment by other utilities is prohibited, unless such encroachment is approved by the city utilities department in conjunction with the preliminary plat. Upon written permission from the city utilities department, encroachments may be permitted after the recording of the final plat.
  - (C) Trees and structures including, but not limited to, buildings, fences, retaining walls, signs, and light fixtures, shall not be located within sanitary sewer easements.
  - (D) Grading activity shall be prohibited within sanitary sewer easements without written permission from the city utilities department.
- (2) Waterline Easement.
- (A) Shall allow the city utilities department exclusive access for installation, maintenance, repair, or removal of potable water facilities.
  - (B) Encroachment by other utilities is prohibited, unless such encroachment is approved by the city utilities department in conjunction with the preliminary plat. Upon written permission from the city utilities department, encroachments may be permitted after the recording of the final plat.
  - (C) Trees and structures including, but not limited to, buildings, fences, retaining walls, signs, and light fixtures, shall not be located within waterline easements.
  - (D) Grading activity shall be prohibited within waterline easements without written permission from the city utilities department.
- (3) Drainage Easement.
- (A) Shall be required for any surface swales or other minor improvements that are intended for maintenance by the lots on which they are located.
  - (B) Shall prohibit any alteration within the easement that would hinder or redirect flow.
  - (C) Shall provide that the owner of the lot on which the easement is placed shall be responsible for maintenance of the drainage features within such easement.
  - (D) Shall be enforceable by the city utilities department and by owners of properties that are adversely affected by conditions within the easement.
  - (E) Shall allow the city utilities department to enter upon the easement for the purpose of maintenance, to charge the costs of such maintenance to the responsible parties, to construct drainage facilities within the easement, and to assume responsibility for the drainage features at its discretion.
- (4) Utility Easement.
- (A) Shall allow both private and public utility providers access associated with the installation, maintenance, repair, or removal of utility facilities.
  - (B) Prohibits the placement of any unauthorized obstruction within the easement area.
- (5) Pedestrian Easement.

- (A) Grants the general public the right to access the pedestrian easement for purposes of walking, running, bicycling, skating, or utilizing certain classes of nonmotorized vehicles.
  - (B) Grants the city the right to construct, alter, repair, maintain, or remove improvements within the easement area.
  - (C) Prohibits the placement of any obstruction within the pedestrian easement.
- (6) Transit Facility Easement.
- (A) Grants the public transit authority the right to construct, alter, repair, maintain, or remove structures to be used for awaiting, boarding, or exiting public transportation.
  - (B) Grants the general public the right to utilize the transit facility easement for the purposes of awaiting, boarding, or exiting public transportation.
  - (C) Prohibits anyone other than the public transportation authority from placing any structures within the transit facility easement.
- (7) Karst Conservancy Easement.
- (A) Prohibits any land-disturbing activities, including the placement of a fence, within the easement area. Mowing is allowed within the easement area.
  - (B) Allows the removal of dead or diseased trees that pose a safety risk or impede drainage as well as allowing the removal of exotic invasive species, only after first obtaining written approval from the planning and transportation department.
  - (C) Grants the city the right to enter the property to inspect the easement and alter or repair the karst feature.
  - (D) All Karst Conservancy Easements shall be identified with signs located along the boundary of the easement. Signs shall be placed at intervals of no more than two hundred feet, and each sign shall be a maximum of one and one-half square feet in area. A minimum of one sign is required, regardless of easement size.
  - (E) Any use of pesticides, herbicides, or fertilizers is prohibited within the easement area.
  - (F) Allows, in cases where removal of exotic invasive species is proposed, the restoration of disturbed areas with native plant material. Written approval from the planning and transportation department is required prior to any proposed restoration.
- (8) Tree Preservation Easement.
- (A) Prohibits the removal of any tree over six inches dbh within the easement area.
  - (B) Allows the removal of dead or diseased trees that pose a safety risk or impede drainage as well as allowing the removal of exotic invasive species, only after first obtaining written approval from the planning and transportation department.
  - (C) All tree preservation easements shall be identified with signs located along the boundary of the easement. Signs shall be placed at intervals of no more than two

hundred feet, and each sign shall be a maximum of one and one-half square feet in area. A minimum of one sign is required, regardless of easement size.

- (D) Allows, in cases where removal of exotic invasive species is proposed, the restoration of disturbed areas with native plant material. Written approval from the planning and transportation department is required prior to any proposed restoration.

(9) Tree Conservation Easement.

- (A) Prohibits the removal of any tree and the placement of a fence within the easement area.
- (B) Allows the removal of dead or diseased trees that pose a safety risk or impede drainage as well as allowing the removal of exotic invasive species, only after first obtaining written approval from the planning and transportation department.
- (C) All tree conservation easements shall be identified with signs located along the boundary of the easement. Signs shall be placed at intervals of no more than two hundred feet, and each sign shall be a maximum of one and one-half square feet in area. A minimum of one sign is required, regardless of easement size.
- (D) Allows, in cases where removal of exotic invasive species is proposed, the restoration of disturbed areas with native plant material. Written approval from the planning and transportation department is required prior to any proposed restoration.

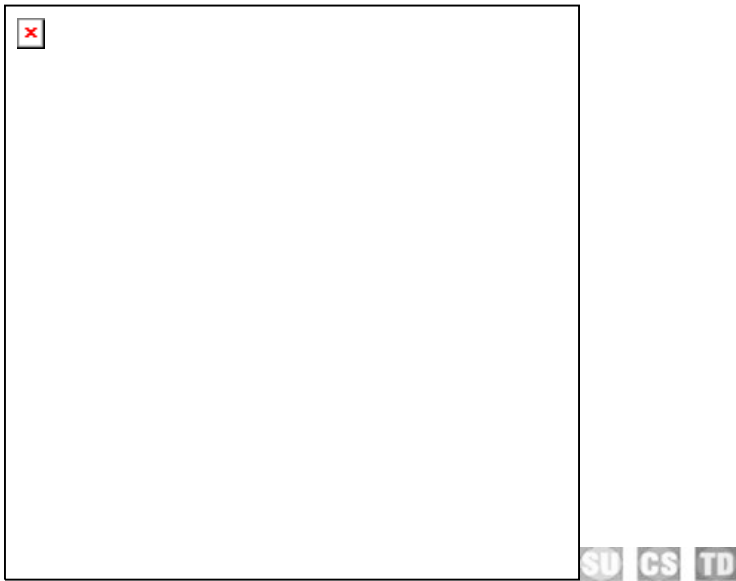
(10) Conservancy Easement.

- (A) Prohibits any land-disturbing activities including the placement of a fence, or alteration of any vegetative cover, including mowing, within the easement area.
- (B) Allows the removal of dead or diseased trees that pose a safety risk or impede drainage as well as allowing the removal of exotic invasive species, only after first obtaining written approval from the planning and transportation department.
- (C) All conservancy easements shall be identified with signs located along the boundary of the easement. Signs shall be placed at intervals of no more than two hundred feet, and each sign shall be a maximum of one and one-half square feet in area. A minimum of one sign is required, regardless of easement size.
- (D) Allows, in cases where removal of exotic invasive species is proposed, the restoration of disturbed areas with native plant material. Written approval from the planning and transportation department is required prior to any proposed restoration.

(11) Other. Other easements may be required by the plan commission to preserve features or functions unique to a given property and shall be defined on the recorded plat.

**20.07.090 FC-01 (Facilities plan standards).**

This facilities plan standards section applies to the following types of development:



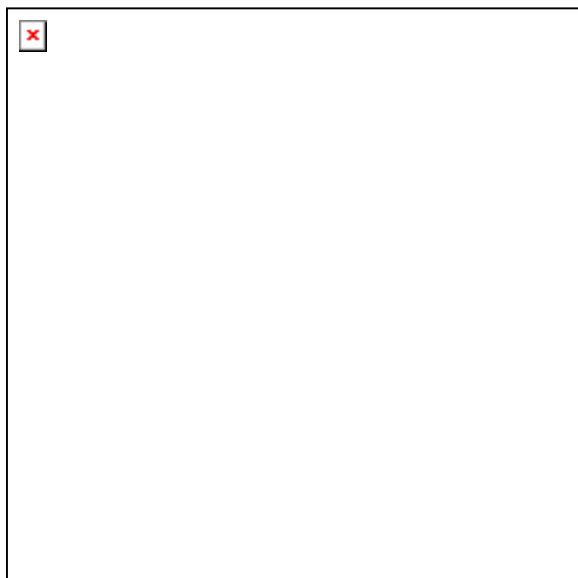
- (a) General. All developments shall be governed by facilities plans for all property held in common area, privately-owned open space, or easements. Facilities plans shall designate all facilities, features, ownership, and future maintenance responsibilities for those areas.
- (b) Applicability. All subdivisions that are required to provide environmental preservation/conservation easements, drainage easements, common areas or commonly-owned engineered and built drainage facilities (including, but not limited to detention/retention ponds) shall be required to submit a facilities plan.
- (c) Facilities Plan Requirements.
  - (1) Index Map. A map shall be provided that clearly indicates ownership and maintenance responsibilities of all common areas, privately-owned open space, easements, and development amenities.
  - (2) Definition of Easements. All easements shall be defined if different than the standard definitions of this chapter.
  - (3) Amenity Package. Subdivisions of greater than seventy-five residential lots or more than twenty acres shall provide proposed development amenities for approval by the plan commission. The amenity package must include an accessible, centrally located common area of at least five percent of the total acreage. Active recreation facilities such as playgrounds, recreational courts, and gathering space shall be installed and maintained within this common area. All land set aside to meet the common area requirements of subsection (c)(3) of this section shall also count toward fulfillment of any other applicable open space requirements of this title.
  - (4) Responsible Parties. The covenants, commitments and restrictions for any subdivision that are required to include commonly-owned engineered or built drainage facilities,

including but not limited to detention/retention ponds, shall be made binding upon all owners of lots in the subdivision and shall:

- (i) Establish an owners' association responsible for arranging and bearing the costs of maintenance and repair of such facilities.
  - (ii) Provide that individual owners shall have responsibility and liability for such maintenance and repair in the event the association becomes insolvent, ceases to exist, or for any reason fails or refuses to perform such obligations.
  - (iii) Allow the city or other appropriate governmental authority to perform or have performed any necessary work or maintenance upon such facilities, in the event the owners and/or the association fail to act, and allow the city or other authority to recover its costs by assessing same equally to the lot owners and by placing a lien upon any lot where payment is not made in a timely manner.
- (d) Approval. The plan commission shall review and approve all required facilities plans to determine the adequacy of amenity packages (where applicable), maintenance plans, and identification of responsible parties.
- (e) Modification to Facilities Plan. The planning and transportation director may approve minor modifications to an approved facilities plan.
- (f) Recording. The facilities plan shall be recorded in conjunction with the approved final plat.

**20.07.120 OG-01 (On-street parking standards).**

This on-street parking standards section applies to the following types of development:

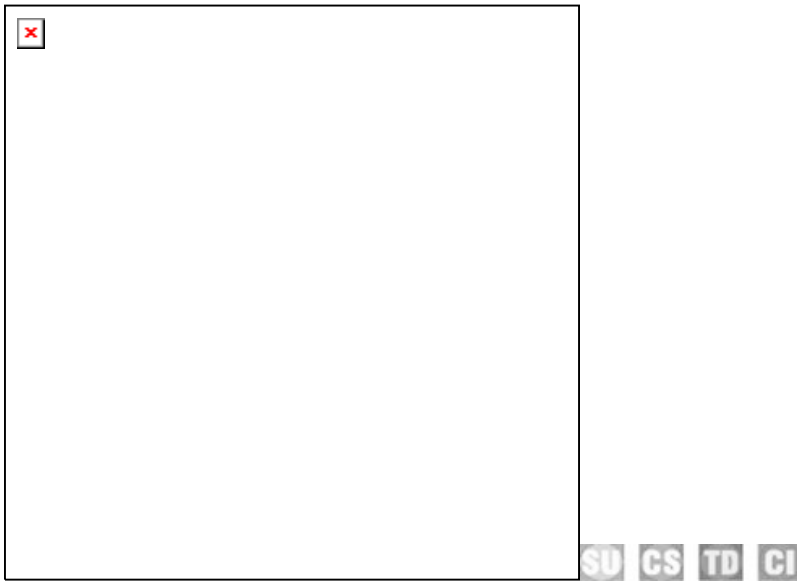


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- (a) General. All developments with on-street parking shall meet the standards within this section.
- (b) On-street Parking Requirements.
  - (1) Striping. All on-street parking installed in commercial or industrial areas shall be striped to indicate each parking space. Stripes shall be perpendicular to the curb, be at least eight feet long, and be spaced at least twenty-two feet apart. An on-street parking space located at the end of a row of spaces may be shortened to twenty feet in length. T-markings may also be permitted to mark spaces. No parking spaces shall be placed within thirty feet of an intersection, or greater if indicated by the city ~~engineering~~ planning and transportation department.
  - (2) No Parking Signs. Any side of a street where parking is not permitted shall have signs noting such restrictions placed at least every one hundred fifty feet.
- (c) Bump-outs.
  - (1) Bump-outs may be required at street intersections where on-street parking is utilized.
  - (2) Bump-outs shall use a six inch standing curb.
  - (3) Bump-outs shall be designed to extend a minimum of eight feet from the curb line and may not reduce the travel lane widths below the standards of the master thoroughfare plan.
  - (4) Bump-outs shall be installed at angles greater than ninety degrees away from the street curb to facilitate street maintenance. Bump-out designs shall be subject to review by the ~~city~~ transportation and traffic engineer.

**20.07.140 PN-01 (Pedestrian network standards).**

This pedestrian network standards section applies to the following types of development:



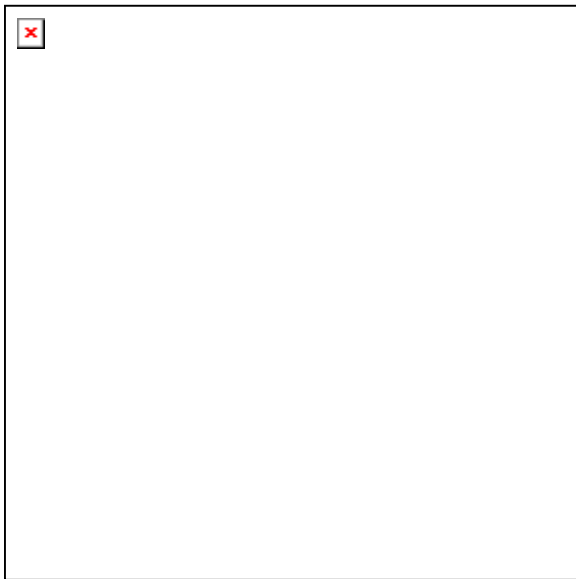
- (a) General. All developments shall integrate an interior and exterior pedestrian network comprised of concrete sidewalks or asphalt paths for pedestrian transportation and recreation. This network must include pedestrian facilities along street frontages, multiuse trails where indicated on the bicycle and pedestrian transportation and greenways system plan, and pedestrian connector paths between developments and public destinations (e.g., schools, parks, hospitals), nearby trails, other developments, and vacant land.
- (b) Type of Pedestrian Facility. Required pedestrian facilities shall be as indicated in the bicycle and pedestrian transportation and greenways system plan, unless it is determined by the planning and transportation director that such facility should be altered to match adjacent facilities.
- (c) Width. The minimum width of required pedestrian facilities shall be as indicated in the bicycle and pedestrian transportation and greenways system plan unless specifically noted on the two-page layouts for each subdivision type.
- (d) Location. Except as provided below, all streets shall require pedestrian facilities on both sides of the street:
  - (1) Cul-de-sacs less than three hundred feet in length and providing access to less than ten residential units shall only be required to install pedestrian facilities on one side of the street. All other required trails and connector paths shall still be required.
- (e) Placement. To the extent possible, all required sidewalks shall be located one foot inside the right-of-way to be dedicated to the city. If utility poles, trees, or other physical characteristics complicate installation, then the sidewalk or path may extend into individual lots or common area if the area of encroachment is placed within a pedestrian easement.
- (f) Minimum Tree Plot Width. All sidewalks shall be spaced away from the back of curb to provide a tree plot and to provide pedestrian separation from vehicles. This minimum

distance shall be as indicated in the master thoroughfare plan. Except as specified elsewhere in this title, tree plots may not be less than five feet and must be planted with grass.

- (g) Administrative Waiver. When the petitioner can demonstrate the acceptability of waiving or altering certain design standards relating to pedestrian facilities, it may be the ruling of the planning and transportation director, ~~after consultation with the city engineering department,~~ that such standards be altered.
- (h) Sidewalk or Path Construction. All concrete sidewalk and asphalt path improvements are to be constructed as per ~~city engineering~~ planning and transportation department requirements.

**20.07.160 SR-01 (Street and right-of-way standards).**

This street and right-of-way standards section applies to the following types of development:



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- (a) General. All developments submitted for subdivision approval shall allocate adequate areas for new streets in conformity with the Unified Development Ordinance and master thoroughfare plan.

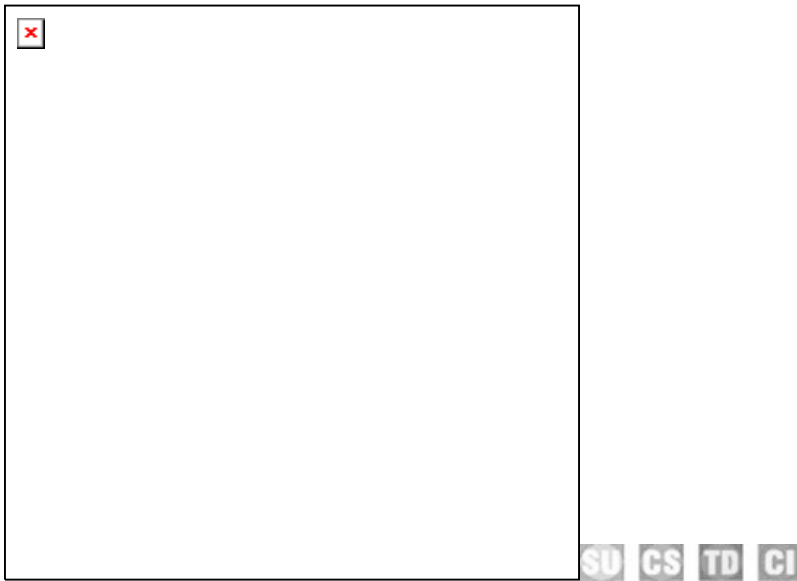


- (b) Private Streets. Unless waived by the plan commission and the board of public works, private streets are not permitted. All proposed streets shall have right-of-way dedicated as indicated on the master thoroughfare plan.
- (c) Street Design Principles.
  - (1) General Street Layout. Streets shall be laid out on the parent tract:
    - (A) In an orderly and logical manner;
    - (B) To provide connectivity to adjacent parcels;
    - (C) To provide pedestrian and vehicular safety; and
    - (D) To provide reasonably direct access to the primary circulation system.
  - (2) Topographical Consideration. Streets shall be adjusted to the contour of the land so as to minimize cutting and filling activity on natural terrain.
  - (3) Design Speed. The maximum design speed for streets shall be in accordance with AASHTO and ~~city engineering~~ planning and transportation department requirements.
  - (4) Connectivity. All developments shall provide stub streets to connect to adjacent properties.
    - (A) Where the development abuts undeveloped land, the final number and location of stub streets shall be determined by the plan commission.
    - (B) Where the development abuts land that has established stub streets, built or platted, the petitioner shall design the street system to connect to those stub streets.
  - (5) Stub Streets. Stub streets shall be constructed at the same time the other streets are built within the development.
    - (A) Temporary turnaround areas which can be surfaced with asphalt, concrete, permeable pavers or crushed stone may be required to provide safe turnaround for emergency vehicles. Such areas shall be located within dedicated street rights-of-way and shall be removed when stub streets are further extended.
    - (B) A permanent sign shall be installed at the terminus of the stub street stating clearly that the street will connect to future development.
  - (6) Gated Entrances. Gated entrances are not permitted.
  - (7) Boulevard Entrances. All developments (residential and nonresidential) of more than twenty acres shall have a boulevard entrance extending at least fifty feet from the perimeter street's right-of-way. The width of the median shall be a minimum of ten feet.
  - (8) Intersections. All intersections of two streets shall be within fifteen degrees of perpendicular as measured at the street centerlines. Intersections of more than two streets at one point shall not be permitted. Neighborhood street intersections with center line offsets of less than one hundred twenty-five feet shall not be permitted.
  - (9) Right-of-way Width. The minimum right-of-way width shall be as indicated on the master thoroughfare plan unless specified otherwise in this title.

- (10) Street Width. The minimum street pavement width shall be as indicated on the master thoroughfare plan. Street width shall be determined by measuring from back of curb to back of curb unless specified otherwise in this title.
- (11) Curb Type.
  - (A) Residential subdivisions (attached and detached units) may utilize rolled or straight curbs.
  - (B) Nonresidential subdivisions are required to utilize straight curbs.
- (12) Cul-de-sac Length. The maximum cul-de-sac length shall be as indicated on the two-page layout for each type of subdivision.
- (13) Cul-de-sac Terminus. The terminus of each cul-de-sac shall be a round bulb, large enough to accommodate the largest fire truck in service within the city.
- (14) Permanent Dead-end Streets. Dead-end streets are prohibited. Dead-end streets do not include cul-de-sacs or stub streets.
- (15) Eyebrows. Eyebrow street designs shall be permitted for residential subdivisions only and constructed for one-way traffic with an island in the middle which contains a sidewalk for pedestrians to efficiently and safely travel on the pedestrian network. No parking is allowed within eyebrow areas.
- (16) Block Length. The maximum block length shall be as indicated on the two-page layout in this chapter for each type of subdivision.
- (17) Pavement Thickness. The minimum street pavement thickness shall be determined by the board of public works based on the street's classification in the master thoroughfare plan.
- (d) Dedication of Right-of-way. In developments that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established in the master thoroughfare plan, the petitioner shall dedicate additional width along either one or both sides of such streets in order to bring them up to standards.
- (e) Construction and Installation Standards for Streets. All street improvements are to be designed, constructed and installed per the ~~city engineering~~ **planning and transportation** department Standards.

**20.07.180 SN-01 (Street name standards—General).**

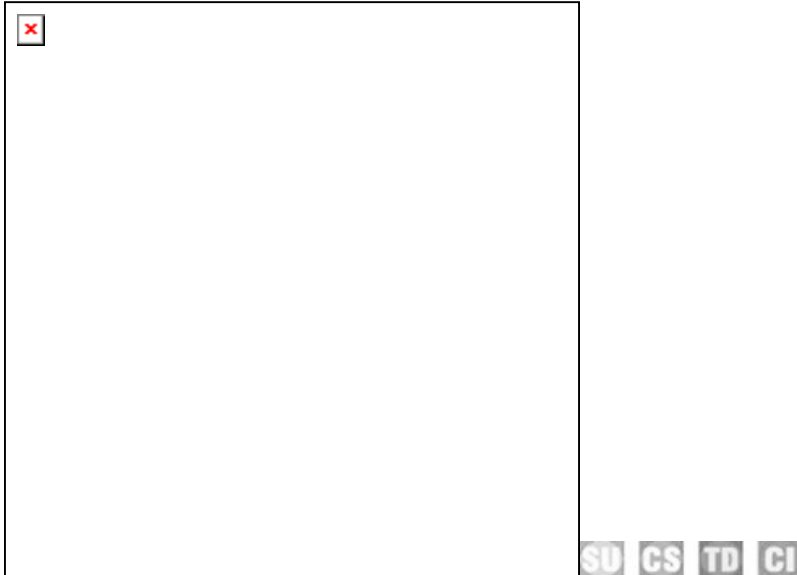
This street name standards section applies to the following types of development:



- (a) Proposed Street Name. The petitioner shall propose a unique name for each street within the development at the time of preliminary plat application.
- (b) Street Name Standards. Within the jurisdiction of this ordinance, the following standards shall apply:
  - (1) Streets which are continuations of, or obviously in alignment with, any existing streets, either constructed or appearing on a validly recorded plat, shall bear the names of such existing streets.
  - (2) The root street name (e.g., "Maple") shall not duplicate or be phonetically similar to any existing street name. The only exception to this rule is if a new street is the continuation of an existing street, in which case, the new street shall have the exact same name as the existing street.
  - (3) Deviations in suffix names (e.g., "Street", "Court", or "Avenue") shall not constitute a unique name. Therefore, if "Maple Street" exists, the name "Maple Court" shall not be permissible.
  - (4) Street address numbers for all lots shall be assigned by the ~~city engineering~~ **planning and transportation** department and shall be identified on the final plat.
  - (5) Approved street names shall be identified on the final plat.
- (c) Authority to Rename a Proposed Street. The plan commission, the board of public works, the **planning and transportation** director, ~~the city engineering department~~ or E-911 coordinator shall have the authority to require a new name to be chosen for any street. If a new name is not proposed by the petitioner, the board of public works shall have the right to rename the street prior to final plat approval.

**20.07.190 SS-01 (Street sign standards—Residential, commercial and industrial).**

This street sign standards section applies to the following types of development:



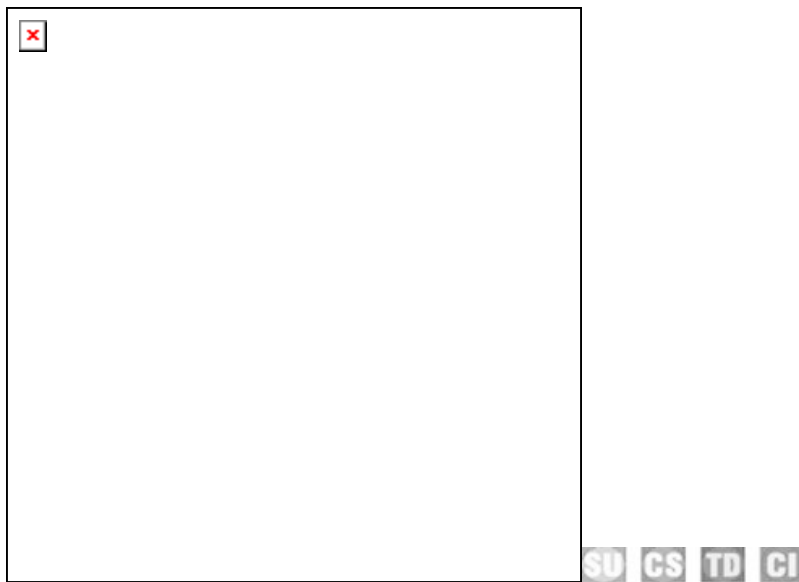
- (a) General. Each street within a residential, commercial, or industrial development shall have the minimum number of signs necessary to:
  - (1) Provide a safe environment for drivers and pedestrians; and
  - (2) Provide an information system for visitors to efficiently find a certain street, address, or development amenity.
- (b) City's Responsibilities. The city shall be responsible for disseminating specifications for the installation of all public safety related street signs, including, but not limited to: speed limit signs, stop signs, yield signs and street name signs. The city's engineering policies and nationally recognized engineering standards shall be used to determine the type, size, height and location of each of these signs required for any development.
- (c) Petitioner's Responsibilities.
  - (1) Public Safety Related Street Signs. The petitioner shall be required to install public safety related street signs prior to any street being opened to public. These signs shall be installed in the location and to the height determined by the ~~city engineering~~ **planning and transportation** department.
  - (2) Street Name Signs. The petitioner shall install a minimum of one street name sign at each street intersection within the subdivision and on all perimeter intersections. At least one sign shall be set on the most conspicuous corner of the intersections, at a point approximately six inches from the sidewalk intersection (on the street side).

