

City of Bloomington Common Council

Legislative Packet

25 June 2014
Special Session & Committee of the Whole

*For legislation and background material regarding Ordinances 14-09 and 14-10,
please consult the [18 June 2014 Legislative Packet](#).
All other material contained herein.*

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Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Special Session on Wednesday, June 25, 2014

Reports

- **Annual Tax Abatement Report (Covering Activity in 2013)**
 - Memo to Council from Jason Carnes, Assistant Director for Small Business Relations, Department of Economic and Sustainable Development and Danise Alano-Martin, Director of the Department of Economic and Sustainable Development; Report; Link to [Tax Abatement Guidelines](#)
*Contact: Jason Carnes at 349-3419 or carnes@bloomington.in.gov
Danise Alano-Martin at 349-3418 or alanod@bloomington.in.gov*

First Readings

- **Ord 14-11** To Amend Various Chapters of the Bloomington Municipal Code Located in Title 2 (Administration and Personnel), Title 6 (Health and Sanitation), Title 10 (Wastewater), Title 11 (Lakes And Reservoirs), Title 12 (Streets, Sidewalks And Storm Sewers), Title 14 (Peace and Safety), Title 15 (Vehicles and Traffic), and Title 17 (Construction Regulations) (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and Reflect Actual Practices and Policies in Affected Sections)
 - Memo to Council (from Patty Mulvihill, Assistant City Attorney)
 - Strikeout Version of Amendments (Available in Hardcopy in the Council Office Upon Request)*Contact: Patty Mulvihill, 349-3426 or mulvihill@bloomington.in.gov*

Third Readings

- **Ord 14-09** To Vacate a Public Parcel - Re: Five, 12-Foot Wide Right-of-Ways in the Lone Star Subdivision within a Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr., Rhonda L. Rieseberg, Dian S. Krumlauf-Hildenbrand, Nathaniel and Michelle Dodson, Ruth A. Beasley, and Kiron and Rachel M. Mateti, Petitioners)

Contact: City -

Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov;

Petitioners –

Dave Ferguson, Esq., at Ferguson & Ferguson, (812)332-2113

Solomon L. Lowenstein, Jr., (260)422-4655

Please see the [18 June 2014 Legislative Packet](#) for the legislation, summary, and other material regarding this item.

Committee of the Whole (After Special Session) on Wednesday, June 25, 2014

- **Ord 14-10** An Ordinance to Amend Ordinance 13-16, Which Fixed Salaries for Certain City of Bloomington Employees for the Year 2014 - Re: To Centralize Planning and Transportation Functions of the City by Eliminating the Engineering Division of the Public Works Department, Shifting Engineering Functions to Planning and Replacing the Planning Department with a “Planning and Transportation Department;” To Create a New Position in the Public Works Administration Division of the Public Works Department entitled "Assistant Director;” and To Better Facilitate Strategies Associated with Community Policing by Eliminating the Parking Enforcement Division of the Public Works Department and Moving Parking Enforcement Duties to the Police Department.

Contact:

Patty Mulvihill, Assistant City Attorney, 349-3552 or mulvihip@bloomington.in.gov

Adam Wason, Director of Communications, at 349-2489 or

wasona@bloomington.in.gov

Please see the [18 June 2014 Legislative Packet](#) for the legislation, summary, and other material regarding this item.

- **Ord 14-11** To Amend Various Chapters of the Bloomington Municipal Code Located in Title 2 (Administration and Personnel), Title 6 (Health and Sanitation), Title 10 (Wastewater), Title 11 (Lakes And Reservoirs), Title 12 (Streets, Sidewalks And Storm Sewers), Title 14 (Peace and Safety), Title 15 (Vehicles and Traffic), and

Title 17 (Construction Regulations) (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and Reflect Actual Practices and Policies in Affected Sections)

Contact: *Patty Mulvihill, 349-3426 or mulvihip@bloomington.in.gov*

Please see this packet for associated information and materials.

Memo

Special Session and Committee of the Whole on Wednesday, June 25th

The Council will hold a previously-scheduled Special Session and Committee of the Whole next Wednesday to consider the Annual Tax Abatement Activity Report, to consider Ordinance 14-11 for First Reading and to consider Ordinance 14-09 for a third reading at the Special Session, and to discuss Ordinance 14-10 and Ordinance 14-11. The Tax Abatement Report and the legislation and background material relevant to Ordinance 14-11 are included in this legislative packet. For legislation and background material regarding Ordinances 14-09 and 14-10, please consult the [18 June 2014 Legislative Packet](#).

Annual Tax Abatement Report

The Annual Tax Abatement Report ("*Report*") is prepared and will be presented by Danise Alano-Martin and Jason Carnes of the Department of Economic and Sustainable Development Department. The *Report* is an analysis of the tax abatements granted by the City and is largely based on the annual CF-1s filed by the recipient of an abatement. CF-1 forms for improvements to real estate and the installation of new manufacturing equipment are all due on May 15 of each year.¹ The Council must act within 45 days of the deadline for filing the CF-1s, if it intends to exercise its power to rescind a tax abatement. A number of years ago, the Council initiated the practice of hearing the *Report* at a Special Session in late June to allow staff adequate time to prepare their analysis and to allow Council to act within the aforementioned statutory timeframe.

Tax Abatements

Tax abatements are a reduction of tax liability on real and personal property that applies to increased assessed valuation due to new investment. (I.C. §6-1.1-12.1 et seq). Prior to awarding a tax abatement, the Council must make a determination (in the form of designating an Economic Revitalization Area [ERA] and, in some cases, an Economic Development

¹ The forms are available in the City Clerk's Office if you wish to review them.

Target Area [EDTA]) that the site would not develop under normal market conditions. Although this is a prediction and, therefore, a difficult determination to make, it serves as a check on the awarding of an abatement by providing an initial focus on the nature of the site and whether this tax break is needed to encourage the investments at that location.

Please note that the period of abatement may run from 1 to 10 years and the amount of the abatement is generally determined by a sliding scale that runs from 100% to 0%. The General Assembly has made a few significant recent changes to this sliding scale and time configuration. In 2011, the General Assembly authorized local entities to grant up to three years of 100% abatement in certain very limited circumstances (involving occupation of large, vacant buildings and the investment of at least \$10 million) and also authorized local entities to use alternative methods for determining the duration and amount of property tax abatements based upon certain factors.² In 2014, the IGA passed SEA 1 providing that, effective July 1, 2015, a designating body may establish an enhanced abatement schedule for business personal property that may not exceed 20 years. This provision requires that if a taxpayer is granted a deduction that exceeds 10 years, the designating body shall conduct a public hearing to review the taxpayer's compliance with the statement of benefits after the tenth year of the abatement.³

² IC 6-1.1-12.1-17 Alternative deduction schedules (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an alternative abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) An alternative abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An alternative abatement schedule may not exceed ten (10) years.

³ IC 6-1.1-12.1-18 [EFFECTIVE JULY 1, 2015]: (a) This section applies to a deduction provided under section 4.5 of this chapter for new personal property with respect to a statement of benefits approved after June 30, 2015.

(b) As used in this section, "business personal property" means personal property that:

- (1) is otherwise subject to assessment and taxation under this article; and
 - (2) is used in a trade or business or otherwise held, used, or consumed in connection with the production of income.
- The term does not include mobile homes assessed under IC 6-1.1-7, personal property held as an investment, or personal property that is assessed under IC 6-1.1-8 and is owned by a public utility subject to regulation by the Indiana utility regulatory commission. However, the term does include the personal property of a telephone company or a communications service provider if that

personal property meets the requirements of subdivisions (1) through (2), regardless of whether that personal property is assessed under IC 6-1.1-8 and regardless of whether the telephone company or communications service provider is subject to regulation by the Indiana utility regulatory commission.

(c) As used in this section, "new personal property" means business personal property that:

- (1) a taxpayer places in service after the date the taxpayer's statement of benefits is approved by the designating body; and
- (2) has not previously been used in Indiana before the taxpayer acquires the business personal property.

(d) A designating body may establish an enhanced abatement schedule for a deduction described in subsection (a). An enhanced abatement schedule established under this subsection:

- (1) must specify the percentage amount of the deduction for each year of the deduction; and
- (2) may not exceed twenty (20) years.

Based on phased-in assessed valuation rates governed by State law, the Bloomington Economic Development Commission recommends a term of abatement for each project, which requires the Council authorization. With respect to abatements on new construction and on personal property, the Council may choose to limit the dollar amount of the deduction.

Recent Changes in Tax Abatement Law

As the *Report* documents, the [2014 Senate Enrolled Act No. 1](#) made a number of changes to State law governing tax abatements, most of which apply to personal property. Some of the most notable include:

County Personal Property Exemption – Small Returns

This provision specifies that a COIT council of a county may adopt an ordinance providing that if for a particular assessment date the acquisition cost of a taxpayer's business personal property in a county is less than \$20,000, the business personal property in the county for that assessment date is exempt from taxation. Such exemption ordinance may apply to assessment dates after December 31, 2015 (IC § 6-1.1-3-7.2, effective July 1, 2015)

County Personal Property Exemption – New Property

This provision specifies that a COIT council may adopt an ordinance to exempt from property taxation any new business personal property that is located in the county. (IC § 6-1.1-10.3, effective July 1, 2015)⁴

Personal Property Enhanced Abatement – “Super Abatement”

As noted earlier, this change provides that a designating body may establish an enhanced abatement schedule for business personal property that may not exceed 20 years. (IC § 6-1.1-12.1-18, effective July 1, 2015)

Distribution of Abatement Clawbacks

The change provides that if a county or municipality receives a reimbursement, repayment, or penalty from a taxpayer on account of the taxpayer's failure to comply with the statement of benefits provided by the taxpayer as part of a property tax abatement or

(e) If a taxpayer is granted a deduction under section 4.5 of this chapter on an abatement schedule that exceeds ten (10) years through an enhanced abatement schedule established under subsection (d), the designating body shall conduct a public hearing to review the taxpayer's compliance with the statement of benefits provided to the designating body under this chapter after the tenth year of the abatement

⁴ Neither of these county personal property exemptions apply to mobile homes assessed as personal property, personal property held as an investment, or personal property that is owned by certain utilities subject to regulation by the IURC and assessed as utility property

on account of the taxpayer's failure to comply with any other requirement to receive a property tax abatement, the county or municipal officer shall distribute the amount of the reimbursement, repayment, or penalty on a *pro rata* basis to each taxing unit that contains the property that was subject to the abatement deduction. ((IC § 6-1.1-12.1-12.5, effective July 1, 2014)

Standard of Review for New Tax Abatement Requests

Tax abatements are governed by both State statute and local rules. In January 2011, the City adopted new local tax abatement guidelines, [*Tax Abatement Program: General Standards*](#). These standards supplement the requirements outlined in State law and attach to those projects approved after the Local Standards became effective. After determining that a site is distressed per an ERA designation, State statute and *Local Standards* require the Council to find that the benefits asserted by the petitioner are reasonable and probable and justify, in totality, the granting of the abatement. According to Local Standards, “[e]ach project is reviewed on its own merits, and the effect of each project on the revitalization of the surrounding areas and employment is considered” (p. 2). Basic eligibility is achieved by demonstrating: 1) the creation of full-time, permanent living-wage jobs (pursuant to Chapter 2.28 of the Bloomington Municipal Code; and 2) the creation of capital investment as an enhancement to the tax base.

In addition to these threshold requirements, local guidelines direct that other evaluative criteria will be considered in the review of a tax abatement application. These evaluative criteria pivot on: quality of life and environmental/sustainability; affordable housing; community service; and community character. These criteria include, but are not limited to:

- the number of affordable dwelling units that have been set aside for low-to-moderate income households. (*Please note that these units are usually in the form of subsidized rental units, but may include owner-occupied housing*);
- encouraging housing in the downtown area (*which, for decades, was not occurring at the rate or in the manner desired by the City*);
- rehabilitating a historic property in accordance with Secretary of Interior standards;
- the use of higher quality materials; and
- a commitment to provide a certain level of indigent care.

A more complete list of representative criteria are provided in [Appendix 1 of the Local Guidelines](#).

Standard of Review – Existing Abatements

The Annual Tax Abatement Report gives the Council an opportunity to review the progress of tax abatement projects. Because most of the tax abatements were granted before the City implemented its Local Guidelines, almost all of the active abatements are reviewed under a statutory process that ties the review of the abatements to the CF-1s. Under this standard of review, the Council must determine whether the projects are in “substantial compliance” with the commitments made at the time the abatement was granted. Should the Council determine that a recipient of an abatement is not in “substantial compliance,” it has 45 days from the CF-1 filing deadline to rescind the abatement. The Council may rescind the tax abatement and terminate the deduction only if it finds that the property owner has not substantially complied with the commitments made at the time of the abatement. The decision to terminate the tax deduction should be made only if the Council concludes that the taxpayer has not made reasonable efforts to meet its commitments and was not prevented from complying with the terms of the abatement due to factors beyond its control.⁵

Please note that the Meeting Memo for next week’s Special Session will offer the Council an order for your deliberations as well as a menu of motions from which to choose.

The Tax Abatement Activity Report

The *Report* reviews ten active abatements for which CF-1 forms are required and finds all the projects to be in substantial compliance. Note that there are two projects for which abatements have been granted and that are in process, but not yet complete. Because these projects are not yet completed, CF-1 forms are not required.

The *Report* is rendered as a PowerPoint presentation and is organized as follows:

- Introduction – slides 3-11
- Summary of the Economic Impact -- slides 12-16
- Residential Development Projects – slides 17-30
- Mixed-Use Projects – slides 31-33
- Commercial Projects – slides 34-44
- New Projects – slides 45-52
- Abatement that has expired – slides 53-54
- Project for which a CF-1 was not received – slide 56

⁵ The local General Standards give the following examples of grounds for terminating a tax abatement: 1) Failure to comply with any terms set forth in the Memorandum of Agreement; 2) An incomplete, inaccurate, or missing CF-1; 3) Petitioner vacates the City of Bloomington during the term of abatement; 4) Fraud on the part of petitioner; and 5) Initiation of litigation with the City of Bloomington.

Economic Impact

As a result of previous requests from the Council, the *Report* outlines the economic impacts of the active abatements, in the aggregate. Key impacts include:

Progress toward new real and personal property investments

- Proposed: \$58.4 million
- Actual: \$109.5 million

Jobs Created

- Proposed: 257
- Actual: 570

Payroll

- Proposed: \$11.4 million
- Actual: \$35.8 million

Average Salary

- Proposed: \$45,525.58
- Actual: \$62,939.03

Assessed Values

- Before Project: \$3.5 million
- After Project: \$43.1 million

Total Jobs and Salaries – New and Retained

- Jobs: 614
- Salaries: \$37.5 million

List of Projects

The following is an at-a-glance list of projects covered by the *Report*.

<u>Slide</u>	<u>Owner</u>	<u>Address</u>	<u>Legislation</u>	<u>Year of Abatement</u>
<u>Residential Projects</u>				
18-20	Renaissance Rentals, LLC	3068-3090 Covenanter Dr.	<u>Res 02-18</u>	10 of 10
21-23	The Kirkwood (market-rate apartments)	314 W. 4 th Street	<u>Res 03-02</u>	10 of 10
24-25	B & L Rentals, LLC	718, 720 & 722 W. Kirkwood	<u>Res 03-22</u>	9 of 10
26-27	Habitat for Humanity	1034 & 1042 W. 14 th Street	<u>Res 05-11</u>	5 of 5
28-30	Evergreen Village	2101- 2125 S. Susie Street & 2300 S. Rockport Road	<u>Res 06-13</u>	5 of 5
<u>Mixed Use Projects</u>				
32-33	B & L Rentals	612 & 614 W. Kirkwood	<u>Res 03-21</u>	9 of 10
<u>Commercial Projects</u>				
35-37	Richard Dean Groomer	1000 W. Kirkwood	<u>Res 03-27</u>	9 of 10
38-39	First Technology Initiative, LLC (formerly MRHC, LLC and Richland Development Group)	1600 Bloomfield Road	<u>Res 02-22</u>	9 of 10
40-42	Cook Pharmica	1300 S. Patterson Drive	<u>Res 04-08</u>	8 of 10 (Real Estate) 7 of 10 (Personal Property)
43-44	IMA East	2605 East Creek's Edge Drive	<u>Res 06-02</u>	8 of 10

CF-1s Not Reviewed – Project is Not Complete

46-49	Hoosier Energy (New Project)	Tech Park Blvd and Schmalz Blvd	<u>Res 13-03</u>	(0 of 10)
50-52	Woolery Ventures, LLC		<u>Res 04-01;</u> <u>Res 13-14</u>	(0 of 10)

Projects that warrant further explanation

The *Report* does not recommend any adverse actions by the Council on these abatements this year. The following notes some projects that have drawn some more attention than the others in the past, identifies one project that has not filed a CF-1, and summarizes the status of two projects that are in process, but that have not been completed.

Slides 38-39	First Technology Initiative, LLC (formerly Marlin Real Estate Holdings, LLC and before that Richland Development Group)	1600 West Bloomfield Road	<u>Res 02-22</u>
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Issue: This property changed ownership in 2012. The building is now occupied by First Technology Initiative, ProLogic Redemption Solution, a dental office, a real estate office, and an accountant. The initial property owner committed to invest \$3.35 million in improvements and to create 30 new positions at an estimated rate of \$11/hr. The *Report* indicates that the project has met the improvement commitments and has exceeded the employment commitments: the actual number of positions created is 33 and the actual rate of pay approximates \$28/hr.

Slides 44-45	Rogers Property Management, LLP (IMA East)	2605 East Creek's Edge Drive	<u>Res 06-02</u>
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Issue: Along with the standard commitments for investment in improvements, creation of new jobs, and the increase in payrolls (which all have more than doubled the projections), this project also included other community benefits. In the petitioner's original commitment, the business targeted \$200,000 in uncompensated services to the community annually over the abatement period. The *Report* indicates that Premier Healthcare provided \$3,759,484 in uncompensated healthcare in 2013 and further participates in Indigent medication Programs, Cardiopulmonary Rehab at YMCA and IU Health-Bloomington Hospital, and donates services for high school athletes and new IU athletes, Volunteers in Medicine, and numerous boards and commissions.

Slide 56	Habitat for Humanity	1034 W. 14th Street	<u>Res 05-11</u>
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Issue: One of two properties did not file a CF-1.

Comment: This is an affordable, single-family housing project where the individual owners must file the CF-1. It isn't unusual for them to forget to file a CF-1 or file an incomplete CF-1. If an applicant does not file a CF-1, they are not eligible for a tax abatement for that year. ESD staff do alert recipients of the need to file a CF-1 by sending recipients reminder letters.

Slides 46-49 **Hoosier Energy**

Tech Park Blvd. & Schmaltz Blvd. Res 04-01
Real Estate

Comment: The Council granted this abatement on real property in 2013. The project will be a new multi-story, LEED-certified 80,000+ square foot Hoosier Energy corporate headquarters. The project has broken ground and is anticipated to be complete by December 2014. This is a ten-year abatement with an estimated new investment of \$20 million, estimated retained employment of 116 and estimated retained salaries of \$11,118,764.

Slides 50-52 **Woolery Ventures, LLC** 2200 W. Tapp Road
Real Estate

Res 04-01

Issue and Staff Recommendation: In 2004, the petitioner sought a 10-year tax abatement for a historic adaptive re-use of an abandoned stone mill. The project was to include a hotel and residential units, meet Secretary of Interior standards, cost \$4.2 million, and create 45 new jobs with an annual payroll of \$762,000. Recall, that as of 2013, the petitioner indicated that they intended to develop the property, but had not made much progress. In response, Council passed [Res13-14](#) in November 2013 to amend this project's original abatement terms as those terms were outlined in the original legislation. [Res 13-14](#) resolves that this project's ERA designation shall terminate on December 31, 2018 and that if petitioners or its successors commence work on the project on or by December 31, 2018, the petitioners shall be entitled to a 10-year abatement. However, if the petitioner or its successors fail to commence work by the December 31, 2018 deadline, the abatement shall expire. [Res 13-14](#) further imposed reasonable conditions on the project and required the petitioner to enter into a Memorandum of Agreement. Among other things, the MOA requires annual pre-construction progress reports and quarterly reports during construction to the EDC and annual reports after completion. The MOA acknowledges that the project may be required phased development; if that is the case, the abatement would apply to a first phase.

Expired Tax Abatements (Slide 54)

The *Report* lists one abatement that has expired since last year:

All Natural Properties, Inc.

1403 & 1405 W. 6th Street

Res 01-06

Other Tax Abatements Within the City Without Review by the Common Council

The *Report* evaluates current tax abatement projects authorized by the City of Bloomington, but does not address another form of tax abatement within the City enacted by the General Assembly that are generally not reviewed by the Common Council. These are tied to our Urban Enterprise Zone (which, at this time, is set to expire in 2017) and offers a 100% deduction of taxes for a period of either five or ten years for eligible investments within an Enterprise Zone for the purchase, construction and rehabilitation of buildings as well as the purchase and retooling of equipment. (I.C. 6-1.1-45) You may recall that the Council does, in fact, review a subset of these abatements which fall within one or another of our TIF districts.

**Item One under First Reading at Special Session and Item Two for
Discussion at the Committee of the Whole Next Wednesday -
Ord 14-11 – Codifying Reorganization Proposed in Ord 14-10 and
Using this Occasion to Fix Typographical Errors and Reflect Actual
Policies and Practices in the Affected Code Sections**

As noted in its synopsis, Ord 14-11 is the companion to Ord 14-10, which was introduced this week and will be discussed immediately before this ordinance at the Committee of the Whole next Wednesday. Ord 14-10 amended the salary ordinance for the Civil City and Utilities for 2014 in order to reorganize the City's planning, transportation, and parking enforcement functions.⁶

As Patty Mulvihill says in her Memo to the Council, Ord 14-11 is extensive, but makes three kinds of changes to the BMC.

- First, it codifies changes related to the reorganization and, as a result, touches on eight titles within the Bloomington Municipal Code (BMC).⁷ An ordinance affecting a ninth title, Title 20 (Unified Development Ordinance), will come forward once those changes are approved by the Plan Commission. The reorganization merges the Planning and Engineering Departments and transfers parking enforcement from Public Works to the Police Department, which all require changes that rename departments and positions and revise duties.

⁶ It also created an "Assistant Director of Operations," Grade 10, in the Public Works Department.

⁷ Those Titles include: Title 2 (Administration and Personnel); Title 6 (Health and Sanitation); Title 10 (Waste Water); Title 11 (Lakes and Reservoirs); Title 12 (Streets, Sidewalks and Storm Sewers); Title 14 (Peace and Safety); Title 15 (Vehicles and Traffic); and Title 17 (Construction Regulations).

- Then, in the course of amending, at times, whole chapters and, at other times, mere sections of these eight titles,⁸ it takes this opportunity to fix typographical errors. Please note that, after learning about the codifier’s policies and practices, attempts to make capitalizations consistent were not pursued.
- At the same time, it also proposes changes that align the BMC with actual policies and procedures and, in some instances, proposes new policies (*indicated below in italics*). Please note that this kind of change is substantive and worth reviewing carefully.

Title 2 – Administration and Personnel

The major changes in this Title:

- Remove Engineering (BMC 2.11.010) and Parking Enforcement (BMC 2.11.040) as divisions of Public Works;
- Change the name of the Animal Control Department to the *Animal Care and Control Department* (BMC 2.11.050);
- Codify the four new divisions⁹ in the newly created Planning and Transportation Department (BMC 2.14.020);
- Align the statutory positions of Civil Engineer and Traffic Engineer in one local position to be called the Transportation and Traffic Engineer (BMC 2.114.020);
- Transfer parking enforcement duties from Public Works to the Police Department (BMC 2.17.040); and
- Increase the maximum fine to be collected by the Ordinance Violation Bureaus from \$100 to \$250 (as now authorized by statute) (BMC 2.27).

Title 6 – Health and Sanitation

The major changes in this title:

- Move the snow removal regulations from Title 12 (Streets, Sidewalks and Storm Sewers) to Title 6 (Health and Sanitation) because these regulations are enforced by the HAND Department, which enforces all the other provisions of this title (BMC 6.07);

⁸ The memo indicates that, except for Title 15, which covers Vehicles and Traffic and includes many long chapters with tables, the changes are made to an entire chapter.

⁹ Those divisions are: Planning and Transportation Administration; Planning Services; Development Services; and Transportation and Traffic Engineering Services.

- Propose (*new policy*) to change fines from \$50 to a graduated \$50 - \$100 - \$150 fine for violations occurring in the same 12-month period (BMC 6.07.020[c]);
- Propose (*new policy*) to reduce the appeal period from 10 to 7 days to conform with other appeal periods (BMC 6.07.020[b]); and
- Offer (*new procedure*) an appeal process via the Board of Public Works (BMC 6.07.020[b]).

Title 10 – Wastewater

The one substantive change in this title:

- Corrects one of the special service rates for treating nonconventional pollutants.

Title 11 – Lakes and Reservoirs

Changes in this title are minor.

Title 12 – Streets, Sidewalks, and Storm Sewers

The major changes in this title:

- Provide for an appeal of an encroachment violation to the Board of Public Works (BMC 12.06.120);
- Increase the minimum width of a “walk-around” during a temporary sidewalk encroachment from 4 to 5 feet to reflect current standards (BMC 12.04.110);
- Acknowledge that restrictions on street assemblies must conform to the First Amendment (BMC 12.04.140);
- Move the procedures regarding “determinate sidewalk variances” from this title to Title 20 (UDO), so that Board of Zoning Appeals, which hears these variances, will be acting within its statutory purview (i.e. Title 20) (BMC 12.04.005);
- As noted above, move snow removal provisions to Title 6 (Health and Sanitation) (BMC 12.070 & 080);
- Delete a section on storm sewers already covered in Title 10 (Wastewater) (BMC 12.04.160); and
- Delete Chapter 12.12 (Marquees and Signs), which is quite old and covers activities now regulated in Title 20 (UDO).

Title 14 – Peace and Safety

The major change in this title:

- Deletes Chapter 14.50 (Prohibition of Open Containers in Motor Vehicles). This was proposed after consultation with the Chief of Police, who indicates that officers cite violations of these provisions under an Indiana statute and not local code.

Title 15 – Vehicles and Traffic

The changes in this title:

- Move provisions regarding the “Traffic Engineer” to Title 2 (Administration and Personnel);
- Authorize Parking Enforcement Officers to order the towing of vehicles (which now is done solely by Police Officers) (BMC 15.48.020);
- Delete authorization for a “citizen accessible parking enforcement brigade” upon the recommendation of the Chief of Police (BMC 15.34.050);
- Remove budgeting for the parking meter fund from Board of Public Works (BMC 15.40.015[c]); and
- Reformat the appeal process for Class D violations (BMC 15.64.010[d]).

Title 17 – Construction Regulations

The major changes in this title:

- Delete the authority to grant variances from State building codes, since that is the jurisdiction of the Indiana Fire Prevention and Building Safety Commission (BMC 17.04.100); and
- Delete several sections and chapters regarding inspections and permits that are no longer performed by the City (e.g. building permits, occupancy certifications, building inspections, plumbing inspections, and electrical inspections);

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL
SPECIAL SESSION AND COMMITTEE OF THE WHOLE
7:30 P.M., WEDNESDAY, JUNE 25, 2014
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. REPORTS

1. Annual Tax Abatement Report

Asked to attend: Danise Alano-Martin, Director of Economic and Sustainable Development
Jason Carnes, Assistant Director for Small Business Relations

IV. LEGISLATION FOR THIRD READING

1. Ordinance 14-09 To Vacate a Public Parcel – Re: Five, 12-Foot Wide Right-of-Ways in the Lone Star Subdivision Within a Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr., Rhonda L. Rieseberg, Dian S. Krumlauf-Hildenbrand, Nathaniel and Michelle Dodson, Ruth A. Beasley, and Kiron and Rachel M. Mateti, Petitioners)

Committee Recommendation: None (*not heard by Committee*)
Second Reading (6/18): Motion to continue to 6/25 Special Session 6 – 0

V. LEGISLATION FOR FIRST READING

1. Ordinance 14-11 To Amend Various Chapters of the Bloomington Municipal Code Located in Title 2 (Administration and Personnel), Title 6 (Health and Sanitation), Title 10 (Wastewater), Title 11 (Lakes and Reservoirs), Title 12 (Streets, Sidewalks and Storm Sewers), Title 14 (Peace and Safety), Title 15 (Vehicles and Traffic), and Title 17 (Construction Regulations) – (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and Reflect Actual Practices and Policies in Affected Sections)

VI. COUNCIL SCHEDULE

VII. ADJOURNMENT

to be followed immediately by a
COMMITTEE OF THE WHOLE
Chair: Dave Rollo

1. Ordinance 14-10 An Ordinance to Amend Ordinance 13-16, Which Fixed Salaries for Certain City of Bloomington Employees for the Year 2014 - Re: To Centralize Planning and Transportation Functions of the City by Eliminating the Engineering Division of the Public Works Department, Shifting Engineering Functions to Planning and Replacing the Planning Department with a “Planning and Transportation Department;” To Create a New Position in the Public Works Administration Division of the Public Works Department entitled "Assistant Director;” and To Better Facilitate Strategies Associated with Community Policing by Eliminating the Parking Enforcement Division of the Public Works Department and Moving Parking Enforcement Duties to the Police Department.

Asked to Attend: John Whikehart, Deputy Mayor

2. Ordinance 14-11 To Amend Various Chapters of the Bloomington Municipal Code Located in Title 2 (Administration and Personnel), Title 6 (Health and Sanitation), Title 10 (Wastewater), Title 11 (Lakes and Reservoirs), Title 12 (Streets, Sidewalks and Storm Sewers), Title 14 (Peace and Safety), Title 15 (Vehicles and Traffic), and Title 17 (Construction Regulations) – (Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this Occasion to Fix Typographical Errors and Reflect Actual Practices and Policies in Affected Sections)

Asked to Attend: Patty Mulvihill, Assistant City Attorney



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

To Council Members
From Council Office
Re Weekly Calendar – 23-28 June 2014

Monday, 23 June

5:30 pm Bloomington Human Rights Commission, McCloskey

Tuesday, 24 June

8:30 am HAND Technical Assistance Meeting for 2014 Jack Hopkins Grant Recipients, McCloskey

9:00 am Emergency Management, Council Chambers

4:00 pm Board of Park Commissioners, Council Chambers

4:00 pm Bloomington Community Farmers' Market – Madison St. between 6th and 7th

5:30 pm Animal Control Commission, McCloskey

Wednesday, 25 June

2:00 pm Hearing Officer, Kelly

5:30 pm Dr. Martin Luther King, Jr. Birthday Commission, McCloskey

6:30 pm Metropolitan Planning Organization Citizens' Advisory Committee, McCloskey

7:30 pm Common Council Special Session and Committee of the Whole, Council Chambers

Thursday, 26 June

12:00 pm Monroe County Suicide Prevention Coalition, McCloskey

5:00 pm Bloomington Historic Preservation Commission, McCloskey

5:30 pm Board of Zoning Appeals, Council Chambers

Friday, 27 June

12:00 pm Economic Development Commission, Hooker Room

Saturday, 28 June

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

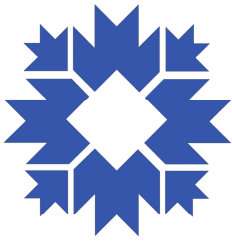
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MEMORANDUM

To: City of Bloomington Common Council
CC: Dan Sherman, Regina Moore
From: Jason Carnes, Danise Alano-Martin
Date: June 16, 2014
Re: Tax Abatement Program, 2013 Activity Summary

Attached please find the 2013 Activity Summary of Tax Abatements. The Economic Development Commission (EDC) accepted the activity report in their meeting on June 6, 2014 and recommended it be forwarded to the City of Bloomington Common Council. Staff and the EDC recommend a finding of substantial compliance for all projects in this report.

The summary is intended to provide a comprehensive description of the Common Council's active abatement portfolio. Each year, property owners with tax abatements must file a Compliance with Statement of Benefits (CF-1) Form with the City Clerk (as well as with the County Auditor). The CF-1 provides a status update on the abated project (real estate property or personal property, or both) and allows the Council to compare the actual values of the investment/improvement to the property with the values estimated on the original Statement of Benefits Form (SB-1). If the project included proposed job creation then the property owner also lists actual job creation and salary information.

The CF-1 provides a snapshot of the project and its progress toward achieving the "benefits" proposed in their original abatement application. Therefore, the CF-1 is limited in that it does not necessarily show real growth or fluctuations in activity throughout a year or from year to year.

Update on upcoming projects:

Two tax abatement projects are in progress but not yet complete. CF-1 forms are not yet required.

- The Hoosier Energy corporate headquarters project has broken ground and is projected to be complete by December, 2014. Hoosier Energy supplied photos of the project in progress, which you will find in the Activity Summary.
- Another project in progress is the Woolery Ventures project (Res. 04-01; 13-14). Since 2004, Woolery has invested more than \$1M in infrastructure and aesthetic site improvements. A Memorandum of Agreement has been executed which acknowledges this investment, defines substantial compliance and requires the Mill renovation project to begin by 12/31/18, per Res. 13-14. The MOA requires annual pre-construction progress reports and quarterly reports during construction to the EDC, and annual compliance reports after completion. The MOA acknowledges the project may require phased development, and this tax abatement would then apply to a first phase if so. Clawback provisions are also defined in the MOA. The property owner is moving forward with project planning and implementation.

We look forward to presenting to you on June 25, 2014 the details of active tax abatement projects via the annual Tax Abatement Activity Report.

Tax Abatement Annual Report

2013 Activity Summary



***Presentation to
Economic
Development
Commission
June 6, 2014***

***Common Council
June 25, 2014***



Activity Report

- I. Introduction
- II. Economic Impact
- III. Residential Projects
- IV. Mixed-Use Projects
- V. Commercial Projects
- VI. Projects in Progress
- VII. Expired Abatements
- VIII. CF-1s Not Received



I. Tax Abatements - Introduction



Tax Abatements

- What is tax abatement?
 - Real and personal property
 - IC 6-1.1-12.1
 - Vacant building
 - IC 6-1.1-12.1-16
 - Enterprise IT equipment
 - IC 6-1.1-10-44



Tax Abatements

- SEA 1 Changes
 - County Option Exemption of Business Personal Property
 - IC 6-1.1-3-7.2 and IC 6-1.1-10.3
 - "Super-abatement" for new BPP
 - IC 6-1.1-12.1-18
 - Reimbursements/repayments
 - IC 6-1.1-12.1-12.5



Tax Abatements

- Phase-in of new property taxes
 - All or part of **new** assessed value exempted from paying property tax
 - Reduction of tax liability on **added** assessed value (AV) only
- Terms from 1 to 10 years
 - Sliding scale from 100% to **no** exemption on the new AV;
 - Designating body may provide an “alternative deduction schedule” (IC 6-1.1-12.1-17)



Real Property Schedule

Year of Deduction	1	2	3	4	5	6	7	8	9	10
1 Year Deduction	100%									
2 Year Deduction	100%	50%								
3 Year Deduction	100%	66%	33%							
4 Year Deduction	100%	75%	50%	25%						
5 Year Deduction	100%	80%	60%	40%	20%					
6 Year Deduction	100%	85%	66%	50%	34%	17%				
7 Year Deduction	100%	85%	71%	57%	43%	29%	14%			
8 Year Deduction	100%	88%	75%	63%	50%	38%	25%	13%		
9 Year Deduction	100%	88%	77%	66%	55%	44%	33%	22%	11%	
10 Year Deduction	100%	95%	80%	65%	50%	40%	30%	20%	10%	5%

IC 6-1.1-12.1-4



Personal Property Schedule

Yrs	1	2	3	4	5	6	7	8	9	10	11
1	100%										
2	100%	50%									
3	100%	66%	33%								
4	100%	75%	50%	25%							
5	100%	80%	60%	40%	20%						
6	100%	85%	66%	50%	34%	25%					
7	100%	85%	71%	57%	43%	29%	14%				
8	100%	88%	75%	63%	50%	38%	25%	13%			
9	100%	88%	77%	66%	55%	44%	33%	22%	11%		
10	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%	

IC 6-1.1-12.1-4.5



Tax Abatements

- Local economic development tool
 - City authorizes, County administers
- City of Bloomington General Standards
 - Evaluative criteria adopted 2010
 - Creation of full-time, permanent living-wage jobs
 - Creation of capital investment to enhance tax base (↑ AV)
 - Quality of Life and Environmental/Sustainability
 - Affordable Housing
 - Community Service
 - Community Character
- Bloomington Common Council requires an Economic Development Commission (EDC) recommendation



Authorization Process

- ESD Department
 - Receives Application and Statement of Benefits (IN Form SB-1)
- EDC recommendation
 - Economic Revitalization Area
 - Economic Development Target Area, if appropriate
 - Abatement term and schedule
- Common Council
 - Designating resolution
 - Public hearing and confirmatory resolution
 - Or modifying/confirming or rescinding resolution



Annual Reporting

- Compare estimated “benefits” to actual results
- Taxpayer submits annual Compliance form with Statement of Benefits form (IN Form CF-1)
 - Filed with County Auditor for deduction administration
 - Copied to City Clerk for reporting to Common Council
- Council has given ESD Department the responsibility to compile and report to EDC
 - EDC forwards final report to Council for any action



II. Economic Impact



Economic Impacts

Progress toward new real and personal property investment estimates

Category	Proposed New Investment (SB-1)	Actual New Investment (CF-1)
Commercial RE	\$ 26,431,250	\$ 53,529,356
Commercial PP	\$ 17,200,000	\$ 37,996,461
Mixed Use	\$ 155,000	\$ 230,000
Residential	\$ 14,700,113	\$ 17,808,477
Total	\$ 58,486,363	\$ 109,564,294



Economic Impacts

Progress toward new jobs and salary estimates

Proposed New Jobs (SB-1)	Proposed New Salaries (SB-1)	Actual New Jobs (CF-1)	Actual New Salaries (CF-1)
257	\$ 11,401,821	570	\$ 35,875,245
<i>Average Proposed New Salary = \$45,525.58</i>		<i>Average Actual New Salary = \$62,939.03</i>	

Figures exclude temporary jobs and corresponding salaries from construction.

Excludes unknown salary information from some businesses leasing space in mixed-use developments, nonreported information and commissions/benefits.



Economic Impacts

Progress toward new and retained jobs and salary estimates

Total Jobs (New and Retained)	Total Salaries (New and Retained)
614	\$ 37,555,245
<i>Average Salary = \$61,165</i>	

Figures exclude temporary jobs and corresponding salaries from construction.

Excludes unknown salary information from some businesses leasing space in mixed-use developments, nonreported information and commissions/benefits.

Economic Impacts

Original assessed values and current assessed values

Category	SB-1 Assessed Values (Before Project)	Current Assessed Values
Commercial RE + PP	\$ 3,057,600	\$ 33,250,300
Mixed Use	\$ 75,000	\$ 266,200
Residential	\$ 420,500	\$ 9,645,900
Total	\$ 3,553,100	\$ 43,162,400



Department of Economic and Sustainable Development



Tax Abatement Report – 2013 Activity



III. Residential Development Projects

Renaissance Rentals, LLC



Renaissance Rentals, LLC





Renaissance Rentals, LLC
3068 – 3090 Covenanter Drive
Resolution: 02-18

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$520,322
Estimated New Employment: N/A
Estimated New Salaries: N/A
Benefits: Construction of 12-unit apartment building with 11 affordable, handicapped accessible units.

Compliance

Summary: The project is complete and the affordable units are occupied by low-income renters. HAND verified compliance.

Actual New Investment: \$641,500
Actual New Employment: N/A
Actual New Salaries: N/A
Current Assessed Value: \$444,000
Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 10 of 10.

The Kirkwood Market-Rate Apartments



The Kirkwood Market-Rate Apartments





Kirkwood & Madison, LLC (The Kirkwood)
314 W. 4th Street
Resolution: 03-02

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$12,000,000
Estimated New Employment: n/a
Estimated New Salaries: n/a
Benefits: Construction of 59 unit residential apartments downtown with underground parking.

Compliance

Summary: The project is complete and all units are occupied.

Actual New Investment: \$15,100,000
Actual New Employment: n/a
Actual New Salaries: n/a
Current Assessed Value: \$6,981,700
Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 10 of 10.

B & L Rentals





B & L Rentals, LLC
718, 720 & 722 W. Kirkwood
Resolution: 03-22

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$100,000

Estimated New Employment: N/A

Estimated New Salaries: N/A

Benefits: Renovation of Queen Anne 2 story housing with 3 apartments in the West Kirkwood ERA.

Compliance

Summary: The project is complete.

Actual New Investment: \$100,000

Actual New Employment: N/A

Actual New Salaries: N/A

Current Assessed Value: \$285,600

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 9 of 10.

Habitat for Humanity



Department of Economic and Sustainable Development

Tax Abatement Report – 2013 Activity



Habitat for Humanity
1034 & 1042 W. 14th Street
Resolution: 05-11

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 5 years

Estimated New Investment: \$160,000
Estimated New Employment: N/A
Estimated New Salaries: N/A
Benefits: Construction of two single-family homes to be sold to low-income families.

Compliance

Summary: The project is complete and all homes were sold to low-income families. HAND verified compliance.

Actual New Investment: \$160,000
Actual New Employment: N/A
Actual New Salaries: N/A
Current Assessed Value: \$176,800
Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 5 of 5

Evergreen Village



Evergreen Village





Evergreen Village
2101 – 2125 S. Susie St. & 2300 S. Rockport Rd.
Resolution: 06-13

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 5 years

Estimated New Investment: \$1,919,791
Estimated New Employment: N/A
Estimated New Salaries: N/A

Benefits: The 12 housing units are LEED certified and affordable, with a 30-year affordability covenant.

Compliance

Summary: Project is complete. Eleven of 12 homes have been sold to income-qualified homeowners.

Actual New Investment: \$1,966,977
Actual New Employment: N/A
Actual New Salaries: N/A

Current Assessed Value: \$1,757,800

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

Most abatements are in year 5 of 5.



IV. Mixed-Use Project

B & L Rentals





B & L Rentals, LLC
612 & 614 W. Kirkwood
Resolution: 03-21

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$155,000

Estimated New Employment: n/a

Estimated New Salaries: n/a

Benefits: Construction of a 2-story building with office, 2 bedroom apartments, and a detached garage.

Compliance

Summary: The project is complete and both the units are occupied.

Actual New Investment: \$230,000

Actual New Employment: n/a

Actual New Salaries: n/a

Current Assessed Value: \$266,200

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 9 of 10.



V. Commercial Projects

Richard Dean Groomer



Department of Economic and Sustainable Development

Tax Abatement Report – 2013 Activity

Richard Dean Groomer



Department of Economic and Sustainable Development

Tax Abatement Report – 2013 Activity



Richard Dean Groomer
1000 W. Kirkwood
Resolution: 03-27

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$60,000

Estimated New Employment: 5

Estimated New Salaries: N/A

Benefits: Construction of a 2,100 square foot one-story building to be used as commercial space. The project is in the West Kirkwood ERA.

Compliance

Summary: The project is complete.

Actual New Investment: \$67,256

Actual New Employment: 5

Actual New Salaries: N/A

Current Assessed Value: \$186,500

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 9 of 10.

First Technology Initiative, LLC





**First Technology Initiative, LLC - 1600 Bloomfield Road
(Formerly MRHC, LCC and Richland Development Group)
Resolution: 02-22**

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$3,350,000
Estimated New Employment: 30
Estimated New Salaries:
\$11/hr (approx. \$686,400)
Benefits: Construction of a 26,000 square
foot corporate office building.

Compliance

Summary: The project is complete and occupied. The building is now occupied by First Technology Initiative, ProLogic Redemption Solutions, a dental office, a real estate office and an accountant.

Actual New Investment: \$3,350,000
Actual New Employment: 33
Actual New Salaries:
\$28/hr (approx. \$1,848,000)
Current Assessed Value: \$4,069,100
Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 9 of 10.

Cook Pharmica



Department of Economic and Sustainable Development

Tax Abatement Report – 2013 Activity

Cook Pharmica





Cook Pharmica
1300 S. Patterson Dr.
Resolution: 04-08

Statement of Benefits

Type: Real Estate Improvements and Personal Property Improvements

Length of Abatement:

RE: 10 years

PP: 10 years

Estimated New Investment:

RE: \$19,000,000

PP: \$17,200,000

Estimated New Employment: 200

Estimated New Salaries: \$9,455,920

Benefits: Renovation of “Building 2” at the Indiana Enterprise Center. This 430,000 sq ft building was built in 1965. Renovation of exterior and 100,000 sq. ft. of interior for use by a new company to develop and research in contract pharmaceuticals.

Compliance

Summary: Real estate and equipment improvements are complete.

Actual New Investment:

RE: \$112,000,000

PP: \$37,996,461

Actual New Employment: 444

Actual New Salaries: \$30,293,468

Current Assessed Value:

RE: \$43,138,100

PP: \$15,198,584

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

The RE abatement is in year 8 of 10.

The PP abatement is in year 7 of 10.

IMA East
2605 East Creek's Edge Drive
Resolution 06-02





Rogers Property Management, LLP
IMA East (2605 E. Creek's Edge Drive)
Resolution: 06-02

Statement of Benefits

Type: Real Estate Improvements
Length of Abatement: 10 years

Estimated New Investment: \$4,021,250

Estimated New Employment: 22

Estimated New Salaries: \$1,285,901

Benefits: Construction of an outpatient treatment facility for Internal Medicine Associates (IMA, INC). Petitioner targets a minimum of \$200,000 in uncompensated services to the community annually over the abatement period.

Compliance

Summary: The project is complete. Premier Healthcare provided \$3,759,484 in uncompensated healthcare in 2013 and further participates in Indigent Medication Programs, Cardiopulmonary Rehab at YMCA and IU Health-Bloomington Hospital, and donates services for high school athletes and new IU athletes (e.g., physicals, echocardiograms), Volunteers In Medicine and numerous boards and commissions.

Actual New Investment: \$9,000,000

Actual New Employment: 86

Actual New Salaries: \$3,621,777

Current Assessed Value: \$6,332,800

Remarks: Staff recommends a finding of substantial compliance with the Statement of Benefits.

This abatement is in year 8 of 10.



VI. New Projects in Progress

Hoosier Energy
Property at Tech Park Blvd and Schmaltz Blvd
Resolution: 13-03



An artist's rendering of Hoosier Energy's new headquarters to be located off of Tapp Road in Bloomington.

Hoosier Energy
Property at Tech Park Blvd and Schmaltz Blvd
Resolution: 13-03



Hoosier Energy
Property at Tech Park Blvd and Schmaltz Blvd
Resolution: 13-03





Hoosier Energy
Property at Tech Park Blvd and Schmaltz Blvd
Resolution: 13-03

Statement of Benefits

Type: Real Estate Improvements

Length of Abatement: 10 years

Estimated New Investment: \$20,000,000

Estimated Retained Employment: 116

Estimated Retained Salaries: \$11,118,764

Benefits: Construction of a new multi-story, LEED-certified 80,000+ square foot headquarters building



Woolery Mill Ventures, LLC
Property at 2600 S. Kegg Rd
Resolution: 04-01; 13-14





Woolery Mill Ventures, LLC
Property at 2600 S. Kegg Rd
Resolution: 04-01; 13-14





Res. 04-01; 13-14 - Woolery Ventures LLC

Statement of Benefits

Type: Real Estate Improvements

Length of Abatement: 10 years

Estimated New Investment: \$6,000,000

Estimated New Employment: 45

Estimated New Salaries: \$762,000

Benefits: Renovation of an abandoned limestone mill into a mixed use facility (42 apts/condos, 55-room hotel, recreational amenities) rehabilitated to the historic standards of the Secretary of Interior. Original estimated completion date was 6/30/2005.

Compliance

Summary: Since 2004, \$1M in infrastructure, aesthetic site improvements. Memorandum of Agreement has been executed - defines substantial compliance, requires Mill renovation project to begin by 12/31/18 (building permit). Requires annual pre-construction progress reports to EDC, quarterly reports during construction, and annual compliance reports after completion. The MOA acknowledges complexity of project may require phased development, and this tax abatement would then apply to a first phase if so. MOA contains clawback provisions with regard to compliance reporting and substantial compliance requirements. Woolery Ventures is moving forward with project planning and implementation.



VII. Expired Abatements



Abatements Expired in 2013

Res. 01-06 - All Natural Properties, Inc.

1403 & 1405 W. 6th Street



VIII.
CF-1s Not Received



CF-1s Not Received

- Res. 05-11 Property at 1034 W. 14th St.



ORDINANCE 14-11

**TO AMEND VARIOUS CHAPTERS OF THE BLOOMINGTON MUNICIPAL CODE
LOCATED IN TITLE 2 (ADMINISTRATION AND PERSONNEL), TITLE 6 (HEALTH
AND SANITATION), TITLE 10 (WASTEWATER), TITLE 11 (LAKES AND
RESERVOIRS), TITLE 12 (STREETS, SIDEWALKS AND STORM SEWERS),
TITLE 14 (PEACE AND SAFETY), TITLE 15 (VEHICLES AND TRAFFIC), AND
TITLE 17 (CONSTRUCTION REGULATIONS)
(Codifying Departmental Reorganization Proposed in Ordinance 14-10 and Using this
Occasion to Fix Typographical Errors and
Reflect Actual Practices and Policies in Affected Sections)**

WHEREAS, in an effort to effectively and efficiently operate, the City's Administration has proposed Ordinance 14-10, an ordinance which seeks to amend Ordinance 13-16, which fixed salaries for certain City of Bloomington Employees for the year 2014;

WHEREAS, if the Common Council passes Ordinance 14-10, several changes to the Bloomington Municipal Code will be necessitated;

WHEREAS, the Administration believes the adoption of Ordinance 14-10, will necessitate three types of changes to the Bloomington Municipal Code: renaming City departments and reassigning job duties; fixing typographical errors; and making other changes which will allow the City's municipal code to mirror the current reality of how the City operates;

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

SECTION 1. Section 2.09.000, entitled "Establishment", shall be amended by adding the words "or her" immediately after the word "his".