- (3) Temporary Street Name Signs. The petitioner shall install temporary street name signs for any streets open to the public during construction. Such signs shall meet the location requirements specified for street name signs in subsection (a)(2), Street Name Signs above. Temporary street name signs shall be removed when permanent street name signs are installed.

**20.07.200 SD-01 (Sustainable development incentives—General).**

Purpose. The growth policies plan recognizes sustainability as a key component of nurturing Bloomington's environmental integrity. As a result, incentives are being provided to encourage the use of sustainable development practices throughout the planning jurisdiction. Implementation of these practices will help to make Bloomington a more sustainable community.

This sustainable development incentives section applies to the following types of development:



- (a) Sustainable Development Practices. The following sustainable development practices may be incorporated into a subdivision in order to achieve development standards bonuses as provided in subsections (b), Level One Incentives, (c), Level Two Incentives and (d), Level Three Incentives. Any subdivision that incorporates these practices shall indicate such inclusion at the preliminary plat stage. The reviewing authority shall determine whether any particular project meets the goals set forth herein, taking into account the combination of sustainable development practices proposed; the land use patterns, infrastructure, and transportation patterns of the surrounding area; the zoning of any developed land in the surrounding area; and other such factors as may be relevant to the individual project. Where the reviewing authority determines that the proposal meets the goals set forth herein, the reviewing authority may waive the applicable development standards and grant the bonuses set forth herein.

- (1) Goal 1. Subdivisions and developments that demonstrate exceptional efficiency in the use of energy and resources and minimize their impact on the natural environment. Examples of designs that may qualify as meeting this goal include but are not limited to the following:
  - (A) Installation of a vegetated roof covering at least fifty percent of the total roof area. Incorporation of this practice shall conform to the provisions of SS Credit 7.2: Heat Island Effect: Roof as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (B) Demonstrate a percentage improvement in the proposed building performance rating compared to the baseline building performance rating per the most current version of the LEED for New Construction Rating System as approved by plan commission. Incorporation of this practice shall conform to the provisions of EA Credit 1: Optimize Energy Performance as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (C) Incorporate non-polluting and/or renewable on-site energy sources including, but not limited to, solar, wind, geothermal, biomass and bio-gas energy sources. Incorporation of this practice shall conform to the provisions of EA Credit 2: On-Site Renewable Energy as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (D) Recycling and/or salvaging of at least fifty percent of non-hazardous construction and demolition debris. Incorporation of this practice shall conform to the provisions of MR Credit 2: Construction Waste Management as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
  - (E) Utilization of building materials or products that have been extracted, harvested or recovered, as well as manufactured, within five hundred miles of the project site for a minimum of ten percent (based on cost) of the total materials value. Incorporation of this practice shall conform to the provisions of MR Credit 5: Regional Materials as provided in the most current version of the LEED for New Construction Rating System as approved by plan commission.
- (2) Goal 2. A landscaping and site design that makes an exceptional contribution to the quality of the natural environment. Examples of designs that may qualify as meeting this goal include but are not limited to the following:
  - (A) A commitment to use permeable pavement materials for at least fifty percent of all private driveways, pathways, and parking areas.
  - (B) Use of native vegetation, permeable man-made materials, biofiltration swales, rain gardens and other conservation design techniques to convey and filter stormwater.
  - (C) Use of stormwater systems to capture and reuse at least fifty percent of stormwater for common and public space irrigation.
  - (D) Placement of all slopes of twelve percent or greater within conservancy easements to ensure that they are not developed, nor disturbed during the development of

remaining portions of the site, as well as the retention of at least ninety percent of existing tree canopy cover in compliance with Section 20.05.044(a)(2) of this title.

- (3) Goal 3. A commitment to serve, in an exceptional manner, important public policy such as pedestrian-friendly, mixed use development, affordable housing, or reduction in automobile travel. Examples of commitments that may qualify as meeting this goal include but are not limited to the following:
  - (A) A commitment to incorporate a mix of residential and nonresidential land uses either within the subdivision or within individual buildings.
  - (B) Provision of one hundred percent of the required bicycle parking spaces as either long-term Class I bicycle parking facilities or covered, Class II bicycle parking facilities, or a combination of those two bicycle parking facility types.
  - (C) Provision of automobile parking at least twenty-five percent below permitted maximums, coupled with provision of bicycle parking at least fifty percent above required minimums.
  - (D) A commitment to provide subsidized Bloomington Transit passes or the provision of a private van or shuttle.
- (4) Goal 4. A location that provides an exceptional opportunity for residents to walk or use public transit in lieu of automobile travel. Examples of locations that may qualify as meeting this goal include but are not limited to the following:
  - (A) Location of fifty percent of the proposed subdivision lots within one-fourth mile of a Bloomington Transit stop, provided that the transit facility is accessible using pedestrian facilities.
  - (B) Location of fifty percent of the proposed subdivision lots within one-fourth mile of a neighborhood, community, or regional activity center, or downtown, as mapped in the growth policies plan, provided these commercial areas are accessible using pedestrian facilities.
  - (C) Location of fifty percent of the proposed subdivision lots within one-fourth mile of a public school or park, provided these public facilities are accessible using pedestrian facilities. An allocation of acreage for a centrally located common area in compliance with Section 20.07.090, FC-01 (Facilities plan standards) of this section shall count towards fulfillment of this sustainable development practice.
  - (D) Location of fifty percent of the proposed subdivision lots within one-fourth mile of a public multiuse trail facility, provided the proposed subdivision can be connected to the public trail facility.

(b) Level One Incentives.

- (1) A subdivision may utilize the level one incentives detailed in subsection (b)(2) of this section if the reviewing authority determines that the subdivision meets all four goals listed in subsection (a), Sustainable Development Practices, of this section through the incorporation of the following:
  - (A) At least two sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and

- (B) At least one sustainable development practice from each of Goals 2, 3 and 4 as specified in subsections (a)(2) through (a)(4) above.
- (2) Subdivisions described in subsection (b)(1) above may utilize the following changes to development standards:
  - (A) Minimum Lot Area. Shall be decreased ten percent for the TD and CS subdivision types and shall be decreased twenty percent for the CV and CI subdivision types.
  - (B) Minimum Lot Width. Shall be decreased ten percent for the TD and CS subdivision types and shall be decreased twenty percent for the CV and CI subdivision types.
  - (C) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to six feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by twenty-five percent.
  - (D) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to twenty feet. For nonresidential districts, rear building setback requirements shall be reduced by twenty-five percent.
- (c) Level Two Incentives.
  - (1) A subdivision may utilize the level two incentives detailed in subsection (c)(2) of this section if the reviewing authority determines that the subdivision meets all four goals listed in subsection (a), Sustainable Development Practices, of this section through the incorporation of the following:
    - (A) At least three sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and
    - (B) At least two sustainable development practices from each of Goals 2, 3 and 4 as specified in subsections (a)(2) through (a)(4) above.
  - (2) Subdivisions described in subsection (c)(1) above may utilize the following changes to development standards:
    - (A) Minimum Lot Area. Shall be decreased fifteen percent for the TD and CS subdivision types and shall be decreased twenty-five percent for the CV and CI subdivision types.
    - (B) Lot Width. Shall be decreased fifteen percent for the TD and CS subdivision types and shall be decreased twenty-five percent for the CV and CI subdivision types.
    - (C) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to five feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by thirty-five percent.
    - (D) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to fifteen feet. For nonresidential districts, rear building setback requirements shall be reduced by thirty-five percent.
- (d) Level Three Incentives.
  - (1) A subdivision may utilize the level three incentives detailed in subsection (d)(2) of this section if the reviewing authority determines that the subdivision meets all four goals



listed in subsection (a), Sustainable Development Practices of this section through the incorporation of the following:

- (A) At least four sustainable development practices from Goal 1 as specified in subsection (a)(1) above; and
  - (B) At least two sustainable development practices from each of Goals 2, 3 and 4 as specified in subsections (a)(2) through (a)(4) above.
  - (C) An allocation of at least fifteen percent of the total number of housing units located in the subdivision as affordable housing. Such housing units must be entered into an affordable housing program administered by the local, state or federal governments.
- (2) Subdivisions described in subsection (d)(1) above may utilize the following changes to development standards:
- (A) Minimum Lot Area. Shall be decreased twenty percent for the TD and CS subdivision types and shall be decreased thirty-three percent for the CV and CI subdivision types.
  - (B) Lot Width. Shall be decreased twenty percent for the TD and CS subdivision types and shall be decreased thirty-three percent for the CV and CI subdivision types.
  - (C) Side Building Setbacks. For residential districts, side building setbacks shall be reduced to four feet regardless of the number of stories. For nonresidential districts, side building setback requirements shall be reduced by fifty percent.
  - (D) Rear Building Setbacks. For residential districts, rear building setbacks shall be decreased to twelve feet. For nonresidential districts, rear building setback requirements shall be reduced by fifty percent.
- (e) Waiver of Fees. All subdivisions utilizing the provisions of this section to achieve the incentives outlined in subsections (b) through (d) shall also be eligible for the following waivers or reductions of fees:
- (1) Filing fees for the plan commission and/or board of zoning appeals may be waived by the planning and transportation director.
  - (2) Fees associated with right-of-way excavation permits may be waived by the planning and transportation director of the public works department.
  - (3) Sewer hook-on fees may be waived or reduced by the utilities service board.
- (f) Application Material and Verification of Compliance. In addition to the standard application requirements specified in Section 20.09.180, Subdivision control—Final plat, the petitioner shall provide the following information:
- (1) A completed green building worksheet shall be submitted and approved at the time of subdivision approval. The green building worksheet shall be accompanied by supporting material specifying how the development will incorporate the specific sustainable development practices selected from subsection (a), Sustainable Development Practices.

- (2) At the time of final plat recording, the petitioner shall record a covenants, conditions, and restrictions instrument verifying that the subdivision will comply or has already complied with the sustainable development practices petitioned for as part of the preliminary plat application.

## **Chapter 20.08, Nonconforming Lots, Sites, Structures and Uses**

### **20.08.030 Residential occupancy.**

A nonconforming use involving occupancy of a dwelling unit in a single-family residential district by four or five adults who are not all related to each other will be a lawful nonconforming use that may continue only as provided in this section. Where such a use is classified as a lawful nonconforming use under this section, the use shall not be subject to termination through cessation or abandonment except as follows: the right to continue such a lawful nonconforming use may be terminated by the owner's execution and proper recording in the chain of title, in a form acceptable to the ~~planning~~ staff, of an express, voluntary, permanent and irrevocable waiver and relinquishment of such right.

- (a) A nonconforming use involving occupancy of a dwelling unit in a single-family residential district by four or five adults who are not all related to each other, which was duly registered on or before October 1, 1985, in accordance with Ordinance 85-15, shall be deemed a lawful nonconforming use which may be continued under this title, without further registration.
- (b) A nonconforming use involving occupancy of a dwelling unit in a single-family residential district by four or five adults who are not all related to each other, which was duly registered on or before November 1, 1995, in accordance with Ordinance No. 95-21, shall be deemed a lawful nonconforming use which may be continued under this title, without further registration.
- (c) Where a lawfully existing dwelling unit was lawfully occupied by four or five adults who were not all related to each other on the effective date of this title, but becomes nonconforming under this title because of being so occupied, the property owner may register such property as a lawful nonconforming use, and if properly and timely registered, such use will be a lawful nonconforming use which may be continued under this title without further registration. Forms for such registration shall be available in the **planning and transportation** department and must be completed by the property owner or agent and filed in the **planning and transportation** department within one hundred eighty days of the effective date of this title.
  - (1) For existing structures, the use to be vested pursuant to this provision shall be the use lawfully in effect as of the effective date of this title or the predominant lawful use for the preceding five years, whichever is greater.
  - (2) A nonconforming use involving a dwelling unit intended to be constructed for occupancy by four or five adults who are not all related to each other exists from the time a complete application, conforming to all applicable regulations in effect at the time of application, has been filed for a building permit with the Monroe County building department, provided the property owner's intention to accommodate said four or five adults is stated in writing, and the property is registered pursuant to this subsection, within one hundred eighty days of the effective date of this title; provided further that the property was lawfully eligible for occupancy by four or five adults not all related to each other prior to the effective date of the Unified Development Ordinance; and provided further that the building permit application was filed prior to

the effective date of the Unified Development Ordinance, unless otherwise provided by Section 20.01.210, Effect of change in the law after filing of complete application of this title. However, in the event that said application or permit expires or is suspended or revoked as provided in ~~Section 17.08.030(7)~~ of the Bloomington Municipal Code or other applicable regulation of the city or Monroe County, any new permit application may be subject to the regulations in this title, subject to Section 20.01.210; Effect of change in the law after filing of complete application of this title.

- (d) The provisions of Section 20.08.040, Certificate of nonconforming use shall apply to all lawful nonconforming uses governed by subsection (a), (b) or (c) of this section.

#### **20.08.040 Certificate of nonconforming use.**

In order to protect the lawful nonconforming status of a nonconforming use, a person who owns or operates a nonconforming use other than a use described in Section 20.08.030, Residential occupancy may request a certificate of nonconforming use from the ~~planning~~ staff on a form available in the planning **and transportation** department. The applicant shall demonstrate that the use is a lawful nonconforming use prior to the issuance of the certificate.

#### **20.08.060 Nonconforming lots, sites, and structures.**

A lawfully nonconforming lot, site, or structure may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required as set forth in the following provisions. Provided, however, this section shall not require compliance with minimum lot area and minimum lot width standards. Such cases shall be governed by Section 20.08.150, Nonconforming lots of record. Provided, further, no increase in the degree of nonconformity with any development standard is permitted except as expressly provided herein.

- (a) **Nonconforming Sites—Full Compliance.** A lawful nonconforming site shall be brought into compliance with all applicable sections of this title with any application for new building construction or in connection with demolition of existing and construction of new buildings.
- (b) **Nonconforming Sites and Structures—Limited Compliance, Nonresidential Uses.** A lawful nonconforming site or structure, where any use is nonresidential, shall be brought into compliance with current development standards to the extent required by subsection (a) of this section whenever the following occurs upon the site: any change in use, expansion, enlargement, or relocation of any use; reestablishment of a prior conforming use that has been discontinued for a period of twelve months or longer; or addition to any building of more than ten percent of the gross floor area.

- (1) Structure Setback/Height. Existing structures shall not be subject to current setback or height standards and shall remain lawful nonconforming unless completely demolished and replaced, in which case subsection (a), Nonconforming Sites—Full Compliance of this section shall apply.
- (2) Parking Setback/Impervious Surface Coverage. If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback.
- (3) Parking. Any change in use or reestablishment of an abandoned conforming use must meet parking requirements of Chapter 20.05, PK (Parking Standards). Any expansion, enlargement, or relocation of an existing conforming use, or addition to any building of more than ten percent of the gross floor area may not increase the degree of nonconformity regarding the required number of parking spaces.
- (4) Paving. Any substandard parking surfaces shall be brought into compliance with Chapter 20.05, PK (Parking Standards).
- (5) Striping. All parking areas must be striped in accordance with Chapter 20.05, PK (Parking Standards).
- (6) Handicap Parking. All required handicap parking spaces must be installed in accordance with Chapter 20.05, PK (Parking Standards). If no additional room for parking is available, the number of parking spaces provided may be decreased enough to provide adequate handicap accessible aisles.
- (7) Bike Parking. All required bicycle parking must be installed per Chapter 20.05, AT (Alternative Transportation Standards).
- (8) Landscaping. If full compliance with Chapter 20.05, LA (Landscaping Standards) cannot be achieved due to lack of adequate planting area, all yard areas must be landscaped to the maximum practicable density with a priority given to shade tree installation.
- (9) Pedestrian Facilities. Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Chapter 20.05, AT (Alternative Transportation Standards). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition.
- (10) Handicap Ramps. Any existing sidewalks that do not have adequate handicap ramps shall install required ramps per Chapter 20.05, AT (Alternative Transportation Standards).
- (11) Signage. All signage must be brought into compliance with Chapter 20.05, SI (Sign Standards) to the extent practicable, although freestanding signs may utilize existing setbacks where the sign is not located within a restricted vision clearance area.
- (12) Dumpster Enclosures. All outdoor waste collection facilities must be brought into compliance with Chapter 20.05, OT (Outdoor Storage Standards).

- (13) Lighting. All lighting shall be brought into compliance with Chapter 20.05, LG (Lighting Standards).
- (14) Entrances and Drives. All entrances and drives shall be brought into compliance with Chapter 20.05, § ED: Entrance and Drive Standards, with the exception of driveway location requirements.
- (c) Nonconforming Sites and Structures; Minor Additions, Nonresidential Uses. A lawful nonconforming site or structure shall be brought into compliance with current development standards to the extent required by Section 20.08.060(c): Nonconforming Sites and Structures; Minor Additions, Nonresidential Uses when an addition to any primary building of less than ten percent of the gross floor area or construction of an accessory structure of less than eight hundred forty square feet occurs.
- (1) Impervious Surface Coverage. Such additions or accessory structures may not increase the degree of nonconformity regarding the required maximum impervious surface coverage.
- (2) Parking. Such additions or accessory structures may not increase the degree of nonconformity regarding the required number of parking spaces.
- (d) Nonconforming Sites and Structures—Limited Compliance, Multifamily Uses. A lawful nonconforming site or structure, where the principal use is multifamily residential, shall be brought into compliance with current development standards to the extent required by this subsection whenever the following occurs upon the site: any addition to an existing building, any change of use, or any expansion, enlargement, or relocation of any use, which shall include but not be limited to addition of bedrooms or units:
- (1) Structure Setback/Height. Existing structures shall not be subject to current setback standards and shall remain lawful nonconforming unless completely demolished and replaced, in which case subsection (a), Nonconforming Sites—Full Compliance of this section shall apply.
- (2) Parking Setback/Impervious Surface Coverage. If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback.
- (3) Parking. The degree of nonconformity regarding the required number of parking spaces shall not be increased.
- (4) Paving. Any substandard parking surfaces shall be brought into compliance with Chapter 20.05, PK (Parking Standards).
- (5) Striping. All parking areas must be striped in accordance with Chapter 20.05, PK (Parking Standards).
- (6) Bike Parking. All required bicycle parking must be installed per Chapter 20.05, AT (Alternative Transportation Standards).

- (7) Landscaping. If full compliance with Chapter 20.05, LA (Landscaping Standards) cannot be achieved due to lack of adequate planting area, all yard areas must be landscaped to the maximum practicable density with a priority given to shade tree installation.
  - (8) Pedestrian Facilities. Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Chapter 20.05, AT (Alternative Transportation Standards). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition.
  - (9) Handicap Ramps. Any existing sidewalks that do not have adequate handicap ramps shall install required ramps per Chapter 20.05, AT (Alternative Transportation Standards).
  - (10) Signage. All signage must be brought into compliance with Chapter 20.05, SI (Sign Standards) to the extent practicable, although freestanding signs may utilize existing setbacks where the sign is not located within a restricted vision clearance area.
  - (11) Dumpster Enclosures. All outdoor waste collection facilities must be brought into compliance with Chapter 20.05, OT (Outdoor Storage Standards).
  - (12) Lighting. All lighting shall be brought into compliance with Chapter 20.05, LG (Lighting Standards).
  - (13) Accessory Structures. Construction of an accessory structure of less than five hundred eighty square feet shall be permitted within compliance with this section, provided that the accessory structure does not increase the degree of nonconformity regarding required maximum impervious surface coverage or required number of parking spaces.
  - (14) Entrances and Drives. All entrances and drives shall be brought into compliance with Chapter 20.05, § ED: Entrance and Drive Standards, with the exception of driveway location requirements.
- (e) Nonconforming Sites and Structures—Limited Compliance, Single-family Uses. A lawful nonconforming site or structure for a single-family use shall not be brought into compliance with current development standards at such time as an addition or modification occurs, except that the addition or modification may not increase the degree of nonconformity regarding maximum impervious surface coverage and parking requirements. Enlargement or modification of an existing driveway shall be subject to Section 20.05.036(g). Changes to nonconforming uses and structures containing nonconforming uses involving occupancy of unrelated adults are subject to Sections 20.08.030, Residential occupancy and 20.08.040, Certificate of nonconforming use.
  - (f) Nonconforming Signs—Practicability of Compliance with Development Standards. In determining the practicability of bringing lawful nonconforming signs into compliance with development standards pursuant to subsections (b), Nonconforming Sites and Structures—Limited Compliance, Nonresidential Uses and (d), Nonconforming Sites and Structures—Limited Compliance, Multifamily Uses of this section, the ~~planning~~ staff may consider the availability of public funds for any required compensation to any person, and/or whether or not waivers have been provided pursuant to Section 20.05.079(k), Waiver of Right to Damages.

#### **20.08.070 Lawful nonconforming signs.**

- (a) Notwithstanding any other provision of this chapter or this title, a lawful nonconforming sign may not be altered, relocated or expanded, which includes any increase in height or area, except as expressly provided in this section.
- (b) Ordinary maintenance is permitted, and shall include replacement of supports with different materials or design from the previous supports, but shall not include any increase in the dimensions or numbers of supports.
- (c) A lawful nonconforming sign may be relocated only where the sign cannot be left in its existing location as a result of right-of-way acquisition and/or construction, widening or other improvement to any public sidewalk, path, trail, street, road, alley, or other public way or facility, by the city. For purposes of this section, a sign cannot be left in its existing location where it would be within the new public right-of-way; or would physically obstruct the public improvements; or, where its location would pose a safety hazard, which shall include but not be limited to being within a redefined vision clearance triangle.
- (d) In situations described in subsection (c) of this section, the sign may be relocated upon the same zoning lot as its original location, if the board or commission with authority to acquire right-of-way in the particular case declines to seek purchase of full sign rights for permanent removal of the sign.
- (e) A sign that is relocated hereunder shall be brought into compliance with all development standards in its new location to the extent practicable, as determined by the ~~planning~~ staff, which may consider the factors listed in Section 20.08.060(f), Nonconforming Signs—Practicability of Compliance with Development Standards, among others, in determining practicability.



## Chapter 20.09, Processes, Permits and Fees

### 20.09.030 Applications—General.

#### (a) Application Requirements.

- (1) Applications for any petition, permit, or process under this title may be made by the owner or lessee of property within the city or its zoning jurisdiction. In addition, the owner of at least fifty percent of the land involved may initiate a zoning map amendment for that land. The plan commission and/or common council may also initiate action as prescribed by Indiana Code and other applicable laws.
  - (2) Applications for any petition, permit, or process under this title shall include the information listed below. Submittals may be composed of one or more sheets and drawings and shall include:
    - (A) A Completed Application Form. Forms are available in the planning and transportation department;
    - (B) Name and address of the applicant;
    - (C) Name and address of the property owner;
    - (D) Signed, written consent of owner if other than applicant;
    - (E) Required application fee;
    - (F) Accurate street address of the subject property. If property does not have a street address, a request must be made by the petitioner to the ~~city engineering~~ planning and transportation department for an address prior to application;
    - (G) Accurately scaled map showing location of property and the existing uses of land within two hundred feet of the subject property. This map may be provided by the ~~planning~~ staff as a geographic information system (GIS) map showing the required information without additional charge over the application fee;
    - (H) Narrative description of the proposal;
    - (I) Specific material required under the applicable permit or process in Chapter 20.09, Processes, Permits and Fees;
    - (J) Specific material to address the requirements of Chapter 20.05, Development Standards and Chapter 20.07, Design Standards; and
    - (K) Such other additional information as may be required by the ~~planning~~ staff or approval body to evaluate the application.
- (b) Completeness of Application. The ~~planning~~ staff shall determine whether an application is complete prior to accepting the application. If the application is incomplete, the ~~planning~~ staff shall inform the applicant as to what additional information must be supplied. No application shall be considered complete until all pre-application requirements of Section 20.09.070, Pre-application requirements have been satisfied and all required fees have been paid.

- (c) Joint Submission of Applications. Whenever an application requires review under the provisions of more than one permit, approval, or process, the ~~planning~~ staff may schedule the review procedures and hearings so that review for each different permit, approval, or process can be scheduled on the same agenda, to the extent possible.
- (d) Planning and Transportation Department Application Review. All applications for permits, approvals, or processes required by this chapter shall be reviewed by the ~~planning~~ staff, which shall either be charged with the issuance or denial of a certificate of zoning compliance or other staff-level approval, or to prepare a report for the applicable public hearing body.
- (e) Authorization of Site Inspection. By submitting an application, the applicant is authorizing the ~~city engineering department and/or planning~~ staff to inspect the site being considered for development at any reasonable time to obtain the information required for review of compliance with this title.
- (f) Filing Deadline. The petitioner shall refer to the schedule of meeting dates attached to the application form to determine any applicable filing deadlines for approvals or processes by the plan commission, board of zoning appeals, plat committee, or hearing officer.
- (g) Complete Submittal. For petitions and subdivision requests, once the ~~planning~~ staff has determined that the petitioner has made a complete submittal, the ~~planning~~ staff shall:
  - (1) Assign the item a case number;
  - (2) Place the item on an agenda of the appropriate body;
  - (3) Inform the petitioner of the time, date, and place of the review body meeting.