SECTION 2. Section 2.09.030, entitled "Duties", shall be amended by adding the phrase "for the department of public works and the transportation and traffic engineering services division of the planning and transportation department" immediately after the word "claims".

SECTION 3. Section 2.10.000, entitled "Establishment", shall be amended by deleting the following words and punctuation: "cemetery,"; "engineering,"; "parking enforcement,"; "telecommunications,"; "traffic,"; "environmental,"; and "parks and recreation"; and shall be further amended by adding the words "care and" immediately after the word "animal"; and shall be further amended by adding the words "of parks commissioners" to the end of the section.

SECTION 4. Section 2.11.010, entitled "Engineering Department", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 2.11.

SECTION 5. Section 2.11.020, entitled "Sanitation Department", shall be amended by adding the following words, "in accordance with Title 6 of this Code" immediately after the word "City".

SECTION 6. Section 2.11.030, entitled "Street Department/Fleet Maintenance Department", shall be amended by deleting the following words "Director of Transportation who is appointed by the"; and shall be further amended by deleting the comma after the word "maintenance" in the third sentence; and shall be further amended by deleting the word "acquisition" in the third sentence.

SECTION 7. Section 2.11.040, entitled "Parking Enforcement Division", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 2.11.

SECTION 8. The Section heading for Section 2.11.050, currently entitled "Animal Control Department", shall be renamed to read "Animal Care and Control Department" and the name change shall be reflected in the table of contents for Chapter 2.11.

SECTION 9. Section 2.11.050, newly entitled "Animal Care and Control Department", shall be amended to change the first sentence in the following manner: the words "Care and" shall be added before the words "Control Department"; and, the words "the Senior Animal Control Officer" shall be deleted and be replaced with the words "a director of animal care and control".

SECTION 10. Section 2.11.050(2) shall be amended so as to add the words "care and" before the words "control officers"; and shall be further amended to delete the semicolon after the word "officer"; and shall be further amended by deleting the words "carrying firearms; or making arrests of human beings".

SECTION 11. Section 2.12.000, entitled "Establishment", shall be amended by deleting the words "under the jurisdiction of the Board of Public Works"; and shall be further amended by deleting the second sentence of the Section in its entirety.

SECTION 12. The Section heading for Section 2.12.010, currently entitled "Animal control commission", shall be renamed to read as "Animal care and control commission" and the same shall be renamed in the table of contents for Chapter 2.12.

SECTION 13. Section 2.12.010(4)(b) shall be amended by deleting the word "senior" and replacing it with the following words "director of animal care and control department and any"; and shall be further amended by adding the words "care and" before the words "control officer"; and shall be further amended by adding the word "and" immediately after the semicolon.

SECTION 14. Section 2.12.020(c) shall be amended by deleting the words "Bloomington Arts".

SECTION 15. Section 2.12.020(f)(1) shall be amended by deleting the word "arts" as it appears before the word "commission".

SECTION 16. Section 2.12.020(f)(2) shall be amended by deleting the word "arts".

SECTION 17. Section 2.12.021(b) shall be amended by deleting the word "community" within the definition of the word "Commission".

SECTION 18. Section 2.12.021(c)(2) shall be amended to add the word "common" immediately before the word "council".

SECTION 19. Section 2.12.021(d)(4) shall be amended to include "and," immediately after the semicolon.

SECTION 20. Section 2.12.050, entitled "Environmental Quality and Conservation Commission, shall be amended by deleting any references to the words "ordinance" and "chapter" and replacing any such references with the word "section".

SECTION 21. Section 2.12.050(6)(b) shall be amended by deleting the word "Attorney" and replacing it with the words "legal department".

SECTION 22. Section 2.12.050(d) shall be amended by deleting the fourth "or" and replacing it with the word "of"; and shall be further amended by changing the letter "f" in the word "federal" from an upper case letter to a lower case letter; and shall be further amended by changing the letter "g" in the word "government" from an upper case letter to a lower case letter.

SECTION 23. Section 2.12.050(l) shall be amended by changing the letter "f" in the word "federal" from an upper case letter to a lower case letter; and shall be further amended by changing the letter "g" in the word "government" from an upper case letter to a lower case letter.

SECTION 24. Section 2.12.060(3)(b) shall be amended by deleting the word "or" and replacing it with the word "of".

SECTION 25. Section 2.12.070(2) shall be amended by adding the words "transportation and" immediately before the word "traffic"; and shall be further amended by deleting the word "transportation" and replacing it with the words "public works".

SECTION 26. Section 2.12.070(3) shall be amended to add the word "common" immediately before the word "council".

SECTION 27. Section 2.12.080(2)(A) shall be amended by changing the letter "t" in the words "the", which immediately precede the words "Bloomington", from an upper case letter to a lower case letter.

SECTION 28. Section 2.12.080(2)(B) shall be amended by changing the letter "t" in the word "the", which immediately precedes the word "Indiana", from an upper case letter to a lower case letter.

SECTION 29. Section 2.12.080(4) shall be amended by changing the letters in the word "or", located in the second sentence, from upper case letters to lower case letters.

SECTION 30. Section 2.12.080(6)(B) shall be amended by deleting the words "Public Works" and replacing them with the words "Planning and Transportation".

SECTION 31. Section 2.12.080(6)(C) shall be amended by adding "and," immediately after the semicolon.

SECTION 32. Section 2.12.100, entitled "Bloomington Commission on Sustainability", shall be amended by deleting any references to the word "chapter" and replacing any such references with the word "section" wherever that word appears in the section.

SECTION 33. Section 2.12.100(3) shall be amended by adding the word "common" immediately before the word "council" in the third sentence of this section.

SECTION 34. Section 2.12.100(7) shall be amended by deleting the words "assistant director of economic development" and replacing them with the words "sustainability coordinator".

SECTION 35. Section 2.12.100(8)(F) shall be amended by adding "and," immediately after the semicolon.

SECTION 36. Chapter 2.14, currently entitled "Planning Department", shall be renamed "Planning and Transportation Department" and this name shall be reflected in the chapter heading as well as in table of contents for Title 2 (Administration and Personnel).

SECTION 37. Section 2.14.000, entitled "Establishment", shall be amended to add the words "and transportation" immediately following the word "planning"; and shall be further amended by deleting the words "under the city plan commission".

SECTION 38. Section 2.14.010, entitled "Appointment of director", shall be amended to add the words "and transportation" immediately following the word "planning".

SECTION 39. A new section shall be added to Chapter 2.14, said section shall be entitled "Section 2.14.020 Divisions", and the same shall be added to the table of contents for Chapter 2.14, and shall read as follows:

2.14.020 Divisions.

The planning and transportation department shall be comprised of four divisions: planning and transportation administration; planning services; development services; and transportation and traffic engineering services.

- (1) The planning services and development services divisions operate under the city's plan commission.
- (2) The transportation and traffic engineering services division shall be led by the traffic and transportation engineer.
 - (a) The traffic and transportation engineer is appointed by and serves at the pleasure of the mayor;
 - (b) The traffic and transportation engineer serves as the city's civil engineer for purposes of Ind. Code 36-4-9-6.

- (c) The traffic and transportation engineer serves as the city's traffic engineer for purposes of Ind. Code 36-9-7-3.

SECTION 40. Section 2.15.000, entitled "Establishment" shall be amended by deleting the following words "plan department, and engineering department," and replacing them with the following words "planning and transportation department".

SECTION 41. Section 2.15.040, currently entitled "Procedure - Meetings - Oaths - Attendance" shall be renamed "Procedure - Meetings", and the same shall be renamed in the table of contents for Chapter 2.15.

SECTION 42. Section 2.15.040(a) shall be amended to add the words "or her" immediately after the word "his".

SECTION 43. Section 2.15.040(b) shall be amended to delete the numbers "20.03.04.00" and replace them with "20.01.380".

SECTION 44. Section 2.16.010(b) shall be amended by adding the words "and transportation" immediately after the word "planning" in the first sentence; and shall be further amended by adding the word "the" immediately before the words "staff to the commission" in the first sentence.

SECTION 45. Section 2.16.010(c) shall be amended by deleting any reference to the words "of the city".

SECTION 46. Section 2.16.010(d) shall be amended by changing the letter "t" in the word "three" which immediately follows the colon from an upper case letter to a lower case letter.

SECTION 47. Section 2.16.020(d) shall be amended by deleting the word "title" and replacing it with the word "chapter".

SECTION 48. Section 2.16.030(g) shall be amended by deleting the words "according to Section 8.08.020 of this code".

SECTION 49. Section 2.16.030(i) shall be amended by deleting the word "title" and replacing it with the word "chapter".

SECTION 50. Section 2.17.040, entitled "Police Department - Establishment", shall be amended by adding the words "and parking enforcement" immediately before the word "function"; and shall be further amended by deleting the word "function" and replacing it with the word "functions".

SECTION 51. Section 2.27.000, entitled "Establishment of bureau", shall be amended by deleting the words "one hundred" and replacing them with the words "two hundred and fifty".

SECTION 52. Section 2.27.010, entitled "Appointment of administrator of bureau and designation of agents for collection of civil penalties", shall be deleted in its entirety and replaced with the following:

2.27.010 Appointment of administrator of bureau and designation of agents for collection of civil penalties.

The ordinance violations bureau shall be administered by the city controller. The following divisions and departments are designated to act as agents of the administrator for collection of civil ordinance violation penalties.

- (a) Animal care and control department: for receipt of penalties for violations or fees described in Bloomington Municipal Code Title 7, Animals;
- (b) Fire department: for receipt of penalties for violations of Bloomington Municipal Code Section 15.32.160(e), Emergency vehicle lanes, and for violations of Bloomington Municipal Code Title 18, Fire Prevention;
- (c) Housing and neighborhood development department: for the receipt of penalties for violations of Bloomington Municipal Code Chapter 6.04,

Refuse and Yard Waste Collection by the City, Chapter 6.06, Garbage and Weeds, Chapter 6.07, Snow and Ice Removal; Title 8 Historic Preservation; Title 16, Residential Rental and Lodging Establishment Inspection Program; and Title 17, Construction Regulations;

- (d) Police department: for receipt of penalties for violations of Bloomington Municipal Code Title 14, Peace and Safety, and Title 15, Vehicles and Traffic;
- (e) Planning and transportation department: for receipt of penalties for violations of Bloomington Municipal Code Chapter 12.06, Sidewalk Seating and Merchandise Encroachments; and Title 20, Unified Development Ordinance.
- (f) Legal department: for receipt of penalties for any of the above violations which have been referred to the department for collection, and for the receipt of all other penalties for violations of the ordinances of the city.

All penalties collected by agent of the administrator shall be collected, receipted, and accounted to the administrator in accordance with Indiana statute.

SECTION 53. Section 2.27.020, entitled "Limitations on powers of bureau", shall be amended by deleting any references to the words "one hundred" and replacing all such references with the words "two hundred and fifty".

SECTION 54. Section 2.76.040, entitled "Boundaries", shall be amended by deleting the words "Bloomington City" and replacing them with the words "Transportation and Traffic"; and shall be further amended by adding the words "or her" immediately after the word "his".

SECTION 55. A new chapter shall be added to Title 6 (Health and Sanitation), entitled "Chapter 6.07 Snow and Ice Removal" which shall be listed as such in the table of contents for this Title and shall read as follows:

Chapter 6.07 SNOW AND ICE REMOVAL

Sections:

- 6.07.010 Snow and ice removal -- Duty of abutting property owner.
- 6.07.020 Enforcement procedures and appeal.

6.07.010 Snow and ice removal -- Duty of abutting property owner.

- (a) It shall be the duty of every owner of any premises abutting a sidewalk in all parts of the City to remove, or cause to be removed, all snow and ice from the sidewalk to allow safe and reasonable travel on said sidewalk within twenty-four hours after snow or ice has ceased to fall or in any way accumulate.
- (b) In the downtown snow removal area, the minimum clear width of the path shall be the lesser of fifty-four inches or the full-paved width of the sidewalk, while in the remainder of the City the minimum clear width of the path shall be thirty-six inches.
- (c) For purposes of this section, the downtown snow removal area is defined as:
 - (1) College Avenue and Walnut Street from 3rd Street to 10th Street
 - (2) Gentry Street from 4th Street to 5th Street;
 - (3) Morton Street from 5th Street to 10th Street;
 - (4) 3rd Street between Walnut Street and College Avenue;
 - (5) 4th Street between Walnut Street and Gentry Avenue;
 - (6) Segments of 5th, 6th, 7th, 8th, 9th, and 10th Streets from Walnut Street to Morton Street; and
 - (7) Kirkwood Avenue from Indiana Avenue to Rogers Street.
- (d) Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the Monroe

County Recorder, the duty to remove snow and ice shall be on the purchaser of the premises, who shall be considered the owner for the purposes of this section.

6.07.020 Enforcement procedure and appeal.

- (a) If the director of HAND, the assistant director, any neighborhood compliance officer, or any other designee of the director (collectively referred to as "staff") determines that there is a violation of this chapter, that person shall issue a notice of violation (NOV) to the property owner.
- (b) The NOV shall be in writing and shall be served on the property owner in one or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The NOV shall state:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The fine assessed for the violation;
 - (4) That the fine is to be paid at HAND;
 - (5) That the fine may be contested in the monroe county circuit courts; and
 - (6) That the NOV may be appealed to the board of public works, provided the appeal is in writing and filed with the board of public works no later than seven days from the date of the NOV.
- (c) Schedule of Fines. The initial penalty or fine for all violations of this chapter shall be fifty dollars. A second violation of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred dollars. A third and all subsequent violations of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred fifty dollars. The twelve-month period described above shall begin on August 1 of each year and end on July 31 of the following year.
- (d) If the property owner fails to pay any accumulated fines, the city legal department may collect said fines in any manner authorized by law.

SECTION 56. Section 10.04.020, entitled "Definitions", shall be amended by adding the words "or her" immediately after the word "his" located in the definition of "Director".

SECTION 57. Section 10.04.070, entitled "Personal sewer sludge use", shall be amended by adding the words "or her" immediately after the words "him" and "his".

SECTION 58. Section 10.04.095(h) shall be amended by adding the word "the" immediately before the words "city" and "county" as those words appear in the first three lines of this section; and shall be further amended by adding the words "planning and transportation department" immediately after the word "city"; and shall be further amended by adding the word "department" immediately after the word "engineering; and shall be further amended by deleting the following words ", and either an excavating or plumbing permit from the city engineering. Permits will not be issued by the city engineering unless a paid receipt for the tapping fee is presented."

SECTION 59. Section 10.04.100, entitled "Enforcement and procedures", shall be amended by deleting any references to the words "corporation counsel" and replacing any such references with the words "city legal department".

SECTION 60. Section 10.04.100(c) shall be amended by adding the word "or she" immediately after the word "he".

SECTION 61. Section 10.08.110(b) shall be amended by changing the "Nonexcessive strength rate" from "\$6.52" to "\$6.36".

SECTION 62. Section 10.21.060(a)(1) shall be amended by deleting any references to the word "engineering" and replacing any such references with the words "planning and transportation".

SECTION 63. Section 10.21.150, entitled "Civil penalty", shall be amended by adding a comma immediately after the word "fees".

SECTION 64. Section 10.21.180, entitled "Additional requirements", shall be amended by deleting the word "Zoning" and replacing it with the words "Unified Development Ordinance".

SECTION 65. Section 11.04.160, entitled "Subdivisions in vicinity - Inspection of sanitary facilities", shall be amended by deleting any references to the words "city engineer" and replacing any such references with the words "transportation and traffic engineer".

SECTION 66. Section 12.04.001, entitled "Sidewalks required - New buildings", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 67. Section 12.04.002, entitled "Waiver - New buildings", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 68. Section 12.04.003, entitled "Sidewalks required - Building permits", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 69. Section 12.04.004, entitled "Appeal", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 70. Section 12.04.005, entitled "Determinate variance - Sidewalk construction deferred", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 71. Section 12.04.010, entitled "Repair of sidewalks - Duty of adjacent owner", shall be amended by adding the words "or her" immediately after the word "him"; and shall be further amended by deleting the words "city engineer" and replacing them with the words "transportation and traffic engineer".

SECTION 72. Section 12.04.070, entitled "Snow and ice removal - Duty of abutting property owner", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 73. Section 12.04.080, entitled "Snow and ice removal - Failure to remove", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 74. Section 12.04.085, entitled "Appeal", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 75. Section 12.04.110, entitled "Obstructing sidewalk - Walkaround - To be provided", shall be amended by deleting the word "four" and replacing it with the word "five".

SECTION 76. Section 12.04.120, currently entitled "Obstructing sidewalk - Walkaround - Approval of chief of police", shall be renamed "Obstructing sidewalk - Walkaround - Approval of transportation and traffic engineer", with the same being changed in the table of contents for Chapter 12.04.

SECTION 77. Section 12.04.120, herein renamed "Obstructing sidewalk - Walkaround - Approval of transportation and traffic engineer", shall be amended by deleting the words "chief of police" and replacing them with the words "transportation and traffic engineer".

SECTION 78. Section 12.04.140, entitled "Street assemblies", shall be amended by adding the words "unless permission has first been obtained from the board of public works" immediately after the word "city"; and shall be further amended by adding a second sentence to the section, which shall read as follows: "This section shall not in any way be interpreted to infringe upon those rights guaranteed by the First Amendment to the United States Constitution."

SECTION 79. Section 12.04.150, entitled "Moving buildings", shall be deleted in its entirety and replaced with the following:

12.04.150 Moving buildings.

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

SECTION 80. Section 12.04.160, entitled "Storm sewers", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 12.04.

SECTION 81. Section 12.06.020, entitled "Definitions", shall be amended by adding the words "Planning and Transportation" immediately before the word "Department" in the definition of "Department"; and shall be further amended by deleting the words "of Public Works" in the same definition.

SECTION 82. Section 12.06.020, entitled "Definitions", shall be amended by adding the words "Planning and Transportation" immediately before the word "Department" in the definition of "Staff"; and shall be further amended by deleting the words "of Public Works" in the same definition.

SECTION 83. Section 12.06.030(c)(1) shall be amended by deleting the word "the" immediately before the word "determining".

SECTION 84. Section 12.06.030(k) shall be amended by deleting the word "Beverage" and replacing it with the words "and Tobacco"; and shall be further amended by deleting the period after the word "separation" and replacing said period with a comma.

SECTION 85. Section 12.06.040(d) shall be amended by deleting the words "of Public Works"; and shall be further amended by replacing the periods at the end of the numbered subsections with semicolons; and shall be further amended by adding "and," to the end of subsection (4).

SECTION 86. Section 12.06.040(e)(4) shall be amended by deleting the word "and".

SECTION 87. 12.06.050(a) shall be amended by changing the letter "p" in the word "Permittee" from a capital case letter to a lower case letter.

SECTION 88. Section 12.06.050(e) shall be amended by changing the semicolon to a period.

SECTION 89. Section 12.06.060(a)(2) shall be amended by deleting the word "or" that immediately follows the semicolon.

SECTION 90. Section 12.06.060(a)(3) shall be amended by deleting the period and replacing it with the following "; or,".

SECTION 91. Section 12.06.100(a) shall be amended by adding the words "Planning and Transportation" immediately before the word "Director"; and shall be further amended by deleting the words "of Public Works"; and shall be further amended by deleting the phrase "the Permittee(s)," and replacing it with "the permittee(s);"

SECTION 92. Section 12.06.100(b)(7) shall be amended by adding the words "Planning and Transportation" immediately before the word "Department"; and shall be further amended by deleting the words "of Public Works"; and shall be further amended by adding "and," after the semicolon.

SECTION 93. Section 12.06.100(c) shall be amended by changing the letter "p" in the word "Permittee" from an upper case letter to a lower case letter.

SECTION 94. Section 12.06.110(a)(1) shall be amended by changing the letter "p" in any references to the word "Permittee" from a capital case letter to a lower case letter wherever that word appears in part (a)(1).

SECTION 95. Section 12.06.120, entitled "Appeal of citation and fine", shall be amended by adding the words "(NOVs) may be appealed to the board of public works, provided the appeal is submitted to the board, via the planning and transportation department, with seven calendar days of the citation (NOV) being issued" immediately before the word "and".

SECTION 96. Section 12.08.030, entitled "Permit fee", shall be amended by deleting the word "city" and replacing it with the words "transportation and traffic"; and shall be further amended by deleting the words "the sum of fifteen dollars per excavation" and replacing those words with the following "the fee specified in Section 17.08.050".

SECTION 97. Section 12.08.040, currently entitled "Petition to be filed with city engineer", shall be renamed "Petition to be filed with transportation and traffic engineer", with the same being changed in the table of contents of Chapter 12.08.

SECTION 98. Section 12.08.040, herein renamed "Petition to be filed with transportation and traffic engineer", shall be amended by deleting the word "city" and replacing it with the words "transportation and traffic".

SECTION 99. Section 12.08.050, entitled "Bond required - Amount - Conditions", shall be amended by deleting any reference to the words "City Engineer" and replacing said references with the words "Transportation and Traffic Engineer".

SECTION 100. Section 12.08.060, entitled "Deposit for restoration of surface", shall be amended to delete any reference to the word "city" and replace all such references with the words "transportation and traffic"; and, shall be further amended by inserting a " ," after the first reference to "engineer."

SECTION 101. Section 12.08.070, entitled "Restoration of surface to be accomplished by permittee", shall be amended by deleting the words "in compliance with Bloomington Municipal Code Section 17.08.080,"; and shall be further amended by deleting any references to the words "city engineer" and replacing said references with the words "transportation and traffic engineer".

SECTION 102. Section 12.08.080, entitled "Return of excess deposit after payment of cost - Liability permitted to continue for two years", shall be amended by deleting any references to the words "city engineer" and replacing said references with the words "transportation and traffic engineer".

SECTION 103. Section 12.08.090, entitled "Permit issuance", shall be amended by deleting the word "city" and replacing it with the words "transportation and traffic".

SECTION 104. Section 12.08.100, entitled "Location of mains and pipes - Supervision of work", shall be amended by deleting the word "City" and replacing it with the words "Transportation and Traffic".

SECTION 105. Section 12.08.120, entitled "Refilling of excavations", shall be amended by adding the words "or she" immediately after the word "he"; and shall be further amended by deleting the word "city" and replacing it with the words "transportation and traffic".

SECTION 106. Section 12.08.130, entitled "Tunneling", shall be amended by deleting the word "city" and replacing it with the words "transportation and traffic".

SECTION 107. Section 12.08.140, entitled "Barricade - Danger lights", shall be amended by deleting the word "Highways" and replacing it with the word "Transportation"; and shall be further amended by deleting any references to "City Engineer" and replacing any such references with the words "Transportation and Traffic Engineer".

SECTION 108. Section 12.08.170, entitled "Violations", shall be amended by adding the word "liable" immediately after the word "severally"; and shall be further amended by deleting the word "City" and replacing it with the following words "Transportation and Traffic".

SECTION 109. Chapter 12.12, entitled "Marquees and Signs", shall be deleted in its entirety and the same shall be deleted from the table of contents for Title 12 (Streets, Sidewalks, and Storm Sewers).

SECTION 110. Section 12.20.010, entitled "Designation", shall be amended by deleting "Resolution 81-1" and replacing it with "MP-02-02"; and shall be further amended by adding the words "on December 16, 2002, with an effective date of December 19, 2002" immediately after the word "Commission".

SECTION 111. Section 12.20.020, entitled "Incorporation by reference - Description", shall be amended by deleting the number "1982" and replacing it with the number "2002"; and shall be further amended by deleting the words ", city engineer and department of" and replacing it with the following "and planning and transportation department".

SECTION 112. Chapter 14.50, entitled "Prohibition of Open Containers of Alcoholic Beverages in Motor Vehicles", shall be deleted in its entirety and the same shall be deleted from the table of contents for Title 14 (Peace and Safety).

SECTION 113. Section 15.08.010, entitled "Traffic Engineer", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 15.08.

SECTION 114. Section 15.08.020, entitled "Authority to install traffic control devices", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 15.08.

SECTION 115. Section 15.08.030, entitled "Traffic control devices", shall be amended by deleting the words "Indiana Department of Highways" and replacing it with the words "Indiana Department of Transportation".

SECTION 116. Section 15.08.040, entitled "Temporary, experimental or emergency traffic regulations", shall be amended by deleting the first reference to the word "city" and replacing it with the words "transportation and"; and shall be further amended by adding the words "transportation and" immediately preceding the word "traffic" in the second sentence of the Section.