#### **20.09.050 Notice requirements.**

Whenever a public hearing is required by this title or by state law, notice of the hearing shall be given in the following manner:

- (a) Publication.
  - (1) The ~~planning~~ staff shall be responsible, at petitioner's expense, for publishing notice pursuant to the plan commission or board of zoning appeals rules of procedure.
  - (2) Notice shall be published in a daily newspaper of general circulation within the planning jurisdiction at least ten days prior to the public hearing, in accordance with Indiana Code 5-3-1: Publication Procedures.
- (b) Notice to Interested Parties. Whenever required by this title or by state law, notice shall be sent to interested parties in accordance with this chapter or with the rules of procedure adopted by the board of zoning appeals or plan commission. The rules of procedure shall

specify who are interested parties in each case, how notice is to be given to them, and who is to give that notice.

- (c) Mailed. The petitioner shall be responsible for mailing notice pursuant to the plan commission or board of zoning appeals rules of procedure.
- (d) Posted. The petitioner shall be responsible for posting notice on site pursuant to the plan commission or board of zoning appeals rules of procedure.
- (e) Proof. The petitioner shall be responsible for returning proof of mailed notice to the planning and transportation department. The petitioner shall refer to the application form to determine the deadline for submittal of proof of notice. Failure to submit proof of notice by the deadline shall result in the petition's being continued to the plan commission or board of zoning appeals agenda for the following month.

#### **20.09.060 Public hearing procedures.**

Whenever a public hearing is required by this title or by state law, the following public hearing procedures shall apply:

- (a) Setting the Hearing. When the ~~planning~~ staff determines that an application is complete and that a public hearing is required, the ~~planning~~ staff shall place the item on the next agenda with space available pursuant to the rules of procedure of the plan commission or the board of zoning appeals.
- (b) Examination of Application and Other Documents. Upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the offices of the planning and transportation department.
- (c) Attendance. The petitioner is required to be present at the public hearing to address and discuss comments and concerns posed by the review body. Failure to appear shall result in the petition's being dealt with as outlined in the review body's rules of procedure.
- (d) Conduct of Public Hearing.
  - (1) Rights of All Persons. Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing may be required to identify himself or herself, state an address, and if appearing on behalf of an organization, state the name of the organization.
  - (2) Due Order of Proceedings. Hearings shall be conducted pursuant to rules adopted by the hearing authority in accordance with Indiana Code.
  - (3) Continuance of Public Hearing or Meeting. The body or officer conducting the public hearing or meeting may continue the public hearing or meeting to a fixed date, time and place without additional publication or individual notice.

- (4) Withdrawal of Application. An applicant shall have the right to withdraw an application at any time prior to action on the application by the decision-making body or officer.
  - (5) Record of Public Hearing or Meeting. The transcript of testimony, minutes, applications, petitioner's statements, exhibits, staff reports, and the decision of the decision-making body shall constitute the record. The record shall be maintained for public inspection in the planning and transportation department.
- (e) Actions by Decision-Making Bodies and Officers. All decisions shall include a brief summary of the matter being acted upon, and a clear statement of approval, approval with conditions, or disapproval. Conditions of approval shall be clearly stated and enumerated.
- (1) Action by Board of Zoning Appeals. Action by the board of zoning appeals shall be final.
  - (2) Action by Plan Commission. In the instance where the plan commission has final authority, action by the plan commission shall be final. When the plan commission action is advisory to the common council, the planning and transportation director shall certify the plan commission recommendation to the common council pursuant to Indiana Code 36-7-4: Local Planning and Zoning. When the plan commission action is advisory to any other body or agency, the ~~planning~~ staff shall forward such recommendation to that body or agency.
  - (3) Action by Common Council. The common council shall act on any petition forwarded by the plan commission within the time period specified and in the manner set forth in Indiana Code 36-7-4: Local Planning and Zoning. Additionally, the mayor may exercise his or her authority to veto an action of the common council pursuant to Section 2.04.350, Veto procedure of the Bloomington Municipal Code. The common council may override a mayoral veto pursuant to Section 2.04.350(d) of the Bloomington Municipal Code.

#### **20.09.070 Pre-application requirements.**

Whenever a public hearing is required by this title or by state law, the following pre-application requirements shall apply:

- (a) Pre-application Meeting. Prior to submitting a petition application, the petitioner shall meet with the ~~planning~~ staff to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property. The ~~planning~~ staff shall aid and advise the petitioner in preparing the application and supporting documents as necessary. This meeting must take place prior to the deadline as listed on the schedule of meeting dates.
- (b) Development Review Committee (DRC).
  - (1) Determination. All development petitions requiring plan commission action shall be forwarded to the development review committee (DRC) for consideration. In addition,

the ~~planning~~ staff may forward certain petitions requiring board of zoning appeals or plat committee review to the DRC. The ~~planning~~ staff shall inform the petitioner of the time, date, and place of the development review committee meeting.

- (2) Meeting Date. The petitioner shall refer to the schedule of meeting dates to determine the filing deadline for any given meeting of the development review committee. Incomplete submittal information may result in the application being postponed from the development review committee agenda to allow the petitioner time to complete the submittal.
  - (3) Revisions. Following development review committee review, the petitioner shall submit revised copies of the plans that address the comments and concerns of the development review committee.
- (c) Neighborhood Meeting. The petitioner shall conduct a neighborhood meeting prior to filing a petition to rezone a site to a planned unit development, subject to the neighborhood meeting requirements specified in Section 20.04.080(b)(3), Neighborhood Meeting. Other types of petitions requiring a public hearing may also be required by the ~~planning~~ staff to conduct a neighborhood meeting. Notice of the neighborhood meeting shall be made to any neighborhood association on record with the city within a five hundred-foot radius of the boundaries of the proposed planned unit development. Such notice shall be made to the neighborhood associations and the ~~planning and transportation~~ department at least seven days in advance of the meeting. ~~Planning department~~ sStaff may require additional neighborhood meetings if significant changes are made to the petition proposal after the initial neighborhood meeting occurs.

#### **20.09.080 Schedule of fees.**

- (a) The ~~planning~~ staff shall maintain an official fee schedule for petitions, subdivisions, and permits outlined in this title. Such fees shall be approved by the plan commission and, where applicable, the common council. The official fee schedule shall be available to the public in the ~~planning and transportation~~ department.
- (b) Fees shall be paid at the ~~planning and transportation~~ department at the time of application. When the ~~planning and transportation~~ department has received a complete submittal, the ~~planning~~ staff shall calculate the total of the application fee and any other applicable fees. All payments shall be made to the city of Bloomington.
- (c) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any petition, subdivision request, or permit.

**20.09.090 Commitments—Zoning map amendments and PUD district ordinances.**

- (a) Authority. The plan commission may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel where the making of such commitment will further the goals of the Unified Development Ordinance or the growth policies plan. In the case of a PUD district ordinance, the common council may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel pursuant to Indiana Code 36-7-4-1512. In the case of PUD final plan approval delegated to the ~~planning~~ staff by this title, the ~~planning~~ staff may also allow or require the owner to make a written commitment under this section, and shall have all powers and duties of the plan commission under this section except the power to approve modification or termination of a commitment. Commitments may be allowed or required as part of a proposal to amend the zoning map under Indiana Code 36-7-4-608 and this chapter; and, in connection with a proposal to adopt a PUD district ordinance, or in connection with final plan approval, under the Indiana Code 36-7-4-1500 Series and Chapter 20.04, Planned Unit Development Districts.
- (b) Approval Procedure. The procedure by which the plan commission or ~~planning~~ staff allows or requires a written commitment shall be the same as the procedure set forth in the plan commission rules of procedure and this title for the underlying development proposal. The procedure by which the common council allows or requires a written commitment shall be the same as the procedure set forth in this code for consideration of the underlying ordinance. No additional notice or hearing shall be required.
- (c) Form of Commitments. When allowed or required by an action of the plan commission or ~~planning~~ staff, a written commitment shall be recorded by the petitioner, in a form approved by the legal department, which contains the following information:
  - (1) The address and legal description of the parcel of real property to which the commitment is attached;
  - (2) The name and address of the property owner executing the commitment;
  - (3) The case number and a brief description of the proposal in connection with which the commitment is being made;
  - (4) A detailed statement of the owner's commitment regarding use and/or development of the property. The commitment may include the obligation to perform or refrain from performing any action, and the obligation may be of a continuing nature;
  - (5) A cross reference to the deed for the parcel of real property to which the commitment is attached;
  - (6) A statement that the commitment shall be recorded in the county recorder's office and shall run with the land and be binding on the signatories and upon any subsequent owner or other person acquiring an interest in the real estate;
  - (7) A statement that the commitment shall be enforceable by the city, or by any adjacent property owner or other interested party as defined by the plan commission rules of procedure;

- (8) A statement that failure to honor the commitment shall constitute a violation of the Unified Development Ordinance and shall be subject to the penalties for the same in addition to any other enforcement remedies;
  - (9) A statement that the commitment may be modified or terminated only by action of the plan commission;
  - (10) A statement about how the recording of the commitment shall be verified by the ~~planning~~ staff.
- (d) Recording. A commitment instrument made hereunder shall be recorded in the county recorder's office upon approval of the proposal and prior to issuance of any certificates of zoning compliance for the area involved in the proposal. The petitioner shall deliver one copy of the recorded commitment instrument to the planning and transportation department within ten business days of recording.
- (e) Effect of Commitments. A commitment made under this title takes effect upon approval of the proposal (i.e., adoption of an ordinance changing the zoning map or designating a planned unit development zoning district, or approval of a final plan) in connection with which the commitment is made. An unrecorded commitment is binding upon the owner of the parcel, but is only binding upon a subsequent owner or other person acquiring an interest in the parcel if that person has actual notice of the commitment. A recorded commitment is binding upon any subsequent owner and any person acquiring an interest in the parcel.
- (f) Right to Enforce Commitments.
- (1) City. The city may enforce any commitment allowed or required by the plan commission or the ~~planning~~ staff as if the commitment were a standard of the Unified Development Ordinance.
  - (2) Specially Affected Persons or Class of Specially Affected Persons. A written commitment shall be enforceable by any property owner adjacent to the parcel of real estate that was the subject of the underlying petition in connection with which the commitment was made, or other interested party as defined by the applicable rules of procedure.
- (g) Modification or Termination.
- (1) Procedure. When a commitment has been allowed or required by the common council, plan commission or ~~planning~~ staff in conjunction with a petition under the Unified Development Ordinance, either the petitioner, a subsequent owner of the parcel, or a person who acquires an interest in the parcel may apply to the plan commission for modification or termination of the commitment. The plan commission may approve modification or termination after notice and public hearing pursuant to the plan commission rules of procedure in any case where the modification or termination will further the goals of the Unified Development Ordinance or the growth policies plan.
  - (2) Recording. The petitioner shall record the modification or termination instrument in the county recorder's office. The petitioner shall deliver one copy of the recorded modification or termination instrument to the planning and transportation department within ten business days of recording. A modification or termination instrument made hereunder shall be recorded in the county recorder's office upon approval of the

proposal and prior to issuance of a certificate of zoning compliance for the area involved in the proposal.

- (h) Automatic Termination of Commitments. A commitment made in connection with a zoning map amendment, adoption of a PUD district ordinance, or PUD final plan approval terminates automatically if after adoption of the petition the zoning district applicable to the area involved in the proposal is changed (which shall include designation as a planned unit development).

#### **20.09.100 Commitments—Site plan.**

- (a) Authority. The plan commission or ~~planning~~ staff, whichever is the approving authority, may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.09.120, Site plan review.
- (b) Governing Provisions. The procedure, form, recording, effect, enforcement, and modification or termination of commitments under this section shall be the same as set forth in Section 20.09.090, Commitments—Zoning map amendments and PUD district ordinances, unless otherwise provided in the plan commission rules of procedure, except that Section 20.09.090(h), Automatic Termination of Commitments concerning automatic termination shall not apply. The plan commission in its rules of procedure may not delegate the authority to modify or terminate a commitment to another entity.

#### **20.09.120 Site plan review.**

- (a) Intent. The intent of site plan review shall be:
  - (1) To promote well-planned and well-designed use of property;
  - (2) To promote a high character of community development;
  - (3) To review site plans relative to site layout, improvements and engineering in the interest of public health, safety, convenience and welfare;
  - (4) To promote new development that has a positive impact on the community as a whole, does not negatively impact neighbors, protects sensitive natural resources, is well-designed to maximize efficient use of the land and surrounding transportation system, and provides for adequate stormwater management;
  - (5) To review site plans to determine compliance with the standards of the Unified Development Ordinance;
  - (6) To protect environmental quality;



- (7) To ensure that the statutory requirements established in the Indiana Code for development plan review and approval are met.
- (b) Applicability. Submission and approval of a site plan shall be required in all zoning districts established in Chapter 20.01, Ordinance Foundation of this title. Every application for a permit and/or certificate of zoning compliance for grading, establishment of a use or change in use, new construction, any building addition, or tree removal shall also be an application for site plan approval, except as provided otherwise herein.
- (c) Exceptions. The content and scope of review of a required site plan shall be limited as follows:
- (1) Single-Family Residence. The site plan for a single-family residence on a lot of record, including the establishment therein of a home occupation, day care home, bed and breakfast, or any conditional use shall be limited to an accurately-scaled drawing showing existing and proposed lot lines, easements, improvements, setbacks, and any other information needed to demonstrate compliance with the provisions of this title. In the case of a site plan involving partial demolition governed by the demolition waiting period provisions of Section 20.09.230, Demolition and demolition delay, the application shall also include the information required by (d)(6) below.
  - (2) Additions, Expansions or Changes in Use. The site plan for an addition, expansion, or change in use involving an existing building may be limited in scope to those requirements that are affected by the proposed development. The entire property may not need to be rendered on the site plan, except where necessary to demonstrate compliance with requirements.
- (d) Applications. Applications for site plans shall be accompanied by the following information:
- (1) A scaled drawing using not less than a one inch equals fifty feet scale, or as considered appropriate by the ~~planning~~ staff, which shows major circulation; specific location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall also include:
    - (A) Boundary lines and acreage of each land use component;
    - (B) Existing easements, including location, width and purpose;
    - (C) Existing land-use on abutting properties;
    - (D) Other conditions on adjoining land: topography (two-foot contours) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision plat;
    - (E) Existing streets on and adjacent to the tract, including street name, right-of-way width, sidewalks, curbs, gutters, and culverts;
    - (F) Any public improvements planned for future construction on or adjacent to the tract;
    - (G) Existing utilities on the tract;
    - (H) Any land on the tract within the one-hundred-year floodplain;

- (I) Other conditions on the tract, including water courses, wetlands, rock outcrops, wooded areas, isolated trees ten inches or more in diameter, and other significant features;
  - (J) Map Data. Name of development, north point, scale and date of preparation.
  - (K) Model type and manufacturer of any bicycle racks to be installed.
- (2) Precise location of all proposed buildings to be constructed, and a designation of the specific use or range of uses for each building.
  - (3) Design and precise location of all proposed streets, drives and parking areas, including construction details, center line elevations, pavement type, curbs, gutters, and culverts.
  - (4) Location of all proposed utility lines and easements.
  - (5) A detailed landscape plan, including plant size and common and scientific name of species, installation specifications, identification of vegetation to be preserved and the site measures to accomplish preservation, and conservation easements where required.
  - (6) Illustrations of required architectural design elements such as building elevations, renderings, photographs and any other information deemed necessary by the ~~planning~~ staff to determine compliance with this title. Such illustrations shall clearly depict the massing, scale and architectural details of the proposed development.
- (A) Commercial Downtown. In the case of a site plan involving new development in the commercial downtown (CD) zoning district, the petitioner shall submit a three-dimensional scale model that shows the proposed development in the context of all properties whose boundary lines touch that of the proposed development.
    - (i) The model may be a physical model or computer generated. If a physical model is provided, it must be accompanied by a digital video archival file showing the physical model in three hundred sixty degrees.
    - (ii) Regardless of model format, the level of detail provided shall be sufficient to depict the proposed surface materials including color, detail, and massing of adjacent and significant neighborhood structures as advised by ~~planning~~ staff, for all proposed structures.
  - (B) Demolition Delay. In the case of a site plan involving partial demolition governed by the demolition waiting period provisions of Section 20.09.230, Demolition and demolition delay, the application shall include a photograph or an accurately-scaled drawing of each building elevation, both existing and proposed, that will be physically affected either by the proposed partial demolition or by any proposed construction, reconstruction or alteration associated therewith. Each such depiction shall clearly show or indicate all proposed changes in design or material that will be subject to public view. Each such depiction shall also identify with reasonable specificity the type, design and location relative to the elevation of all proposed building materials.
- (7) Traffic studies as deemed necessary by the ~~planning staff or the engineering department~~ to determine the extent of public improvements required to accommodate traffic generated by the proposed development.

- (8) Where such features are included in a development proposal, a detailed description of the sustainable development features that are incorporated into the proposed site plan, including any supplementary materials required to explain such features.
  - (9) Miscellaneous. The ~~planning~~ staff shall inform the applicant of any additional documents or data requirements after the pre-application conference. Such additional documents or data shall include but not be limited to those required by Chapter 20.05, EN (Environmental Standards), where applicable.
- (e) Site Plan Review Process.
- (1) Review of Applications. Upon receipt of a full and complete application for site plan review, including supportive documents and the appropriate fees, the ~~planning~~ staff shall review the application and supportive documents for technical conformity with the standards of the Unified Development Ordinance. Final review of the proposed site plan will be assigned to ~~planning~~ staff or the plan commission based on the following criteria:
    - (A) Plan Commission. The plan commission shall review the following site plans:
      - (i) Any site located within five hundred feet of the centerline of State Road 37;
      - (ii) Any downtown projects that require plan commission review as directed by Chapter 20.03, Overlay Districts;
      - (iii) Any multifamily development of one hundred dwelling units or more;
      - (iv) Any nonresidential development of twenty-five thousand square feet gross floor area or more;
      - (v) Any site plan incorporating the construction of a new street as shown on the thoroughfare plan; and
      - (vi) Subject to the discretion of the ~~planning~~ and transportation director, any site plans containing more intense land uses adjacent to existing, less intense land uses.
    - (B) ~~Planning~~ and Transportation Department. The ~~planning~~ staff shall review any site plans that do not meet the criteria provided in subsection (e)(1)(A) above.
  - (2) Upon receiving a request for information or documentation, a recommendation for modifications from the ~~planning~~ staff or a denial by the ~~planning~~ staff, an applicant may request site plan review by the plan commission no later than five days after receipt by the applicant of the request from the ~~planning~~ staff for more information, documentation, changes, or notice of ~~planning~~ staff denial. Failure by an applicant to file such request in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for site plan approval.
  - (3) Any person, other than the applicant, aggrieved by a site plan decision by the ~~planning~~ staff may appeal the staff decision to the plan commission. Such appeal shall be filed in the ~~planning~~ and transportation department within five days of the ~~planning~~ staff's decision. The appeal shall specify the grounds for the appeal and must be filed in the form established by the plan commission rules of procedure. All appeals shall be accompanied by fees required by the plan commission rules of procedure.

- (4) The plan commission decision shall be based on the evidence presented to the plan commission by the applicant, the ~~planning~~ staff, and other interested parties. The burden of proof shall be borne by the applicant.
- (5) The plan commission shall act as promptly as practicable on any site plan review.
- (6) The plan commission shall hold a public hearing in accordance with Section 20.09.060, Public hearing procedures and review the site plan according to the criteria established in subsection (e)(9) below.
- (7) The plan commission may approve or disapprove a site plan or may approve with conditions which are reasonably necessary to satisfy the applicable development standards. The plan commission may also permit or require recordable commitments governing the use or development of property in accordance with the plan commission rules of procedure.
- (8) Approval of a site plan shall be effective for a maximum period of one year unless, upon application by the developer, the approving authority grants an extension.
- (9) The ~~planning~~ staff or plan commission, whichever is reviewing the site plan, shall make written findings concerning each decision to approve or disapprove a site plan.
  - (A) Findings of Fact. A site plan shall be approved by the ~~planning~~ staff or plan commission only upon making written findings that the site plan:
    - (i) Is consistent with the growth policies plan;
    - (ii) Satisfies the requirements of Chapter 20.02, Zoning Districts;
    - (iii) Satisfies the requirements of Chapter 20.05, Development Standards;
    - (iv) Satisfies the requirements of Chapter 20.07, Design Standards; and
    - (v) Satisfies any other applicable provisions of the Unified Development Ordinance.
  - (B) Signature. The planning and transportation director shall be responsible for signing the written findings.
  - (C) Disapproval Notification. The ~~planning~~ staff shall furnish the petitioner with a copy of the decision.

**20.09.130 Development standards variance.**

- (a) Intent. The purpose of this section is:
  - (1) To outline the process by which petitions for variances from the development standards of the Unified Development Ordinance are considered;

- (2) To provide a mechanism to approve those petitions that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the Unified Development Ordinance will result in practical difficulties, and so that the spirit of the Unified Development Ordinance shall be observed and substantial justice done.
- (b) Applicability.
    - (1) The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in Chapter 20.09, Processes, Permits and Fees, may grant variances from the development standards applicable to the zoning district in which the subject property is located.
    - (2) Effect of Approval of Variances from the Development Standards. The grant of variances from the development standards authorizes the development and establishes the terms of use. Variances from development standards are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.
  - (c) Exceptions.
    - (1) Subdivision Control. It is not within the jurisdiction of the board of zoning appeals or hearing officer to grant development standards variances of Chapter 20.06, Subdivision Types or Chapter 20.07, Design Standards.
  - (d) Application. Refer to application requirements found at Section 20.09.030, Applications—General.
  - (e) Findings of Fact. Pursuant to Indiana Code 36-7-4-918.5, the board of zoning appeals or hearing officer may grant a variance from the development standards of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:
    - (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
    - (2) The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and
    - (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties.
  - (f) Signature. The findings of fact shall be signed by the chair of the board of zoning appeals or the hearing officer.
  - (g) Notification. The ~~planning~~ staff shall furnish the petitioner with a copy of the decision of the board of zoning appeals or hearing officer.
  - (h) Duration.
    - (1) Unless otherwise specified at the time of approval, any development standards variance granted by the board of zoning appeals or hearing officer shall expire:

- (A) In cases where new construction or modifications to an existing structure are required, three years after the date that the development standards variance was granted, unless a building permit has been obtained and construction of the structure or structures has commenced; or
  - (B) In cases where new construction or modifications to an existing structure are not required, three years after the date that the development standards variance was granted, unless a certificate of occupancy has been obtained and the use commenced; or
  - (C) At the date of termination as established by the board of zoning appeals or hearing officer as a condition or commitment if different from subsection (h)(1)(A) or (h)(1)(B) above.
- (2) If an appeal by writ of certiorari is taken from an order granting a development standards variance, the time during which such appeal is pending shall not be counted in determining whether the development standards variance has expired under subsection (h)(1)(A), (h)(1)(B), or (h)(1)(C) above.

**Section 20.09.135 Sidewalk and Determinate Sidewalk Variances**

(a) Intent. The purpose of this section is:

- (1) To outline the process by which petitions for a sidewalk variance and a determinate sidewalk variance are considered;
- (2) To provide a mechanism to approve these petitions that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of Section 20.05.010(b)(3) will result in practical difficulties, and so that the spirit of Section 20.05.010(b)(3) shall be observed and substantial justice done.

(b) Applicability. The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in Chapter 20.09, Processes, Permits and Fees, may grant sidewalk variances and determinate sidewalk variances.

(c) Findings of Fact for Sidewalk Variance. Pursuant to Indiana Code 36-7-4-918.5, the board of zoning appeals or hearing officer may grant a variance from Section 20.05.010(b)(3) of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
- (2) The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and
- (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical

- difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties; and
- (4) That the topography of the lot or tract together with the topography of adjacent lots or tract and the nature of the street right-of-way make it impractical for the construction of a sidewalk as required by Section 20.05.010(b)(3); and
  - (5) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which the new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians.
- (d) Findings of Fact for Determinate Sidewalk Variance. Pursuant to Indiana Code 36-7-4-918.5, the board of zoning appeals or hearing officer may grant a determinate variance from Section 20.05.010(b)(3) of the Unified Development Ordinance if, after a public hearing, it makes findings of fact in writing, that:
- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - (2) The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and
  - (3) The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties; and
  - (4) The adjacent lot or tracts are at present undeveloped, but it appears that at some future date these lots or tracts will be developed, increasing the need for sidewalks for the protection and convenience of pedestrians; and
  - (5) The location of the lot or tract is such that the present pedestrian traffic does not warrant the construction of sidewalks, but it appears that in the future the pedestrian traffic may increase; and
  - (6) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.
- (e) Notification. The staff shall furnish the petitioner with a copy of the decision of the board of zoning appeals or hearing officer.
- (f) Duration. Unless otherwise specified at the time of approval
- (1) In the event that the board of zoning appeals or hearing officer authorizes a determinate variance, such variance shall continue in effect until the date at which the board of zoning appeals or hearing officer shall set to reconsider variances granted under the authority of this section. All such variances which were granted by the board of zoning appeals or hearing officer shall expire at that time unless an extension is granted. Should no extension be applied for, or the board of zoning appeals or hearing officer denies such application for extension, the owner

of the lot or tract shall be required to construct a sidewalk on the lot or tract at that time.

- (2) Any person who has been granted a determinate variance by the board of zoning appeals or hearing officer and subsequently transfers to another party any recordable interest in the lot or tract shall cause such conveyance to be made subject to the variance and cause the variance to be noted on the instrument of conveyance to be recorded.

#### **20.09.140 Use variance.**

- (a) Intent. The purpose of this section is:
  - (1) To outline the process by which petitions for variances of use are considered;
  - (2) To provide a mechanism to approve those that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the Unified Development Ordinance will result in unnecessary hardship, and so that the spirit of the Unified Development Ordinance shall be observed and substantial justice done.
- (b) Applicability.
  - (1) The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in this chapter, may grant use variance approval authorizing the establishment of a land use which deviates from the permitted uses applicable to the zoning district in which the subject property is located.
  - (2) Effect of Approval of a Use Variance. The granting of a use variance authorizes the use and establishes the terms of use. Use variances are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.
- (c) Application. Refer to application requirements found at Section 20.09.030, Applications—General.
- (d) Plan Commission Review. The plan commission shall review and make recommendations to the board of zoning appeals on any use variance petition that involves multifamily or nonresidential uses.
- (e) Findings of Fact. Pursuant to Indiana Code 36-7-4-918.4, the board of zoning appeals or the hearing officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing, that:
  - (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - (2) The use and value of the area adjacent to the property included in the use variance will not be affected in a substantially adverse manner; and



- (3) The need for the use variance arises from some condition peculiar to the subject property itself; and
- (4) The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if they are applied to the subject property; and
- (5) The approval of the use variance does not interfere substantially with the goals and objectives of the growth policies plan.
- (f) Signature. The findings of fact shall be signed by the chair of the board of zoning appeals or the hearing officer.
- (g) Notification. The ~~planning~~ staff shall furnish the petitioner with a copy of the decision of the board of zoning appeals or hearing officer.
- (h) Duration.
  - (1) Unless otherwise specified at the time of approval, any use variance granted by the board of zoning appeals or hearing officer shall expire:
    - (A) In cases where new construction or modifications to an existing structure are required, three years after the date that the use variance was granted, unless a building permit has been obtained and construction of the structure or structures has commenced; or
    - (B) In cases where new construction or modifications to an existing structure are not required, three years after the date that the use variance was granted, unless a certificate of occupancy has been obtained and the use commenced; or
    - (C) At the date of termination as established by the board of zoning appeals or hearing officer as a condition or commitment if different from subsection (h)(1)(A) or (h)(1)(B) above.
  - (2) If an appeal by writ of certiorari is taken from an order granting a use variance, the time during which such appeal is pending shall not be counted in determining whether the use variance has expired under subsection (h)(1)(A), (h)(1)(B), or (h)(1)(C) above.

#### **20.09.150 Conditional use.**

- (a) Intent. The purpose of this section is to allow a use for which certain conditions must be met before it can be established at a given location. The use shall be permitted by the board of zoning appeals or hearing officer if it is determined that the enumerated conditions are met.
- (b) Prerequisites.
  - (1) No use classified as conditional may be conducted without first obtaining a conditional use approval under this chapter. No conditional use shall be conducted except in

compliance with all applicable provisions of this title and with any conditions upon such conditional use approval.

(c) Applicability.

- (1) The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in this chapter, may grant conditional use approval authorizing the development of uses listed as conditional uses in the regulations applicable to the zoning district in which the subject property is located.
- (2) Effect of Approval of a Conditional Use. The granting of a conditional use authorizes the use and establishes the terms of use. Conditional uses are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.

(d) Application. Refer to application requirements found at Section 20.09.030, Applications—General.

(e) Plan Commission.

- (1) Delegation of Authority. The plan commission may, by rule, establish procedures to be followed by a hearing officer. The hearing officer may hear such conditional uses as may be authorized by the plan commission rules of procedure.

(f) Changes or Amendments.

(1) Amendments to Conditional Use Approvals.

- (A) Any modification or intensification of a conditional use that alters the essential character or operation of the use in a way not intended by the board of zoning appeals or hearing officer at the time the conditional use was granted shall require a new conditional use approval. The property owner/operator or **his or her** authorized representative shall apply for such conditional use approval prior to any modification of the use or property.
- (B) The ~~planning~~ staff shall determine in writing whether the proposed modification or intensification represents an alteration in the essential character of the original conditional use as approved. The operator of the conditional use shall provide the ~~planning~~ staff with all the necessary information to render this determination.

- (2) The hearing officer may hear requests for amendments to a conditional use, if authorized by the plan commission.

(g) Duration.

- (1) Unless otherwise specified at the time of approval, any conditional use granted by the board of zoning appeals or hearing officer shall expire:
  - (A) In cases where new construction or modifications to an existing structure are required, three years after the date that the conditional use was granted, unless a building permit has been obtained and construction of the structure or structures has commenced; or

- (B) In cases where new construction or modifications to an existing structure are not required, three years after the date that the conditional use was granted, unless a certificate of occupancy has been obtained and the use commenced; or
  - (C) At the date of termination as established by the board of zoning appeals or hearing officer as a condition or commitment if different from subsection (g)(1)(A) or (g)(1)(B) above.
- (2) If an appeal by writ of certiorari is taken from an order granting a conditional use, the time during which such appeal is pending shall not be counted in determining whether the conditional use has expired under subsection (g)(1)(A), (g)(1)(B), or (g)(1)(C) above.

**20.09.160 Amendment to zoning map.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city when considering a petition for the rezoning of real property within the jurisdictional area of the plan commission. Further, the intent of the zoning map amendment section is to ensure that the statutory requirements established in the Indiana Code for the zoning of real property are met.
- (b) Applicability. The zoning map amendment section is applicable to proposals to change the zoning district classification of a parcel of real property to a different zoning district classification other than a planned unit development zoning district.
- (c) Application.
  - (1) Supportive Information. The application shall include, but not be limited to, the following documents:
    - (A) Pre-submittal Meeting Documentation. The application shall include all documentation specified by the ~~planning~~ staff during the pre-submittal meeting.
    - (B) Application Form. The application shall include all documentation specified on the application form unless certain documentation is deemed superfluous by the ~~planning~~ staff due to the specific circumstances of the particular petition.
    - (C) Additional Information. Such other additional information as may be required by the ~~planning~~ staff or other members of the development review committee to evaluate the application.
- (d) Plan Commission.
  - (1) Review. When reviewing a zoning map amendment petition, the plan commission shall consider the following:
    - (A) The recommendations of the growth policies plan;
    - (B) Current conditions and character of structures and uses in each zoning district;

- (C) The most desirable use for which the land in each zoning district is adapted;
  - (D) The conservation of sensitive environmental features;
  - (E) The conservation of property values throughout the jurisdiction; and
  - (F) Responsible development and growth.
- (2) Decision. The plan commission shall:
- (A) Forward the petition to the common council with:
    - (i) A favorable recommendation;
    - (ii) A favorable recommendation with conditions and/or commitments;
    - (iii) A negative recommendation;
    - (iv) No recommendation; or
  - (B) Continue the petition to a definite future meeting date.
- (3) Certification. If the petition has not been continued, the plan commission shall certify and forward the petition to the common council.
- (e) Common Council. The common council shall act on the petition within ninety days of certification by the plan commission in accordance with Indiana Code 36-7-4-608.
- (f) Effect of Approval of the Amendment.
- (1) When an amended of the official zoning map is approved, such amendment shall be incorporated into the official zoning map in the geographic information system maintained by the city.
  - (2) For zoning map amendments located adjacent to public streets, all required right-of-way shall be dedicated in compliance with the thoroughfare plan. Such dedication shall take place within one hundred eighty days of approval of the zoning map amendment. The one hundred eighty day time limit may be extended by the planning and transportation director, but not unless the requirement is clearly specified in a recordable zoning commitment approved by the city.

**20.09.180 Subdivision control—Preliminary plat.**

- (a) Intent. The purpose of the preliminary plat section is to outline the procedure employed by the city when considering a petition for the platting of a subdivision. Further, the intent of the preliminary plat section is to ensure that the statutory requirements established in the Indiana Code for the subdivision of land are met.
- (b) Prerequisites.

- (1) Pre-submittal Meeting. Prior to submitting a preliminary plat application, the petitioner shall meet with the ~~planning~~ staff to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed development of the property. The ~~planning~~ staff shall aid and advise the petitioner in preparing the application and supportive documents as necessary.
  - (2) Development Review Committee. Once the ~~planning~~ staff has determined that it has received a submittal that is sufficiently complete for development review committee review, the ~~planning~~ staff shall place the item on an agenda of the development review committee and inform the petitioner of the time, date, and place of the meeting.
- (c) Applicability. A preliminary plat shall be prepared in conjunction with any proposal to subdivide or plat property within the jurisdictional area of the plan commission.
- (d) Application. The preliminary plat shall contain the following information:
- (1) Description.
    - (A) Proposed name of the subdivision;
    - (B) Street address;
    - (C) Name and address of petitioner;
    - (D) Name, address and seal of the registered professional engineer or land surveyor preparing the preliminary plat;
    - (E) Scale of plat, north point and date.
  - (2) Existing Conditions.
    - (A) Boundary line of proposed subdivision indicated by solid heavy line;
    - (B) Location, width, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings or structures, and section and municipal corporation lines, within or adjacent to the tract;
    - (C) In case of a replat, all descriptive lines of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion;
    - (D) Existing sewers, water mains, culverts or other underground facilities within the tract, indicating pipe sizes, grades and exact location, as obtained from public records;
    - (E) Boundary lines of adjacent unsubdivided and subdivided land, showing owners' names;
    - (F) Existing zoning district of the proposed subdivision and adjacent tracts, in zoned areas;
    - (G) Contours, based on the city datum, at not more than five feet nor less than two feet vertical intervals as required by the plan commission;

(H) Flood hazard areas, the elevation of the regulatory flood and the area subject to inundation thereby.

(3) Proposed Conditions.

(A) Layout of streets, their names and widths and also widths of alleys, crosswalks and easements. The names of the streets shall conform as far as practicable to the names of corresponding streets existing in the vicinity of the subdivision. The name of a new street, not an extension or a correspondent of an existing street, shall not duplicate that of an existing street in the city;

(B) Layout, dimensions and numbers of lots;

(C) Parcels of land to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;

(D) Building setback lines, showing dimensions.

(E) Where such features are included in a development proposal, a detailed description of the sustainable development features that are incorporated into the proposed preliminary plat, including any supplementary materials required to explain such features.

(e) Planning and Transportation Department.

(1) Review of Application. Upon receipt of a complete application, supportive documents, and the appropriate fees, the ~~planning~~ staff shall review the application for technical conformity with the standards fixed in the Unified Development Ordinance. The ~~planning~~ staff shall then decide to:

(A) Assign the preliminary plat to the plat committee for review; or

(B) Assign the preliminary plat to the plan commission for review.

Within thirty days after receipt of a complete application, the ~~planning~~ staff shall announce a date for hearing before the plan commission or plat committee, and provide for notice in accordance with this title and plan commission rules.

(f) Plan Commission.

(1) Decision. The plan commission shall:

(A) Approve the petition;

(B) Approve the petition with conditions;

(C) Deny the petition; or

(D) Continue the petition to a definite future meeting date.

(2) Effect of Approval. The approval of a preliminary plat by the plan commission is strictly tentative, involving merely the general acceptability of the layout as submitted;

(3) Appeal of a Decision of the Plat Committee. The plan commission shall review an appeal of a preliminary plat approval granted by the plat committee at a public hearing using the same procedure as though it were a preliminary plat application filed with the plan commission.

- (A) Decision. The plan commission shall:
  - (i) Affirm the decision of the plat committee;
  - (ii) Affirm the decision of the plat committee with additional conditions;
  - (iii) Reverse the decision of the plat committee; or
  - (iv) Continue the petition to a definite future meeting date.
- (4) Revisions. Following plan commission approval, the petitioner shall submit revised copies of the plans that address the conditions required by the plan commission. The petitioner shall refer to the application form to determine the format and number of copies of the revised plans to deliver to the planning and transportation department.
- (g) Plat Committee.
  - (1) Decision. The plat committee shall:
    - (A) Approve the petition;
    - (B) Approve the petition with conditions;
    - (C) Deny the petition;
    - (D) Continue the petition to a definite future meeting date; or
    - (E) Forward the petition to the plan commission.
  - (2) Notice of Appeal. An interested party may appeal the plat committee approval to the plan commission by filing a notice of appeal with the plan commission. Such appeal must be filed with the plan commission not more than ten days after the action of the plat committee.
- (h) Review Considerations. At their regularly scheduled meeting, the plat committee or plan commission shall review:
  - (1) The written statement and supportive material submitted by the petitioner;
  - (2) The preliminary plat;
  - (3) The testimony of the petitioner;
  - (4) The growth policies plan;
  - (5) Any applicable standards in Chapter 20.02, Zoning Districts;
  - (6) Any applicable development standards in Chapter 20.05, Development Standards;
  - (7) Any applicable subdivision standards in Chapter 20.06, Subdivision Regulations;
  - (8) Any applicable design standards in Chapter 20.07, Design Standards;
  - (9) Any other applicable provisions of the Unified Development Ordinance;
  - (10) The planning and transportation department report; and
  - (11) Such other additional information as may be required by the plan commission or plat committee to evaluate the petition.
- (i) Duration.

- (1) A final plat application shall be filed not later than twelve months after the date of approval of the preliminary plat, otherwise the preliminary plat approval shall be considered void, to the extent permitted by Section 20.01.210, Effect of change in the law after filing of complete application.
  - (2) One extension of up to six months may be authorized by the planning and transportation director for reason/cause. The petitioner shall submit the request for extension in writing to the planning and transportation director, and the planning and transportation director shall make a written determination regarding his or her decision to extend or deny extension. Both the request and the determination shall be made part of the preliminary plat record.
- (j) All decisions of the plan commission or plat committee approving, denying or placing conditions upon a preliminary plat must be in writing and signed by the president of the plan commission, the chair of the plat committee or the planning and transportation director.

#### **20.09.190 Subdivision control—Final plat.**

- (a) Intent. The purpose of the final plat section is to outline the procedure employed by the city when considering a petition for the final platting of a subdivision. Further, the intent of the final plat section is to ensure that the statutory requirements established in the Indiana Code are met.
- (b) Prerequisites.
  - (1) Preliminary Plat. The plan commission or plat committee shall have approved the preliminary plat; and the preliminary plat must not be expired.
- (c) Applicability. No final plat of a subdivision of land located within the jurisdiction and territorial limits of the plan commission shall be recorded in the county recorder's office until the plat has been approved by the plan commission in accordance with the following requirements, standards, and specifications, and such approval has been entered in writing on the plat by the president of the plan commission, chair of the plat committee, or the planning and transportation director.
- (d) Application. The following information is required for all final plats:
  - (1) Name of subdivision;
  - (2) Location by section, township and range, or by other legal description;
  - (3) The name and certification of the registered professional engineer or land surveyor;
  - (4) Scale shown graphically, date and north point;
  - (5) Boundary of plat, based on an accurate traverse with angular and lineal dimensions;
  - (6) Exact location, width and name of all streets within and adjoining the plat, and the exact location and widths of all alleys and crosswalks;



- (7) True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat;
  - (8) City, township, county or section line accurately tied to the lines of the subdivision by distances and courses;
  - (9) Radii, internal angles, central angles, points of curvature and tangency, lengths of tangents and lengths of all arcs;
  - (10) All easements for rights-of-way provided for public services or utilities;
  - (11) All lot and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions;
  - (12) Line of all streets with accurate dimensions in feet and hundredths, showing angles to street, alley and lot lines;
  - (13) The street addresses for all lots on the plat;
  - (14) Accurate location of all monuments, which shall be concrete four inches by four inches at top, six inches by six inches at bottom and thirty-six inches long, with metal marker cast in center;
  - (15) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purposes indicated thereon and in the dedication; and of any area to be served by deed covenant for common uses of all property owners;
  - (16) Building setback lines accurately shown with dimensions;
  - (17) A description of the property platted which shall be the same as that recorded in preceding transfer of the property or that portion of the transfer covered by plat;
  - (18) Restrictive covenants of all types which run with the land;
  - (19) Certificates for approval by the plan commission and the board of public works;
  - (20) If containing lands identified as flood hazard areas, the elevation of the regulatory flood.
- (e) **Planning and Transportation** Department.
- (1) Review of Application. The plan commission may review final plats or may by rule delegate to ~~planning~~ staff or the plat committee the authority to review final plats. Upon receipt of a complete application, supportive documents, and the appropriate fees, the ~~planning~~ staff shall review the application for technical conformity with the standards fixed in the Unified Development Ordinance. The ~~planning~~ staff shall then, in accordance with the plan commission rules:
    - (A) Review and render a final decision upon the final plat; or
    - (B) Forward the final plat to the plat committee for review; or
    - (C) Forward the final plat to the plan commission for review.
  - (2) Decision.

- (A) Revision. The ~~planning~~ staff shall, based upon the facts presented for review, notify the petitioner in writing what revisions, changes, or further changes in the application are needed for approval.
  - (B) Approval. Following the petitioner's submittal of plans that incorporate the necessary revisions, the ~~planning~~ staff shall approve the final plat.
  - (C) Sign and Seal. Upon approval of the final plat, the planning and transportation director shall sign and seal the plat at the appropriate locations.
  - (D) Notification. The ~~planning~~ staff shall then notify the petitioner of the planning and transportation director's actions.
  - (E) Recording. The petitioner shall then file the final plat for recording in the county recorder's office, as required by law.
  - (F) Within thirty days of recording the final plat, the petitioner shall provide the city ~~engineering~~ planning and transportation department with a copy of the recorded mylar.
- (3) Surety Requirement. In conjunction with the approval of a final plat, the petitioner shall provide financial surety for all public improvements pursuant to this chapter.
- (4) Public Hearing. A public hearing is not required.
- (f) Plan Commission/Plat Committee.
- (1) Decision.
    - (A) Revision. The ~~planning~~ staff shall notify the petitioner in writing what revisions, changes, or further changes in the application are needed for approval.
    - (B) Approval. Following the petitioner's submittal of revised copies of the plans, the plan commission/plat committee shall approve the final plat.
    - (C) Sign and Seal. Upon approval of the final plat, the president of the plan commission or chair of the plat committee shall sign and seal the plat at the appropriate locations.
    - (D) Notification. The ~~planning~~ staff shall then notify the petitioner of the plan commission/plat committee's actions.
    - (E) Recording. The petitioner shall then file the final plat for recording in the county recorder's office, as required by law.
    - (F) Within thirty days of recording the plat, the petitioner shall provide the city ~~engineering~~ planning and transportation department with a copy of the recorded mylar.
  - (2) Surety Requirement. In conjunction with the approval of a final plat, the petitioner shall provide financial surety for all public improvements pursuant to this chapter.
- (g) Review Considerations. In reviewing final plats, the ~~planning~~ staff, plan commission, or plat committee shall review:
- (1) The written statement and supportive material submitted by the petitioner;

- (2) The preliminary plat;
  - (3) The final plat;
  - (4) Any commitments or conditions of approval attendant to prior approvals;
  - (5) The testimony of the petitioner;
  - (6) The testimony of the public during the preliminary plat public hearing, when applicable;
  - (7) Any applicable development standards in Chapter 20.05, Development Standards;
  - (8) Any applicable subdivision standards in Chapter 20.06, Subdivision Regulations;
  - (9) Any applicable design standards in Chapter 20.07, Design Standards;
  - (10) Any other applicable provisions of the Unified Development Ordinance;
  - (11) Any requirements of the members of the development review committee;
  - (12) The planning and transportation department report; and
  - (13) Such other additional information as may be required by the plan commission to evaluate the petition.
- (h) Duration. If the final plat, or a phase thereof, has not been recorded within a maximum period of six months from the date of approval by the plan commission or plat committee, the final plat shall be null and void and the final plat must again be submitted for approval, to the extent permitted by Section 20.01.210: Effect of Change in the Law after Filing of Complete Application. For a final plat where an initial phase was recorded within six months of the date of approval by the plan commission or plat committee, successive phases shall be recorded within eighteen months of the previous phase. If a successive phase fails to meet the eighteen-month requirement, the approval of the phases that have not been recorded shall be null and void and the final plat must again be submitted for approval, to the extent permitted by Section 20.01.210: Effect of Change in the Law after Filing of Complete Application.

**20.09.200 Subdivision control—Plat vacation.**

- (a) Intent. The purpose of the plat vacation section is to outline the procedure employed by the city when considering a petition for the vacation of a subdivision. Further, the intent of the plat vacation section is to ensure that the statutory requirements established in the Indiana Code for the vacation of a subdivision are met.
- (b) Prerequisites.
  - (1) Time Limitation. After the termination of a plat vacation proceeding under this chapter, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for three years.

- (c) Applicability.
  - (1) Final Plat.
    - (A) The owner of land in a final plat may file with the plan commission a petition to vacate all or part of the final plat pertaining to the land owned by the petitioner.
    - (B) In a case in which not all the owners of land in a final plat are in agreement regarding a proposed vacation, one or more owners of the land in the final plat may file with the plan commission a petition to vacate all of the final plat or only that part of the final plat that pertains to land owned by the petitioner or petitioners. A petition under this subsection must:
      - (i) State the reasons for and the circumstances prompting the request;
      - (ii) Specifically describe the property in the final plat proposed to be vacated; and
      - (iii) Give the name and address of every other owner of land in the final plat.
  - (2) Rights-of-way. This plat vacation procedure shall not be used to vacate rights-of-way, regardless of whether they are platted. Rights-of-way shall be vacated pursuant to Indiana Code 36-7-3-12.
  - (3) Covenants or Commitments. The plat vacation petition may include a request to vacate any recorded covenants or commitments filed as part of the final plat. The covenants or commitments are then also subject to vacation.
  - (4) Easements. This plat vacation procedure shall not be used to vacate platted easements. Platted easements shall be vacated pursuant to Section 20.09.310, Easements—Vacation.
- (d) Exceptions.
  - (1) Public Utilities. This chapter notwithstanding, plat vacation proceedings do not deprive a public utility of the use of all or part of a public way or public place to be vacated, if, at the time the proceedings are instituted, the utility is occupying and using all or part of that public way or public place for the location and operation of its facilities. However, the utility may waive its rights under this subsection by filing its written consent in the plat vacation proceedings.
  - (2) Easement Vacation. Per Indiana Code 36-7-3-16, platted easements are vacated by the common council (see Section 20.09.310, Easements—Vacation).
- (e) Application.
  - (1) Supportive Information. The application shall include, but not be limited to, the following documents:
    - (A) Pre-submittal Meeting Documentation. The application shall include all documentation specified by the ~~planning~~ staff during the pre-submittal meeting.
    - (B) Application Form. The application shall include all documentation specified on the application form unless certain documentation is deemed superfluous by the ~~planning~~ staff due to the specific circumstances of the particular project.

(C) Additional Information. Such other additional information as may be required by the ~~planning~~ staff or other members of the development review committee to evaluate the application.

(f) Plan Commission.

(1) Grounds for Remonstrances and Objections. All persons may comment at the public hearing in accordance with the procedural rules of the commission. A remonstrance or objection may be filed or raised by any person aggrieved by the proposed plat vacation, but only on one or more of the following grounds:

(A) The plat vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous;

(B) The plat vacation would make access to the lands of the aggrieved person by means of a public way difficult or inconvenient;

(C) The plat vacation would hinder the public's access to a church, school, or other public building or place; and/or

(D) The plat vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

(2) Decision. The plan commission shall:

(A) Approve the petition;

(B) Approve the petition with conditions and/or commitments;

(C) Disapprove the petition; or

(D) Continue the petition to a definite future meeting date.

(3) Findings of Fact. The plan commission shall approve the petition for plat vacation of all or part of a final plat only upon making written findings that:

(A) Conditions in the platted area have changed so as to defeat the original purpose of the final plat;

(B) It is in the public interest to vacate all or part of the final plat; and

(C) The value of that part of the land in the final plat not owned by the petitioner will not be diminished by vacation.

(4) Approval.

(A) Signed. The findings of fact shall be signed by the president of the plan commission.

(B) Recording. The plan commission shall furnish a copy of its decision to the county recorder's office for recording.

(5) Disapproval.

(A) Signed. The findings of fact shall be signed by the president of the plan commission.

- (B) Notification. The plan commission shall furnish the petitioner with a copy of its decision.
- (6) Plat Vacation Instrument.
  - (A) Signed. The plat vacation instrument shall be signed by the president of the plan commission and the owner of the vacated property.
  - (B) Recording. The petitioner shall record the plat vacation instrument in the county recorder's office within sixty days of the approval of the plat vacation. The petitioner shall deliver a copy of the recorded plat vacation instrument to the city engineering planning and transportation department.
- (7) Surety Requirement. In conjunction with the approval of a plat vacation, and unless determined to be unnecessary by the plan commission, the petitioner shall provide financial surety for all public improvements pursuant to this chapter.

#### **20.09.210 Subdivision control—Waivers and Modifications.**

- (a) Intent. When the plan commission finds that extraordinary hardships or practical difficulties may result from strict compliance with the subdivision regulations and/or that the purposes of the subdivision regulations may be served to a greater extent by an alternative proposal, the plan commission may approve subdivision waivers to the subdivision regulations of Chapters 20.06, Subdivision Regulations and 20.07, Design Standards so that substantial justice may be done and the public interest secured, provided that such subdivision waivers shall not have the effect of nullifying the intent and purpose of the subdivision regulations.
- (b) Applicability.
  - (1) Preliminary Plat. The petitioner may only file a subdivision waiver petition in conjunction with a preliminary plat petition or with a preliminary plat amendment petition.
  - (2) Public Facilities. Where the subdivision waiver has an impact on design and construction of public facilities, all appropriate public agencies will be given ample time to comment in writing to the plan commission.
  - (3) Exclusive Control. It is not within the jurisdiction of the board of zoning appeals to grant development standards variances of Chapters 20.06, Subdivision Regulations and 20.07, Design Standards.
- (c) Exceptions.
  - (1) Development Standards. It is not within the jurisdiction of the plan commission to grant subdivision waivers to the provisions of Chapter 20.05, Development Standards.
- (d) Plan Commission.