SECTION 117. Section 15.08.040(b) shall be amended by deleting the word "city" and replacing it with the words "transportation and".

SECTION 118. Section 15.12.030(a) shall be amended by deleting the words "city engineer" and replacing it with the words "transportation and traffic engineer".

SECTION 119. Section 15.24.030, entitled "School speed zones", shall be amended by adding the words "transportation and" immediately preceding the word "traffic"; and shall be further amended by deleting the words "State Highway Commission" and replacing them with the words "Indiana Department of Transportation".

SECTION 120. Section 15.26.020, entitled "Neighborhood traffic safety program", shall be amended by deleting the word "developed" and replacing it with the word "administered"; and shall be further amended by deleting the words "city engineering" and replacing them with the words "planning and transportation".

SECTION 121. Section 15.28.040(b) shall be amended by adding the words "transportation and" immediately preceding the word "traffic".

SECTION 122. Section 15.32.090(f) shall be amended by deleting the words "department of public works" and replacing them with "planning and transportation department" wherever they appear in part (f).

SECTION 123. Section 15.32.160(b) shall be amended by adding the words "transportation and" immediately preceding the word "traffic"; and shall be further amended by adding the words "or she" immediately after the word "he".

SECTION 124. Section 15.32.160(c) shall be amended by deleting the word "department" and replacing it with the word "departments" as it appears in the first sentence; and shall be further amended by deleting the words "attorney's office" and replacing them with the words "legal department".

SECTION 125. Section 15.32.180(f) shall be amended by adding the words "planning and transportation" immediately preceding the word "department"; and shall be further amended by deleting the words "of public works".

SECTION 126. Section 15.32.185(a) shall be amended by deleting the words "parking enforcement manager" and replacing them with the words "planning and transportation department".

SECTION 127. Section 15.32.185(c) shall be amended by deleting the words "parking enforcement " and replacing them with the words "the planning and transportation department".

SECTION 128. Section 15.34.050(c) shall be amended by deleting the words "the parking enforcement" as they appear in the first line and replacing them with "parking enforcement officers"; and shall be further amended by deleting the words "division, and members of the citizens' accessible parking enforcement patrol".

SECTION 129. Section 15.34.080, entitled "Citizens' accessible parking enforcement patrol", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 15.34.

SECTION 130. Section 15.36.070 (a) shall be amended by adding the words "transportation and" immediately preceding the words "traffic".

SECTION 131. Section 15.37.040, entitled "Eligibility", shall be amended by deleting the words "parking enforcement officer manager" and replacing them with the words "planning and transportation department"; and shall be further amended by deleting the words "his or her".

SECTION 132. Section 15.37.080, entitled "Decal required", shall be amended by deleting the words "parking enforcement office manager" and replacing them with the words "planning and transportation department".

SECTION 133. Section 15.37.100, entitled "Replacement of permit", shall be amended by deleting the words "parking enforcement office" and replacing them with the words "planning and transportation department".

SECTION 134. Section 15.37.130, entitled "Precedence of no parking zones", shall be amended by deleting the words "engineering department" and replacing them with the words "planning and transportation department".

SECTION 135. Section 15.37.140, entitled "Special exceptions", shall be amended by deleting the words "parking enforcement office manager" and replacing them with the words "planning and transportation department".

SECTION 136. Section 15.37.190, entitled "All zone permits", shall be amended by deleting any reference to the words "director of parking enforcement" and replacing all such references with the words "planning and transportation department".

SECTION 137. Section 15.38.010, entitled "City employee parking", shall be amended by adding the words "planning and transportation" immediately preceding the word "department"; and shall be further amended by deleting the words "of public works".

SECTION 138. Section 15.38.020, entitled "Restrictions", shall be amended by deleting the words "department of public works" wherever they appear in this section and replacing them with the words "planning and transportation department."

SECTION 139. Section 15.40.015(c) shall be amended by deleting the words "and shall be budgeted through the department of public works".

SECTION 140. Section 15.40.020(a) shall be amended by adding the words "planning and transportation" immediately preceding the word "department"; and shall be further amended by deleting the words "of public works".

SECTION 141. Section 15.40.060, entitled "Violations", shall be amended by adding the words "planning and transportation" before any references to the word "department"; and shall be further amended by deleting any references to the words "of public works".

SECTION 142. Section 15.48.020(a) shall be amended by adding the words "or parking enforcement officer" immediately after the word "Department".

SECTION 143. Section 15.56.090(b) shall be amended by deleting the words "office of the city engineer" and replacing them with the words "planning and transportation department"; and shall be further amended by deleting the words "city engineer" and replacing them with the words "transportation and traffic engineer".

SECTION 144. Section 15.56.095(a)(2) shall be amended by deleting the words "manager of parking enforcement" as well as the words "department of parking enforcement" and replacing both references with the words "police department".

SECTION 145. Section 15.56.095(a)(3) shall be amended by deleting the words "department of parking enforcement" and replacing them with the words "police department".

SECTION 146. Section 15.64.010(d) shall be deleted in its entirety and replaced with the following:

15.64.010 Violations and penalties.

(d) Class D Traffic Violations (most parking violations).

Fine:	\$20.00, \$40.00 (depending upon when paid)	
Covers:	15.32.010	Parking adjacent to yellow curb
	15.32.020	Parking in alley beyond limit
	15.32.030	Violating angle parking
	15.32.040	Parking car in street for washing, repairing
	15.32.080	Parking in no parking zone
	15.32.090	Parking beyond time limit
	15.32.100	Parking beyond loading zone limit
	15.32.110	Parking in bus zone
	15.32.120	Parking in official vehicle zone
	15.32.130	Parking near intersections
	15.32.140	Obstructing traffic
	15.32.170	Parking facing traffic
	15.32.175	Parallel and angle parking
	15.36.100	Parking in resident-only space
	15.37.150	Parking in residential permit area; Permit displayed in an ineligible

		motor vehicle (plate non-match)
	15.38.020	City employee parking; unauthorized parking in city employee parking lots including during Farmers' Market
	15.40.025(a)	Parking beyond time restrictions
	15.40.025(b)	Overnight parking in city parks and recreation parking lots between eleven p.m. and five a.m.
	15.40.050	Parking in space designated for city hall visitors when not in city hall or moving between vehicle and city hall
	15.40.060(a), (c), (d), (e), (f), (g), (h)	Backing in and overtime parking in municipal parking lots, garages and on-street metered parking spaces; defacing parking meters; depositing or causing to be deposited in a parking meter a substitute for proper payment; and unauthorized parking in a municipal lot or garage
	15.60.020	Parking illegally in park, picnic ground, or golf course
	15.60.040	Parking on sidewalk

- (1) The fine for Class D traffic violations shall be twenty dollars if paid within seven calendar days. The fine shall automatically increase to forty dollars if not paid within the seven calendar days.
- (2) A person may appeal the issuance of a traffic violation citation and corresponding fine, provided the appeal is filed with the city clerk's office within the seven calendar days immediately following the issuance date of the traffic violation citation.
 - (A) The city clerk, or his or her designee(s), shall hear all appeals of Class D traffic violation citations and all violations of the Neighborhood Residential Permit Parking Program (15.37.150).
 - (B) The city clerk, or his or her designee(s), shall have the authority to declare any traffic violation citation which has been properly appealed null and void, or valid.
 - (C) If the city clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be null and void, then the traffic violation citation shall be dismissed from further prosecution.
 - (D) If the city clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be valid, then the traffic violation citation shall be due and payable as determined by either the city clerk, or his or her designee(s).
 - (E) The decision of the city clerk, or his or her designee(s), is final, subject to judicial determination if such a determination is requested and is requested in a manner consistent with Indiana law.
- (3) For purposes of this section, the following persons are the only persons which may challenge a traffic violation citation:
 - (A) The registered owner of the motor vehicle which received the traffic violation citation;
 - (B) An attorney representing the owner of the motor vehicle which received the traffic violation citation;
 - (C) The person who was legally responsible for the motor vehicle which received the traffic violation citation; or

- (D) An attorney representing the person who was legally responsible for the motor vehicle which received the traffic violation citation.

SECTION 147. Section 17.04.010, entitled "Title", shall be amended to add the word "and" immediately preceding the word "may".

SECTION 148. Section 17.04.050(b) shall be amended by deleting the word "city engineer" and replacing it with the words "transportation and traffic engineer"; and shall be further amended by adding the words "or her" immediately after the word "his".

SECTION 149. Section 17.04.050(d) shall be deleted in its entirety and all remaining subsections shall be renumbered accordingly.

SECTION 150. The newly relettered Section 17.04.050(e), regarding "planning jurisdiction," shall be amended by deleting the words "and the two mile fringe as defined by the plan commission".

SECTION 151. Section 17.04.090, entitled "Property owner doing own work", shall be amended by adding the words "or she" immediately after all references to the word "he".

SECTION 152. Section 17.04.100, entitled "Appeals and variances", shall be amended by deleting the first sentence of the Section in its entirety; and shall be further amended by deleting the word "city engineer" in the second sentence and replacing it with the words "transportation and traffic engineer".

SECTION 153. Section 17.08.010, currently entitled "Engineering Department", shall be renamed the "Planning and transportation department" and this section heading shall be reflected in the table of contents for Chapter 17.08 (Administration and Enforcement).

SECTION 154. Section 17.08.010, herein renamed "Planning and transportation department", shall be amended by deleting all references to the "City Engineer" and replacing any such references with "transportation and traffic engineer".

SECTION 155. Section 17.08.020, entitled "Scope and permits required", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 156. Section 17.08.030, entitled "Permit application", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 157. Section 17.08.050(a) shall be amended by deleting all but the first sentence of this Section.

SECTION 158. Section 17.08.050(b) shall be deleted in its entirety, with all remaining subsections being relettered accordingly.

SECTION 159. Section 17.08.050(c), regarding the Affordable Housing Permit Program," shall be deleted in its entirety, with all remaining subsections being renumbered accordingly.

SECTION 160. The newly relettered Section 17.08.050(b) shall be amended by deleting the words "city engineer" and replacing them with the words "transportation and traffic engineer".

SECTION 161. The newly relettered Section 17.08.050(c), regarding fees, shall be amended by deleting the line referring to "all earth grading under Section 20.06.05.03, \$115 minimum".

SECTION 162. Section 17.08.060, entitled "Certificate of occupancy", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 163. Section 17.08.070, entitled "Inspections", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 164. Section 17.08.080, entitled "Special plumbing regulations", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 165. Section 17.08.090, entitled "Special electrical regulation", shall be deleted in its entirety and the same shall be deleted from the table of contents for Chapter 17.08.

SECTION 166. Section 17.08.100, entitled "Permits involving demolition", shall be amended by deleting the words "city engineering" and replacing them with the words "the planning and transportation department"; and shall be further amended by deleting any references to the word "planning director" and replacing them with the word "director"; and shall be further amended by adding the words "or her" immediately after the word "his".

SECTION 167. Chapter 17.12, entitled "License Requirements and Boards", shall be deleted in its entirety and the same shall be deleted from the table of contents for Title 17.

SECTION 168. Section 17.16.030, entitled "Public nuisance", shall be amended by deleting any references to the words "city engineer or" and replacing any such references with the words "housing and"; and shall be further amended by deleting any references to the word "manager" and replacing any such references with "department"; and shall be further amended by deleting the word "are" in the second sentence and replacing it with the word "is".

SECTION 169. Section 17.16.040(a) shall be amended by deleting the word "engineering" and replacing it with the words "housing and neighborhood development".

SECTION 170. Section 17.16.040(b) shall be amended by deleting the words "the city engineer"; and shall be further amended by deleting the words "of either".

SECTION 171. Section 17.16.130, entitled "Legal proceedings", shall be amended by deleting the words "engineering department or".

SECTION 172. 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 173. 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 the ordinance.

SECTION 174. 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 AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day _____, 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 is a sister ordinance to Ordinance 14-10. Because of the changes enacted by Ordinance 14-10, multiple sections and chapters of the Bloomington Municipal Code need to be changed. Three types of changes occur with this ordinance: (1) the renaming of departments, job titles, and the reassignment of job duties; (2) fixing of typographical errors; and (3) changes which allow the municipal code to reflect the actual practices and policies of the City. The Titles and Chapters affected by this ordinance include:

- Title 2 (Administration and Personnel) -
 - Chapter 2.09 (Board of Public Works - *Revised*), Chapter 2.10 (Department of Public Works -- Establishment - *Revised*), Chapter 2.11 (Department of Public Works -- Divisions - *Revised*), Chapter 2.12 (Boards, Commissions and Councils - *Revised*), Chapter 2.14 (Planning Department - *Revised*), Chapter 2.15 (Advisory Board of Zoning Appeals - *Revised*), Chapter 2.16 (Historical Preservation Commission - *Revised*), Chapter 2.17 (Board of Public Safety - *Revised*), Chapter 2.27 (Ordinance Violations Bureau - *Revised*), and Chapter 2.76 (Bloomington Public Transportation Corporation - *Revised*);
- Title 6 (Health and Sanitation) –
 - Chapter 6.07 (Snow and Ice Removal – *Relocated and revised*);
- Title 10 (Waste Water) –
 - Chapter 10.04 (General Rules - *Revised*), and Chapter 10.21 (Construction Site and Post Construction Stormwater Control - *Revised*);
- Title 11 (Lakes and Reservoirs) –
 - Chapter 11.04 (Lakes and Reservoirs - *Revised*);
- Title 12 (Streets, Sidewalks and Storm Sewers) –
 - Chapter 12.04 (General Regulations - *Revised*), Chapter 12.06 (Sidewalk Seating and Merchandising Encroachments - *Revised*), Chapter 12.08 (Excavations - *Revised*), Chapter 12.12 (Marquees and Signs - *Deleted*), and Chapter 12.20 (Thoroughfare Plan - *Revised*);
- Title 14 (Peace and Safety) –
 - Chapter 14.50 (Prohibition of Open Containers of Alcoholic Beverages in Motor Vehicles - *Deleted*);
- Title 15 (Vehicles and Traffic) –
 - Chapter 15.08 (Administration - *Revised*), Chapter 15.12 (Stop, Yield and Signalized Intersections - *Revised*), Chapter 15.24 (Speed Regulations - *Revised*), Chapter 15.26 (Neighborhood Traffic Safety Program - *Revised*), Chapter 15.28 (Truck Routes - *Revised*), Chapter 15.32 (Parking Controls - *Revised*), Chapter 15.34 (Accessible Parking for People with Physical Disabilities - *Revised*), Chapter 15.36 (Resident-Only Parking Permits - *Revised*), Chapter 15.37 (Residential Neighborhood Permit Parking - *Revised*), Chapter 15.38 (City Employee Parking - *Revised*), Chapter 15.40 (Municipal Parking Lots, Garages and On-Street Metered Parking - *Revised*), Chapter 15.48 (Removal and Impoundment of Vehicles - *Revised*), Chapter 15.56 (Bicycles, Skateboards & Other Foot-Propelled Vehicles - *Revised*), Chapter 15.64 (Traffic Violation Schedule - *Revised*); and
- Title 17 (Construction Regulations) –
 - Chapter 17.04 (General - *Revised*), Chapter 17.08 (Administration and Enforcement - *Revised*), Chapter 17.12 (License Requirements and Boards - *Deleted*), and Chapter 17. 16 (Unsafe Building Law - *Revised*)

MEMO:

To: City of Bloomington Common Council

From: Patty Mulvihill, Assistant City Attorney

Date: June 18, 2014

Re: Ordinance 14-11, Municipal Code Changes Necessitated by Ordinance 14-10

If this Council adopts Ordinance 14-10 it will necessitate the changing of multiple Titles of the Bloomington Municipal Code. There are nine Titles in all that will need to be changed if Ordinance 14-10 is enacted. The affected Titles include: Title 2 (Administration and Personnel); Title 6 (Health and Sanitation); Title 10 (Waste Water); Title 11 (Lakes and Reservoirs); Title 12 (Streets, Sidewalks and Storm Sewers); Title 14 (Peace and Safety); Title 15 (Vehicles and Traffic); Title 17 (Construction Regulations); and Title 20 (Unified Development Ordinance). All but Title 20 are included in Ordinance 14-11. Title 20 changes are expected to be presented at a later date, as the changes to Title 20 will first necessitate review and approval by the City's Plan Commission.

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 and the transferring of the Parking Enforcement Division to the Police Department. 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 major and substantive changes for each affected Title is described herein for your review.

Before reading the general descriptions below, there are two things to note. First, with the exception of changes to chapters located in Title 15 (Vehicles and Traffic), if a chapter needed to be changed because of Ordinance 14-10, the first type of change discussed above, staff made the other two types of changes in an effort to ensure government efficiency. Title 15 chapters were excluded because the chapters are very lengthy, only the relevant sections that necessitated changes were touched in this Title. Second, when staff first prepared a draft of the suggested changes it included substantial typographical changes, particularly focusing on properly capitalizing relevant terms in the municipal code (such as Common Council and Mayor). However, a review of the City's agreement with its codifier revealed that the codifier will not make such capitalizations. As such, the draft for the Common Council's review and hopeful adoption does not contain these types of amendments.

Title 2, Administration and Personnel

There are five changes to specifically note:

- Change the official title of the Animal Control Department to the *Animal Care and Control Department*.

- Codify the four divisions of the newly created Planning and Transportation Department. These four divisions are as follows: (1) planning and transportation administration; (2) planning services; (3) development services; and (4) transportation and traffic engineering services.
- Specifically note that the Civil Engineer and the Traffic Engineer, both noted and required by the Indiana Code, are going to be known locally as the Transportation and Traffic Engineer.
- Codify that the Parking Enforcement Division will be managed and transferred to the Police Department.
- Increase the ordinance violations bureau financial ceiling from \$100.00 to \$250.00.

Title 6, Health and Sanitation

There is only one change to note in this Title. The ordinance recommends moving snow citations from Title 12 to Title 6 as the HAND Department currently, and in the future, enforces violations of the City's snow ordinance. This move does include the following substantive changes:

- Establishes graduated fines of \$50 (first offense), \$100 (second offense), and \$150 (third offense).
- Includes an appeal process to the Board of Public Works.
- Changes the appeal deadline from 10 days to 7 days to mirror the other appeal deadlines in Title 6.

Title 10, Waste Water

There is only one substantive change to note. There was an incorrect codification of a nonexcessive strength rate. The amount incorrectly codified was \$6.52 and it should have been, per legislative enactment \$6.36.

Title 11, Lakes and Reservoirs

No substantive changes to specifically highlight.

Title 12, Streets, Sidewalks and Storm Sewers

There are six changes to highlight for review:

- The determinate sidewalk variance sections in Title 12 will be moved to Title 20. Under Indiana Code the Board of Zoning Appeals, the entity which hears determinate sidewalk variance is only permitted to act under the zoning ordinance. In order to ensure the Board has appropriate authority to issue the determinate sidewalk variances, such variances need to be placed under the Unified Development Ordinance.

- As previously discussed snow citations are being moved to Title 6, Health and Sanitation.
- Language noting that the street assembly prohibition does not prohibit protected First Amendment speech and conduct.
- Delete the reference to storm sewers, as such section is redundant since the same behavior is already regulated by Title 10.
- An appeal process for encroachment violations has been proposed to ensure due process is properly provided.
- Chapter 12.12, entitled Marquees and Signs, is being proposed for deletion as said Chapter is duplicative of the sign regulations found Chapter 20.05 of the Unified Development Ordinance.

Title 14, Peace and Safety

The staff recommends deleting Chapter 14.50 (Prohibition of Open Containers in Motor Vehicles) in its entirety instead of simply fixing the inaccurate reference to the City Engineer. The conduct regulated in this Chapter is already regulated by the Indiana Code, as such, this Chapter is unnecessary.

Title 15, Vehicles and Traffic

There are two real changes worth noting.

- Staff recommends deleting the availability of a citizen accessible parking enforcement brigade. It is not recommended by the Chief to utilize such a brigade.
- Staff also recommends giving parking enforcement officers the power to authorize the towing of a vehicle which is parked illegally. Presently the parking enforcement officers must call a law enforcement officer to have a vehicle towed. Staff would like to streamline the process.

Title 17, Construction Regulations

Staff wishes to highlight two key changes.

- The City wishes to delete any reference to the City's ability to grant variances to State building codes. The State and courts have been clear that the only entity which has any authority to grant a variance from the State's building codes is the Indiana Fire Prevention and Building Safety Commission.
- Several sections and chapters are being proposed for deletion because the City is no longer the agency which regulates the conduct described therein, the regulating agency is now the County, for example: (1) building permits; (2) occupancy certifications; (3) building inspections; (4) plumbing inspections; and (5) electrical inspections.



CHANGES TO BLOOMINGTON MUNICIPAL CODE PROPOSED BY ORDINANCE 14-11

Strikeout Version

An ~130 page strikeout version of all changes to the Bloomington Municipal Code proposed by Ordinance 14-11 has been included in the Council's Online Packet prepared for the [25 June 2014](#) meetings.

This material was not included in the hardcopy of the Weekly Packet mailed out on Friday, June 20th, but is available in the Council Office upon request.

Chapter 2.09 BOARD OF PUBLIC WORKS

Comment [pmm1]: Text which is proposed for deletion is noted with a ~~strike-through~~ feature. Text which is proposed for addition is noted with **gray highlight**. If a change is being suggested in a Chapter, the entire Chapter has been provided for contextual purposes. However, because of the length and breadth of chapters in Title 15 (Vehicles and Traffic) when a change has been suggested to a section of Title 15, only the section has been provided.

Sections:

- 2.09.000 Establishment.**
- 2.09.010 Appointments.**
- 2.09.020 Terms.**
- 2.09.030 Duties.**

2.09.000 Establishment.

There is hereby created a Board of Public Works with the Executive Branch. Such Board shall be the Chief Administrative Body of the City. Each member shall receive for his ~~or her~~ services compensation in an amount to be fixed by the mayor.

2.09.010 Appointments.

The Board shall consist of three members appointed by the mayor. Appointees shall have been votes of the city for at least one year immediately ~~pre~~ceding the appointment.

2.09.020 Terms.

Members serve at the pleasure of the Mayor.

2.09.030 Duties.

The Board shall be the chief administrative body of the City and shall have control of the day to day operation of the Department of Public Works and shall have the authority to allow and approve claims for the department of public works and the ~~transportation and traffic engineering services division of the planning and transportation department.~~

Chapter 2.10 DEPARTMENT OF PUBLIC WORKS -- ESTABLISHMENT

Sections:

2.10.000 Establishment.

2.10.010 Appointment of Director

2.10.020 Duties.

2.10.000 Establishment.

The department of public works is established as the general administrative department for the following divisions, boards, commission and councils: ~~cemeteries, engineering, sanitation, street, fleet, maintenance, parking enforcement, housing quality appeals, telecommunications, traffic, environmental,~~ community arts, animal care and control, and all physical facilities with the exception of property managed by the utility service board or the ~~parks and recreation board of parks commissioners.~~

2.10.010 Appointment of Director.

The Head of the Department of Public Works shall be the Director of Public Works to be appointed by the Mayor with the approval of the Board of the Public Works and serve at the pleasure of the Mayor.

2.10.020 Duties.

- (1) The Director is subject to any rules promulgated by the Mayor and the Board of Public Works which do not conflict with state law.
- (2) The Director shall have the full powers and authority as other Department Heads and shall assume administrative responsibility for the divisions, boards, commissions, councils and physical facilities as enumerated above.

Chapter 2.11 DEPARTMENT OF PUBLIC WORKS -- DIVISIONS

Sections:

- 2.11.000 Divisions.
- ~~2.11.010 Engineering Department.~~
- 2.11.020 Sanitation Department.
- 2.11.030 Street Department/Fleet Maintenance Department.
- ~~2.11.040 Parking Enforcement Division.~~
- 2.11.050 Animal Care & Control Department.

2.11.000 Divisions.

The following departments are hereby created, together with their corresponding duties, as divisions of the Department of Public Works of the Executive Branch.

~~2.11.010 Engineering Department.~~

~~—The engineering department shall be administered by the city engineer who is appointed by and serves at the pleasure of the mayor. The department is responsible for all engineering activities of the city.~~

2.11.020 Sanitation Department.

The Sanitation Department shall be administered by a Director of Sanitation who is appointed by the Director of Public Works. The Department shall be responsible for the collection of refuse within the City in accordance with Title 6 of this Code.

Comment [pmm2]: We don't actually collect all refuse in the City, there are limits in Title 6 on what we as a City collect.

2.11.030 Street Department/Fleet Maintenance Department.

The Street Department and Fleet Maintenance Department shall be administered by the ~~Director of Transportation who is appointed by the~~ Director of Public Works. The Street Department shall be responsible for the maintenance and care of the public ways within the City. The Fleet Maintenance Department shall be responsible for the ordinary maintenance; ~~acquisition~~ and disposal of all vehicles owned by the City, its departments, agencies, boards, commissions, and councils.

~~2.11.040 Parking Enforcement Division.~~

~~(1) —The Parking Enforcement Division is managed by the Division Supervisor who reports directly to the Director of Public Works.~~

~~(2) Powers and Duties. Parking enforcement officers shall enforce all ordinances and, where applicable and appropriate, state statutes dealing with the regulation of parking in the City. to this end the officers shall have all powers ordinary and necessary to carry out their duties.~~

2.11.050 Animal Care and Control Department.

The Animal care and Control Department shall be administered by ~~the Senior Animal Control Officer~~ a director of animal care and control who is appointed by the Director of Public Works.

- (1) Powers and Duties. The Department shall enforce all the Ordinances and, where applicable and appropriate, state statute dealing with animal control in the City of Bloomington. To this end the officers of the Department shall have all powers ordinary and necessary to carry out their duties. These shall include but not be limited to the power to issue a notice of ordinance violation and the power to enter private real property in fresh pursuit of an animal to enforce this chapter.
- (2) Limitations. In performing their duties, the animal control officers shall, however, be specifically prohibited from: entering a dwelling unit unless officer obtains either the permission of the owner or a court ordered warrant in which the case the officer must be accompanied by a uniformed law enforcement officer; ~~carrying firearms; or making arrests of human beings.~~

Chapter 2.12 BOARDS, COMMISSIONS AND COUNCILS

Sections:

- 2.12.000 Establishment.
- 2.12.010 Animal care and control commission.
- 2.12.020 Bloomington arts commission.
- 2.12.021 Percentage for the Arts Program.
- 2.12.050 Environmental Quality and Conservation Commission.
- 2.12.060 Bloomington telecommunications council.
- 2.12.070 Traffic commission.
- 2.12.080 Bloomington Bicycle and Pedestrian Safety Commission.
- 2.12.090 Martin Luther King, Jr.'s birthday celebration commission.
- 2.12.100 Bloomington Commission on Sustainability.

2.12.000 Establishment.

The following boards, commission and councils are hereby created ~~under the jurisdiction of the Board of Public Works. The Director of Public Works shall oversee and administer these units.~~

2.12.010 Animal care and control commission.

The commission shall be composed of six members.

- (1) Appointments. Three members shall be appointed by the mayor, two by the common council, and one by and representative of the Monroe County board of commissioners.
- (2) Qualifications. One of the mayor's appointees shall be a licensed veterinarian who is a resident of Monroe County and one shall be a member of the Monroe County Humane Association. The representative from the Monroe County board of commissioners must reside in Monroe County.
- (3) Meeting. Regular meetings shall be held once every month as called by the chairperson.
- (4) Powers and Duties. The commission's powers and duties include, but are not limited to the following:
 - (a) Formulate, adopt and implement policies, principles, and standards for humane treatment and control of all animals in the city;
 - (b) Review the decisions and actions of the director of the animal care & control department and any senior animal control officer in any matter related to the enforcement of this chapter, if a written request for a hearing is received from the complaining animal owner within ten days after that action is taken; and,
 - (c) Make recommendations to the mayor of the city as to necessary ordinances concerning the care, treatment and control of animals.

2.12.020 Bloomington arts commission.

- (a) **Public Policy and Purpose.** The City of Bloomington recognizes that the arts are an important part of the culture and economy of the community, and that the city has a responsibility to foster an environment conducive to the community's participation in the arts. The conservation and development of the city's artistic resources are essential to the social, educational, and economic growth of the city. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of Bloomington.
- (b) **Definitions.** As used in this section unless the context clearly requires otherwise:
 - (1) "Commission" means the Bloomington Arts Commission as created by this section.
 - (2) "Public art project" means an original work of high quality art of any medium, which is created by an artist or artists, which belongs and is accessible to the public.
- (c) **Appointments.** The ~~Bloomington Arts~~ Commission shall consist of eleven members. Six members shall be appointed by the mayor and five by the common council.
- (d) **Qualifications.** All members of the commission shall have a demonstrated commitment to the arts. To the extent possible, priority shall be given first to ensuring a broad representation of professional artists from the disciplines of visual, performing and literary arts and then to arts administrators and arts consumers and to representatives from the education and business communities.
- (e) **Terms.** Members shall serve terms of three years. Members having served two consecutive three-year terms may not be reappointed until one year has passed from the end of the second term. Terms shall be staggered, with four members' first term ending within one year; three members' first term ending within two years; and four members' first term ending within three years after their initial appointment, so that no more than five members will leave the commission at the end of each term, which will be the thirty-first day of January.
- (f) **Powers and Duties.** The commission's powers and duties include, but are not limited to, the following:
 - (1) Develop and present to the city a public art plan, which is a list of potential public art projects to be coordinated by the ~~arts~~ commission and produced as a collaborative effort by the city and/or other civic entities;
 - (2) Develop and administer programs to achieve the ~~arts~~ commission's purpose;
 - (3) Inform the common council, city administration, and city boards and commissions on current arts issues, and offer policy recommendations and advice; and,
 - (4) Adopt administrative rules and regulations, adopt procedures, conduct activities and form committees, necessary to conduct the commission's business.

2.12.021 Percentage for the Arts Program.

A policy is established to include works of art and design services of artists in capital projects of the city.

(a) Purpose. The city through its commission accepts responsibility for expanding the community's experience with art by bringing art to public places. Public art has enabled people in all societies to better understand and enrich their individual and collective lives. In order to sustain our economic and cultural vibrancy, the city supports public art and the artists who make it possible. A policy is therefore established to include works of art and/or design services of artists in certain city capital projects.

(b) Definitions. For the purposes of this chapter the following terms shall have the following meanings:

"Annual public art projects plan" means a prioritized list of art projects, with budgets and recommended design approach, developed by the commission in consultation with city departments anticipating capital projects.

"City building" means a fixed structure with walls and a roof that will be owned by the city.

"City capital project" means any permanent capital project paid for, wholly or in part, by the city to construct or remodel any building, structure, park, utility, street, sidewalk, or parking facility, or any portion thereof, that will be owned by the city.

"Commission" means the Bloomington community arts commission.

"Construction costs" means the cost of the project excluding costs for acquisition of land, design, and financing.

"Funds" means a source of money for construction projects from which art is not precluded as an object of expenditure.

"Guidelines" means a document that outlines how the city will implement the arts program, which shall include but not be limited to methods for the selection of artists, for selection and placement of works of art and for the education and promotion of public art.

"Landscaping" means area, including the pedestrian portions of streetscapes, where by grading, placing concrete or rock, or planting vegetation, the natural features of a site are made more attractive.

"Municipal arts fund" means a dedicated fund for administration of the public art program.

"Parks facilities" means amphitheaters, fountains, pools, pedestrian ways, sports areas and other improvements where people gather or play.

"Public art" is an original work of art of the highest quality created by an artist, artists, or a collaboration of design professionals which belongs and is accessible to the public, is integrated into the site, and enhances the quality of city life.

- (c) Commission Authority. The commission shall:
- (1) Prepare a set of guidelines for carrying out the city's public art program which shall be submitted in the form of resolutions to the board of park commissioners, the board of public works and the common council;
 - (2) Review the city's annual capital improvement plan with city officials and jointly submit an annual public art projects plan to the appropriate board having responsibility over the project for their recommendation and to the common council for their approval. The annual public art projects plan, which may be incorporated into the annual capital improvement plan, shall be submitted to the **common** council for their consideration at the same time as the civil city budget.
 - (3) Encourage an pursue additional funds for the program which may be deposited in the municipal arts fund.
 - (4) Acquire works of art, retain consultants or hire employees, and take other reasonable measures within its appropriations to administer the public art program.
- (d) Criteria for the selection and placement of public art. The following criteria shall be used for the selection and placement of public art:
- (1) Public art shall be located in areas where residents and visitors live and congregate and shall be highly accessible and visible;
 - (2) Areas such as the entryways, downtown, neighborhoods, and the parks shall be treated as separate areas that deserve separate attention in the guidelines;
 - (3) Since public art has a significant effect on the lives of those who frequent public places, public art should reflect enduring, and not transitory, artistic concepts;
 - (4) Public art shall reflect the cultural and ethnic diversity of this city without deviation from a standard of excellence; **and,**
 - (5) Selection shall also take into account appropriateness to the site, permanence of the work in light of surrounding environmental conditions, maintenance requirements, quality of work, likelihood the artist can successfully complete the work within the available funding, and works of art already in the public art collection.
- (e) Funds for Works of Art. Appropriations for certain city capital projects shall include an amount not less than one percent of the city's contribution to the estimated construction costs of the project for public art. These city capital projects shall include the construction or renovation of all city buildings, and shall be otherwise limited to the construction of parks facilities and the landscaping portion of major projects that are approved in the annual public arts projects plans.
- (f) Municipal Arts Fund. The funds for public art including the allocation of one percent of the construction costs of certain city capital projects along with donations, grants, and all other appropriations for public art. Those funds shall be deposited in a municipal arts fund unless they are for a city capital project, in which case, they may be kept as other funds for capital projects are kept.

Expenditures from this fund may be used for design services of artists and for the selection, acquisition, commissioning, and display of arts works, for maintenance, and administration of the program as outlined in the guidelines and annual public art project plan. Funds approved as part of one project, but not deemed necessary in total or in part for said project, may, if not precluded by any law, be expended on other projects or purposes approved in the annual public art project plan.

2.12.050 Environmental Quality and Conservation Commission.

- (1) Purpose. It is declared to be the public policy of the City of Bloomington and the purpose of this section to achieve and maintain such levels of environmental quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of Bloomington and facilitate the enjoyment of the natural attractions of the City of Bloomington.
- (2) Definitions. As used in this ordinance section unless the context clearly requires otherwise:
 - (a) "Environment" means the sum total of the physical, chemical, and biological factors affecting the populace of the City of Bloomington and the surrounding community.
 - (b) "Pollution" means the presence in the environment of one or more contaminants, or noise, in such quantities, characteristics or duration as is or tends to be injurious to human health or welfare, or property, or would interfere with the enjoyment of life or property.
 - (c) "Commission" means the Bloomington Environmental Quality and Conservation Commission, as created in this ordinance section.
 - (d) "Person" means any individual, partnership, co-partnership, firm, company, public or private corporation, association, trust, estate, or any agency, board, department or bureau of the City or other legal entity.
 - (e) "Bloomington" means the City of Bloomington, its corporate limits, and any areas within its legal purview.
- (3) Appointments. The Commission shall consist of twelve members, six appointed by the Mayor and six appointed by the Common Council.
- (4) Qualifications. Preference for appointments shall be given to persons with expertise in one or more areas of physical sciences, biological sciences, engineering, business, sanitation, public health, conservation, and recreation.
- (5) Meetings. The Commission shall meet a minimum of once a month.
- (6) Powers and Duties. The Commission shall have the following powers and duties:
 - (a) To adopt administrative rules and regulations for the conduct of its business.
 - (b) To hold hearings relating to any aspect of or matter in the administration of this ordinance section and in cases of non-compliance request the City Attorney legal department to take legal action.
 - (c) To retain, employ, provide for, and compensate, with appropriations available thereof, such consultants, assistants, deputies, clerks, technical and other employees, on a full or part-time basis as may be necessary to carry out the

- provisions of this ordinance section and prescribe the times at which they shall be appointed, the duration of their appointments and their powers and duties.
- (d) To secure necessary scientific, technical, administrative and operational services including laboratory facilities, by contract or otherwise with any educational institution, experiment station, or any board, department, or other agency of any subdivision of state or the Federal Government.
 - (e) To determine by means of field studies and sampling the degree of pollution in Bloomington.
 - (f) To encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement and control in Bloomington, and make recommendations to the appropriate public and private bodies with respect thereto.
 - (g) To classify contaminant sources, which in the Commission's judgment may cause or contribute to pollution.
 - (h) To prepare and develop a comprehensive plan or plans for the prevention, abatement and control of pollution in Bloomington.
 - (i) To encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter section.
 - (j) To collect and disseminate information and conduct educational and training programs relating to pollution and environmental quality and conservation.
 - (k) To advise, consult, contract and cooperate with other agencies of the state and the City of Bloomington, other local governments, industries, other states, interstate or interlocal agencies, and the Federal government, and with interested persons or groups.
 - (l) To apply for, accept, receive and administer grants or other funds or gifts from public or private agencies including the State and Federal governments for the purpose of carrying out any of the provisions or purposes of this chapter section. Such funds received by the Commission pursuant to this subdivision shall be deposited in accordance with the administrative regulations of the Commission. The Commission is authorized to promulgate such rules and regulations or enter into contracts it may deem necessary for carrying out the provisions of this subdivision.
 - (m) To make appropriate inquiry into and give constructive consideration to the operations and policies of all departments and governmental branches of the City of Bloomington concerning their adherence to a commitment for environmental quality and the conservation of natural resources.
 - (n) To prepare reports and recommendations to the Mayor, Common Council, Board of Public Works, and the Planning Commissions as needed.

2.12.060 Bloomington telecommunications council.

- (1) Purpose. The Telecommunications Council shall be responsible to the Board of Public Works in reviewing and evaluating the performance of city franchise agreements.
- (2) Appointments. The council shall consist of five members, two of whom shall be appointed by the Mayor and three by the Common Council.

- (3) Powers and Responsibilities. The powers and responsibilities of this council shall be as follows:
- (a) To evaluate the quality of subscriber service by cable television companies;
 - (b) To evaluate whether the company is operating in satisfaction of the terms of the cable television franchise and the application of state and federal rules and regulations;
 - (c) To study the communication needs of the Bloomington community and explore ways of using cable television to meet those needs;
 - (d) To assist members of the public and nonprofit organizations in the use of cable television, including, to the extent of the Council's ability, programming advice, production advice and assistance, and cable casting arrangements;
 - (e) To seek out and retain the services of other persons, organizations and companies for purposes of satisfying the responsibilities laid upon the Council by this section;
 - (f) To report at least once a year to the Mayor, the Common Council, and the Board of Public Works, in writing on the Council's activities and expenditures, such report to include the evaluations provided for in subsections (b) and (c) of this section, and such report further being made available to the public upon request; and
 - (g) To pursue the preceding responsibilities in the best public interest of the citizens of Bloomington.
- (4) Procedure. The Board of Public Works shall furnish the Telecommunications Council with rules and regulations for the administration of the Telecommunications Council.

It is the object of this section that the Telecommunications Council will be supported from the receipt of cable television franchise fees, subject to the approval of the Mayor and Common Council.

2.12.070 Traffic commission.

- (1) Purpose--Duties. It shall be the duty of the commission, and to this end it shall have the authority within the limits of the funds at its disposal, to coordinate traffic activities, to carry on educational activities in traffic matters, to supervise the preparation and publication of traffic reports, to receive complaints having to do with traffic matters, and to recommend to the common council and to appropriate city officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.
- (2) Appointments. The commission shall consist of the following nine members: a designee of the transportation and traffic engineer, a designee of the director of ~~transportation~~ public works, a designee of the chief of police and six additional members who shall be appointed by the common council. All terms shall be for two years.
- (3) Qualifications. Each **common** council appointee shall be a resident of the city with preference being given so that each councilmanic district is represented.
- (4) Meetings. Meetings will be held monthly.

- (5) Procedure. The commission shall establish its own rules of operating procedure which may be amended from time to time by majority vote.

2.12.080 Bloomington Bicycle and Pedestrian Safety Commission.

- (1) Purpose. The purpose of this commission is to promote and encourage bicycling, walking and running in a safe and efficient manner in the City of Bloomington for the purpose of health, recreation and transportation.
- (2) Appointments. The commission shall consist of seven members appointed in the following manner:
 - (A) The Mayor shall make four appointments. Preference for two of those four appointments will be given one member from ~~the~~ Bloomington Bicycle Club Inc. and one member from ~~the~~ Bloomington Track Club Inc. The above named organizations shall submit a list of at least three names to the Mayor for consideration.
 - (B) The Common Council shall make three appointments. Preference for one of those three appointments will be given to one member from ~~the~~ Indiana University Student Association. The above named organization shall submit a list of at least three names to the Common Council for consideration.
- (3) Terms. The initial terms of the members shall be staggered. All subsequent terms shall be for two years.
- (4) Removal. Members may be removed for cause by the Mayor or Common Council. "Cause" shall include, but not be limited to, failure to attend three consecutive regularly scheduled ~~OR~~ ~~or~~ four regularly scheduled commission meetings within a twelve-month period. The commissioner shall have the right to submit in writing any extenuating circumstances to the Mayor or Common Council before the formal decision to remove is reached. However, acceptance of extenuating circumstances puts the Commissioner on notice that further excessive absenteeism will result in removal.
- (5) Meetings. The Commission shall meet at times and places as agreed on by the Commission and shall advertise those meetings times and places in accordance with the law. In any event the Commissioner shall meet no less than six times per calendar year.
- (6) Duties. The duties of this commission shall be as follows:
 - (A) To serve as a citizen forum for discussion and recommendation of improvement to existing facilities and planning of new projects concerning safe access for cyclists, pedestrians and runners;
 - (B) To prepare reports and recommendations to the Mayor, Common Council, Plan Commission and ~~Public Works~~ Planning and Transportation Department as needed, concerning the needs of cyclists, pedestrians and runners within the City;
 - (C) To foster and develop safety programs for cyclists, pedestrians and runners; ~~and,~~
 - (D) To encourage the hosting of cycling, walking and running events conducted in a safe manner which will attract visitors from outside the City.

2.12.100 Bloomington Commission on Sustainability.

- (1) **Public Policy and Purpose.** A sustainable community seeks to enhance the socio-environmental-economic well-being of the community while taking precautions not to compromise the quality of life of future generations. Toward that end, it reduces the use of nonrenewable natural resources and its production of wastes, while at the same time improving livability. The mission of the Bloomington Commission on Sustainability is to promote sustainable socio-environmental-economic well-being of Bloomington and all its inhabitants.
- (2) **General.** This ~~chapter~~ **section** is subject to the general provisions of Section 2.08.020 of the Bloomington Municipal Code.
- (3) **Appointments and Residency.** The commission shall consist of fourteen members. Six of the members shall be appointed by the mayor and six shall be appointed by the common council. No more than two of the mayor's appointments and no more than two of the common council appointments may be citizens who live outside the corporate limits of Bloomington and within Monroe County. One of the six **common** council appointments shall be a member of the common council. One of the members shall be appointed by the Monroe County Commissioners from Monroe County government. And, the Director of the Indiana University Office of Sustainability or his/her designee shall serve as the ex-officio member from Indiana University. All members shall have a vote and shall serve without compensation.
- (4) **Qualifications.** Sustainability is an interdisciplinary concept. As such, the commission's membership shall reflect environmental, social and economic perspective, unified by the common interest of sustainability. The commission shall draw its members from government, business, academia, not-for-profits and neighborhood associations.
- (5) **Officers.** Officers shall be selected by vote of the commission members annually.
- (6) **Meetings.** The commission shall meet one time each month, every month of the year, unless it decides to cancel the meeting.
- (7) **Staffing.** The city's ~~assistant director of economic development~~ **sustainability coordinator** shall serve as staff liaison to the commission. The liaison will research and pursue funding opportunities for sustainable development, engage in education and outreach, and identify "best practices". The city administration shall provide general administrative support for the commission.
- (8) **Powers and Duties.** The commission shall have the following powers and duties:
 - (A) To coordinate ongoing and to propose and promote new sustainability initiatives among residents, businesses, governmental, nongovernmental agencies and educational organizations through education and outreach programs;
 - (B) To advise and make recommendations to the Bloomington common council, city administration, and city boards and commission on policies and programs that infuse the work of city government with an operating philosophy based on sustainability;
 - (C) To determine, in cooperation with other city boards and commissions, Bloomington's current and future sustainability status by developing and monitoring a set of sustainable indicators;

- (D) To provide, in cooperation with other city boards and commissions, and annual "sustainability assessment" based on said indicators. The assessment shall be included in an annual report and provided to the common council, mayor and the public;
- (E) To advise, consult and cooperate with other agencies, boards and commissions of the city of Bloomington, the state, other local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups on matters of sustainability;
- (F) To adopt administrative rules and regulations for the conduct of its business; and,
- (G) To research and apply for grants or other funds or gifts from public or private agencies for the purpose of carrying out any of the provisions or purposes of this chapter section.

Chapter 2.14 PLANNING AND TRANSPORTATION DEPARTMENT

Sections:

2.14.000 Establishment.

2.14.010 Appointment of director.

2.14.020 Divisions.

2.14.000 Establishment.

The planning and transportation department is established ~~under the city plan commission.~~

2.14.010 Appointment of director.

The planning and transportation department shall be administered by a director who shall be appointed by the mayor with the approval of the plan commission and shall serve at the pleasure of the mayor.

2.14.020 Divisions.

The planning and transportation department shall be comprised of four divisions: planning and transportation administration; planning services; development services; and transportation and traffic engineering services.

- (1) The planning services and development services divisions operate under the city's plan commission.
- (2) The transportation and traffic engineering services division shall be led by the traffic and transportation engineer.
 - (a) The traffic and transportation engineer is appointed by and serves at the pleasure of the mayor;
 - (b) The traffic and transportation engineer serves as the city's civil engineer for purposes of Ind. Code 36-4-9-6.
 - (c) The traffic and transportation engineer serves as the city's traffic engineer for purposes of Ind. Code 36-9-7-3.

Chapter 2.15 ADVISORY BOARD OF ZONING APPEALS

Sections:

- 2.15.000 Establishment.**
- 2.15.010 Appointments.**
- 2.15.020 Qualifications.**
- 2.15.030 Terms.**
- 2.15.040 Procedure--Meetings--Oaths--Attendance**
- 2.15.050 Powers and duties.**

2.15.000 Establishment.

There is hereby created the advisory board of zoning appeals to review determinations made by the ~~plan department, and engineering department,~~ **planning and transportation department** to hear and determine requests for special exceptions and variances.

2.15.010 Appointments.

The board shall consist of five members as follows: three members appointed by the mayor; one member appointed by the common council; and one member appointed by the plan commission.

2.15.020 Qualifications.

Membership of the board shall be set up as follows:

- (a) Of the three citizen members appointed by the mayor one must be a member of the plan commission and two must not be members of the plan commission.
- (b) The common council citizen appointment must not be a member of the plan commission.

2.15.030 Terms.

- (a) Terms of the members of the board of zoning appeals will be as set out in the Indiana Code.
- (b) If a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate for each of its appointees and such alternate may participate with the board in any hearing or decision in which the regular member has a disqualification or is otherwise unavailable to participate. The appointing authority may appoint a standing alternate for each regular appointee or may appoint an alternate for a member in the particular case in which the

regular member is unavailable. All alternate members appointed hereunder must meet all qualification requirements of the regular members for whom they serve as alternate.

- (c) The appointing authority may remove a member from the board of zoning appeals for cause as outline in IC 36-7-4-906(f).

2.15.040 Procedure--Meetings--Oaths--Attendance.

- (a) Meetings of the board shall be held on call of the chairman and at such times as the board may determine. The board shall hear all petitions addressed to it in public meeting. The chairman or, in his **or her** absence, the acting chairman may administer oaths and compel the attendance of witnesses.
- (b) Regulations for the board's decisions are detailed in Title 20 of the Bloomington Municipal Code Section ~~20.03.04.00~~ **20.01.380**.

2.15.050 Powers and duties.

The powers and duties of the board of zoning appeals shall be as set out in Title 20 of the Bloomington Municipal Code.

Chapter 2.16 HISTORICAL PRESERVATION COMMISSION

Sections:

2.16.010 Establishment.

2.16.020 Organization.

2.16.030 Powers.

2.16.010 Establishment.

- (a) Creation. For the purpose of making effective the provisions of Title 8 Historic Preservation and Protection, there is established an historic district board of review to be known as the Historic Preservation Commission (hereinafter referred to as "the commission").
- (b) Staffing. The staff of the city housing and neighborhood development and planning and transportation department (hereinafter referred to as "the staff") shall serve as the staff to the commission at the commission's discretion. Each official of the city who has responsibility for building inspection, planning or zoning shall provide necessary technical, administrative or clerical assistance requested by the commission.
- (c) Composition. The commission shall consist of nine voting members who must be residents of the city. All members shall be appointed by the mayor of the city subject to the approval of the common council of the city (hereinafter referred to as "common council"). All members shall be interested in the preservation and development of historic buildings and areas.
- (d) Terms of Office. The terms of the original voting commission members shall be staggered as follows: Three members for three-year terms, three members for two-year terms, and three members for one-year terms. Thereafter, voting members shall each serve for a term of three years, and all terms shall commence on January 1st and expire on December 31st. A vacancy shall be filled through appointment by the mayor and approval of the common council only for the unexpired duration of the term.
- (e) Serve Without Compensation. Members of the commission shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

2.16.020 Organization.

- (a) Commission Administrator. The director of the housing and neighborhood development shall serve as administrator of the commission. The administrator shall provide staff assistance to the commission, act as the commission's secretary, and issue certificates of appropriateness as directed by the commission.
- (b) Commission Officers. The commission shall elect from its membership a chairman and vice chairman, who shall serve for one year and may be reelected.
- (c) Commission Meetings. The commission shall hold regular meetings, at least monthly, except when it has no business pending. Special meetings may be called in a manner determined by the commission in its rules. All meetings of the commission must be

open to the public, and a public record of the commission resolutions, proceedings, and actions must be kept.