- (1) Review of Petition. At their regularly scheduled meeting, the plan commission shall review:
  - (A) The written statement and supportive material submitted by the petitioner;
  - (B) The preliminary plat;
  - (C) The subdivision waiver;
  - (D) The testimony of the petitioner;
  - (E) The written and oral testimony of the public;
  - (F) The growth policies plan;
  - (G) Any applicable subdivision standards in Chapter 20.06, Subdivision Regulations;
  - (H) Any applicable design standards in Chapter 20.07, Design Standards;
  - (I) Any other applicable provisions of the Unified Development Ordinance;
  - (J) Any requirements of the members of the development review committee;
  - (K) The planning **and transportation** department report; and
  - (L) Such other additional information as may be required by the plan commission to evaluate the petition.
- (2) Findings of Fact.
  - (A) The Plan commission may grant a subdivision waiver if, after a public hearing, it makes written findings of fact based upon the evidence presented to it in each specific case, that:
    - (i) The granting of the subdivision waiver shall not be detrimental to the public safety, health, or general welfare, or injurious to other property; and
    - (ii) The conditions upon which the request for a subdivision waiver is based are unique to the property for which the subdivision waiver is sought and are not applicable generally to other property; and
    - (iii) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the subdivision regulations is carried out (financial hardship shall not constitute grounds for a waiver); and
    - (iv) The subdivision waiver shall not in any manner vary the provisions of the development standards, growth policies plan, or thoroughfare plan.
  - (B) Exception. Due to the specialized nature of the following, the plan commission may permit modifications to the standards and procedures of this title as may be warranted; and such modifications need not comply with subsections (d)(2)(A)(ii) and (d)(2)(A)(iii) of this section.
    - (i) Subdivisions not involving any new streets;
    - (ii) Commercial or industrial subdivisions;

- (iii) Cemetery plats; and
- (iv) Condominium plats.
- (C) Approval. The findings of fact shall be signed by the president of the plan commission.
- (D) Disapproval.
  - (i) Signed. The findings of fact shall be signed by the president of the plan commission.
  - (ii) Notification. The ~~planning~~ staff shall furnish the petitioner with a copy of the plan commission's decision.
- (3) Decision. The plan commission shall:
  - (A) Approve the petition;
  - (B) Approve the petition with conditions and/or commitments;
  - (C) Deny the petition; or
  - (D) Continue the petition to a definite future meeting date.
- (e) Duration.
  - (1) A final plat application shall be filed not later than twelve months after the date of approval of the preliminary plat, otherwise the subdivision waiver approval shall be considered void.
  - (2) One extension of up to six months may be authorized by the planning and transportation director for reason/cause. The petitioner shall submit the request for extension in writing to the planning and transportation director, and the planning and transportation director shall make a written determination regarding his decision to extend or deny extension. Both the request and the determination shall be made part of the subdivision waiver record.

**20.09.220 Certificate of zoning compliance.**

- (a) Intent. The intent of the certificate of zoning compliance section is to outline the procedure by which proposed establishment of and alterations to uses, sites and structures are reviewed by the ~~planning~~ staff. This procedure is set forth in order to ensure that all such actions conform to the standards established by the Unified Development Ordinance.
- (b) Certificate of Zoning Compliance Required. The city requires that a certificate of zoning compliance (herein after "CZC") shall be obtained for any of the following actions. A single CZC may be issued for a combination of such actions, if they occur together. Any application for a CZC, permit or other approval for an action described in subsection (b)(5)



of this section shall be subject to the procedures outlined in Section 20.09.230, Demolition and demolition delay:

- (1) Alteration, erection, construction, reconstruction, division, enlargement, demolition, partial demolition or moving of any building, structure, or mobile home;
- (2) Establishment of a use or change in use to another use (see Chapter 20.11, Definitions; "Change in Use");
- (3) Enlargement in the area used for any use or relocation of a use to another portion of a lot, site, or building;
- (4) Grading, improvement, or other alteration of land, including paving or the establishment of drives or parking areas, or any other land distributing activity.
- (5) Any action, whether or not listed in subsections (b)(1) through (b)(4) of this section, that would result in partial or complete demolition of any exterior portion of a building or structure that is listed as "Outstanding," "Notable," or "Contributing" on the Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report adopted on October 17, 2002, by the Bloomington Historic Preservation Commission (hereinafter "HPC") as the same may be hereafter amended or replaced (hereinafter "Historic Survey"). Such action shall be subject to the procedures outlined in Section 20.09.230, Demolition and demolition delay. An accessory building or structure not attached to the principal building or structure upon the listed parcel shall not be considered "listed" within the meaning of this title unless the accessory building or structure is of the same era of construction as the principal building or structure, as determined by the ~~planning~~ staff. Such determination shall be based upon resources that may include but shall not be limited to Sanborn Company Fire Insurance maps, visual inspection of the accessory building or structure, and records and expertise of HPC or its staff.
- (6) Tree removal. If such activity involves the removal of dead, dying, or hazardous trees, or exotic, invasive vegetation, as verified by the planning and transportation department, no CZC is required. Tree removal requests which decrease the baseline canopy cover of a site require a CZC and must follow the procedures outlined in Section 20.09.120: Site Plan Review; and comply with the requirements of Section 20.05.044: Environmental Standards; Tree and Forest Preservation.

#### **20.09.230 Demolition and demolition delay.**

##### **(a) Demolition Landscaping.**

- (1) Applicability. A demolition permit application for a lot subject to the standards of Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping shall meet the requirements of this section.

- (2) Vacant Lot Landscaping Plan. Any demolition permit application subject to this section shall be accompanied by a vacant lot landscaping plan meeting the standards of Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping.
  - (3) Exemption. A demolition permit application shall be exempt from the requirements of this section if a site plan approval for the reuse of the subject lot has been obtained and has not expired.
- (b) Demolition Delay Required. No certificate of zoning compliance (hereinafter "CZC") authorizing release of a permit allowing the demolition or partial demolition of a building or structure that is listed as outstanding, notable or contributing on the historic survey, or any accessory building or structure of the same era of construction as the principal building or structure that is so listed, shall be issued earlier than ninety or one hundred twenty-calendar days after notice has been given as provided in subsection (b)(1) below. The ninety-day period shall apply in all cases unless the director of HAND or his/her designee finds that an additional thirty day delay period is needed in order for the HPC to responsibly consider and determine whether to recommend designation of the property. The HAND director shall make such finding only where there are multiple demolition permits and/or historic designation proposals pending or expected to come before the HPC during the ninety-day period; or, where the demolition request presents unusually complex public policy issues due to the location or survey classification of the structure. Location within an area that contains multiple surveyed properties and/or location within an area designated on the National Register of Historic Places and/or survey classification of the structure or building proposed for demolition as notable or outstanding shall be sufficient, but not necessary, to justify a determination that the one hundred twenty-day period will apply. The HAND director will give notice of his determination to apply the one hundred twenty-day period to a demolition request in accordance with subsection (b)(1) below.
- (1) ~~Planning s~~Staff shall give notice, by hand delivery, interdepartmental mail, electronic mail, or U.S. Mail, to the HAND director, or his ~~or her~~ designee, and to the chairman of the HPC, or his ~~or her~~ designee, within three business days after receipt of a complete application for a demolition permit for any petition involving a demolition covered by this section. A complete application shall include all materials as required by Section 20.09.120(d). Such notice shall include the name, address and telephone number of the owner of the structure. Not later than thirty days after such notice is given by ~~planning~~ staff, the HAND director shall give notice by hand delivery, interdepartmental mail, or U.S. Mail, to the ~~planning~~ staff, the chairman of the HPC or his ~~or her~~ designee, and to the owner, if the one-hundred-twenty-day waiting period is to be imposed; provided further, notice to ~~planning~~ staff and HPC chairman or designee, but not notice to owner, may be given by electronic mail. All such notices shall be deemed effective on the date of mailing, deposit in interdepartmental mail, sending, in the case of electronic mail, or hand-delivery, of the notice; and
  - (2) The owner, within three business days after submitting a complete application to the ~~planning and transportation~~ department, shall place upon the property where the building or structure is located, in plain public view, a notice to the public of the proposed demolition of the building or structure. Such notice shall be in such form as approved by the ~~planning~~ staff and shall include the titles and telephone numbers of the persons to whom notice was given under Section 20.09.230(a)(1) above. Such notice

shall remain in place until termination of the waiting period and the owner shall have the affirmative duty to replace such notice as needed in order to comply with this requirement. Noncompliance with this provision shall result in the delay period being extended by an amount of time equal to the amount of time, as reasonably determined or estimated by the ~~planning~~ staff, during which the notice was not properly in place.

(c) Exceptions. Exceptions to this section shall be as follows:

- (1) Early Termination of Waiting Period. If within the ninety- or one hundred twenty-day period the HPC votes affirmatively not to recommend local historic designation to the common council, or votes on a motion to recommend local designation and the motion fails, and in either case, the vote is not reversed by proper action taken at the same meeting on the same calendar day; or if within such ninety- or one hundred twenty-day period the common council disapproves a recommended local historic designation of the subject property; then the remainder of the waiting period shall be considered waived and the certificate of zoning compliance shall be issued forthwith if all other requirements are met.
- (2) Locally Designated Buildings or Structures are Subject to Title 8 Provisions Regarding Demolition. This section shall not apply to any building or structure that is within a property or group of properties locally designated as a historic district or a conservation district pursuant to Title 8, Historic Preservation and Protection of the BMC. Such buildings and structures shall be governed by the provisions of Title 8.
- (3) Emergency Waiver of Waiting Period. The waiting period may be waived upon a written determination by the city ~~engineering~~ **HAND** department that there is an emergency condition dangerous to life, health or property that requires demolition prior to the expiration of the waiting period.
- (4) Building or Structure Not Subject to Demolition Waiting Period More than Once in any One-Year Period. No building or structure that has been subjected to the waiting period under this section shall be subject to a second waiting period until the passage of one year from the date of expiration of the first waiting period or, where interim protection is placed upon the property pursuant to Section 8.08.015, Interim protection of the BMC during the demolition waiting period but common council final action to reject local designation occurs after the waiting period, for a one-year period after such final common council action. During this one-year period, no action of the HPC or the common council may prevent issuance or effect revocation of a certificate of zoning compliance or demolition permit that is otherwise properly issued or application for which meets all requirements of the Bloomington Municipal Code. Provided, however, where the first waiting period was occasioned by application for partial rather than complete demolition, this provision shall not apply except to the extent that the work covered by the CZC or demolition permit, or application therefore, is substantially identical to the work shown in the submission that occasioned the first waiting period. For purposes of this section, "work" includes the proposed partial demolition and any proposed construction, reconstruction, or alteration associated therewith; "substantially identical" means without significant deviation in any detail of any elevation or in the type, design, or location of materials that will be subject to public view; and,

"submission" shall mean the submission that is authorized to receive approval pursuant to Section 20.09.030, Applications—General of this chapter.

- (5) Withdrawal of Application. If an application for demolition or partial demolition that is subject to the demolition delay procedures of this unified development ordinance is withdrawn by the applicant, the demolition delay period shall be terminated and no certificate of zoning compliance for the withdrawn application shall be issued.
- (d) Issuance of Certificate of Zoning Compliance Authorizing Demolition.
- (1) If within the ninety- or one hundred twenty-day waiting period the property is placed under interim protection or is locally designated as a historic or conservation district pursuant to Chapter 8.08, Historic Districts and Standards of the BMC, then no certificate of zoning compliance authorizing demolition may be issued except: upon termination of interim protection without historic or conservation district designation being placed upon the property; or, where historic or conservation district designation is placed upon the property, in accordance with and after all approvals required by Chapter 8.08.
  - (2) Subsection (d)(2) of this section shall apply where neither interim protection nor historic or conservation district designation is placed upon the property within the waiting period, or where interim protection expires prior to the end of the waiting period without historic or conservation district designation being placed upon the property. After expiration of the waiting period provided for herein, which shall include early termination of the waiting period pursuant to subsection (c)(1) of this section, a certificate of zoning compliance authorizing demolition shall be issued if owner has submitted a complete application and all other requirements of the Bloomington Municipal Code are met. Provided, however, in any case involving partial demolition, no certificate of zoning compliance shall be issued for any partial demolition or any construction, reconstruction, or alteration associated therewith, except in compliance with the provisions of Section 20.09.030(c), Completeness of application of this chapter (governing the submission that may be authorized by a certificate of zoning compliance in such cases.) Moreover, the recipient of a permit or other approval subject to this subsection shall be bound to the details of the elevations, and the design, type, and location of materials depicted in the submission, as provided for and defined in Section 20.09.030, Applications—General, and may not deviate significantly from such depiction without applying for a new certificate of zoning compliance, application for which shall commence a new waiting period.
  - (3) No action of the HPC may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period, except in partial demolition situations described herein and in subsection (c)(4), of this section.
  - (4) For any building or structure that is exempt from the waiting period of this section pursuant to subsections (c)(1), (c)(3), or (c)(4) of this section, a certificate of zoning compliance authorizing release of a demolition permit shall be issued within a reasonable time following receipt by the planning and transportation department of a complete application, provided all other requirements of the BMC are met. For buildings or structures covered by subsection (c)(1) or (c)(4) of this section, during the

one-year period provided by those subsections, and subject to the limitations contained in such clauses, a certificate of zoning compliance shall be issued where all other requirements are met, and if properly issued may not be revoked by any action of the HPC or common council involving interim protection or local designation.

#### **20.09.240 Grading permit.**

- (a) Intent. It is the intent of this section to mitigate the environmental impact of site development and to protect the quality of the waters of the city of Bloomington, Monroe County, and surrounding areas, and to provide a mechanism to insure compliance with Chapter 20.05, Development Standards of this UDO, and particularly the environmental standards of that chapter, by providing a thorough permitting and inspection process for all grading activities.
- (b) Prerequisites.
  - (1) Construction Plan. As required by Title 10, Wastewater, of the Bloomington Municipal Code, a construction plan including the stormwater pollution prevention plan for the site must be approved by the appropriate local, state and federal authorities prior to the issuance of a grading permit.
  - (2) Planned Unit Development Approval. An approved final plan must be in place prior to the issuance of a grading permit.
- (c) Applicability. No land-disturbing activity shall occur on platted or unplatted lands in any zoning district, unless a grading permit for such activity has been issued.
- (d) Exceptions.
  - (1) Land-disturbing activity covering an area less than one thousand square feet;
  - (2) Land-disturbing activity on an individual single-family lot.
- (e) Application.
  - (1) Filing Deadline. An application for a grading permit may be submitted at any time.
  - (2) Application Form. The petitioner shall submit the completed application to the ~~city engineering~~ **planning and transportation** department.
  - (3) Supportive Information. The application shall include, but not be limited to, the following documents:
    - (A) Construction plan;
    - (B) Engineered estimate of erosion control features/financial guarantee for erosion control measures;
    - (C) Topography of the site - proposed and existing two-foot contours;
    - (D) Identification of environmental features, including but not limited to karst, water, trees, and steep slopes.

(f) Planning and Transportation Department.

- (1) Review. The planning staff shall review a grading permit upon the city engineering department's receipt of a complete application and all supportive documents.

~~(g) City Engineering Department.~~

- ~~(2)~~ Decision. The city engineering department staff shall approve or deny the application within twenty working days of the receipt of a complete application and all supportive documents.

- ~~(23)~~ Pre-construction Conference. For all sites of one acre or more, a pre-construction conference is required before any land-disturbing activity can commence. This conference will be between the city engineering department staff and the petitioner. If land-disturbing activity commences without the benefit of a pre-construction conference, it shall be considered a violation of the Unified Development Ordinance. This conference shall include but not be limited to the proposed:

(A) Construction schedule;

(B) Memorandum of erosion control responsibility;

(C) Permit conditions of approval;

(D) Compliance with Section 20.05.041, EN-03 (Environmental standards—Siltation and erosion prevention);

(E) Identification of types of soil stock piles (working versus storage) and seeding requirements for such piles that achieve the objectives of this chapter.

- ~~(34)~~ Inspection. Prior to the initiation of site grading, the city engineering department staff shall inspect the erosion and sedimentation controls installed by the petitioner to ensure that they meet or exceed the measures in the approved construction plan.

- ~~(45)~~ Correction of Deficiencies. The city engineering department staff shall apprise the petitioner in writing of any deficiencies in the installation of the erosion and sedimentation control measures. The petitioner shall schedule a follow-up inspection once the deficiencies have been corrected.

- ~~(56)~~ Commencement of Grading. Grading shall not commence until the city engineering department staff has approved the installation of the erosion and sedimentation control measures for the site. Initiation of grading prior to receiving approval from the city engineering department staff shall constitute a violation of the Unified Development Ordinance, and shall be addressed as provided in Chapter 20.10, Enforcement and Penalties.

- ~~(67)~~ Record. The city engineering department staff shall maintain records of all applications, plans, and permits filed for a grading permit.

- (h) Additional Requirements. Compliance with the requirements set out in this provision shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5 and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management; all

applicable provisions of Title 10, Wastewater of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the city utilities department regarding stormwater management practices.

- (i) Duration.
  - (1) Grading permits shall be valid for a period of one hundred eighty days, or run concurrently with the building permit or other construction authorizations, whichever is longer.
  - (2) Extension. At the written request of the petitioner, the ~~city engineering department~~ staff may extend the period one or more times for up to a maximum of an additional one hundred eighty days. The ~~city engineering department~~ staff may require additional erosion control measures as a condition of the extension if they are necessary to meet the requirements of this chapter.
- (j) Changes or Amendments.
  - (1) The petitioner may submit revisions or amendments to an approved grading permit for consideration by the ~~city engineering department~~ staff and the state, and federal authorities having jurisdiction. A revision or amendment to an approved grading permit shall only be authorized upon review and approval by all the state and federal authorities having jurisdiction.
  - (2) Changes to the grading permit must be approved in writing by the ~~city engineering department~~ staff.

#### **20.09.250 Certificate of occupancy.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city in order to ensure compliance with all applicable ordinances and regulations when considering a request for a certificate of occupancy.
- (b) Prerequisites. For a certificate of occupancy to be issued each of the following must be successfully completed:
  - (1) Issuance of a certificate of zoning compliance;
  - (2) Passage of a final inspection by the ~~planning~~ staff;
  - (3) Passage of a final inspection by the county building department;
  - (4) Passage of a final inspection by the city fire department;
  - (5) Passage of a final inspection by the department of housing and neighborhood development (HAND) for all rental properties.
- (c) Applicability. The city requires that a certificate of occupancy be obtained prior to a building or structure being occupied or used in each of the following situations:

- (1) Occupancy or use of any new building or structure;
  - (2) Re-use or re-occupancy of any existing building or structure that requires either a permit from the county building department or a certificate of zoning compliance from the planning and transportation department;
  - (3) Addition to any existing building or structure. Parts of the existing building or structure not included in the addition may continue to be occupied or used.
- (d) Enforcement. If a certificate of occupancy is required, it is unlawful and a violation of the Unified Development Ordinance for anyone to occupy or use a building or structure, or to cause, suffer or permit another to occupy or use a building or structure, until the planning staff recommends issuance of a certificate of occupancy to the county building department. Any violation of this provision shall be subject to a stop work order, mitigation, and/or fines and penalties as specified in Chapter 20.10, Enforcement and Penalties.
- (e) Planning and Transportation Department. A final certificate of occupancy shall be issued only after all requirements of the certificate of zoning compliance have been completed. Due to weather or other circumstances, a temporary certificate of occupancy may be issued without the required site improvements provided the owner has documented in writing their promise to complete the unfinished work, and the letter is to the satisfaction of the planning and transportation director.

#### **20.09.260 Sign permit.**

- (a) Intent. The purpose of the sign permit section is to provide a mechanism for enforcement of the sign regulations of this title in order to: establish for all signs located on any premises a reasonable and impartial means to permit adequate communication; control confusing sign displays that present a hazard to pedestrians and motorists along streets; insure light, air, and open space; protect the natural beauty and environment of the city; safeguard and enhance property values; protect public and private investment in buildings and open spaces; and protect the public health, safety, and general welfare.
- (b) Prerequisites. The use requesting the sign permit shall be legally established on the property for which the signage is being requested.
- (c) Applicability. Except as otherwise provided, no person shall erect any sign as defined herein without first obtaining a sign permit from the planning and transportation department.
- (d) Exceptions. Signs that are exempt from the sign permit requirement are specified in Chapter 20.05, SI (Sign Standards).
- (e) Application. The application shall include all documentation specified on the application form including:
  - (1) Name, address, and telephone number of applicant;



- (2) Location (address) of the building, structure, or property on which the sign is to be erected;
  - (3) A scaled drawing of the sign, showing the face composing the sign, the position of lighting or other extraneous devices, and any other components of the sign;
  - (4) A location plan showing the position of the proposed sign on any building or land and its position in relation to nearby buildings and to any private or public street right-of-way;
  - (5) Written consent of the owner of the building, structure, or land on which the sign is to be erected in the event the applicant is not the owner thereof;
  - (6) A copy of any required electrical permit issued for the sign;
  - (7) The location and dimensions of all other signage located on the building, structure, or property;
  - (8) Such other additional information as may be required by the ~~planning~~ staff to evaluate the application.
- (f) **Planning and Transportation** Department.
- (1) The ~~planning~~ staff shall review the application upon receipt of a complete application and supportive documents.
  - (2) Decision. If the proposed sign is in compliance with all the requirements of this title, including the signage limitations upon the site as a whole, a sign permit shall be issued.
    - (A) Duration. The sign authorized by a sign permit must be completed and erected within six months of the date of issuance; otherwise, the sign permit shall lapse and become null and void, unless good cause for an extension of time for completion is approved by the **planning and transportation** director.
    - (B) Extension. One extension of up to six months may be authorized by the **planning and transportation** director for reason/cause. The petitioner shall submit the request for extension in writing to the **planning and transportation** director, and the **planning and transportation** director shall make a written determination regarding his or her decision to extend or deny extension. Both the request and the determination shall be made part of the sign permit record.
    - (C) Changes or Amendments. When a sign permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of the sign permit without prior approval of the **planning and transportation** director. When granted, a written record of such amendment shall be entered upon the original sign permit application and maintained in the files of the **planning and transportation** department.

### 20.09.270 Temporary use permit.

- (a) Intent. The purpose of temporary use provisions is to provide a mechanism for enforcement of the temporary use regulations of this title, in order to allow short-term and minor deviations for uses which are temporary in nature, which will not adversely impact surrounding properties and land uses, and which can be terminated and removed at will.
- (b) Prerequisites. A specific temporary use permit may be granted only one time per year on any individual zoning lot and is nonrenewable. Fireworks, Halloween pumpkin, and Christmas tree sales are considered separate uses.
- (c) Applicability. Except as otherwise provided, no person shall have a temporary use as defined herein without first obtaining a temporary use permit from the planning and transportation department. Temporary use permits may be granted pursuant to the standards of Chapter 20.05, TU (Temporary Use and Structure Standards). Uses not specifically included in Chapter 20.05, TU (Temporary Use and Structure Standards) shall not be permitted.
- (d) Exceptions. Yard or garage sales, religious tent meetings; nonprofit events; and political rallies do not require a temporary use permit subject to the standards set forth in Chapter 20.05, TU (Temporary Use and Structure Standards).
- (e) Application. The application shall include all documentation specified on the application form unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular project, including:
  - (1) Name, address, and telephone number of applicant;
  - (2) Location (address) of the building, structure, or land on which the temporary use is to be located;
  - (3) A scaled drawing of the property, which shall demonstrate that the proposed temporary use does not displace required parking for any existing use, that it does not block existing drives, and that the site is arranged so that no business shall be conducted with vehicles stopped in a public right-of-way;
  - (4) Written consent of the owner of the building, structure, or land on which the temporary use is to be located in the event the applicant is not the owner thereof;
  - (5) Such other additional information as may be required by the planning staff to evaluate the application.
- (f) Planning and Transportation Department Decision. The planning staff shall examine such plans, specifications, and other data submitted with the application, and, if necessary, the building or premises upon which it is proposed to establish the temporary use. If the proposed temporary use is in compliance with all the requirements of this title, a temporary use permit shall be issued.
- (g) Duration. The duration of a temporary use permit shall be as specified in Chapter 20.05, TU (Temporary Use and Structure Standards).

### **20.09.280 Easements—General.**

- (a) Intent. The purpose of this section is to outline the procedure for obtaining and recording easements and to insure that the statutory requirements of the Indiana Code for establishing easements are met.
- (b) Applicability. This section governs easements that are:
  - (1) Required and/or granted pursuant to a provision of the Unified Development Ordinance;
  - (2) Offered as a commitment by the petitioner; or
  - (3) Permitted or required as a condition of approval by the plan commission, plat committee, board of zoning appeals, hearing officer, or ~~planning~~ staff.
- (c) Form. Easement instruments shall be prepared in a recordable form acceptable to the city legal department.
- (d) Recording. Approved easement instruments shall be recorded in the county recorder's office. The original recorded easement shall be delivered to the grantee and a copy shall be delivered to the planning and transportation department.
- (e) Covenants, Conditions, and Restrictions. Inclusion of language defining easements in an instrument creating covenants, conditions, and restrictions shall not be sufficient; rather, easement instruments shall be independently recorded documents that may be modified, terminated, or vacated only as provided in this title.

### **20.09.290 Easements—Modification.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city when considering a petition for the modification of platted or unplatted easements. Further, the intent of the easement modification section is to ensure that the statutory requirements established in the Indiana Code for the modification of easements are met.
- (b) Applicability. This section governs easements that are:
  - (1) Required and/or granted pursuant to a provision of the Unified Development Ordinance;  
and
  - (2) Offered as a commitment by the petitioner; or
  - (3) Permitted or required as a condition of approval by the plan commission, board of zoning appeals, hearing officer or ~~planning~~ staff.
- (c) Request for Modification. Either the grantor or the grantee of an easement may apply to the approving body for modification of the easement.

- (d) Time Limitation. If an easement modification petition has been denied, the petitioner shall not file a new application with the same or substantially similar request for a period of six months.
- (e) Recording. If approved, the modified easement shall be recorded by the petitioner in the county recorder's office. The original recorded easement shall be delivered to the grantee and a copy shall be delivered to the planning and transportation department.

#### **20.09.300 Easements—Termination.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city when considering a petition for the termination of an unplatted easement. Further, the intent of the easement termination section is to ensure that the statutory requirements established in the Indiana Code for the termination of easements are met.
- (b) Applicability.
  - (1) Termination of Unplatted Easements. When an easement has been established pursuant to a provision of the Unified Development Ordinance, permitted or required as a commitment or permitted or required as a condition of approval either the grantor or grantee may apply to the approving body for termination of the easement.
  - (2) Time Limitation. If an easement termination petition has been denied, the petitioner shall not file a new application with the same or substantially similar request for a period of six months.
- (c) Exceptions. This section does not govern easements that are shown on a recorded plat.
- (d) Recording. If approved, the easement termination instrument shall be recorded by the petitioner in the county recorder's office. The original recorded easement shall be delivered to the grantee and a copy shall be delivered to the planning and transportation department.
- (e) Removal of Improvements. When applicable, the petitioner shall remove any improvements associated with the use of the easement prior to the termination of the easement.

#### **20.09.310 Easements—Vacation.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city when considering a petition for the vacation of a platted easement. Further, the intent of the easement vacation section is to ensure that the statutory requirements established in the Indiana Code for the vacation of easements are met.