- (d) Commission Rules. The commission shall adopt rules consistent with this ~~title~~ **chapter** for the transaction of its business.

2.16.030 Powers.

The commission's duties include but are not limited to the following:

- (a) The commission is that agency of city government responsible for developing and coordinating the municipality's historic preservation activities. The commission shall be concerned with those elements of development, redevelopment, rehabilitation and preservation that affect visual quality in the historic district. Areas of concern may also include viewsheds, landscapes and streetscapes of historic importance. The commission may make recommendations to the common council concerning development rights, facade easements, the imposition of other restrictions, and the negotiation of historic property contracts for the purpose of ensuring preservation.

- (b) The commission has the authority to receive funds in order to promote its stated mission.

- (c) The commission may not consider details of design, interior arrangements, or building features if those details, arrangements, or features are not subject to public view.

- (d) The commission may not make any requirement except for the purpose of preventing development, alteration or demolition in the historic district obviously incongruous with the historic district.

- (e) The commission shall conduct a survey, or may adopt existing surveys, to identify historic buildings, structures and placed located within the city.

- (f) The commission may promulgate standards for architectural review. These shall include local design guidelines to be published and be made readily accessible to the general public.

- (g) The commission shall draw and submit to the common council for its approval a map or maps describing the boundaries of an historic district or conservation district. The commission shall issue a report to the common council based upon its survey, identifying and validating the significance of the property or district ~~according to Section 8.08.020 of this code.~~

- (h) The commission may issue certificates of appropriateness for any actions required by Section 8.08.020.

- (i) The commission may adopt rules consistent with this ~~title~~ **chapter** designating situations not requiring a certificate of appropriateness under Section 8.08.020.

Chapter 2.17 BOARD OF PUBLIC SAFETY

Sections:

- 2.17.000 Establishment.**
- 2.17.010 Appointments.**
- 2.17.020 Compensation.**
- 2.17.030 Powers and duties.**
- 2.17.040 Police Department -- Establishment.**
- 2.17.050 Fire Department -- Establishment.**

2.17.000 Establishment.

There is hereby created a separate board in the Executive Department to be known as the Board of Public Safety.

2.17.010 Appointments.

The board shall consist of five members who shall be appointed by the mayor and who shall serve at the mayor's pleasure. Members shall have been voters of the city for at least one year immediately preceding the appointment.

2.17.020 Compensation.

Each member of such board shall receive for services compensation in an amount to be fixed by the Mayor, subject to the approval of the Common Council. No such member who holds any other remunerative position with the City shall be entitled to receive additional compensation for services performed as a member of such board.

2.17.030 Powers and duties.

The Board of Public Safety shall have control and oversee the Police and Fire Departments of the City pursuant to statute, and shall have the authority to allow and approve claims.

2.17.040 Police Department -- Establishment.

There is hereby created, as part of the executive branch of government under the control and supervision of the Board of Public Safety, a Bloomington Police Department. Said Department shall be responsible for the public safety and parking enforcement functions of the City. The Police Department shall be administered by the Police Chief.

2.17.050 Fire Department -- Establishment.

There is hereby created, as part of the executive branch of government under the control and supervision of the Board of Public Safety, a Bloomington Fire Department. Said Department shall be responsible for the fire protection of the City of Bloomington. The Fire Department shall be administered by the Fire Chief.

Chapter 2.27 ORDINANCE VIOLATIONS BUREAU

Sections:

2.27.000 Establishment of bureau.

2.27.010 Appointment of administrator of bureau and designation of agents for collection of civil penalties.

2.27.020 Limitations on powers of bureau.

2.27.000 Establishment of bureau.

There is hereby created an ordinance violations bureau, pursuant to Indiana statute. The function and purpose of the bureau shall be to collect, receipt, and account for payments of civil ordinance violation penalties of ~~one hundred~~ two hundred and fifty dollars or less. Each offense and/or each day of each offense shall constitute a separate violation for the purpose of collection under this chapter.

2.27.010 Appointment of administrator of bureau and designation of agents for collection of civil penalties.

The ordinance violations bureau shall be administered by the city controller. The following divisions and departments are designated to act as agents of the administrator for collection of civil ordinance violation penalties.

- (a) Animal care and Control department: for receipt of penalties for violations or fees of described in Bloomington Municipal Code Title 7, Animals;
- (b) Fire department: for receipt of penalties for violations of Bloomington Municipal Code Section 15.32.160(e), Emergency vehicle lanes and for violations of Bloomington Municipal Code Title 18, Fire Prevention;
- ~~(c) Parking enforcement division of the department of public works: for receipt of penalties for violations of Bloomington Municipal Code Title 15, Vehicles and Traffic;~~
- (d) Housing and neighborhood development: for the receipt of penalties for violations of Bloomington Municipal Code Chapter 6.04, Refuse and Yard Waste Collection by the City, Chapter 6.06, Refuse Garbage and Weeds; Chapter 6.07, Snow and Ice Removal; Title 8, Historic Preservation; Title 16, ~~Housing Inspection~~ Residential Rental and Lodging Establishment Inspection Program; and Title 17, Construction Regulations;
- (e) Police department: for receipt of penalties for violations of Bloomington Municipal Code Title 14, Peace and Safety and Title 15, Vehicles and Traffic;
- ~~(f) Department of public works~~ planning and transportation department: for receipt of penalties for violations of Bloomington Municipal Code Chapter 12.06, Sidewalk Seating and Merchandising Encroachments and Title 20, Unified Development Ordinance.

- (g) The legal department of law: for receipt of penalties for any of the above violations which have been referred to the department of law for collection, and for the receipt of all other penalties for violations of the ordinances of the city.

All penalties collected by agents of the administrator shall be collected, receipted, and accounted to the administrator in accordance with Indiana statute.

2.27.020 Limitations on powers of bureau.

The bureau and its agents are empowered to collect civil ordinance violations of one two hundred fifty dollars or less. Each offense and/or each continuing day of an offense shall constitute a separate offense eligible for collection by the bureau. Civil ordinance violation offenses carrying a penalty in excess of one two hundred fifty dollars shall be prosecuted by the department of law in accordance with state law.

Comment [pmm3]: Dollar limitation by State Code, 33-36-2-3 is \$250.00 not \$100.00

Chapter 2.76 BLOOMINGTON PUBLIC TRANSPORTATION CORPORATION

Sections:

- 2.76.010 Declaration of public interest.**
- 2.76.020 Creation.**
- 2.76.030 Necessity.**
- 2.76.040 Boundaries.**
- 2.76.050 Directors.**
- 2.76.060 Powers.**

2.76.010 Declaration of public interest.

The Common Council hereby declares that the creation of a public transportation corporation is in the public interest of the City of Bloomington and that the public acquisition of Bloomington Transit by said public transportation corporation is in the public interest of the City of Bloomington.

2.76.020 Creation.

That there is hereby created a public transportation corporation pursuant to IC 36-9-4, as amended from time to time, which public transportation corporation shall hereinafter be known as the "Bloomington Public Transportation Corporation" and which public transportation corporation shall be a separate municipal corporation, as provided under IC 36-9-4-12.

2.76.030 Necessity.

That the public transportation corporation urban mass transportation system is necessary to relieve traffic congestion in the City of Bloomington; necessary for the proper use of the factories, stores, warehouses, offices, schools, recreational facilities, and other places where members of the general public congregate; necessary to expand the economic and social opportunities available to residents of the municipality, especially those who cannot freely move about without the services of the system; and a substantial factor in maintaining real property values in the municipality.

2.76.040 Boundaries.

That the boundaries of the Bloomington Public Transportation Corporation shall be coterminous with the boundaries of the City of Bloomington. A map showing such boundaries shall be prepared and certified by the ~~Bloomington City~~ Bloomington City Transportation and Traffic Engineer and shall be available for public inspection in his or her office.

2.76.050 Directors.

That the number of directors of the corporation shall be five. The board of directors shall be appointed and serve pursuant to IC 36-9-4 and said board of directors shall have all the powers, authority and privileges and shall be subject to all of the duties, responsibilities, requirements and limitations provided herein.

2.76.060 Powers.

That the Bloomington Public Transportation Corporation and its board of directors shall have all of the powers granted pursuant to IC 36-9-4.

Title 6 HEALTH AND SANITATION

Chapters:

Chapter 6.04 - REFUSE AND YARD WASTE COLLECTION BY THE CITY

Chapter 6.05 - COMMERCIAL REFUSE HAULING AND COLLECTION

Chapter 6.06 - GARBAGE AND WEEDS

Chapter 6.07 - SNOW AND ICE REMOVAL

Chapter 6.12 - SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Chapter 6.15 - USED MOTOR OIL DEPOSITORY

Comment [pmm4]: Moved from Title 12 b/c neither the old Engineering or the new Engineering/Planning Department enforce snow removal, it's done by neighborhood compliance officers who generally act under Title 6.

Chapter 6.07 SNOW AND ICE REMOVAL

Sections:

6.07.010 Snow and ice removal -- Duty of abutting property owner.

6.07.020 Enforcement procedures and appeal.

6.07.010 Snow and ice removal -- Duty of abutting property owner.

Comment [pmm5]: This is currently located in Section 12.04.070. Although it has been reformatted.

- (a) It shall be the duty of every owner of any premises abutting a sidewalk in all parts of the City to remove, or cause to be removed, all snow and ice from the sidewalk to allow safe and reasonable travel on said sidewalk within twenty-four hours after snow or ice has ceased to fall or in any way accumulate.
- (b) In the downtown snow removal area, the minimum clear width of the path shall be the lesser of fifty-four inches or the full-paved width of the sidewalk, while in the remainder of the City the minimum clear width of the path shall be thirty-six inches.
- (c) For purposes of this section, the downtown snow removal area is defined as:
 - (1) College Avenue and Walnut Street from 3rd Street to 10th Street
 - (2) Gentry Street from 4th Street to 10th Street;
 - (3) Morton Street from 5th Street to 10th Street;
 - (4) 3rd Street between Walnut Street and College Avenue;
 - (5) 4th Street between Walnut Street and Gentry Avenue;
 - (6) Segments of 5th, 6th, 7th, 8th, 9th, and 10th Streets from Walnut Street to Morton Street; and
 - (7) Kirkwood Avenue from Indiana Avenue to Rogers Street.
- (d) Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the Monroe County Recorder, the duty to remove snow and ice shall be on the purchaser of the premises, who shall be considered the owner for the purposes of this section.

6.07.020 Enforcement procedure and appeal.

- (a) If the director of HAND, the assistant director, any neighborhood compliance officer, or any other designee of the director (collectively referred to as "staff") determines that there is a violation of this chapter, that person shall issue a notice of violation (NOV) to the property owner.
- (b) The NOV shall be in writing and shall be served on the property owner in one or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The NOV shall state:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The fine assessed for the violation;
 - (4) That the fine is to be paid at HAND;
 - (5) That the fine may be contested in the monroe county circuit courts; and
 - (6) That the NOV may be appealed to the board of public works, provided the appeal is in writing and filed with the board of public works no later than seven calendar days from the date of the NOV.
- (c) Schedule of Fines. The initial penalty or fine for all violations of this chapter shall be fifty dollars. A second violation of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred dollars. A third and all subsequent violations of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred fifty dollars. The twelve-month period described above shall begin on August 1 of each year and end on July 31 of the following year.
- (d) If the property owner fails to pay any accumulated fines, the City legal department may collect said fines in any manner authorized by law.

Comment [pmm6]: This section is a combination of Section 12.04.080 and 12.04.085.

A few things to note::

- 1. This has been reformatted so that it is consistent with the rest of Title 6.
- 2. The appeal deadline has changed from 10 days to 7 calendar days to be consistent with the rest of Title 6.
- 3. The fine schedule has been changed from a flat \$50 fine to a graduated fine schedule (\$50, \$100, \$150) so that it mirrors the rest of Title 6.

Chapter 10.04 GENERAL RULES

Sections:

- 10.04.005 Purpose and policy.**
- 10.04.010 Administration.**
- 10.04.015 Abbreviations.**
- 10.04.020 Definitions.**
- 10.04.025 Posting of rules.**
- 10.04.030 Wastewater main connections and construction.**
- 10.04.040 Extension of wastewater mains.**
- 10.04.050 Mandatory connections.**
- 10.04.060 Construction and abatement of defective privies or septic systems.**
- 10.04.070 Personal sewer sludge use.**
- 10.04.080 Admission to property.**
- 10.04.090 Illegal connections.**

10.04.005 Purpose and policy.

This title sets forth uniform requirements for users of the publicly owned treatment works for the city utilities (the city) and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (Title 40 CFR part 403). The objectives of this title are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

- (f) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This title shall apply to all users of the publicly owned treatment works. The title authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

10.04.010 Administration.

Except as otherwise provided herein, the utilities director shall administer, implement, and enforce the provisions of this title. Any powers granted to or duties imposed upon the utilities director may be delegated by the utilities director to a duly authorized city employee.

10.04.015 Abbreviations.

BOD - biochemical oxygen demand
BMP - best management practice
BMR - baseline monitoring report
CFR - Code of Federal Regulations
CIU - categorical industrial user
COD - chemical oxygen demand
EPA - U.S. Environmental Protection Agency
ERP - pretreatment program enforcement response plan
gpd - gallons per day
IU - industrial user
mg/l - milligrams per liter
NPDES - National Pollutant Discharge Elimination System
POTW - publicly owned treatment works
RCRA - Resource Conservation and Recovery Act
SIU - significant industrial user
SNC - significant noncompliance
TSS - total suspended solids
USC - United States Code

10.04.020 Definitions.

As used in this title, the following words have the following meanings unless otherwise designated. Where words are not defined, they shall have the meanings provided in the city utilities' "Rules, Regulations and Standards of Service."

"Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

"Approval authority" means the Indiana Department of Environmental Management.

"Authorized or duly authorized representative of the user" means:

- (a) If the user is a corporation:
 - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in subsections (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the director.

"Base unit" means the amount that equals the average single-family residential impervious area, which is presently set at two thousand square feet but which may be adjusted by action of the utilities service board.

"Best management practice" or "BMP" means management and operational procedures that are intended to prevent pollutants from entering a facility's wastestream or from reaching a discharge point. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration (e.g., mg/l).

"Board" means the Bloomington Utilities Service Board (USB) or any duly authorized representative acting in its behalf.

"Bypass" means the intentional diversion of wastestreams from any portion of the permittee's treatment facility as specified in 40 CFR 403.17.

"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter I, subchapter N, parts 405-471.

"Categorical industrial user" or "CIU" is an industrial user who is regulated under a categorical pretreatment standard.

"City" or "CBU" means the City of Bloomington, Indiana, acting through its utilities service board.

"Chemical oxygen demand" or "COD" is a measure of oxygen required to oxidize all compounds, both organic and inorganic, in water.

"Commercial user" means any user other than a residential user, Indiana University user or industrial user as defined in this section.

"Control authority" is the POTW if the POTW has a pretreatment program approved by the EPA. The control authority directly regulates the significant industrial users (SIUs) discharging to the POTW.

"Conventional pollutant" means those pollutants designated by the Act to include BOD, total suspended solids, pH, fecal coliform, oil and grease, and such additional pollutants which may be specified and controlled in the city's NPDES permits for its wastewater treatment system.

"Daily maximum" is the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

"Daily maximum limit" is the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

"Director" means the director of the utility or any duly authorized representative acting in his or her behalf.

"Discharger" means any nonresidential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches and all constructed devices and appliances appurtenant thereto.

"Domestic wastes" means liquid wastes from the noncommercial preparation, cooking, and handling of food or liquid wastes containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of the agency.

"Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"Grab sample" means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen minutes.

"Impervious area" means the total hard surface area (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract.

"Indiana University user" means any Indiana University-owned property located on the central campus which generates wastewater.

"Indirect discharge or discharge" means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

"Industrial user" or "user" means a source of indirect discharge.

"Industrial waste" means a solid, liquid or gaseous waste resulting from any industrial manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

"Instantaneous maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, does one of the following:

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, its sludge processes, selected sludge use or disposal methods;
- (b) Causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation;
- (c) Prevents the use of the POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); the rules contained in any sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

"Local limit" means specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis waste.

"Monthly average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"Monthly average limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"New source" means:

- (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - (1) Begun, or caused to begin, as part of a continuous on-site construction program:
 - (A) Any placement, assembly, or installation of facilities or equipment, or
 - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment;
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

"Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"NPDES" or "National Pollution Discharge Elimination System" means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zones, and the oceans pursuant to the Clean Water Act.

"Operation and maintenance" or "O&M" means the cost of operation and maintenance of the treatment works, including replacement costs. It means the expenses for the normal operation of the treatment works including overhead, meter reading, bill preparation, collection system costs, sewer equipment maintenance and treatment works equipment maintenance.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

"Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

"pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, heavy metals, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

"Pretreatment program enforcement response plan" or "ERP" means a plan that contains detailed procedures indicating how the city utilities will investigate and respond to instances of industrial user noncompliance.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

"Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

"Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in [Chapter 10.12](#) of this title.

"Publicly owned treatment works" or "POTW" means a treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

"Public sewer" means a primary or secondary sewer in which all owners of abutting property have equal rights and which is controlled by the utility.

"Replacement costs" means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the useful life of the wastewater treatment system.

"Representative sample" means a sample from a wastestream that is as nearly identical as possible in composition to that in the larger volume of wastewater being discharged and typical of the discharge from the facility on a normal operating day.

"Residential user" means any single-family or double-family dwelling which generates wastewater.

"Rules" means "Rules, Regulations and Standards of Service" adopted by the utilities service board.

"Sanitary sewer" means a sewer which carries wastewater and to which all storm, surface and groundwaters and unpolluted industrial wastewater are not intentionally admitted.

"Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

"Sewage" means water-carried human wastes including human excrement and gray water (household showers, dishwashing operation, etc.), or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

"Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or stormwater from the generating source.

"Shall" means mandatory.

"Significant industrial user" means:

- (a) A user subject to categorical pretreatment standards; or
- (b) A user that:
 - (1) Discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (3) Is designated as such by the director on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement;
- (c) Upon a finding that a user meeting the criteria in subsection (b) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

"Significant noncompliance" or "SNC" means an industrial user's status for significant violations that have occurred or are occurring pursuant to 40 CFR 403.8(f)(2)(vii)(A-H) and as defined in Section 10.16.150. Examples of SNC violations include major exceedances of effluent limits, failure to meet compliance schedule milestones by at least ninety days of the date specified in an enforcement document or permit, and failure to submit reports, such as discharge monitoring reports, within forty-five days of the due date.

"Slug discharge" or "slug" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in [Section 10.12.010](#) and/or [10.12.020](#) of this title. A slug discharge is any discharge of a non-routine, episodic discharge, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through or in any other

way violate the POTW's NPDES permit and regulations, as well as local limits, discharger permit conditions, or prohibited discharge standards listed in [Chapter 10.12](#) of this title.

"Standard Industrial Classification (SIC) Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

"Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

"Stormwater utility, stormwater works, and stormwater facilities" means all constructed pipes, mains, facilities, structures and natural water courses under the control of the utilities service board used for collecting and conducting stormwater through and from drainage area to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins, and pumping stations; and excluding there from any part of the system of drains and water courses under the jurisdiction of the county drainage board; provided, however, that the utilities service board and the county drainage board may negotiate cooperative arrangements regarding jurisdiction, design, construction, operation and maintenance of drains located outside of the municipal corporate boundaries under the authority of Indiana Code 36-9-27-1 et seq.

"Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

"Toxic pollutant" means those substances listed in Section 307(a)(1) of the Act.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards due to factors beyond the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"User" or "industrial user" means a source of indirect discharge; any person or entity that discharges, causes or permits the discharge of wastewater into the wastewater treatment system.

"Utilities director" or "director" means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this title. The term also means a duly authorized representative of the utilities director.

"Utility" means the City of Bloomington Utilities comprised of water, wastewater and stormwater utilities.

"Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

"Wastewater treatment system" means any devices, facilities, structures, equipment or works owned by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

10.04.025 Posting of rules.

A copy of the rules shall be filed and posted in the commercial office of the utility and shall be available for public inspection during regular business hours.

10.04.030 Wastewater main connections and construction.

All construction of wastewater mains and their connection to the utility shall be made in accordance with section 23 of the rules.

10.04.040 Extension of wastewater mains.

The extension of wastewater mains and related facilities shall be made in accordance with sections 13 and 25 of the rules.

10.04.050 Mandatory connections.

All wastewater sources located on property which is adjacent to an easement or public roadway in which a public sewer is located shall be connected to the public sewer; provided, that the public sewer has the capacity to adequately accept the flow. This connection shall take place within three years of the effective date of this chapter or three years from the construction of an adjacent public sewer.

10.04.060 Construction and abatement of defective privies or septic systems.

It is unlawful for any person to permit continuance of any outside privy or septic system owned or controlled by him that is full, has reached its capacity, overflows, or is defective, so as to pollute the air or earth. No septic system or outside privy shall be installed or constructed where a sanitary sewer is adjacent or available to any property.

10.04.070 Personal sewer sludge use.

Any person who takes sludge or has delivered to him or her in any form from any wastewater treatment plan serving the city does so at his or her own risk.

10.04.080 Admission to property.

The city may inspect any properties or any monitoring facilities of any user to determine the compliance with the requirements of this title. The user shall allow the city or its representatives ready access at any time to all parts of the premises of the user for the purposes of inspection, sampling, copying of records examination or in the performance of any of their duties. The city shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations at any time and without notice.

10.04.090 Illegal connections.

In cases where connections are made to the wastewater treatment system which have not been approved by the city utilities engineer, service will be immediately discontinued and a charge to recover losses together with a service charge not to exceed six months estimated billing shall be imposed.

10.04.095 Tapping existing sewer mains.

It shall be unlawful for anyone other than the city utilities department to make taps on existing sewer mains or manholes. The following rules shall apply:

- (a) The customer/contractor shall be responsible for all excavation necessary to perform the tap.
- (b) A minimum of forty-eight hours advance notice shall be required for the utilities department to schedule the necessary work.
- (c) The contractor shall be responsible for exposing the top of the existing sewer pipe in order to determine location of joint and/or existing lateral.
- (d) The center of the new tap shall be at least one foot from any joint or existing lateral.

- (e) The contractor shall clean all dirt and debris from the existing sewer main and excavate in a manner permitting installation of a chain completely around the pipe to restrain the tapping machine.
- (f) If the existing main appears to be cracked or broken, or if for any reason there appears to be some difficulty in making the tap, the contractor shall immediately call transmission and distribution at 339-1444, ext. 229, and report the location and problem.
- (g) For the tapping fee charged, the utilities department will make the tap, supply and install the fitting, and leave an open six-inch PVC SDR 35 gasket-joint bell. The utilities department will not supply a plug or reducer, or make any connections for the customer/contractor.
- (h) All permits shall be furnished and paid for by the customer/contractor. This will include a street cut permit from either the city planning and transportation department or the county engineering department, ~~and either an excavating or plumbing permit from the city engineering. Permits will not be issued by city engineering unless a paid receipt for the tapping fee is presented.~~
- (i) If the utilities department finds it necessary to make extra trips to the job site because of problems created by the customer/contractor, there will be an additional charge of twenty-five dollars for each extra trip.
- (j) Tapping of manholes for lateral connection will no longer be permitted without permission of the utilities engineer or his representatives.
- (k) Violators may be fined one hundred dollars and the cost of correcting the illegal tap.

10.04.100 Enforcement and procedures.

- (a) In the event any person violates any provision of this title, except Chapter 10.17, or any order of the board, the director shall implement the city's "Pretreatment Program Enforcement Response Plan" or ERP which provides a range of enforcement responses available to the director. The enforcement responses are based on the type and circumstances of the violation. The range of enforcement responses include telephone notice, site visit, notice of violation, agreed order, compliance schedule, administrative fine, or legal action. The director shall choose the appropriate enforcement response.
- (b) Any discharge of nonconventional or toxic pollutants which affects the operation of the wastewater treatment plant shall be considered a major violation of this title. In such case, the director may serve upon the person in violation a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty days, for correction of the violation. If the violation is not corrected in the time provided, the director may order the person to show cause before the board why service should not be terminated after the person has been properly served notice specifying the time and place of the hearing.

The hearing shall follow the procedures set forth in section 22 of the rules and the violation of any order of the board shall be considered a public nuisance. In such cases, the ~~corporation counsel~~ city legal department shall begin an action for appropriate relief.

- (c) When the director finds that any person has violated or is violating any other provision of this title, he or she may serve upon the person a written notice stating the nature of the violation and providing a reasonable time, not to exceed forty-five days, for correction of the violation. If the violation is not corrected in the time provided, the ~~corporation counsel~~ city legal department may begin an action for appropriate relief.
- (d) When the director finds that an emergency exists that may result in serious harm to the wastewater treatment system or its users, the director may request ~~the corporation counsel~~ the city legal department to obtain a temporary restraining order against the violator.

10.04.110 Penalties.

- (a) Any person who violates any provision of this title or any order of the board may be fined not less than one dollar nor more than two thousand five hundred dollars for each offense. Each day a violation continues shall constitute a separate offense. In addition, the city may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the person in violation.
- (b) Administrative Fines. When the director finds that a user has violated, or continues to violate, any provision of this title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed two thousand five hundred dollars. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In addition, the city may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the person in violation.
 - (1) Unpaid charges, fines, and penalties shall, after forty-five calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the user's property may be sought for unpaid charges, fines, and penalties.
 - (2) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within thirty days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- (c) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.08.110 Special service rates.

- (a) Special service rates shall be applicable to all industrial users who generate wastewater which contains any nonconventional pollutants or strengths of BOD or SS that exceed the system average strengths of three hundred parts per million BOD or three hundred parts per million SS, as determined by special laboratory analysis by the utility's central laboratory. Other special service rates shall be charged on a case-by-case basis for toxic pollutant discharges, with the charges being based on the difficulty of treating the toxic pollutant as well as sampling, testing, and disposal charges. Strength charges are to be computed on actual measured strengths and volumes.
- (b) Special Rates. Special service rates shall be determined as follows:

Monthly service charge (per meter)	\$6.52
Special laboratory analysis (monthly charge):	
Strength of BOD and SS	136.80
Grease and oil	128.24
Metal (per metal per test)	28.50
User Charge	
Charge per 1,000 gallons per month for all billable usage:	
Nonexcessive strength rate	6.5236
Extra Strength Charge	
Charge per pound per month for all strength in excess of 300 ppm:	
BOD	0.309
Suspended Solids	0.251

(Ord. 11-13 §3, 2011; Ord. 05-34 § 3, 2005; Ord. 03-24 § 5, 2003; Ord. 00-34 § 3, 2000; Ord. 99-31 § 2, 1999; Ord. 98-29 § 6, 1998; Ord. 97-01 § 2, 1997; Ord. 94-41 § 4, 1994; Ord. 89-36 § 4, 1989; Ord. 81-16 §§ 3, 6, 1981; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

Chapter 10.21 CONSTRUCTION SITE AND POST CONSTRUCTION STORMWATER CONTROL

Sections:

- 10.21.010 Purpose and intent.**
- 10.21.020 Definitions.**
- 10.21.030 Applicability.**
- 10.21.040 Responsibility for administration.**
- 10.21.050 Ultimate responsibility.**
- 10.21.060 Responsibility of construction site owner.**
- 10.21.070 General requirements for stormwater quality control.**
- 10.21.080 General requirements for individual building lots within a permitted project.**
- 10.21.090 Monitoring of discharges.**
- 10.21.100 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**
- 10.21.110 Post-construction controls for new development or redevelopment.**
- 10.21.120 Enforcement.**
- 10.21.130 Injunctive relief.**
- 10.21.140 Compensatory action.**
- 10.21.150 Civil penalty.**
- 10.21.160 Violations deemed a public nuisance.**
- 10.21.170 Remedies not exclusive.**
- 10.21.180 Additional requirements.**

10.21.010 Purpose and intent.

- (a) Construction Site Control. The purpose of this chapter is to establish requirements for stormwater discharges from construction activities of one acre or more so that the public health, existing water uses, and aquatic biota are protected. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:
 - (1) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5;
 - (2) To require construction site operators to develop and implement a construction plan including a stormwater pollution prevention plan in order to receive a land disturbance permit from the city.
- (b) Post-construction Control. The purpose of this chapter is also to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 15-5-6.5(a)(8). The city may require the use of any storage, infiltration, filtering, and/or vegetative

practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

- (1) Buffer strip and riparian zone preservation;
- (2) Filter strip creation;
- (3) Minimization of land disturbance and surface imperviousness;
- (4) Minimization of directly connected impervious areas;
- (5) Maximization of open space;
- (6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

10.21.020 Definitions.

For the purposes of this chapter, the following shall mean:

"Authorized enforcement agency" means employees or designees of the mayor of the city.

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Construction activity" means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, and demolition.

"Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Illegal discharge" means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in the Bloomington Municipal Code [Chapter 10.20](#) Illicit Stormwater Connection and Discharge.

"Illicit connections." An illicit connection is defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

"Indiana Stormwater Quality Manual" means a reference manual developed by the state of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.

"Industrial activity" means activities subject to NPDES industrial permits as defined in 327 IAC 15-6.

"National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Nonstormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

"Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Storm drainage system" means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

"Wastewater" means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

10.21.030 Applicability.

- (a) This chapter covers any new development or redevelopment construction site resulting in the disturbance of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-3. This chapter also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the city.
- (b) All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.
- (c) This chapter does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.
- (d) This chapter does not apply to Indiana University which operates as its own MS4 and has its own NPDES permit under 327 IAC 15-2-6.
- (e) This chapter does not apply to the Indiana Department of Transportation when it conducts its business within the city corporate limit under its NPDES permit under 327 IAC 15.
- (f) This chapter does not apply to the following types of activities:
 - (1) Agricultural land disturbance activities.
 - (2) Forest harvesting activities.
- (g) This chapter does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:
 - (1) Landfills that have been issued a certification of closure under 329 IAC 10;

- (2) Coal mining activities permitted under Indiana Code 14-34;
- (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

10.21.040 Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the mayor of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

10.21.050 Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that there will not be violations of NPDES permits.

10.21.060 Responsibility of construction site owner.

- (a) The project site owner has the following responsibilities:
 - (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the city. Application for an approved construction plan, including post-construction controls required in Section 10.21.110 below, also referred to as a stormwater pollution prevention plan (SWP3) shall be made to the city ~~engineering planning and transportation~~ department. The city ~~engineering planning and transportation~~ department and the city utilities department will establish procedures and specific standards for obtaining an approved SWP3 consistent with the provisions of this chapter. The application fee for the SWP3 shall be eighty-five dollars, and until said fee is paid no action shall be taken on the application.
 - (2) Complete a sufficient notice of intent letter submitted to the city with a copy sent to the state department of environmental management.
 - (3) Make application for a land disturbance permit in accordance with procedures established by the city.
 - (4) Ensure compliance with this chapter during:
 - (A) The construction activity; and
 - (B) Implementation of the construction plan.

- (5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved construction plan.
- (6) Notify the city with a sufficient notice of termination letter with a copy sent to the state department of environmental management.
- (b) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.
- (c) For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:
 - (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the city;
 - (2) Complete his or her own notice of intent letter and submit it to the city;
 - (3) Apply for a building permit in accordance with the procedures established by the city.
- (d) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:
 - (1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the city;
 - (2) Comply with the provisions set forth in Section 10.21.100 below;
 - (3) Not need to submit a notice of intent letter;
 - (4) Apply for a building permit in accordance with the procedures established by the city.

10.21.070 General requirements for stormwater quality control.

All stormwater quality measures and erosion and sediment controls necessary to comply with this chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions. A project site owner shall, at least, meet the following requirements:

- (a) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
- (b) Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site.

Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

- (c) A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
- (d) Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- (e) Stormwater run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
- (f) The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
 - (1) Copy of the completed NOI letter and the NPDES permit number, where applicable;
 - (2) Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person;
 - (3) Location of the construction plan if the project site does not have an on-site location to store the plan.
- (g) This permit and posting of the notice under subsection (f) above does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.
- (h) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted stormwater run-off.
- (i) The project site owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the stormwater pollution prevention plan and the schedule for proposed implementation.
- (j) Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
- (k) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
- (l) All stormwater quality measures must be designed and installed under the guidance of a trained individual.

- (m) Collected run-off leaving a project site must be either discharged directly into a well-defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- (n) Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.
- (o) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with stormwater run-off.
- (p) Unvegetated areas that are scheduled or likely to be left inactive for fifteen days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent shall be restabilized using appropriate methods to minimize the erosion potential.
- (q) During the period of construction activities, all stormwater quality measures necessary to meet the requirements of this rule shall be maintained in working order.
- (r) A self-monitoring program that includes the following must be implemented:
 - (1) A trained individual shall perform a written evaluation of the project site:
 - (A) By the end of the next business day following each one-half inch of rain; and
 - (B) At a minimum of one time per week.
 - (2) The evaluation must:
 - (A) Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and
 - (B) Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
 - (3) Written evaluation reports must include:
 - (A) The name of the individual performing the evaluation;
 - (B) The date of the evaluation;
 - (C) Problems identified at the project site; and
 - (D) Details of corrective actions recommended and completed.
 - (4) All evaluation reports for the project site must be made available to the inspecting authority within forty-eight hours of a request.
- (s) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

- (t) Final stabilization of a project site is achieved when:
 - (1) All land disturbance activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and
 - (2) Construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in subsection (t)(1) above.

10.21.080 General requirements for individual building lots within a permitted project.

All stormwater quality measures, including erosion and sediment control, necessary to comply with this chapter must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- (a) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
- (b) Installation and maintenance of a stable construction site access.
- (c) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- (d) Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
- (e) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
- (f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- (g) For individual residential lots, final stabilization meeting the criteria in Section 10.21.070(t) above rule will be achieved when the individual lot operator:
 - (1) Completes final stabilization; or

- (2) Has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

10.21.090 Monitoring of discharges.

The city shall have the authority to monitor discharges from construction sites covered under this chapter and as provided in the Bloomington Municipal Code 10.20 Illicit Stormwater Connection and Discharge.

10.21.100 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will establish requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) to the extent necessary for compliance with requirements of the NPDES permit.

10.21.110 Post-construction controls for new development or redevelopment.

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction stormwater pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the city's stormwater NPDES permit. Post-construction stormwater best management practices (BMPs) shall follow the Indiana Storm Water Quality Manual as a guidance document. The city shall have full technical and administrative approval authority on the application and design of all

post-construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

The post-construction stormwater pollution prevention plan (SWP3). The SWP3 must include the following information:

- (a) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to stormwater discharges.
- (b) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.
- (c) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.
- (d) A sequence describing when each post-construction stormwater quality measure will be installed.
- (e) Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.
- (f) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
- (g) A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long term function. This narrative BMP description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.

10.21.120 Enforcement.

Enforcement of this chapter shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The city shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the mayor's discretion. The tiered enforcement may include:

- (a) Verbal warning to the construction site operator to make corrections.
- (b) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as

the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

- (c) Warning of noncompliance with directions to the construction site operator that site conditions require immediate action.
- (d) Stop Work Order. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

10.21.130 Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

10.21.140 Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

10.21.150 Civil penalty

Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to two thousand five hundred dollars per violation per day.

The authorized enforcement agency may recover all attorney's fees, court costs, consultant costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

10.21.160 Violation deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

10.21.170 Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

10.21.180 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 Storm Water Quality Manual developed by the state department of environmental management; all applicable provisions of Title 10: Wastewater of the Bloomington Municipal Code regarding stormwater runoff and of Title 20: ~~Zoning~~ Unified Development Ordinance; and all applicable rules, regulations, standards and specifications of the city utilities department regarding stormwater management practices.

Chapter 11.04 LAKES AND RESERVOIRS

Article II. Sanitary Regulations, Geothermal Systems

- 11.04.100 Sewage, garbage, deposited below high water line.**
- 11.04.110 Privies and septic systems in areas contaminating watercourse.**
- 11.04.120 Installation of suitable toilet facilities.**
- 11.04.130 Geothermal systems.**
- 11.04.140 Compliance with state regulations for sewage disposal and privies -- Incorporation by reference.**
- 11.04.150 Subdivisions in vicinity -- Approval of sanitary facilities by State Board of Health.**
- 11.04.160 Subdivisions in vicinity -- Inspection of sanitary facilities.**
- 11.04.170 Subdivisions in vicinity -- Correction of violations.**

11.04.100 Sewage, garbage, deposited below high water line

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property below the high water line any sewage, garbage, waste or wastewater.

11.04.110 Privies and septic systems in areas contaminating watercourse.

It is unlawful to construct or maintain any privy, privy vault, septic tank or septic system seepage pit, or other facility intended or used for the disposal of sewage or waste in any area which will contaminate the watercourse which continuously or intermittently flows directly or indirectly into the lake.

11.04.120 Installation of suitable toilet facilities.

The owner of all houses, buildings or property used for human occupancy, employment, business, recreation or other purposes situated above the high water line shall be required at his own expense to install suitable toilet facilities and facilities for the disposition of wastewater thereon which will not contaminate the lake or any watercourse. All sewage disposal systems surrounding the lake shall be constructed and maintained in a manner approved by the State Board of Health and in accordance with the health codes of the county in which the system is located.

11.04.130 Geothermal systems.

Geothermal systems involving a thermal transfer unit installed in the waters of the lake are not permitted. Systems installed prior to March 31, 1996 are grandfathered.

**11.04.140 Compliance with state regulations for sewage disposal and privies --
Incorporation by reference.**

All sewage disposal systems and privies shall be constructed and maintained at no expense to the city or the LLCDC and in an approved manner as described and illustrated in Bulletin S.E.8 and S.E.11, as the same may be amended from time to time of the State Board of Health and any subsequent publication of such bulletins or revisions thereof.

11.04.150 Subdivisions in vicinity -- Approval of sanitary facilities by State Board of Health.

All persons platting subdivisions in the vicinity of the lake area wherein any part of the land in such subdivision borders upon or drains across land owned by the city shall submit to the State Board of Health and appropriate county board of health the plan by which they propose to dispose of sewage and waste, and shall secure approval of such plan from the State Board of Health before any system for the disposal of sewage or wastewater is installed or constructed.

11.04.160 Subdivisions in vicinity -- Inspection of sanitary facilities.

The city transportation and traffic engineer, or some person designated for and on behalf of the city by the city transportation and traffic engineer, and employees of the appropriate county board of health shall be allowed to inspect the work upon any such sanitary or sewage facility or structure at any stage of construction. The city transportation and traffic engineer and other duly authorized employees of the city or county shall be permitted to enter upon all properties for the purpose of inspecting, observing and testing any sanitation facilities installed upon any land bordering the lake.

11.04.170 Subdivisions in vicinity -- Correction of violations.

Any person violating any provision of Sections 11.04.100 through 11.04.160 of this chapter shall be notified by the city, the LLCDC or appropriate regulatory agency in writing, stating the nature of the violation and providing a time limit not to exceed two weeks for the satisfactory correction thereof. The offender shall, within the period of two weeks stated in such notice, permanently cease all violations or correct them at his own expense in a manner approved by the governing regulatory agency. A person failing to correct such violation after such notice shall be subject to the general penalty provisions of this code.

Title 12 STREETS, SIDEWALKS AND STORM SEWERS

Chapters:

[Chapter 12.04 - GENERAL REGULATIONS](#)

[Chapter 12.06 - SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS](#)

[Chapter 12.08 - EXCAVATIONS](#)

[Chapter 12.12 - MARQUEES AND SIGNS](#)

[Chapter 12.20 - THOROUGHFARE PLAN](#)

[Chapter 12.24 - TREES AND FLORA](#)

Chapter 12.04 GENERAL REGULATIONS

Sections:

- ~~12.04.001 Sidewalks required -- New buildings.~~
- ~~12.04.002 Waiver -- New buildings.~~
- ~~12.04.003 Sidewalks required -- Building permits.~~
- ~~12.04.004 Appeal.~~
- ~~12.04.005 Determinate variance -- Sidewalk construction deferred.~~
- 12.04.010 Repair of sidewalks -- Duty of adjacent owner.
- 12.04.020 Discharge of water on sidewalk.
- 12.04.030 Allowing filthy or noisome liquid to flow on streets.
- 12.04.050 Duty of abutting property owner to keep sidewalks clean.
- ~~12.04.070 Snow and ice removal -- Duty of abutting property owner.~~
- ~~12.04.080 Snow and ice removal -- Failure to remove.~~
- ~~12.04.085 Appeal.~~
- 12.04.090 Obstructing gutters.
- 12.04.100 Pedestrian safety during razing or construction operations.
- 12.04.110 Obstruction sidewalk -- Walkaround -- To be provided.
- 12.04.120 Obstruction sidewalk -- Walkaround -- Approval of chief of police.
- 12.04.130 Obstruction sidewalk -- Revocation of permit upon disregard of regulations.
- 12.04.140 Street assemblies.
- 12.04.150 Moving buildings.
- ~~12.04.160 Storm sewers.~~

Comment [pmm7]: These will all be moved to Title 20. The Indiana Code only gives the BZA power to render decisions on matters following under the zoning ordinance. In order for the BZA to continue granting these variances, this section needs to move to Title 20.

Comment [pmm8]: These provisions have been moved to Title 6 so that it is in the enforcement chapter of the Department that actually enforces the regulations.

Comment [pmm9]: Deleting this section b/c it repeats what is already noted in BMC 10.20.060.

~~12.04.001 Sidewalks required -- New buildings.~~

~~No person shall construct upon any lot or tract within the city any new dwelling house or building without providing for and constructing for the use of pedestrians a concrete sidewalk not less than five feet in width, and within the adjacent public right of way and parallel and adjacent to the property lines of such lot or tract. Such sidewalk shall be constructed according to plans and specifications prepared by the city engineer's office.~~

~~12.04.002 Waiver -- New buildings.~~

~~In the event such dwelling house or building is to be constructed upon a lot or tract upon which such a sidewalk presently exists, the requirement for new construction set forth in Section 12.04.001 shall be waived.~~

~~12.04.003 Sidewalks required — Building permits.~~

~~No building permit shall be issued for the construction of any dwelling house or building within the city unless such building permit application provides for the construction of new sidewalks or shows adequate existing sidewalks upon the lot or tract which such new building is to be erected.~~

~~12.04.004 Appeal.~~

~~Any person who considers himself aggrieved by the provisions of Sections 12.04.001, 12.04.002, or 12.04.003 may apply to the board of zoning appeals of the city and after notice and hearing as provided by those sections and by the rules and regulations of the board of zoning appeals, the board may waive the provisions of those sections upon the showing of either of the following:~~

- ~~(a) 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 Sections 12.04.001, 12.04.002, or 12.04.003; or~~
- ~~(b) 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.~~

~~12.04.005 Determinate variance — Sidewalk construction deferred.~~

~~(a) Any person subject to the requirements of Sections 12.04.001 or 12.04.003 who believes it impractical to construct a sidewalk on the lot or tract at present may apply to the board of zoning appeals for a variance that is determinate with respect to the criteria for variance and the time period during which such criteria are in effect, and with respect to the time period during which the variance is effective. The board, after notice and hearing as provided in Sections 20.19.02.00 and 20.12.03.00, may grant a variance if construction of sidewalks appears impractical based upon, but not limited to, the following considerations:~~

- ~~(1) 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; or~~

- (2) ~~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; or~~
- (3) ~~Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.~~
- (b) ~~In the event that the board authorizes a determinate variance, such variance shall continue in effect until the date at which the board shall set to reconsider variances granted under the authority of this section. All such variances which were granted by the board shall expire at that time unless an extension is granted. Should no extension be applied for, or the board 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.~~
- (c) ~~Any person who has been granted a determinate variance by the board 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.~~

12.04.010 Repair of sidewalks -- Duty of adjacent owner.

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

12.04.020 Discharge of water on sidewalk.

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

12.04.030 Allowing filthy or noisome liquid to flow on streets.

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

12.04.050 Duty of abutting property owner to keep sidewalks clean.

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

~~12.04.070 Snow and ice removal -- Duty of abutting property owner.~~

~~It shall be the duty of every owner of any premises abutting a sidewalk in all parts of the city to remove, or cause to be removed, all snow and ice from the sidewalk to allow safe and reasonable travel on said sidewalk within twenty four hours after snow or ice has ceased to fall or in any way accumulate. In the downtown snow removal area, the minimum clear width of the path shall be the lesser of fifty four inches or the full paved width of the sidewalk, while in the remainder of the city the minimum clear width of the path shall be thirty six inches.~~

~~For purposes of this section, the downtown snow removal area is defined as:~~

~~College Avenue and Walnut Street from 3rd Street to 10th Street;~~

~~Gentry Street from 4th Street to 5th Street;~~

~~Morton Street from 5th Street to 10th Street;~~

~~3rd Street between Walnut Street and College Avenue;~~

~~4th Street between Walnut Street and Gentry Avenue;~~

~~Segments of 5th, 6th, 7th, 8th, 9th, and 10th Streets from Walnut to Morton Streets;~~

~~Kirkwood Avenue from Indiana Avenue to Rogers Street.~~

~~Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the county recorder, the duty to remove snow and ice shall be on the purchaser of the premises, who shall be considered the owner for the purposes of the ordinance codified in this section.~~

~~12.04.080 Snow and ice removal -- Failure to remove.~~

- ~~(a) If the owner of any premises abutting a sidewalk fails to remove or cause to be removed snow and ice as required in Section 12.04.070, the owner may be issued a notice of ordinance violation and may be fined in the amount of fifty dollars. Said notice of ordinance violation may be issued by the following city of Bloomington departments: engineering, fire, housing and neighborhood, parking enforcement, planning and police. The owner may make payment within ten business days of issuance of the notice in full satisfaction of the penalty. In the event payment is not made within the time designated, court proceedings may be initiated by the city legal department.~~
- ~~(b) Each day a violation of Section 12.04.070 continues after the owner has been notified of the violation shall constitute a separate violation.~~

12.04.085 Appeal.

Any person who has been cited for violations of Sections 12.04.050, 12.04.070 or 12.04.080 and wishes to appeal the citation, may apply to the board of public works during regular operating hours of the department of public works, and after a hearing of the board of public works, the board may reduce or waive fines imposed for violations of said sections for good cause. All appeals must be filed, in writing, within ten business days of the issuance of a citation. The board will consider the appeal at its next regularly scheduled meeting.

12.04.090 Obstructing gutters.

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

12.04.100 Pedestrian safety during razing or construction operations.

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

12.04.110 Obstructing sidewalk -- Walkaround -- To be provided.

If it is necessary to obstruct or block a sidewalk for a period in excess of twenty-four hours, the owner of such property shall provide a walkaround for such area, which walkaround shall consist of a walk not less than ~~four~~ five feet wide and be protected by railings five feet high on each side and provided with electric lighting at night.

Comment [pmm10]: Five is the current standard utilized.

12.04.120 Obstructing sidewalk -- Walkaround -- Approval of ~~chief of police~~ transportation and traffic engineer.

Before causing any blocking or obstruction of a sidewalk, the provisions of Section 12.04.110 shall be accomplished by the owner, and the same shall be approved by the ~~chief of police~~ transportation and traffic engineer before such razing, remodeling or construction is commenced.

12.04.130 Obstruction sidewalk -- Revocation of permit upon disregard of regulations.

Failure on the part of any owner to conform to the regulations in Sections 12.04.110 and 12.04.120 shall cause any permit for such work to be revoked by the city.

12.04.140 Street assemblies.

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

Comment [pmm11]: This minor change is being suggested to better ensure the First Amendment rights of the Bloomington citizenry is protected.

12.04.150 Moving buildings.

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

Comment [pmm12]: We prefer the word approval as the City approves the moving of a building but the permit itself is actually issued by the County.

12.04.160 Storm sewers.

~~It is unlawful for any person to deposit or discharge any refuse, trash or wastes other than stormwater and other unpolluted drainage into any storm sewer or to obstruct any storm sewer in any manner. Exceptions may be granted by the board of public works for technical studies or other uses that will not damage the storm sewers or pollute the water in storm sewers.~~

Chapter 12.06 SIDEWALK SEATING AND MERCHANDISING ENCROACHMENTS

Sections:

- 12.06.010 Purpose of chapter.**
- 12.06.020 Definitions.**
- 12.06.030 Standards for encroachment.**
- 12.06.040 Applications for encroachment.**
- 12.06.050 Permit issuance and conditions.**
- 12.06.060 Revocation of a permit.**
- 12.06.070 Permit renewal.**
- 12.06.080 Duty to maintain.**
- 12.06.090 Application fees.**
- 12.06.100 Enforcement procedures.**
- 12.06.110 Authorized remedies and penalties for violations.**
- 12.06.120 Appeal of citation and fines.**

12.06.010 Purpose of chapter.

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

12.06.020 Definitions.

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

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

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

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

"Department" means the **Planning and Transportation** Department of ~~Public Works~~ of the City of Bloomington.

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

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

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

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

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

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

"Staff" means the Director of the **Planning and Transportation** Department of ~~Public Works~~ and/or his/her designees.