- (b) Prerequisite. If the easement to be vacated was established as a result of a permitted or required commitment or condition of approval by the plan commission or board of zoning appeals, the body that required the commitment or condition of approval shall approve both the easement vacation petition and the termination of the commitment or condition.
- (c) Exceptions. This section does not govern easements that are not:
  - (1) Required pursuant to a provision of the Unified Development Ordinance;
  - (2) Offered as a commitment by the petitioner;
  - (3) Required as a condition of approval by the plan commission or board of zoning appeals; and
  - (4) Shown on a recorded plat.
- (d) Common Council. Persons who own or hold an interest in a lot or lots adjacent to a platted easement may petition the common council for vacation of the easement in the manner outlined in Indiana Code 36-7-3-12.
- (e) Recording. If approved, the easement vacation ordinance shall be recorded by the petitioner in the county recorder's office. The original recorded easement shall be delivered to the grantee and a copy shall be delivered to the planning and transportation department.
- (f) Removal of Improvements. When applicable, the petitioner shall remove any improvements associated with the use of the easement prior to the vacation of the easement.

#### **20.09.320 Surety standards—Performance surety.**

- (a) Intent. Prior to or at the time of approval, the petitioner shall be required to provide a financial performance guarantee, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the city, that all public facility improvements and installations required under the provisions of this title and ~~city engineering~~ the planning and transportation department requirements shall be completed.
- (b) Applicability.
  - (1) A performance agreement between the petitioner and the city, supported by a performance bond or irrevocable letter of credit, shall be required ensuring the timely and proper installation of required public facility improvements; provided, however, that any improvements to be dedicated to Monroe County within the city of Bloomington planning jurisdiction area shall be bonded in accordance with Monroe County bonding policy.
  - (2) The performance guarantee for each individual public facility improvement or installation may be handled separately and shall in no way be contingent on the

completion of any other individual public facility improvements and installations or their performance guarantees.

- (3) The posting of a performance guarantee may be accepted for incomplete requirements that will be completed as per a written agreement with the city. The time period and amount of the performance guarantee shall be determined by the board of public works.

(c) ~~City Engineering~~ **Planning and Transportation** Department.

- (1) Review. The ~~city engineering~~ **planning and transportation** department shall review the estimate upon receipt of a complete application and supportive documents. The ~~city engineering~~ **planning and transportation** department shall verify that the performance bond or letter of credit shall:

- (A) Be in a sum of not less than one hundred twenty-five percent of the approved estimate of the total improvement construction cost of the project in order to be sufficient to complete the improvements and installations in compliance with the Unified Development Ordinance and ~~city engineering~~ **planning and transportation** department requirements;

- (B) Provide surety satisfactory to the city or to the county;

- (C) Run to and be in favor of the city or the county;

- (D) Specify the time for the completion of the improvements and installations (both on- and off-site);

- (E) Be in effect and shall not terminate until a period of two years after the date of substantial completion of the public improvements. The performance surety will remain in effect during this two-year period in the amount of five percent of the original performance surety, or ten thousand dollars, whichever is greater, or as determined by the ~~city~~ **transportation and traffic** engineer; and

- (F) Be in a form approved by the city legal department.

- (2) Report. The ~~city engineering~~ **planning and transportation** department shall recommend approval or rejection of the performance surety to the board of public works.

- (3) Record. The ~~city engineering~~ **planning and transportation** department shall maintain records of all applications, plans, and permits filed for a performance surety.

(d) Duration.

- (1) Time Limit. The completion of public facility improvements and installations shall be within two years of the approval of the project.

- (2) Extension of Completion Time. Should the petitioner not complete the public facility improvements and installations as herein required within a two-year period, the ~~city engineering~~ **planning and transportation** department may approve the petitioner's written request for an extension of time for up to two additional years, granted at six-month intervals and conditioned in every case upon extension or renewal of the surety accordingly, for completion of the required public facility improvements and installations.

- (3) Nonperformance. Should the petitioner not complete the public facility improvements and installations as herein required within the two-year period or within any time extension approved by the ~~city engineering~~ **planning and transportation** department, the city may take the necessary steps to proceed with the completion of the public facility improvements and installations, making use of the performance bond or letter of credit.
  - (4) Expiration. The performance bond or letter of credit shall be in effect and shall not terminate until thirty calendar days after the certificate of final acceptance is approved by the ~~city engineering~~ **planning and transportation** department, and the maintenance surety has been accepted.
- (e) Changes or Amendments.
- (1) Performance Surety Reductions. Periodic partial releases of performance sureties held by the city may be approved by the ~~city engineering~~ **planning and transportation** department.
  - (2) The following standards shall apply to any request for a bond reduction:
    - (A) No more than three reductions shall be permitted within any twenty-four-month period.
    - (B) No performance surety shall be reduced beyond seventy-five percent of the original bond amount.
    - (C) Periodic partial releases shall not occur before completion of at least thirty percent of the improvements covered by the performance surety.

#### **20.09.330 Surety standards—Certificate of final acceptance.**

- (a) Intent. The purpose of the certificate of final acceptance section is to outline the procedure employed by the city in order to ensure compliance with all applicable ordinances and regulations when considering a petition for a certificate of final acceptance.
- (b) Applicability. When the required public facility improvements and installations for any project for which a performance surety has been submitted have been completed, the petitioner shall apply for a certificate of final acceptance from the ~~city engineering~~ **planning and transportation** department.
- (c) ~~City Engineering~~ **Planning and Transportation** Department.
  - (1) Application. Upon completion of the public improvements covered by the performance surety, the petitioner shall apply to the ~~city engineering~~ **planning and transportation** department for a final inspection of the work.
  - (2) Inspection. The ~~city engineering~~ **planning and transportation** department shall inspect the improvements for compliance with this title and ~~city engineering~~ **planning and transportation** department requirements.

- (3) Recommendation. The ~~city engineering~~ **planning and transportation** department shall recommend that the performance surety be released, extended, or declared in default. The ~~public works~~ **planning and transportation** director shall act on the release, extension, or default of the performance surety.
- (4) Record. The ~~city engineering~~ **planning and transportation** department shall maintain records of all applications, plans, and permits filed for a certificate of final acceptance.
- (5) Conditions for Final Acceptance of Public Improvements.
  - (A) Within the city of Bloomington. The board of public works shall accept public improvements that meet the following conditions:
    - (i) The completed public improvements shall comply with the design standards of Chapter 20.07, Design Standards; have been constructed in accordance with ~~city engineering~~ **planning and transportation** department requirements; and have been installed in accordance with the approved plans;
    - (ii) All final inspections required by the Bloomington Municipal Code have been completed and the improvements found to be acceptable by the ~~city engineering~~ **planning and transportation** department;
  - (B) Extraterritorial Jurisdiction. Any public improvements installed pursuant to a Monroe County surety within the city's extraterritorial planning jurisdiction shall be inspected and accepted by Monroe County and the ~~city engineering~~ **planning and transportation** department in accordance with their respective surety policies.

#### **20.09.340 Administrative interpretations.**

- (a) Intent. The interpretation authority established by this chapter is intended to recognize that the provisions of this title cannot, as a practical matter, address every specific situation to which they may have to be applied. In particular, certain categories of uses are listed as either conditional or permitted, but certain specific proposed uses may not clearly fall within the common ordinary meaning of any of the listed uses. Many such situations can be readily addressed by an interpretation of the specific provisions of this title in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, an interpretation shall not have the effect of adding to or changing the essential content of this title but is intended only to allow authoritative application of that content to specific cases.
- (b) Prerequisites.
  - (1) Parties Entitled to Seek Interpretations. Applications for administrative interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any



person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

- (c) Applicability. The planning and transportation director, subject to the procedures, standards, and limitations of this chapter, may render written interpretations of the provisions of this title and of any rule or regulation issued pursuant to it.
- (d) Applications.
  - (1) Refer to application requirements found at Section 20.09.030, Applications—General.
- (e) Planning and Transportation Department.
  - (1) Action on Application. The planning and transportation director shall inform the petitioner in writing of his or her interpretation, stating any specific precedent, the reasons, and the analysis upon which the determination is based.
  - (2) Review Considerations. The following standards shall govern the planning and transportation director, the plan commission, and the board of zoning appeals on appeals from the planning and transportation director, in issuing a land use determination:
    - (A) Any listed use defined in Chapter 20.11, Definitions, shall be interpreted as therein defined;
    - (B) No land use determination shall authorize any use in any zoning district unless evidence is presented demonstrating that it will comply with the general zoning regulations established for that particular zoning district;
    - (C) No land use determination shall authorize any use in a particular zoning district unless such use is substantially similar to other uses specifically listed as permitted or conditional in such zoning district and is more similar to such uses than to other uses listed as permitted or conditional in another zoning district;
    - (D) If the proposed use is most similar to a use allowed only as a conditional use in the zoning district, then any land use determination authorizing such use shall be subject to conditional use approval pursuant to Section 20.09.150, Conditional use; and
    - (E) No land use determination shall allow the establishment of any use that would be inconsistent with the statement of purpose of the zoning district in question, unless such use meets the standard of either subsection (e)(2)(C) or (e)(2)(D) of this section.
- (f) Decision.
  - (1) Approval. If the planning and transportation director determines that the use is significantly like a permitted use in the subject zoning district, the planning and transportation director may approve the land use.
    - (A) Written Notice to Petitioner. The planning staff shall give the petitioner written notice of said approval.

- (2) Denial. If the planning and transportation director determines that the use is not significantly like a permitted use in the subject zoning district, he or she shall deny the land use.
  - (A) Written Notice to Petitioner. If the planning and transportation director denies the land use, the planning staff shall give the petitioner written notice of said denial and apprise the petitioner of their right to an administrative appeal per subsection (i)(1) of this section.
- (g) Effect of Land Use Determination. No land use determination authorizing a particular use in a particular zoning district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the ordinances of the city including, but not limited to, a certificate of zoning compliance, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.
- (h) Limitations on Land Use Determination. A land use determination finding a particular use to be permitted, or allowed as a conditional use in a particular zoning district, shall be deemed to authorize only the particular use for which it was issued, and such interpretation shall not be deemed to authorize any allegedly similar use for which a separate land use determination has not been issued.
- (i) Board of Zoning Appeals.
  - (1) Appeals from Planning and Transportation Director Interpretations. The board of zoning appeals shall, pursuant to Section 20.09.350, Administrative appeal of this chapter, hear and decide appeals from any administrative interpretation by the planning and transportation director acting pursuant to his authority and duties under this section.

#### **20.09.350 Administrative appeals.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city in order to afford citizens an avenue of appeal when there is some doubt that an administrative official, hearing officer, staff member, administrative board or other body, except the plan commission, has rendered a correct interpretation of the applicable ordinances and regulations while administering or enforcing of any part of this title.
- (b) Applicability.
  - (1) An administrative appeal may be made by any person aggrieved by an order, requirement, decision, or determination made by an administrative official, hearing officer, staff member, administrative board or other body, except the plan commission, charged with the administration or enforcement of any part of this title.

- (2) Stop Work Order.
  - (A) Authority. When an appeal from the decision of an administrative official or body has been filed, the planning and transportation director may issue a stop work order on the premises affected.
- (3) This administrative appeals section shall not apply to fines levied under the authority of Chapter 20.10, Enforcement and Penalties. Such fines may be appealed under the procedures specified in Chapter 20.10, Enforcement and Penalties.
- (c) Application.
  - (1) Filing Deadline. An administrative appeal must be filed with the planning and transportation department within five days of the order, requirement, decision, or determination that is being appealed.
- (d) Review. At their next regularly scheduled public meeting, the board of zoning appeals shall review:
  - (1) The written statement and supportive material submitted by the appellant;
  - (2) The record of action supplied by the administrative official or body from which the appeal is taken;
  - (3) The written and oral testimony of the public;
  - (4) The testimony of the appellant; and
  - (5) The testimony of the administrative official or body from which the appeal is taken.

**20.09.360 Amendments to ordinance text.**

- (a) Intent. The purpose of this section is to outline the procedure employed by the city when considering a petition for an amendment to the text of the Unified Development Ordinance. Further, the intent of the ordinance text amendment section is to ensure that the statutory requirements established in the Indiana Code for amending the ordinance text are met.
- (b) Prerequisites. Only the members of the common council or the plan commission shall have standing to initiate a proposal to amend the text of the Unified Development Ordinance.
- (c) Preparation. The ~~planning~~ staff shall prepare the proposal upon the direction of either the plan commission or the common council. The ~~planning~~ staff shall prepare the proposal so that it is consistent with Indiana Code 36-7-4-601.
- (d) Complete Submittal. The ~~planning~~ staff shall:
  - (1) Assign the item a case number;
  - (2) Place the item on an agenda of the plan commission.

- (e) Review. In reviewing the proposal, the plan commission and common council shall pay reasonable regard to:
  - (1) The growth policies plan;
  - (2) Current conditions and the character of current structures and uses in each zoning district;
  - (3) The most desirable use of land in each zoning district;
  - (4) The conservation of sensitive environmental features;
  - (5) The conservation of property values throughout the jurisdiction; and
  - (6) Responsible development and growth.
- (f) Public Notice.
  - (1) Published. The ~~planning~~ staff shall be responsible for publishing notice pursuant to the plan commission rules of procedure.
  - (2) Proof. The ~~planning~~ staff shall be responsible for filing proof of published notice in the petition file.
- (g) Public Hearing. Within sixty days of initiating a proposal to amend the text of the Unified Development Ordinance or of receiving a proposal from the common council, the plan commission shall hold a public hearing in accordance with the plan commission rules of procedure.
- (h) Decision. The plan commission shall:
  - (1) Certify and forward the proposal to the common council with:
    - (A) A favorable recommendation;
    - (B) A negative recommendation;
    - (C) No recommendation; or
  - (2) Continue the proposal to a definite future meeting date.
- (i) Rejection or Amendment by the Common Council. If the common council returns the proposal, the plan commission shall consider the rejection or amendment, and shall vote on the proposal within forty-five days in accordance with Indiana Code 36-7-4-607.
- (j) Publication. If the proposal is adopted by the common council pursuant to Indiana Code 36-7-4-607, the plan commission shall arrange for the inclusion of the amended text in the Unified Development Ordinance printed by the city.
- (k) Common Council Action. The common council shall vote on the proposal within ninety days of certification by the plan commission in accordance with Indiana Code 36-7-4-607, which governs whether the proposal is adopted or defeated.

## **Chapter 20.10, Enforcement and Penalties**

### **20.10.010 Authority.**

All departments, officials and public employees of the city that are vested with the duty or authority to review and/or issue permits shall conform to the provisions of this title of the Bloomington Municipal Code (BMC) and shall issue no permit for any use, building, activity or purpose which would be in conflict with the provisions of this title. Any permit issued in conflict with the provisions of this title shall be null and void. The planning and transportation director and his or her designee are designated enforcement officials with full authority to investigate, issue notices of violation, and secure remedies, including but not limited to injunctive relief, for any violation of this title.

### **20.10.020 Penalties and remedies for violations.**

- (a) For the purposes of this chapter, a violation shall be defined as violation of or failure to comply with:
  - (1) Any provision or requirement of this title; or
  - (2) Any condition, requirement or commitment established with the approval of a variance, conditional use, site plan, planned unit development, subdivision, certificate of zoning compliance, or other development approval under this title; or
  - (3) The required elements of the submission on the basis of which any permit or approval has been rendered hereunder.
- (b) Any violation as defined herein is hereby declared a common and public nuisance, and any person who is a responsible party as defined in Section 20.10.050(a) with respect to such violation shall, in addition to any other penalty or remedy provided herein, be liable for maintaining a common and public nuisance.
- (c) Any violation, as defined in subsection (a) above, shall be subject to the penalties and remedies provided in this chapter, and the city shall have recourse to any remedy available in law or equity.
- (d) Each day that any violation continues shall be considered a separate violation for purposes of the penalties and remedies specified in this chapter. A violation continues to exist until corrected. Correction includes, but is not limited to:
  - (1) Cessation of an unlawful practice;

- (2) Removal of a building, structure, or other improvement;
  - (3) Faithful or otherwise-approved restoration or replacement of a building, structure, site or natural feature;
  - (4) Any other remedy specified in this title; and/or
  - (5) Other remedy acceptable to the city.
- (e) The city legal department may institute appropriate action to impose and collect fines and/or other penalties; to enforce or defend any action taken pursuant to Section 20.10.050(e) of this chapter; and to prevent, enjoin, abate, remove or correct any violation of or noncompliance with this title or any condition, requirement, or commitment established in connection with this title or any development approval hereunder.
- (f) In addition to all other penalties and remedies provided for herein, if a building or structure is demolished (which shall include partial demolition) in violation of Section 20.09.230, Demolition and demolition delay then, for a period of two years following such demolition, no new certificate of zoning compliance authorizing any use or any release of a building or demolition permit shall be issued for any activity upon the lot of record upon which the building or structure was located, or any adjoining lot of record under common ownership or control, except for an approved restoration or replacement of the demolished building or structure, or as otherwise agreed to by the city or ordered by the court in enforcement proceedings. The planning and transportation director shall be authorized to execute and record in the county recorder's office a sworn statement containing these restrictions upon the properties affected thereby.
- (g) In addition to all other penalties and remedies provided for herein, where the violation is removal of one or more trees contrary to Section 20.05.044, EN-07 (Environmental standards—Tree and forest preservation), the responsible party shall be required to meet the following requirements:
- (1) Replace the removed trees with healthy trees of similar species.
    - (A) The aggregate caliper of replacement trees shall equal the aggregate caliper of removed trees. Determination of total caliper to be replaced shall be made by the planning and transportation director.
    - (B) The size of replacement trees shall be the largest reasonably available which can either be planted or transplanted from another location.
    - (C) Replacement trees shall be planted in the same location where the existing trees were removed. If all of the replacement trees cannot be planted in the area where existing trees were removed without endangering their health, an alternative planting location shall be identified, subject to the approval of the planning and transportation director.
  - (2) Restore the area around the replacement trees, and the original disturbed area if applicable, by backfilling all holes and creating acceptable grade and covering.
- (h) In addition to all other penalties and remedies provided for herein, where the violation is disturbance of other environmental constraints as outlined Chapter 20.05, EN (Environmental Standards), the responsible party shall be required to meet the following

requirements, and no violation shall be deemed corrected for purposes of fining until all required steps are completed:

- (1) Submit a remediation plan to the planning and transportation department indicating how the disturbed area shall be restored to its pre-disturbed condition. The planning and transportation director may require the utilization of native seed mixes and native plantings to restore areas to their pre-disturbed condition.
  - (2) Remediation plans shall be submitted by the responsible party within seven days of receiving notice from the planning and transportation department.
  - (3) An approved remediation plan must be fully carried out as soon as reasonably possible. A violation shall be deemed corrected as of the date of submission of a remediation plan if such plan is subsequently approved and if such plan is fully carried out as soon as reasonably possible. However, any unreasonable delay in implementation of the plan may result in each day of the period of delay being deemed an additional violation subject to the maximum fine provided for in this title.
- (i) In addition to all other penalties and remedies provided for herein, the city may refuse to issue any certificate of zoning compliance, certificate of occupancy, or other permit or approval for any use, development, occupancy or other activity upon or concerning any lot or parcel created in violation of Chapter 20.06, Subdivision Regulations of this title. The city may further take legal action to restrain and enjoin further violations, including but not limited to sales or offers of sales of lots or parcels, in violation of Chapter 20.06, Subdivision Regulations.
  - (j) The remedies provided for in this title shall be cumulative, and not exclusive, and shall be in addition to any other remedies available in law or equity.

#### **20.10.030 Administration.**

The planning and transportation director or his or her designee shall maintain a record and tabulation of all complaints and investigations, and the resolutions of those complaints, whether made by citizens or by staff; communicate on a regular basis with citizen complainants about the progress being made in investigating and resolving their complaints; and report to the plan commission on an as-needed basis as to the number and type of complaints and the outcome of each.

#### **20.10.050 Enforcement procedures—Notices of violation.**

- (a) If the planning and transportation director or his or her designee finds that any violation subject to this chapter is occurring, or has occurred, a notice of zoning violation (NOV) may be issued to the responsible party. Such notices of zoning violation may be further accompanied by additional warnings following the same procedures of this chapter. For purposes of issuing a notice of zoning violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation:
  - (1) The property owner;
  - (2) Persons with any possessory interest in the property; and
  - (3) Any person who, whether as property manager, principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, causes, maintains, suffers or permits the violation to occur and/or to continue.
- (b) The notice of zoning violation (NOV) shall be in writing and shall be served on all of the responsible parties in one or more of the following manners: delivery in person or by first class mail. The notice of zoning violation shall state:
  - (1) The location of the violation;
  - (2) The nature of the violation;
  - (3) The date the violation began;
  - (4) The daily fine assessed for the violation;
  - (5) Additional remedies the city may seek for violation;
  - (6) That the fine is paid to the city of Bloomington;
  - (7) That the notice of violation may be appealed to the board of zoning appeals;
  - (8) That the fine may be contested in the Monroe County Circuit Courts.
- (c) Each item of noncompliance enumerated on the notice of violation shall be considered to be a separate violation, and each day that each such item of noncompliance continues shall be considered to be a separate violation. Fines shall accrue from the date the zoning violation commenced.
- (d) If the responsible party refuses inspection of the property, the planning and transportation director or his or her designee may obtain an inspection warrant from any court of record in the county in which the property is located.
- (e) In addition to issuing a notice of violation (NOV), the planning and transportation director or his or her designee may utilize and/or seek through legal proceedings one or more of the following remedies:
  - (1) Revoke or withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred; and/or
  - (2) Issue a stop work order; and/or



- (3) Request the county building department to issue a stop work order and instruct the building official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred; and/or
- (4) Draw on a performance or maintenance surety, as necessary, ~~with permission of the manager of engineering services,~~ to effect any remedial actions required to abate the violations; and/or
- (5) Revoke the permits, certificates and/or approvals that have been violated; and/or
- (6) Any and all penalties and remedies listed in Section 20.10.020, Penalties and remedies for violations.

## **20.11, Definitions**

### **20.11.020 Defined words.**

"Director" See "Planning and transportation director."

"Easement, Tree Preservation" means an easement that prohibits the removal of any tree over six (6) inches in diameter at breast height within the easement area, allows the removal of dead or diseased trees that pose a safety risk or impede drainage, only after first obtaining approval from the Planning and Transportation Department".

"Green Building Worksheet" means a worksheet or form developed by the Planning and Transportation Department that specifies information to be submitted prior to consideration or any Subdivision or Site Plan application that is utilizing the incentives provided for Green or Sustainable Development Practices as specified in the Unified Development Ordinance.

"Hearing officer" means a member of the planning staff, appointed by the plan commission, who hears and makes final decisions on certain variances and certain conditional uses, as specified in the plan commission rules of procedure. The hearing officer is established pursuant to Indiana Code 36-7-4-923.

"Master Thoroughfare Plan" means the official thoroughfare plan for Bloomington, Indiana entitled "*Master Thoroughfare Plan*" adopted as part of the Growth Policies Plan, and on file in the office of City Clerk or the Planning and Transportation Department, which are by reference made a part of this code, showing location, alignment, functional classification, width of roadway, and minimum developed cross sections of existing and proposed thoroughfares.

"Official zoning map" means a map of the city of Bloomington, Indiana, that legally delineates the boundaries of zoning districts as they apply to the properties within the planning jurisdiction. There is only one official zoning map, and it is kept up to date by the plan commission and the planning and transportation director.

"Planning and transportation director" means the officer appointed by and/or delegated the responsibility for the administration of this title's regulations by the plan commission, as well as administration of the planning and transportation department for the city of Bloomington, Indiana. The term includes the planning and transportation director's authorized representatives.

"Planning Staff" means the planning and transportation director and all employees of the planning and transportation department of the city under the supervision of the planning and transportation director, and subject to the authority of the planning and transportation director.

Waiver, Design Standards. "Design standards waiver" means an exception to a design standard that may be approved by either the planning and transportation director or plan commission, as regulated by this title.

**Material Regarding**  
**Res 14-13 (Approving Collective Bargaining Agreement with Firefighters, Local 586)**  
**and**  
**Ord 14-13 (Amending the Applicable Salary Ordinance to Reflect Changes in 2014 Salaries)**

**Introductory Materials**

- Memo from Mike Rouker, Assistant City Attorney
- Insert indicating that a strikeout version of the Agreement is available in the Council Office
- Collective Bargaining Agreement Between City and Bloomington Metropolitan Firefighters, Local 586

**Legislation**

- **Res 14-13** To Approve and Authorize the Execution of a Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Professional Firefighters, Local 586
- **Ord 14-13** To Amend Ordinance 13-15 which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2014 - Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department



## MEMORANDUM

### CITY OF BLOOMINGTON LEGAL DEPARTMENT

**TO:** Common Council  
**FROM:** Michael Rouker, Assistant City Attorney  
**CC:** Margie Rice, Corporation Council  
**RE:** (1) Resolution 14-13: Collective Bargaining Agreement – Bloomington Metropolitan Firefighters; and  
(2) Ordinance 14-13: Amendment to Ordinance 13-15, Which Fixed the 2014 Salaries of Fire Department Personnel  
**DATE:** July 3, 2014

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### INTRODUCTION

On June 4, the Bloomington Metropolitan Professional Firefighters Union, Local 586 (hereafter “BMPF”) voted in favor of a new collective bargaining agreement negotiated between the administration and BMPF’s negotiating team. The new agreement represents a settlement of bargainable terms under Bloomington Municipal Code § 2.34. The Union has asked the Council to review and approve the contract. As a corollary, in order to effectuate the terms of the contract, the Common Council must consider Ordinance 14-13. Ordinance 14-13 amends Ordinance 13-15 to establish correct salaries for Fire Department personnel.

### BACKGROUND

During 2013, the administration and BMPF met on multiple occasions in an effort to reach terms on a new collective bargaining agreement. Both sides worked diligently, but despite genuine efforts, negotiations stalled. On January 1, 2014, the prior collective bargaining agreement expired, and the contract’s “evergreen” clause kicked in. Despite expiration, both sides continued to negotiate in earnest. The parties went so far as to employ a federal mediator during the process. Finally, on June 4, BMPF voted in favor of the version of the collective bargaining agreement now before the City Council. The attached contract represents a three-year settlement of terms covering years 2014, 2015, and 2016.

As a final clean-up measure, Ordinance 14-13 is presently before the Common Council. Ordinance 14-13 amends the Fire Department’s prior salary ordinance. The amendments therein establish Fire Department salaries consistent with the terms of the negotiated collective bargaining agreement. If the Council approves the new collective bargaining agreement and enacts Ordinance 14-13, the terms of the agreement would immediately take effect.

### SUBSTANTIVE CHANGES WITH A DIRECT FISCAL IMPACT

The attached collective bargaining agreement contains several changes that will have a direct fiscal impact on the City. Staff estimates the total additional expense of the attached agreement at \$471,693. Each substantive change with a direct fiscal impact is detailed below.

Base Salary Increases

As with the latest iteration of the AFSCME contract, the first year of the attached contract does not include a percentage increase to base salary. The administration took a firm position on percentage increases in an effort to confront declining property tax revenues proactively. As the chart below details, the City’s maximum permissible property tax levy has declined in recent years.

<b>Year</b>	<b>COB Property Tax Levy % Increase<sup>1</sup></b>
2003	4.8%
2004	4.7%
2005	4.4%
2006	3.9%
2007	4.0%
2008	3.7%
2009	4.0%
2010	3.8%
2011	2.9%
2012	2.9%
2013	2.8%
2014	2.6%

The continuing decline in property tax revenue necessitated proactive fiscal measures from the administration, including lower percentage salary increases to union and non-union employees.

The administration and BMPF were able to work out percentage salary increases in the second and third years of the collective bargaining agreement. Members of the collective bargaining unit will receive a 1% increase to base pay in 2015 and a 1.5% increase to base pay in 2016.

Longevity Increases

The collective bargaining agreement increases longevity pay by \$500 for firefighters with one to nineteen years of service and increases longevity pay by \$1,250 for firefighters with twenty or more years of service. The additional increase is significant for BMPF, as firefighters’ pensions are calculated using a combination of base pay and twenty years longevity. From the administration’s perspective, the substantial increase in the final year both encourages the retention of experienced employees and provides a retirement benefit to its firefighters.

\$1,000 Buyout for EMT and Confined Space Payments

Under the previous collective bargaining agreement, firefighters received \$500 in additional annual salary for obtaining an EMT certification, \$300 for working as a member of the confined space rescue team, and \$500 for serving as the confined space rescue team coordinator. These categories of incentive pay are quickly becoming obsolete. With the establishment of the Fire

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<sup>1</sup> Because of property tax caps, the actual percentage levy increase received by the City is regularly lower than the maximum allowable increase.

Department's Tactical Rescue Team, the confined space rescue team is no longer necessary. Also, as all newly hired firefighters are required to obtain EMT certification as a condition of employment, it no longer makes sense to provide a \$500 incentive to firefighters who have achieved the certification. Therefore the administration and BMPF agreed to a one-time \$1,000 lump sum payout for the elimination of EMT and confined space incentive pay.

### **SUBSTANTIVE CHANGES WITH NO DIRECT FISCAL IMPACT**

In addition to the changes enumerated above, the contract includes a couple of housekeeping items that do not have a direct fiscal impact. First, the bereavement leave section (Article XII) has been completely overhauled to bring the language in line with the language in the City's personnel manual. Establishing consistent rules on bereavement leave across the City is fundamentally fair to all employees and also eases work associated with administering bereavement leave. Second, the contract removes any reference to pregnancy. Rules regarding pregnancy are well-established, and there is no need for the collective bargaining agreement to address pregnancy. The last important non-fiscal change is set forth in Article XXI, regarding Personnel Service Records. Previously, the department could not consider adverse personnel actions taken more than three years from the date of a second adverse personnel action. This contract allows management to consider older disciplinary measures if those measures were serious enough to warrant Board of Public Safety involvement.

### **CONCLUSION**

After months of negotiations, the administration is satisfied that terms of the new collective bargaining agreement are fair to all parties. Union membership has approved to the new contract. The administration recommends that the Common Council approve the contract and enact Ordinance 14-13, so that the contract's terms may take effect.

**Res 14-13 To Approve and Authorize the Execution of a  
Collective Bargaining Agreement  
between the City of Bloomington and the Bloomington  
Metropolitan Professional Firefighters, Local 586**

**Supplemental Material**

A Version of Agreement Highlighting Changes  
Is Available in the Council Office



**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN THE CITY OF BLOOMINGTON  
AND THE BLOOMINGTON METROPOLITAN FIREFIGHTERS,  
LOCAL 586**

**TABLE OF CONTENTS**

**Page**

<b>ARTICLE I.</b>	<b>Terms, Conditions and Definitions.....</b>	<b>1</b>
<b>ARTICLE II.</b>	<b>Recognition .....</b>	<b>3</b>
<b>ARTICLE III.</b>	<b>Management Rights .....</b>	<b>4</b>
<b>ARTICLE IV.</b>	<b>Union Rights .....</b>	<b>6</b>
<b>ARTICLE V.</b>	<b>Basic Salary Ordinance .....</b>	<b>7</b>
<b>ARTICLE VI.</b>	<b>Longevity/Certification/Appointments/Education/Lump Sum .....</b>	<b>8</b>
<b>ARTICLE VII.</b>	<b>Clothing Allowance.....</b>	<b>10</b>
<b>ARTICLE VIII.</b>	<b>Holiday Pay.....</b>	<b>11</b>
<b>ARTICLE IX.</b>	<b>Life Insurance .....</b>	<b>11</b>
<b>ARTICLE X.</b>	<b>Firefighter Health and Safety .....</b>	<b>11</b>
<b>ARTICLE XI.</b>	<b>Health Insurance/Dental Insurance .....</b>	<b>12</b>
<b>ARTICLE XII.</b>	<b>Bereavement .....</b>	<b>13</b>
<b>ARTICLE XIII.</b>	<b>Unscheduled Duty/Holdover/Mandatory Training Pay .....</b>	<b>14</b>
<b>ARTICLE XIV.</b>	<b>Acting Pay/Temporary Reassignment .....</b>	<b>14</b>
<b>ARTICLE XV.</b>	<b>Vacation/City Days .....</b>	<b>15</b>
<b>ARTICLE XVI.</b>	<b>Sickness and Injury .....</b>	<b>17</b>
<b>ARTICLE XVII</b>	<b>Layoffs.....</b>	<b>18</b>
<b>ARTICLE XVIII.</b>	<b>Negotiation Time.....</b>	<b>19</b>
<b>ARTICLE XIX.</b>	<b>Labor-Management Committee .....</b>	<b>19</b>
<b>ARTICLE XX.</b>	<b>Non-Discrimination.....</b>	<b>20</b>
<b>ARTICLE XXI</b>	<b>Personnel Service Records .....</b>	<b>21</b>
<b>ARTICLE XXII.</b>	<b>Agreement Grievance Procedure .....</b>	<b>21</b>

**ARTICLE XXIII. Interdepartmental Transfer.....23**  
**ARTICLE XXIV. Full and Complete Agreement.....24**

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN THE CITY OF BLOOMINGTON  
AND THE BLOOMINGTON METROPOLITAN FIREFIGHTERS, LOCAL 586**

**ARTICLE I.        Terms, Conditions and Definitions**

**A.        Agreement Terms and Conditions**

**This Agreement between the parties constitutes a three (3) year settlement of all bargainable issues, as defined in Bloomington Municipal Code §2.34, and following, for calendar years 2014, 2015, and 2016. It is understood and expressly agreed by the parties that all terms and conditions in this Agreement are contingent on and subject to the following conditions:**

- (1)        Receipt in each and every year of the Agreement (2014, 2015, and 2016) by the Civil City of Bloomington of no less than one million, two-hundred thousand (\$1,200,000.00) dollars from the Utility Department of the City of Bloomington in satisfaction of what is commonly known as the "Interdepartmental Agreement."**
- (2)        The City of Bloomington being legally authorized in each and every year of the Agreement (2014, 2015, and 2016) to increase its ad valorem property tax by a minimum of at least three percent (3%) rate of growth over the previous year's maximum permissible ad valorem property tax levy, and a maximum increase equal to the total non-farm personal income growth multiplied by the maximum permissible ad valorem property tax levy for the preceding year (beginning with fiscal year 2014) as provided for and defined in Ind. Code § 6-1.1-18.5 *et seq.* entitled "Civil Government Property Tax Controls."**

**The City shall not be required to petition for financial relief as provided for and defined in the above-cited chapter as a prerequisite to showing its inability to increase its *ad valorem* property tax levies in the above-stated amounts.**

- (3) Receipt in each and every year of the Agreement (2014, 2015, and 2016) by the Civil City of Bloomington of at least seven million, five-hundred thousand dollars (\$7,500,000.00) as county option income tax distribution as provided for and defined in Ind. Code §6-3.5-6-1 *et seq.* entitled "County Option Income Tax."**
- (4) Any and all changes in State and/or Federal law, policies, procedures, or regulations which have a fiscal impact upon the City of Bloomington shall be fully funded by the source from which such change originates.**

**In the event that any of the above-stated conditions do not occur, then it is specifically understood and agreed by the parties that the City may declare this Agreement open with respect to the salary rates provided in Article V for all subsequent years covered by this Agreement. The City shall inform the Unit of such declaration in writing. In the event of such declaration by the City, the parties shall immediately as practicable begin new negotiations on the subject of said salary rates only, pursuant to Bloomington Municipal Code §2.34, and following.**

**In the event that Bloomington Municipal Code §2.34.010 "Recognition" is amended to recognize another union in lieu of the Bloomington Metropolitan Firefighters Local 586, then it is specifically understood and agreed by the parties that all terms and conditions of**

employment as agreed to in this Agreement shall remain in effect throughout the years covered in this Agreement.

In the event that Bloomington Municipal Code §2.34.040, "Issues Subject to Bargaining," is amended, then it is specifically understood and agreed by the parties that either party may declare this Agreement open with respect to said added issue(s) for all subsequent years covered by this Agreement.

**B. Definitions**

**Anniversary Date:** The date employee began work at the Fire Department

**Certification:** State approved Master Firefighter and/or NFPA certification

**City:** City of Bloomington

**City Day:** Personal day for firefighter which is one Tour of Duty

**Collective Bargaining Agreement:** A legally binding contract between the City and Unit which regulates the terms and conditions of employment

**Department:** Bloomington Fire Department

**NFPA:** The National Fire Protection Association

**OSHA:** Occupational Safety and Health Administration

**BMF:** The Bloomington Metropolitan Firefighters Local 586

**Tour of Duty:** The 24-hour shift worked by firefighters in the Department

**ARTICLE II. Recognition**

This Agreement between the parties is entered into pursuant to and in compliance with Bloomington Municipal Code §2.34, and following.

**ARTICLE III.        Management Rights**

**The City retains the responsibility and authority to manage and direct on behalf of the public the operation and activities of the City to the full extent authorized by law. Such responsibility and authority shall include, but not be limited to:**

- 1.     The right to direct the work of its employees;**
- 2.     The right to establish policy;**
- 3.     The right to maintain the efficiency of public operations;**
- 4.     The right to design and implement safety programs for employees;**
- 5.     The right to design and implement a physical fitness and job training program for employees;**
- 6.     The right to determine what services shall be rendered to the public and how they can best and most efficiently be rendered;**
- 7.     The right to determine job content and job descriptions;**
- 8.     The right to determine, effectuate, and implement the objectives and goals of the City;**
- 9.     The right to manage and supervise all operations and functions of the City;**
- 10.    The right to establish, allocate, schedule, assign, modify, change, and discontinue City operations, work shifts, and working hours;**
- 11.    The right to establish, modify, change and discontinue work standards;**
- 12.    The right to hire, examine, classify, promote, train, transfer, assign, and retain employees; suspend, demote, discharge, or take other disciplinary action against employees in accordance with applicable law and to relieve employees from duties due to lack of work or funds or other legitimate reason;**
- 13.    The right to increase, reduce, change, modify, and alter the composition and size of the work force;**

14. **The right to determine, establish, set and implement policies for the selection, training and promotion of employees;**
15. **The right to create, establish, change, modify, and discontinue any City functions, operation and department;**
16. **The right to establish, implement, modify, and change financial policies, accounting procedures, prices of goods, or services, public relations, and procedures and policies for the safety, health and protection of City property and personnel;**
17. **The right to adopt, modify, change, enforce, or discontinue any existing rules, regulations, procedures and policies which are not in direct conflict with any provision of this Agreement;**
18. **The right to establish, select, modify, change, or discontinue equipment, materials, and the layout and arrangement of machinery;**
19. **The right to determine the size and character of inventories and their disposal;**
20. **The right to determine and enforce employee quality and quantity standards;**
21. **The right to contract, subcontract, merge, sell, or discontinue any function or operation of the City;**
22. **The right to engage consultants for any function or operation of the City;**
23. **The right to sell, transfer, lease, rent or otherwise dispose of any City equipment, inventories, tools, machinery, or any other type of property or service;**
24. **The right to control the use of property, machinery, inventories, and equipment owned, leased or borrowed by the City;**
25. **The location, establishment, and organization of new departments, divisions, subdivisions, or facilities thereof, and the relocation of departments, divisions, subdivisions, locations and the closing and discontinuance of the same; and**
26. **The right to classify jobs and to allocate individual employees to appropriate classifications based upon duty assignments.**



The above enumeration of management rights is not inclusive of all such rights and it is understood and agreed by the parties that all rights granted the City by Constitution, statute, charter, ordinance or in any other manner are retained by the City.

**ARTICLE IV.        Union Rights**

**1.        Dues Check-off.** Upon receipt of voluntary, written and signed authorization in such form as complies with Ind. Code §22-2-6-2 from employees who are covered by this Agreement and are members of the Bloomington Metropolitan Firefighters Local 586, the City shall deduct from the earnings of each said employee an amount representing their regular, monthly dues for the preceding month and shall remit such monies, together with the appropriate records to a designated BMF Local 586 official.

**2.        Bulletin Boards.** The BMF Local 586 shall be allowed one bulletin board in each fire station. Additional bulletin boards and locations will be allowed only with the approval of the Fire Chief.

**3.        Non-discrimination.** The City shall not prohibit any employee from joining or refusing to join the BMF Local 586 or any successor recognized under §2.34 of the Bloomington Municipal Code.

**4.        Time off for Union Business.** The City recognizes that information from the International Association of Firefighters benefits the City as well as the Firefighters. To encourage participation in state or national events, the City shall provide the BMF Local 586 with the opportunity to schedule time off for Union Business. During the term of this Agreement, the Union may schedule a maximum of seven (7) Tours of Duty off for use by Union membership during each year of this Agreement. Union time off may be scheduled

in twelve (12) hour, one-half (1/2) tour of duty increments, from the beginning to the middle of the tour of duty, or from the middle to the end of the tour of duty. Absence for Union Business shall be scheduled with the approval of the Chief or the Chief's designee. Such absence may not jeopardize the efficient operations of the Department. The Chief's approval may not unreasonably be withheld. Time spent on Union Business shall be paid as benefit time off, and shall not count as "hours worked" for FLSA purposes.

5. Meetings. The City shall allow Union Meetings to take place in department stations. Union Members who are on duty shall be allowed to attend these meetings. If all stations are permitted to attend simultaneously, the meetings shall be held at Headquarters with a limit of twelve (12) meetings of no more than two (2) hours duration on an annual basis. Provided, however, the efficient operations of the Department shall not be jeopardized by the scheduling of Union Meetings.

**ARTICLE V. Basic Salary Ordinance**

A. No percentage increase for Firefighter 1st Class, Sergeant and Captain shall be provided during 2014. The base salary rate for Firefighter 1st Class, Sergeant and Captain shall remain as follows:

Firefighter 1 <sup>st</sup> Class	\$48,740.00
Sergeant	\$50,665.00
Captain	\$54,541.00

B. Effective January 1, 2015, the base salary rate for Firefighter 1st Class, Sergeant and Captain shall increase one percent (1%) and shall be as follows:

Firefighter 1 <sup>st</sup> Class	\$49,227.00
Sergeant	\$51,172.00
Captain	\$55,086.00

C. Effective January 1, 2016, the base salary rate for Firefighter 1st Class, Sergeant and Captain shall increase one and one-half percent (1.5%) and shall be as follows:

Firefighter 1 <sup>st</sup> Class	\$49,965.00
Sergeant	\$51,940.00
Captain	\$55,912.00

D. PERF. The City shall contribute four percent (4.0%) of the salary of a fully paid first class firefighter to the Public Employees Retirement Fund (PERF) on behalf of each fund member in the Department. These payments are based on the salary of a first class firefighter plus twenty years of longevity and are authorized pursuant to Ind. Code §36-8-8-8.

**ARTICLE VI. Longevity/Certification/Appointments/Education Pay/One-Time Lump Sum Payment**

**A. Longevity Pay**

Additional pay for longevity shall be credited on the firefighter's anniversary date of hire after the completion of years of service as reflected in the chart below.

<u>YEARS OF SERVICE</u>	2014-2016
1	0
2	800
3	800
4	1,100
5	1,100
6	1,400
7	1,400
8	1,400
9	1,400
10	1,400
11	1,400

12	1,400
13	1,400
14	1,700
15	1,700
16	1,700
17	1,700
18	1,900
19	1,900
20+	3,250

**B. Certification Pay**

The following amounts will be added to the annual salary of firefighters who have the following certifications:

1 <sup>st</sup> Master Firefighter or NFPA equivalent	\$300.00
Each additional certification	\$100.00

<u>Number</u>	<u>Amount</u>
1	\$300
2	\$400
3	\$500
4	\$600
5	\$700
6	\$800
7	\$900
8	\$1,000

A maximum of eight (8) certificates, or one thousand dollars (\$1,000.00), shall apply.

Any and all certifications must be current and on file at Headquarters to receive certification pay.

**C. Professional and Command Appointments**

Additional pay for professional and command appointments shall be as follows:

Headquarters Sergeant	\$400
Headquarters Captain	\$600
Air Mask Technician, Shift Investigator	\$600

Engineer	\$700
Training Officer	\$800
Chauffeur	\$900
Rescue Technician	\$1200

**D. Education**

Education Pay shall be paid to firefighters with advanced degrees from accredited colleges or universities. Education Pay shall be recognized as either Level 1 or Level 2. Those firefighters, if any, with 2-year Associate degrees shall be classified as Level 1. Those firefighters, if any, with 4-year Bachelor degrees, shall be classified Level 2.

Education Pay shall be paid as follows:

Level 1 . . . Associate 2-year degree	\$500
Level 2 . . . Bachelor 4-year degree	\$1,200

**E. Other**

Maximum additional pay under Sections A through D of this Article shall not exceed four thousand, eight hundred dollars (\$4,800.00) annually.

**F. One-Time Lump Sum Payment**

Following the approval of this Agreement by the City Council, each firefighter shall receive a one-time lump sum payment of one-thousand dollars (\$1,000), which serves as total and final compensation to the Union membership for the removal of EMT certification pay and Confined Space Rescue command appointment pay.

**ARTICLE VII. Clothing Allowance**

Effective January 1 of each year of this Agreement, each firefighter shall receive a clothing allowance of one thousand six hundred dollars (\$1,600.00). Firefighters may be

required to furnish and maintain all uniforms and equipment by the City pursuant to Ind. Code § 36-8-4-4. Checks for clothing allowance will be issued in two equal payments to each firefighter no later than the regularly scheduled payday which falls on or immediately preceding June 15 and December 15 of each year of this Agreement.

**ARTICLE VIII. Holiday Pay**

For the term of this Contract, employees in the Unit shall receive one-hundred dollars (\$100.00) per holiday for each holiday an employee is regularly scheduled to work. Holidays are New Year's Day, Martin Luther King Day, Good Friday, Easter, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving, Christmas, Election Day (when applicable), and Primary Election Day (when applicable). In addition, in any year when there is neither a Primary Election Day nor a General Election Day, the second Monday in October, known as Columbus Day, shall be a holiday for purposes of this Agreement.

**ARTICLE IX. Life Insurance**

During the term of this Agreement all employees in the Unit shall receive group life insurance in the amount of fifty thousand dollars (\$50,000.00); or a total of one hundred thousand dollars (\$100,000) in the event of accidental death, the premiums for which shall be paid by the City.

**ARTICLE X. Firefighter Health and Safety**

It is recognized and agreed by the City and the employees in the Unit that compliance with applicable laws and regulations governing safety and health matters are

**an important priority. The City will continue to make reasonable provisions in compliance with such laws and regulations for the safety and health of its employees.**

**If an employee has justifiable reason to believe that the employee's safety and health are in danger due to an alleged unsafe working condition, or alleged unsafe equipment, the employee shall inform the immediate supervisor who shall have the responsibility to determine what action, if any, should be taken.**

**If an employee is ordered to perform a task in such a manner that the performance of the task would be in direct violation of a specific safety rule or regulation, the employee has the right and responsibility to refuse to perform the task until the hazard has been evaluated and a determination of the hazard has been made.**

**Employees have the responsibility to communicate their OSHA concerns to their immediate supervisor. Employees may further report continuing OSHA concerns to higher levels of supervision within the Fire Department, to the Risk Management Division of the City Legal Department, or to IOSHA without fear of reprisal.**

**ARTICLE XI.        Health Insurance/Dental Insurance**

**Firefighters shall be eligible to participate in the City's group medical/dental insurance plan. The City shall pay the majority of the premium cost, and the firefighter shall pay the same premium rate for coverage as other eligible City employees. The final decision as to scope of coverage and the choice of insurance carrier shall rest with the City. Retired employees covered by the terms of this Memorandum shall be eligible for inclusion in the City's group health insurance plan in accordance with State and Federal law. Retired employees shall pay the entire premium. Said payments shall be due and payable**

at a time and place determined by the City. The premium for retired employees may be different than the premium for active employees.

The City and employees jointly recognize the problem of potential medical premium increases. In the event of premium increases, City and employees shall work cooperatively to manage insurance costs, including the consideration by them of reducing or eliminating coverage for this purpose. Dependent and family dental coverage shall be at the option of the employee and costs for such coverage shall be borne by the employee.

**ARTICLE XII. Bereavement**

Bereavement leave is available after completion of a firefighter's initial probationary period. If there is a death in the employee's immediate family (spouse, registered domestic partner, mate, child, brother, sister, parent, parent of spouse, the parent or child of a registered domestic partner, the parent or child of the employee's mate, or step equivalents thereof) necessary time off for the attendance of funeral matters will be approved with pay providing the total absence does not exceed two (2) tours of duty. In the case of the death of an employee's grandparent, grandchild, brother-in-law, sister-in-law, or step equivalents thereof, absence with pay will be approved providing the total absence does not exceed one tour of duty.

Any other absence in connection with funerals of other relatives or friends may be excused using a vacation day, city day, or without pay at the discretion of the Chief. For purposes of this provision, "other leave" does not include sick leave.



**ARTICLE XIII.     Unscheduled Duty/Holdover/Mandatory Training Pay**

**Members of the Unit shall receive Unscheduled Duty Pay at the contractual rate of twenty-five dollars (\$25.00) per hour, at an established minimum of two (2) hours pay with no maximum limit. Unscheduled duty shall include only instances when a firefighter is called in from off-duty time, and shall not include holdover from an on-duty shift ("end-of shift run"). Holdover time shall be calculated as "time worked" in one-half (1/2) hour increments with no maximum. The two (2) hour minimum shall not apply to holdover duty.**

**Mandatory Training required by the Department during a firefighter's off-duty time, shall also be compensated at the contractual rate of twenty-five dollars (\$25.00) per hour with a minimum of two (2) hours pay and a maximum of eight (8) hours pay.**

**The contractual overtime provided in this Article is paid in situations where the firefighter does not reach the Fair Labor Standards Act (FLSA) threshold during a work period. In rotations where the firefighter reaches the FLSA maximum hours of work during a rotation, the firefighter will receive the greater of the contractual rate per hour or the applicable FLSA overtime rate for Unscheduled Duty and Mandatory Training Pay.**

**ARTICLE XIV.     Acting Pay**

**A firefighter in the Unit may be required to perform additional duties in an "acting" capacity due to the illness, vacation, or retirement of another member of the Department. Firefighters shall not be compensated for duty served in an "acting" capacity at a higher rank on behalf of a firefighter who is sick or on vacation; but will receive "acting pay" for the position in the event the "acting" status exceeds thirty (30) days after the effective date of the retirement of the individual who created the vacancy.**

A reassignment payment of ten dollars (\$10.00) will be made when a firefighter is transferred from their regularly-assigned Engine, Rescue, Aerial or Truck Company to another Engine, Rescue, Aerial or Truck Company for a period of greater than twelve (12) hours if the reassignment results in the firefighter having to change stations. This payment will be for each full tour of duty on the shift to which they are regularly assigned.

In the event a call back of off-duty personnel is initiated and a “temporary” Engine Company is established for any length of time, the proper call-back pay procedure shall be followed and shall supersede any language of this Article.

If an entire Company is reassigned to another station for any length of time, this will not constitute a change or reassignment as contemplated by this Article XIV, and no reassignment payment will be made. Further, if a reserve or back-up apparatus is placed in service as a front-line apparatus, such change shall not constitute a change or reassignment as contemplated by this Article.

To receive reassignment payment as contemplated by this Article XIV, the affected firefighter must complete a reassignment payment slip and turn it in to the assigned station ranking officer on the date of reassignment. Failure to complete the reassignment slip will result in forfeiture of payment.

**ARTICLE XV.      Vacation/City Days**

After having completed twelve (12) months of continuous employment, members of the Unit shall receive a minimum of five (5) tours of duty as paid vacation days each calendar year. In addition, members of the Unit shall receive additional tours of duty off for years of continuous active service with the Department as contained in the Table below.

**These vacation days must be taken within the calendar year and may not be accumulated. Vacation must be approved by the Station Captain and scheduled with the Battalion Chief no later than February 1 of the year in which they are taken in order to guarantee the tour of duty off.**

**Vacation days shall be considered twenty-four (24) hour tours of duty, for purposes of scheduling in accordance with the table below:**

<u>Years of Service</u>	<u>24-hr Tour of Duty</u>
0	0
1	5
2	5
3	5
4	5
5	5
6	6
7	6
8	6
9	7
10	7
11	7
12	8
13	8
14	8
15	9
16	9
17	9
18	10
19	10
20	10
21	11
22	11
23	11
24	12
25	12
26	12

**In addition to the above vacation days, employees in the Unit shall receive four (4) additional days, commonly known as "City Days". City days may be scheduled in either twelve (12) hour, one-half (1/2) tour of duty increments from the beginning to the middle of the tour of duty, or from the middle to the end of the tour of duty; or these days may be scheduled for an entire twenty-four (24) hour tour of duty. Such days must be scheduled at least forty-eight (48) hours in advance with the Station Captain and approved by the Battalion Chief. City Days must be taken within the calendar year and may not be accumulated.**

**Approval of Vacation and City Days shall be dependent upon the number of personnel scheduled off for the tour of duty.**

#### **ARTICLE XVI.      Sickness and Injury**

**Firefighters of the department shall report sick only when they are suffering from an illness or injury which would prevent them from properly performing their assigned duties. Such report shall be made to the station captain or battalion chief no less than one (1) hour prior to the reporting time for duty. Sick leave will require a doctor's statement containing the expected date of return to duty and any limitations of duty. The statement shall be submitted to the Chief's office on the date of the missed tour of duty or as soon as reasonably possible thereafter. To assist management in scheduling and/or reassignment decisions, the firefighter shall contact the Station Captain or Battalion Chief prior to the next regularly scheduled tour of duty in order to inform the supervisor of the expected date of return and any limitations of duty. The firefighter shall return to duty as soon as possible after an illness or injury.**

**The Fire Chief or Board of Public Safety may order a member to consult a physician, psychiatrist, or clinic regarding the physical or psychological condition or for the purpose of obtaining a second opinion. Cost of such diagnostic consultation and/or testing shall be borne by the City. Cost of therapy and/or treatment shall be borne by the firefighter. Reports of diagnostic consultation and/or testing shall be submitted to the Chief or Board.**

**Firefighters shall be entitled to sick leave with full pay without limitation, subject to processing of medical disability pension status under current Indiana law. Additionally, the City will pay for the medical expenses of the firefighter in accordance with current Indiana law at the time of the illness or injury. Such expenses will be paid by the City to the extent that such expenses are not reimbursed by the firefighter's medical insurance or workers compensation insurance, subject to a maximum liability to the City of the amount of non-reimbursed medical expenses that would have been incurred if the firefighter was on the City's medical insurance plan.**

**ARTICLE XVII. Layoffs**

**In the event that the City may find layoffs necessary, they shall notify BMF Local 586, in writing, of the number of sworn personnel to be laid off.**

**Sworn personnel with the least seniority will be laid off first and recalled last. Sworn personnel that have been laid off will be given the opportunity to return to duty before any new personnel will be hired.**

**Civilian personnel will not be hired as the result of a layoff to perform any duties previously performed by a firefighter.**

**ARTICLE XVIII. Negotiation Time**

Future contract negotiations, pursuant to Bloomington Municipal Code §2.34, shall be scheduled in a manner to provide that representatives of the Unit will be granted duty time off, with the approval of the Fire Chief, to participate in collective bargaining meetings and negotiations with the City scheduled to occur during duty time. Generally, not more than two (2) Unit members will be excused from the same shift for participation in such meetings. In special circumstances, the Unit may request a third (3<sup>rd</sup>) member from the same shift be excused. Approval of the Fire Chief will not be unreasonably withheld.

Unit members will not be compensated by the City for time spent in negotiations or union business scheduled during firefighter's off-duty time.

**ARTICLE XIX. Labor-Management Committee**

The City and employees in the Unit agree to utilize a joint Labor-Management Committee which shall consist of three (3) representatives appointed by the Mayor and three (3) representatives appointed by the Unit. Additionally, one non-voting member shall be mutually selected by the members to serve as the Labor-Management Committee Advisor. This Committee shall meet at least on a quarterly basis, and additionally as requested by either party, in order to discuss any and all facets of the employment relationship. If a majority of the Committee decides as a result of such discussion that a change should be made, then the Committee shall forward such recommendation to the Fire Chief and to the Union President. The Chief may approve the recommendation without Board of Public Safety approval, or shall forward to the Board of Public Safety

within thirty (30) days with a positive or negative recommendation or without a recommendation. A copy of the Chief's submission, if any, shall be forwarded to the Union President, who may also provide a recommendation to the Board of Public Safety, with a copy to the Chief. The Board of Public Safety shall consider the matter at its next regularly scheduled meeting.

In the event that a majority of the Committee shall fail to reach an agreement on any proposal after four (4) meetings in which the proposal was subject to good faith discussions, then any three (3) members of the Committee may forward their recommendation to the Fire Chief and Union President to resolve. Within thirty (30) days the Fire Chief and Union President shall resolve the matter or forward it on to the Board of Public Safety with their recommendations. The Board of Public Safety shall consider the matter at its next regularly scheduled meeting.

The parties recognize and acknowledge that the Board of Public Safety does not have fiscal appropriation powers.

**ARTICLE XX.      Non-Discrimination**

The parties hereto agree that they shall not discriminate against any person because of his or her race, color, sex, disability, sexual orientation, national origin, familial status or ancestry, or any other legally protected classification.

The parties further acknowledge their continuing responsibility affirmatively to seek equal employment practices under the City of Bloomington's Affirmative Action Plan, whereby all employees will be given equal opportunity to be employed in positions which provide the greatest opportunity for use of their skill, ability and experience.

**ARTICLE XXI. Personnel Service Records**

**Inspection of documents contained in an employee's personnel file shall be in accordance with state law. Each employee shall be given a copy of all additions to their file at the time such additions are made or in a reasonable time thereafter.**

**Complaints determined to be unfounded or those in which the employee was found not to be involved or is exonerated will not be placed in the employee's personnel file. Sustained complaints will be retained in accordance with state law.**

**Any adverse personnel action taken by the Board of Public Safety may be considered at any time. Any adverse personnel action taken by the Chief or another supervisor in the Department may not be considered by the department beyond three (3) years from the date of the adverse personnel action.**

**ARTICLE XXII. Agreement Grievance Procedure**

**Any dispute between the parties arising out of the meaning, interpretation or application of this Agreement shall be resolved in conformity with the following procedures.**

**The term "work days" as used in this Article shall mean the days Monday through Friday inclusive and excludes Saturdays, Sundays, and holidays on which City Hall is closed.**

- 1. An aggrieved firefighter shall notify the Battalion Chief, in writing, of a concern or complaint within five (5) working days of its occurrence. The Battalion Chief shall attempt to resolve the matter with the firefighter and station captain, and shall provide a written response within ten (10) working days of receipt. If the matter is not satisfactorily resolved at this level, then the aggrieved officer may proceed to Step Two of this Procedure by initiating a grievance.**



- 2. Any matter not resolved at Step One of this Procedure may be presented, in writing, to the Union Grievance Committee within ten (10) working days of the response of the Battalion Chief. The Union Grievance Committee shall determine if a grievance exists. The Union Grievance Committee shall consist of the three (3) shift stewards and any two (2) Executive Board members. If any member of the committee is involved in the grievance, they shall be replaced by one of the remaining executive board members. Any remaining Executive Board Member shall replace any member of the Committee that is on vacation, city day, or sick leave.**

**After the Union Grievance Committee has met, and decides that a grievance does exist, the Union shall within ten (10) working days, with or without the aggrieved person or persons in the bargaining unit, present the grievance in writing to the Chief of the Fire Department or their designee.**

- 3. Any grievance forwarded under Step Two of this Procedure shall be presented by the Union Grievance Committee, in writing, to the Chief within ten (10) working days. The Chief shall serve a written response upon the President of the Union within ten (10) working days of receipt.**
- 4. Within ten (10) working days of receipt of the Chief's written response to Step Three, the Union Grievance Committee shall determine whether the grievance shall proceed to Step 4, the Board of Public Safety. Notification shall be made in writing to the Secretary of the Board. The Board shall hear the grievance at the next regularly scheduled meeting to occur at least seven (7) working days after receipt. The parties recognize and acknowledged that the Board of Public Safety does not have fiscal appropriation powers.**
- 5. In the event that a grievance is not resolved in Step Four of this Procedure, it may be submitted to non-binding advisory arbitration by the giving of written notice by one party to the other within ten (10) working days of the response of the Board of Public Safety. If such notice is given, the parties shall jointly request the American Arbitration Association to appoint an impartial arbitrator pursuant to its rules. The arbitrator may interpret this Agreement and apply it to the particular issue presented, but shall have no authority to add to, subtract from or in any way modify the terms of this Agreement or any agreement made supplementary hereto. The arbitrator shall, in any case upon which there is power to rule under the provisions of this Agreement, hold hearings upon the issue, make such investigations as deemed necessary and proper to a decision and shall render a decision, in writing, within a reasonable time. The expenses and fees of the arbitrator shall be borne equally by the City and the Union.**

**ARTICLE XXIII. Interdepartmental Transfer**

**The City of Bloomington values the public service provided by employees. Transfer from the Fire Department to a civilian position or the Police Department shall be as follows:**

**Any accumulated vacation time or "City Day" shall be taken before transfer from the department or paid to the employee.**

**The employee will receive and accumulate vacation days based on one-half of the employee's respective of years of service, as applied to either the Police Department's vacation or Civil City's vacation/PTO schedule. As an example, if the employee has 20 years of service with the Fire Department, he or she will receive the same number of vacation days as an employee with 10 years of service with the Police Department or Civil City.**

**If the transfer is to the Police Department, no vacation time shall be taken in the first year of service. If the transfer is to a civilian position, no vacation time may be taken during probation or the applicable period for the new position.**

**The employee shall enjoy the same rights as any new employee on probationary status upon transferring to a new position.**

**The employee shall receive no other benefit from transfer (including, but not limited to longevity or training steps) and must start at the entry level step required for all new employees. The provisions of this Article are also intended to apply equivalently to transfers to the Bloomington Fire Department. Any transfer to the Bloomington Fire Department shall require both compliance with all hiring criteria and successful**

completion of the probationary period. The sole benefit of inter-departmental transfer shall be eligibility for additional vacation days.

**ARTICLE XXIV. Full and Complete Agreement**

The parties acknowledge that during the negotiations that preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any bargainable subject or matter, as defined by Bloomington Municipal Code §2.34, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Subject to the conditions set forth under the title "Term and Conditions of Agreement," this Agreement, including any supplements and exhibits attached hereto, concludes all collective bargaining between the parties during the term hereof, and effective on the date this Agreement is approved by the City Council constitutes the sole, entire and existing Agreement between the parties hereto and, effective on the date this Agreement is approved by the City Council, supersedes all prior agreements and undertakings, oral and written, express or implied, or practices between the City and the Unit or its employees, and expresses all obligations and restrictions imposed on each of the respective parties during its term on all bargainable issues as defined by Bloomington Municipal Code §2.34.

Negotiations for future contracts will begin in the spring of the last year of this Contract intended to result in a new agreement approved by both parties by July 1<sup>st</sup> of the last year of the contract. In the event that a new agreement is not reached before July 1<sup>st</sup> of 2016, then the terms and provisions of the Agreement shall nonetheless remain in full force and effect until an agreement on a new contract is reached; provided, however, the terms

**and the conditions of the agreement shall not be extended for more than one year from the expiration of this Agreement.**

**This Agreement between the City of Bloomington and the Bloomington Metropolitan Firefighters Local 586, or its successor in recognition, constitutes a complete agreement as to all bargainable issues, effective on the date this Agreement is approved by the City Council through December 31, 2016.**

**BLOOMINGTON METROPOLITAN  
FIREFIGHTERS LOCAL 586**

**CITY OF BLOOMINGTON**

\_\_\_\_\_  
**Bob Loviscek, President**

\_\_\_\_\_  
**Mark Kruzan, Mayor**

\_\_\_\_\_  
**Matt Muehling, Vice President**

\_\_\_\_\_  
**Darryl Neher, President  
Bloomington Common Council**

**SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

**Reviewed and Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

\_\_\_\_\_  
**Marjorie K. Rice  
Corporation Counsel  
City of Bloomington**

**RESOLUTION 14-13**

**TO APPROVE AND AUTHORIZE THE EXECUTION OF A  
COLLECTIVE BARGAINING AGREEMENT BETWEEN  
THE CITY OF BLOOMINGTON  
AND THE BLOOMINGTON METROPOLITAN PROFESSIONAL FIREFIGHTERS,  
LOCAL 586**

WHEREAS, Chapter 2.34 of the Bloomington Municipal Code establishes a procedure for Firefighters Collective Bargaining; and

WHEREAS, the City and the Bloomington Metropolitan Professional Firefighters, Local 586 have negotiated and reached agreement on provisions for a collective bargaining agreement to take effect on the date the contract is approved by the Common Council and to conclude December 31, 2016; and

WHEREAS, it is in the best interests of the City to approve and execute the agreement;

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

The Common Council hereby approves and authorizes the execution of the Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Professional Firefighters, Local 586, a copy of which Agreement is attached hereto and made a part hereof.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

**SYNOPSIS**

This resolution approves and authorizes the execution of a four-year Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Professional Firefighters, Local 586.

**ORDINANCE 14-13**

**TO AMEND ORDINANCE 13-15 WHICH FIXED THE SALARIES OF OFFICERS OF THE POLICE AND FIRE DEPARTMENTS FOR THE CITY OF BLOOMINGTON, INDIANA, FOR THE YEAR 2014 -**

**Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department**

**WHEREAS,** the City of Bloomington and the Bloomington Metropolitan Firefighters Local 586 have successfully executed a collective bargaining agreement including year 2014;

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

SECTION I. Ordinance 13-15, which fixed salaries for officers in the Fire department for 2014, shall be amended by deleting the part of Section I B (Additional pay for all job positions except Chief) entitled “Longevity” and replacing it with the following:

**Longevity:**

Additional pay for longevity shall be credited on the firefighter’s anniversary date of hire after the completion of years of service as reflected in the chart below.

<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>
1	\$0	6	\$1,400	11	\$1,400	16	\$1,700
2	\$800	7	\$1,400	12	\$1,400	17	\$1,700
3	\$800	8	\$1,400	13	\$1,400	18	\$1,900
4	\$1,100	9	\$1,400	14	\$1,700	19	\$1,900
5	\$1,100	10	\$1,400	15	\$1,700	20+	\$3,250

SECTION 2. Ordinance 13-15, which fixed salaries for officers in the Fire department for 2014, shall be amended by deleting the part of Section I B (Additional pay for all job positions except Chief) entitled “Certification” and replacing it with the following:

**Certification:**

1st Master Firefighter or NFPA Advanced certification	\$300
Each additional certificate	\$100

Maximum of eight (8) certificates or \$1,000.00 shall apply. Any and all certifications must be current and on file at Headquarters to receive certification pay. Pursuant to the Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Firefighters, Local 586 (2014 – 2016), each firefighter shall receive a one-time lump sum payment of one-thousand dollars (\$1,000), which serves as total and final compensation to the Union membership for the removal of EMT certification pay and Confined Space Rescue command appointment pay.

SECTION 3. Ordinance 13-15, which fixed salaries for officers in the Fire department for 2014, shall be further amended in the following manner. The part of Section I B (Additional pay for all job positions except Chief) entitled “Professional & Command Classifications” shall be amended by deleting references to “Confined Space Rescue Team Member” and “Confined Space Rescue Team Coordinator” in the table so that the part now reads:

**Professional & Command Classifications:**

Additional pay for professional and command appointments shall be as follows:

Headquarters Sergeant	\$ 400
Air Mask Technician, Shift Investigator, Headquarters Captain	\$ 600
Engineer	\$ 700
Training Officer	\$ 800
Chauffeur	\$ 900
Rescue Technician	\$ 1,200
Shift Fire Inspector	\$ 1,710

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance amends the City of Bloomington Police and Fire Salary Ordinance for the year 2014 (Ordinance 13-15) by reflecting changes negotiated in a collective bargaining agreement with the Bloomington Metropolitan Firefighters Local 586 achieved after the approval of the original salary ordinance.

**ORDINANCE 14-14**

**TO AMEND ORDINANCE 13-16 WHICH FIXED THE SALARIES OF APPOINTED OFFICERS, NON-UNION AND A.F.S.C.M.E. EMPLOYEES FOR ALL THE DEPARTMENTS OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, FOR THE YEAR 2014 -  
Re: Adding a Position in the Office of the City Clerk (Records Archivist)**

- WHEREAS, the City Clerk is required by both State and local law to maintain custody of records of the Common Council in perpetuity; and
- WHEREAS, these records include, but are not limited to, minutes, ordinances, and resolutions; and
- WHEREAS, Council records contain fragile and historic documents, such as handwritten original records of the City from 1845 to approximately 1926, original unique typewritten documents from 1926 to the early 1990s, and recent electronic records; these currently number over 19,000 individual records, 2500 of which are available online; and
- WHEREAS, as the manner for keeping records has progressed over time -- from meeting records handwritten with iron gall ink and early metal-nibbed pens to early typewritten documents and through word processed documents and currently using electronic records – so, too, have the standards and manner of record preservation; and
- WHEREAS, the Clerk desires to provide the entire collection of Council records to the public for review and scrutiny by maintaining an online presence of this collective record of Council actions and to provide an assemblage of history of each piece of legislation with background materials; and
- WHEREAS, a readily-available archive of the legislative library enhances our community’s commitment to openness and transparency; an accessible archive also helps members of the community who seek to become active participants in civic life but are daunted by the workings of government; and
- WHEREAS, the digitization initiative, begun by interns and temporary employees, has not achieved a sufficient level of accuracy and precision needed for this critical project; and
- WHEREAS, accurately and comprehensively documenting the work of the Council, making this information readily-accessible to the public and ensuring the reliability of data across formats and platforms is a priority to the Clerk, and
- WHEREAS, the Office of the City Clerk would like to add the position of Records Archivist to the 2014 Salary Ordinance for the City of Bloomington;

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

SECTION 1. Section 1 of Ordinance 13-16 shall be amended by adding the following lines regarding job titles and grade as indicated below:

<u>Department</u>	<u>Job Title</u>	<u>Grade</u>
Clerk	Records Archivist	5

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

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



PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance amends the City of Bloomington Salary Ordinance for the year 2014 (Ordinance 13-16). The amendment adds a Records Archivist position to the ordinance in the Office of the City Clerk.



*Office of the City Clerk*  
*Regina Moore*

INTEROFFICE MEMORANDUM

TO: COMMON COUNCIL MEMBERS  
FROM: REGINA MOORE, CITY CLERK  
SUBJECT: CREATING THE POSITION OF RECORDS ARCHIVIST IN THE  
OFFICE OF THE CITY CLERK  
DATE: JULY 1, 2014

I know you are all familiar with the project of digitizing and preserving records of the work of the Common Council. I know you also know my long time commitment to this project. Our earliest records are not just records; they are actually museum quality historic artifacts in themselves!

Over the last several years, interns and temporary employees have worked on this project, but with the scope and breadth of the work to be done this arrangement has been, while somewhat helpful, not satisfactory. At this point, there needs to be an overall plan that highlights continuity, organization, and project management skills to successfully complete the project.

**Scope of the project:**

Our mission is to create a system of easily accessed legislation, available to the public and to city staff who need to research a particular topic. There is a consistent need to reference records and ordinances by city staff. There also has been a steady stream of interest in our historical documents and records, from early records to mid-century council history. The system we have started on encourages public engagement by creating readily available resources for self education. Now we need to take that system to the next step -- providing an comprehensive resource to council legislative history without an in person visit to the collection of records.

This navigable on-line collection documents of both actual legislation and supplemental but relevant documents (council packets, minutes, memos, petitions, correspondence and other statements) will allow citizens and staff a more in depth exploration of the issues involved in legislation. Hopefully, they will also help the reader capture the mood and environment in which the legislation was discussed, debated and decided.

While there is safety in the storage of these documents in fire proof cabinets, there is also a danger of something being missing, something inadvertently left out or taken out of the current archive. Already we've found unexplainable gaps in legislation and minutes from years past. The guidelines for the project would also firm up policy and procedure for any further processing of historic and current records.

## **Specifics of the Job**

Specifics of the project and related work will focus on three types of council records needing three different approaches:

### Digitization of early records

- Camera work (arranging, set up, maintaining adjustments)
- Imaging (creating, quality checking, filing)
- File manipulation (transferring images into appropriate file, creating metadata)
- Transcribing (overseeing the transcription of spidery 19<sup>th</sup> century handwriting by volunteers, either in or outside City Hall)
- Coordination of project with internal and external partners

### Mid-Century Records

- Scanning, completing, categorizing

### Late Records

- Electronic transfer and scanning, attaching pertinent documents. This is in current practice and would continue during the time of the project and then beyond.

## **FI\$CAL IMPACT**

It is intended that this position would be included in the 2015 budget.

Unused 2014 funds in the temporary employee line would cover most of the expenditure for the remainder of the year for this position. Also, unspent monies from other lines within the 2014 budget that normally would revert to the general fund (end of the year reversions) would contribute a smaller amount to this salary.

It is estimated at this time that additional monies for the Regular Part Time position (34 hours per week) would need to come from an additional appropriation of approximately \$11,800 to cover health insurance, PERF and FICA.

I hope you agree that this is a well worth-while goal, and that the benefits of having easily accessible information would contribute greatly to achieving a high level of transparency, “apparency” and openness in our council records, for the past, and also the future.

**POSITION DESCRIPTION  
CITY OF BLOOMINGTON, INDIANA**

**POSITION:** Records Archivist  
**DEPARTMENT:** CLERK  
**JOB GRADE:** 5  
**FLSA:** Non-exempt

**STATE & LOCAL JOB CENSUS CODE: 01**  
**CENSUS 2000 CODE (SOC equivalent): 240**

**Job Summary**

Incumbent is responsible for creating and maintaining database of public documents. Records to be digitized include hand written original records of the City from 1845 to 1926, as well as unique typewritten documents from 1926 through the 1990, and recent electronic records. Incumbent is further responsible to catalogue and preserve the original documents.

**Duties:**

**Essential (primary)**

Assembles original public record documents with all addenda. Researches and assembles history of each piece of City of Bloomington legislation to include complete background.

Converts records, including handwritten and typewritten records, to electronic form.

Maintains database of digitized original public records to allow public access and to preserve the information.

Creates and maintains online database of digitized documents.

Assembles, catalogues, preserves the council records of information across various formats\* by managing the entire collection into one comprehensive and accessible format.

Creates and maintains accessible, retrievable computer archives and databases, incorporating current advances in electric information storage technology

**Digitization of early records**

- Camera (arranging, set up, maintaining adjustments)
- Imaging (creating, quality checking, filing)
- File manipulation (transferring images into appropriate file, creating metadata)
- Transcribing (overseeing the transcription of spidery, 19<sup>th</sup> century writing by volunteers, either in or outside of the office)
- Coordination of project

**Mid-Century Records**

- Scanning, completing, categorizing

Late Records

- Electronic transfer and scanning, attaching pertinent documents.

**Non-Essential (secondary)**

Back up for front office staff.

Other duties as assigned.

Distributes post-passage legislation to appropriate bodies and files.

Seek resources to complete the body of work.

**Job Requirements:**

Associate's degree preferred in history, library science, English, information management, information technology, or field that gives requisite knowledge to do work.

Graduation from an accredited high school program or equivalent education required.

Experience of one to three years in document management or archiving preferred.

An interest in and awareness of history and the value of governmental documents

Knowledge of the legislative process, local governmental processes, and government officials and roles.

Knowledge of document preservation and cataloguing

Commitment to accuracy and ability to do independent research.

Excellent knowledge of grammar, composition, formatting and syntax in both English, and HTML.

Knowledge of strategic planning, project management, and project evaluation

Knowledge of clerical procedure and systems

Demonstrated high level of skill in use of information technology such as scanners, word processing, and cameras.

Ability to work with a high degree of precision and care; methodical and logical in thinking; strong analytical and organizational skills.

Able to identify relevant underlying principles in legislative form and to detect changes in form. Able to compile, code, categorize, audit, and verify information.

### **Level of Supervision and Responsibility:**

#### **Received**

Work product is reviewed by the City Clerk for clarity, completeness.

#### **Exercised**

Working with volunteers who want to help transcribe the 19<sup>th</sup> Century handwriting and language to modern English for understandability and ease of reading the old documents.

Consequences of poor decisions or failure to work accurately will result in serious implications for the Clerk and the City of Bloomington. The records and documents to be preserved are not eligible by state law for destruction at any point. Records lost or mishandled cannot be retrieved.

### **Difficulty of Work:**

Precision, accuracy, attention to detail is essential. Record keeping must be impeccable. Lost or misnamed documents will be lost from the system. Front desk workspace will necessitate exercising discretion and composure when handling citizens who may be upset at the actions of the city. Independent judgment is required in determining appropriate response to inquiries and complaints by citizens.

Work is performed in a modern office environment. Time schedule may vary for occasional evening and weekend work. Work is performed in a high profile environment, that of the office of an elected official.

### **Personal Work Relationship:**

Able to work independently and as part of a team. Able to consult and work with internal and external partners for completion of this work.

Revised: June 24, 2014

File Location: I:\public\job descriptions updated 2014\clerk\clerk records archivist 2014.doc

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## INTEROFFICE MEMORANDUM

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**TO:** REGINA MOORE, CITY CLERK  
**FROM:** GINGER THOMAS, ASST. DIRECTOR, HUMAN RESOURCES  
**SUBJECT:** JOB EVALUATION PROCESS FOR ARCHIVIST POSITION  
**DATE:** JULY 1, 2014  
**CC:** DORIS SIMS, DIRECTOR, HUMAN RESOURCES

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In order to determine the appropriate job grade for a position, the City of Bloomington uses a “point factor” system. Job descriptions are used as the source of information. Then, the position is evaluated in the following categories:

- Complexity—mental effort related to overall complexity of the job as measured by the nature of the job tasks and other factors.
- Experience and Knowledge—minimal requirements for the job in terms of education, training, work experience, and so on.
- Direction of Others—whether or not the job is responsible to supervise the work of others
- Professional Designation for Non-Supervisory Positions—professional expertise required in the position. Only applies to those who do not supervise others.
- Environmental strain—extent to which employee will experience mental/visual fatigue from concentration required. Also analyzes the extent to which a job involves hazardous or unpleasant working conditions.
- Independent Judgment and Consequences of Errors—extent to which the position requires the employee to use independent judgment in the absence of a supervisor and the probably consequences of errors made by this position.
- External Work Relations—responsibility for relationships outside City departments and employees.

Each factor is analyzed independently by two evaluators, who then compare their ratings and discuss any differences in ratings. Consensus is reached, and the point total determines the pay grade.