12.06.030 Standards for encroachment.

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

- (a) A clear straight pathway at least 54 inches wide must be maintained along blocks with the following exception: the north side of the 200 block of West Kirkwood Avenue, where a clear straight pathway at least 40 inches wide must be maintained. If and when there is a redesign and renovation of the sidewalk or streetscape on this side of this block, any encroachments will be required to accommodate a 54-inch straight clear path at that time.
- (b) The outermost (street side) edge of the clear straight pathway shall be at least one foot from the edge of the adjacent curb and shall be a straight line parallel to the curb and tangent to the innermost (building side) edge or point of the obstruction that is closest to its adjacent building anywhere on the same block as the requested encroachment. If there are no obstructions on the block, or if all obstructions on the block are within one foot of the edge of the curb, the

outermost (street side) edge of the clear straight path shall be a line parallel to the curb at a distance one foot from the curb.

- (c) The following are exceptions to 12.06.030(b)
- (1) For purposes of this chapter the City's tree/plant plots on the corners of the intersections at 6th and Walnut, and 6th and College, and Kirkwood and College, shall not be considered obstructions for the purposes of ~~the~~ determining the clear straight pathway.
 - (2) On the east side of the 100 block of South College Avenue, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further west than parallel to the western edge of the wall that runs along the building side of the sidewalk just south of Kirkwood Avenue on the northern half of that block.
 - (3) On the west side of the 100 block of South Grant Street, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further east than parallel to the eastern edge of the wall that runs along the building side of the sidewalk just south of Kirkwood Avenue on the northern half of that block.
 - (4) On the east side of the 200 block of South Grant Street, the provisions of 12.06.030(b) shall not apply and encroachments shall extend no further west than parallel to the western edge of the wall that runs along the building side of the sidewalk just south of Fourth Street on the northern half of that block.
 - (5) On the north side of the 200 block of West Kirkwood Avenue, the poles supporting the railroad crossing signal on the northeast corner of the intersection of Kirkwood Avenue and Morton Street shall not be considered obstructions for purposes of this chapter.
 - (6) On the north side of the 200 block of West Kirkwood Avenue, the pole supporting the traffic signal on the northwest corner of the intersection of Kirkwood and College Avenues, and the traffic control box just to the west of that pole, shall not be considered obstructions for purposes of this chapter.
 - (7) On the west side of the 100 block of North College Avenue (west side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 125 North College Avenue shall serve as outermost (building side) edge of the clear straight pathway.
 - (8) On the east side of the 100 block on North Walnut Street (east side of the Courthouse square,) a line parallel to the street and tangent to the innermost (building side) edge of the tree grate in front of 102 and 106 North Walnut Street shall serve as outermost (building side) edge of the clear straight pathway.

- (d) Encroachment must be a minimum of 54 inches, or the distance indicated for a specific location in 12.06.030(a), from the innermost edge (building side) of streetlights and their bases, signposts, trees, tree and garden plots, tree grates, street furniture or any other fixed sidewalk obstruction.
- (e) If an encroachment has fencing adjacent to the clear straight pathway, and an object or fixture, including but not limited to a flower box, is attached to the fencing, such objects or fixtures shall be considered part of the encroachment and included in the measurements pertinent to this chapter.
- (f) The streetside edge of an encroachment shall include any item or object that extends at any height into the right of way even if the base or surface level of the item or object is closer to the building side of the encroachment.
- (g) If a newsbox or movable bicycle rack, encroaches into what would otherwise be the clear straight path, the permittee may, with the written permission of the Department, relocate the object to a location specified by the Department.
- (h) Subject to the other requirements of this chapter, the encroachment may extend a maximum of 8 feet into sidewalk from building face or property line.
- (i) Encroachment may only extend along sidewalk directly adjacent to permittee's business (may not extend in front of any other property) unless agreed upon by all parties involved, with proof of agreement presented to the Department, and with approval of the Department.
- (j) Objects or items within the encroachment area shall not be placed in such a way that obstructs access to utility meters.
- (k) If a business is required by any other law, statute or regulation—such as, but not limited to, the rules of the ~~Alcoholic Beverage~~ **Beverage and Tobacco** Commission—to enclose or separate the encroachment from the rest of the public right of way, then the method of enclosure or separation, such as a fence, shall be fixed and attached to the right of way in a manner prescribed by the Department.
- (l) If the fencing or partition that is part of an encroachment is solid or imporous or impermeable, then that fencing or partition shall be no greater than 36 inches in height from the ground. If the fencing or partition that is part of an encroachment is porous then that fencing or partition shall be no greater than 46 inches except at the corners of the encroachment and the entryway to the adjacent business.
- (m) Persons using seating within an encroachment granted for those purposes shall be visible at all times from the street and sidewalk adjacent on all sides of the encroachment.
- (n) As an exception to 12.06.030(m), that provision does not apply to the awning and the support poles for the awning at the business at 125 N College Avenue which may remain up year around, although the partitions between the support poles must be removed by the third Monday of November.
- (o) Any fencing or partition that is part of the encroachment shall not include a gate that swings out of the encroachment.

- (p) If an encroachment is to utilize the right-of-way on more than one side of a building, then the portion of the encroachment, if any, connecting the two sides the building—such as around the corner of the building—must do so at an angle to the street as depicted in Figure 1, and not parallel to the street, as depicted in Figure 2.

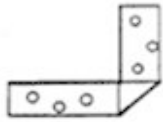


Figure 1 – Permitted

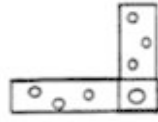


Figure 2 – Prohibited

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

12.06.040 Application for encroachments.

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

- (a) Eligible sidewalks shall be all sidewalks where a minimum of 54 inches of clear straight pathway can be maintained.
- (b) Businesses eligible for outdoor seating encroachment permits shall be all businesses who sell retail food items as a primary or secondary part of their daily operations or whose business desires to place outdoor seating for the convenience of their customer and the general public use and whose businesses are housed adjacent to the area of sidewalk requested for outdoor seating use.
- (c) Businesses eligible for a merchandising encroachment permit shall be all businesses conducting retail sales as the major part of their daily operations and whose businesses are housed immediately adjacent to the area of sidewalk requested for merchandising use.
- (d) All requests for encroachments, accompanied by the appropriate application fee as provided in 12.06.090, shall be submitted to the Department of Public Works on a form prescribed by the Department and shall for all applicants include the following information:
- (1) Name, street address and phone number of applicant;
 - (2) Street address of the property where encroachment is requested;

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

- (5) The existing and proposed circulation pattern for pedestrians and other ambulatory citizens with exact dimensions of the clear straight pathway;
 - (6) Evidence that abutting property owners and/or lessees have been notified of the proposed encroachment; and,
 - (7) Plans for the operation of the encroachment, including, but not limited to, hours of operation, services to be provided, maintenance and cleaning.
- (e) The Department may require any other information as part of the application that it deems useful in evaluating the application.

12.06.050 Permit issuance and conditions.

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

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

- (1) The permit does not give the permittee a right to keep the boundaries of the outdoor seating and merchandising encroachment or maintain structures within such encroachment in the event there is a change in local, state, or federal law or regulation that would require a wider path along or other alteration of the City's right of way.

12.06.060 Revocation of a permit.

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

12.06.070 Permit renewal.

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

12.06.080 Duty to maintain.

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

12.06.090 Application fees.

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

12.06.100 Enforcement procedures.

- (a) If the ~~Planning and Transportation~~ Director of ~~Public Works~~, or his/her designee, collectively referred to as 'Staff', find that any provision of this chapter is being, or has been, violated or that any condition of approval of a permit issued pursuant to Chapter 12.06 has not been met, said person shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing notice of violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: the Permittee(s); the property owner(s); persons with any possessory interest in the property; and/or any persons and/or their agents who have caused the violation.
- (b) This Notice of Violation (NOV) shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by First Class mail; and/or by placement in a conspicuous place on the property where the violation occurs. The notice shall state:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The period of correction (if any);

- (4) The daily fine assessed for the violation during the correction period;
 - (5) The increase in fine if violation continues beyond the correction period, if any;
 - (6) That the City may seek additional remedies for violation, if any;
 - (7) That the fine may be paid at the City of Bloomington ~~Department of Public Works;~~ **Planning and Transportation** ~~and,~~
 - (8) That the fine may be contested in the Monroe County Circuit Courts.
- (c) If Staff determines that the condition of the site causes danger to the health, safety, or welfare of the public, the City may enter upon the site to remedy the dangerous condition without notice to the responsible party or landowner, and the Ppermittee shall be liable for all costs of removal and disposal of said encroachment and the City shall incur no liability for damages associated with removal of the encroachment.

12.06.110 Authorized remedies and penalties for violations.

- (a) No fine shall be assessed for a violation of this chapter, or a violation of a condition of approval, that is remedied within 24 hours after issuance of an NOV, provided that no NOV has been issued to the property owner, person with possessory interest, or responsible party within the prior 12-month period. A fine of \$100 per day until remediation shall be assessed for any violation of this chapter that continues after the 24 hour remediation period, or for any violation where an NOV has been issued to the property owner, person with possessory interest or responsible party in the prior 12-month period. Each enumerated item of non-compliance shall be considered to be a separate violation, and each day the violation continues shall be considered to be a separate violation. In addition, Staff may seek, with the assistance of the City Legal Department, one or more of the following remedies:
- (1) Removal of the encroachment at the expense of the Ppermittee, with Ppermittee liable for all costs of removal and disposal of said encroachment and no liability on the part of the City for damages associated with removal of the encroachment; and/or
 - (2) A temporary restraining order, preliminary injunction or permanent injunction to restrain a person from violating the provisions of this chapter or a condition of approval, requirement or commitment imposed or made thereunder; and/or
 - (3) An injunction directing a person to perform a condition, requirement or condition imposed or made under this chapter or to remove a structure erected in violation of this chapter; and/or
 - (4) Suspend and withhold other approvals, certificates and/or permits relevant to use of the site on which the violation has occurred; and/or,
 - (5) Revoke the permit that has been violated.
- (b) The purpose of each of the foregoing administrative remedies is to encourage compliance with this chapter and the conditions, terms and provisions of the permit without having to

resort to litigation. If used, the Staff shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose.

- (c) The remedies provided for in these regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

12.06.120 Appeal of citation and fine.

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

Chapter 12.08 EXCAVATIONS

Sections:

- 12.08.010 Compliance with chapter required.
- 12.08.020 Permit required.
- 12.08.030 Permit fee.
- 12.08.040 Petition to be filed with city transportation and traffic engineer.
- 12.08.050 Bond required -- Amount -- Conditions.
- 12.08.060 Deposit for restoration of surface.
- 12.08.070 Restoration of surface to be accomplished by permittee.
- 12.08.080 Return of excess deposit after payment of cost -- Liability permitted to continue for two years.
- 12.08.090 Permit issuance.
- 12.08.100 Location of mains and pipes -- Supervision of work.
- 12.08.110 Taking up pavement -- Piling of material along curb.
- 12.08.120 Refilling of excavations.
- 12.08.130 Tunneling.
- 12.08.140 Barricades -- Danger lights.
- 12.08.150 Protection of sides of excavation -- Injury to adjoining pavements.
- 12.08.160 Excavation permit required.

12.08.010 Compliance with chapter required.

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

12.08.020 Permit required.

No opening or excavation shall be made under the provisions of this chapter until a permit therefore shall have been duly granted as provided in this chapter.

12.08.030 Permit fee.

Any person desiring to make any opening or excavation contemplated by this chapter shall pay to the city transportation and traffic engineer for the permit required by Section 12.08.020 ~~the sum of fifteen dollars per excavation~~ the fee specified in Section 17.08.050.

12.08.040 Petition to be filed with city transportation and traffic engineer.

Any person desiring to make any opening or excavation contemplated by this chapter shall file with the city transportation and traffic engineer a petition which shall definitely state the location of the proposed opening and the purpose of the same.

12.08.050 Bond required -- Amount -- Conditions.

At the time of filing the petition under the provisions of Section 12.08.040, the person desiring to make any opening or excavation shall also file a bond payable to the city in a sum not less than one hundred dollars and not more than three thousand dollars as the City Transportation and Traffic Engineer may designate. In the alternative, for projects where the projected cost exceeds three thousand dollars, the City Transportation and Traffic Engineer may require a bond in an amount not to exceed the total projected cost of the project, plus twenty-five percent, in the event such bond is deemed necessary to ensure performance of the contractor. Bonds shall be filed with the City Transportation and Traffic Engineer and shall be conditioned to save the city harmless from any loss, cost or damage by reason of such proposed work, and that the same shall be done in all respects in conformity to the requirements of this code and all other ordinances of the city regulating same; provided, however, that a single or continuing bond may be given to embrace all work of the petitioner for a period of time between the date of the execution of the same and two years from the date of completion of the project.

12.08.060 Deposit for restoration of surface.

When the petitioner, under the provisions of this chapter, asks for a permit to cut into or excavate any paved street, alley or public place, such petitioner shall deposit with the city transportation and traffic engineer, at the time of filing the petition, such sums for the restoration of the surface thereof as may be designated from time to time by the city transportation and traffic engineer.

12.08.070 Restoration of surface to be accomplished by permittee.

The person to whom a permit is issued under the provisions of this chapter shall properly replace or cause to be replaced all pavement cut into and disturbed by any person under a permit issued under the provisions of this chapter, ~~in compliance with Bloomington Municipal Code Section 17.08.080,~~ and in the manner and following the specifications required by the city transportation and traffic engineer. In the event of the permittee's failure to do so, the city may replace such pavement or employ another contractor to do so, at the expense of the permittee, such expense to be deducted from the deposit required by Section 12.08.060. In addition, the city may take such civil action as provided by law, including, but not limited to, imposition of penalties or other relief as provided for herein. In the event reinspection of pavement cut or repaired hereunder is required as a result of noncompliance with any section contained herein, a

reinspection fee in the amount of twenty-five dollars may be charged by the City transportation and traffic Engineer for each day the work remains unfinished beyond the specified completion time.

12.08.080 Return of excess deposit after payment of cost -- Liability permitted to continue for two years.

In the event it is necessary for the city to replace the surface, as provided in Section 12.08.070, the City Transportation and Traffic Engineer shall, after deducting the actual cost of relaying or repairing of the pavement, return the excess of the deposit required by Section 12.08.060, if any, to the person depositing the same; provided, however, that at any time within two years after the permittee, the City Transportation and Traffic Engineer, or their authorized agents, have replaced the pavement, it becomes necessary to relay the same because of settlement of the backfilling, the person having made such opening or excavation shall reimburse the city for any additional expense incurred in making the repair permanent, and this expense shall include the cost of excavating the trench or cut and refilling and tamping the same.

12.08.090 Permit issuance.

It shall be the duty of the city transportation and traffic engineer, upon the filing of the petition, approved bond and the payment of money as required by this chapter, to issue to the petitioner a permit to make such excavation and do such work, and such permit shall describe the kind and location of the same.

12.08.100 Location of mains and pipes -- Supervision of work.

It shall be the duty of the permittee in connection with all work contemplated by this chapter, through its duly authorized agents, to determine the proper location for the water, gas, sewer or other connections or conduits to be made, and to locate all sewer laterals and taps and the City Transportation and Traffic Engineer shall supervise the replacing of the excavation and pavements and see that all work in connection therewith is made and completed in a workmanlike manner, and in compliance with all safety requirements and specifications required hereunder.

12.08.110 Taking up pavement -- Piling of material along curb.

Any person receiving a permit under the provisions of this chapter shall take up the pavement when the excavation is made through any kind of pavement and pile the same in a neat pile along the curb. All unacceptable backfill shall be hauled away in a timely manner.

12.08.120 Refilling of excavations.

After the work requiring the excavation has been properly completed, the person holding the permit under the provisions of this chapter shall refill that portion of the street, alley or public place excavated, by thoroughly tamping all the material which he or she fills into such excavation and restore the pavement in accordance with specifications and standards as set forth by the city transportation and traffic engineer.

12.08.130 Tunneling.

In all cases of excavating under street or steam railway tracks, tunneling may be permitted if the method and operation is approved by the city transportation and traffic engineer.

12.08.140 Barricades -- Danger lights.

All the proper barricades and danger lights shall be maintained by the party to whom the permit was issued under the provisions of this chapter until the opening has been repaired and replaced by the permittee. Street repairs on all principal and secondary arterial streets within the city shall be made in compliance with "method of marking" requirements of the Indiana Department of Highways Transportation unless otherwise approved in writing by the City Transportation and Traffic Engineer. Other specific safety precautions may be required by the City Transportation and Traffic Engineer. Such person shall be required to maintain such barricades and danger lights and other safety precautions until such repair and replacing has been inspected and approved by the City Transportation and Traffic Engineer.

12.08.150 Protection of side of excavation -- Injury to adjoining pavements.

Any person making excavations or causing the same to be made in pavements or adjacent to pavements, shall so protect the sides of the excavation that the adjoining soil shall not cave in. It is unlawful for any person to excavate so as to undermine or injure any adjoining pavements.

12.08.160 Excavation permit required.

Any person making excavations or causing the same to be made in pavements or adjacent to pavements shall in addition to the building permit, take out a street excavation permit as required by this chapter.

12.08.170 Violations.

Any person who violates any of the provisions of this chapter or fails to comply herewith, or who violates or fails to comply with any order made hereunder, is severally **liable** for each and every violation and noncompliance, respectively, subject to a penalty in an amount not to exceed one hundred dollars per day. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. In addition, the **City Transportation and Traffic** Engineer shall have the authority to withhold issuance of new permits when an applicant is not in compliance with any previous permit issued hereunder.

Chapter 12.12 MARQUEES AND SIGNS

Sections:

- 12.12.010 Illegal signs -- Designated.**
- 12.12.020 Illegal signs -- Removal or alteration.**
- 12.12.030 Illegal signs -- Statement of installation date.**
- 12.12.040 Marquee -- Definition -- Regulations.**
- 12.12.050 Violation -- Penalty.**

Comment [pmm13]: We are recommending deletion of this Chapter b/c it is duplicative of the standards and rules already found in the Unified Development Ordinance's regulation of signs.

12.12.010 Illegal signs -- Designated.

The following signs or devices are illegal and in violation of this chapter:

- (1) Any sign or device attached to a structure located on private property, which projects into, over or upon the public right of way as platted or established by prescription for a distance in excess of twelve inches;
- (2) Any sign or device attached to a structure, pole, or other device standing in or upon the public right of way as platted or established by prescription.

12.12.020 Illegal signs -- Removal or alteration.

Any sign or device which is in violation of this chapter and which is in existence and installed upon the date of enactment of the ordinance codified in this chapter shall be removed or altered so as to comply with Section 12.12.010 according to the following schedule:

- (1) Any such sign or device erected or installed prior to January 1, 1963 shall be removed or altered prior to June 1, 1970;
- (2) Any such sign or device erected or installed upon or after January 1, 1963 and prior to January 1, 1968 shall be removed or altered prior to June 1, 1973;
- (3) Any such sign or device erected or installed upon or after January 1, 1968 shall be removed or altered prior to June 1, 1974.

12.12.030 Illegal signs -- Statement of installation date.

Any owner or lessee of property to which a nonconforming sign or device is attached shall furnish to the city engineer, upon request in writing, the date of the erection or installation of such sign or device.

A false statement knowingly given by the owner or lessee or failure to furnish such information within five days of the receipt of such request constitutes a waiver of any rights

granted to any property owner or lessee as to the maintenance of any nonconforming sign or device by this chapter and such sign or device shall be removed or altered to conform within thirty days after demand that such be done in writing by the city engineer regardless of the ownership or the date of installation of such sign or device.

12.12.040 Marquee -- Definition -- Regulations.

- (a) ~~A marquee as regulated by this chapter means and includes any fixed hood or canopy supported solely by the building to which it is attached extending over part of the public right of way. Any such hood or canopy not solely supported by the building to which it is attached is not a marquee and is in violation of this chapter.~~
- (b) ~~No marquee shall be constructed either as part of a new structure or as an addition to an existing structure unless the plans and specifications thereof shall have been approved in writing by the city engineer, as complying in all ways with the appropriate code provisions of the city including but not limited to materials, drainage, roof strength, bracing and anchorage.~~
- (c) ~~No portion of a marquee shall be less than ten feet above the level of the sidewalk or other public right of way over which it projects.~~
- (d) ~~No marquee shall extend beyond a line parallel to and one foot back of the back line of the curb fronting such property.~~
- (e) ~~No marquee shall be wider than the building or buildings to which it is attached.~~
- (f) ~~No sign or device shall be attached to or hung from a marquee except the following:~~
 - (1) ~~A sign or device installed directly upon the vertical face or faces of the marquee, provided however, no such sign or device shall extend below or above such vertical face;~~
 - (2) ~~A nonflashing self illuminated sign or device hanging from the underside of such marquee, such sign or device to be:~~
 - (A) ~~Not more than forty eight inches in length,~~
 - (B) ~~Not more than thirteen inches vertically,~~
 - (C) ~~Installed perpendicular to the adjacent property line,~~
 - (D) ~~Containing only the name of and nature of the business conducted in the adjacent property.~~
- (g) ~~Any existing marquee which violates the provisions of this chapter is designated as a nonconforming marquee and may continue; provided, however, that no substantial alteration in design or appearance of such marquee may occur and the owner or lessee thereof shall be entitled only to maintain the marquee.~~

~~12.12.050 Violation -- Penalty.~~

~~The erection or maintenance of any sign, device or marquee in violation of the provisions of this chapter constitutes a breach of this chapter, and the owner or lessee of the structure and the owner or lessee of such sign or device all shall be liable jointly for any such breach in an amount not less than twenty five dollars nor more than three hundred dollars for each day or part thereof that such breach continues after such sign or device should have been removed or altered under the provisions of this chapter.~~

Chapter 12.20 THOROUGHFARE PLAN

Sections:

12.20.010 Designation.

12.20.020 Incorporation by reference -- Description

12.20.030 Thoroughfare development.

12.20.010 Designation.

There is adopted an official thoroughfare plan for the city and its extra-territorial planning jurisdiction, such plan having been adopted by ~~Resolution 81-1~~ MP-02-02 of the Bloomington City Plan Commission on December 16, 2002, with an effective date of December 19, 2002.

12.20.020 Incorporation by reference -- Description.

The official thoroughfare plan is shown on the map entitled "Master Thoroughfare Plan, ~~1982~~ 2002" and chart entitled "Master Thoroughfare Plan," two copies of which are on file in the office of city clerk, ~~and city engineer and department of planning and transportation department,~~ which are by this reference made a part of this code, showing location, alignment, functional classification, width of roadway and minimum developed cross-section of existing and proposed thoroughfares.

12.20.030 Thoroughfare development.

The development, expansion, extension or realignment of new or existing thoroughfares shall be undertaken only in accordance with the thoroughfare plan and recommended cross-sections as described in Section 12.20.020 and incorporated by this chapter. Proposals for deviation from any of the criteria contained in Section 12.20.020 shall require approval by the city plan commission before they shall be deemed to conform to the thoroughfare plan.

Title 14 PEACE AND SAFETY

Chapters:

[Chapter 14.09 - NOISE CONTROL](#)

[Chapter 14.20 - FIREARMS—DEADLY WEAPONS](#)

[Chapter 14.28 - ADVERTISING](#)

[Chapter 14.36 - UNLAWFUL CONDUCT](#)

[Chapter 14.40 - FALSE EMERGENCY ALARMS](#)

[Chapter 14.50 - PROHIBITION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN MOTOR VEHICLES](#)

Chapter 14.50 PROHIBITION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN MOTOR VEHICLES

Comment [pmm14]: As this is currently also classified as a Class C Infraction under Ind. Code 9-30-15 staff recommends deleting this Chapter in its entirety.

Sections:

- 14.50.010 Definitions.**
- 14.50.020 Possession or consumption prohibited.**
- 14.50.030 Operator or owner of motor vehicle in violation.**
- 14.50.040 Chartered passenger vehicles.**
- 14.50.050 Citation.**
- 14.50.060 Penalties.**
- 14.50.070 Defense.**
- 14.50.080 Signs.**
- 14.50.090 Recordkeeping.**

14.50.010 Definitions.

For purposes of this chapter, the following definitions shall apply:

"Alcoholic beverage" shall have the meaning set forth in Indiana Code Section 7.1-1-3.5.

"Container" shall have the meaning set forth in Indiana Code Section 7.1-1-3-13.

"Motor vehicle" shall have the meaning set forth in Indiana Code Section 9-13-2-105 except that, unless specifically identified in this chapter, the term shall not include any chartered passenger vehicle, including buses, licensed to operate within the state.

14.50.020 Possession or consumption prohibited.

A person who, while in a motor vehicle that is being operated upon a public highway within the corporate limits of the city, knowingly consumes an alcoholic beverage or possesses a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this chapter.

14.50.030 Operator or owner of motor vehicle in violation.

The operator or owner of the motor vehicle who, while the motor vehicle is being operated upon a public highway within the corporate limits of the city, knowingly keeps or allows to be kept in an area of the motor vehicle that is accessible to the operator or passenger a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this chapter.

~~14.50.040 Chartered passenger vehicles.~~

~~The operator of a chartered passenger vehicle licensed to operate within the state who, while in a motor vehicle that is being operated upon a public highway within the corporate limits of the city, knowingly consumes an alcoholic beverage or, keeps or allows to be kept in an area of the vehicle that is accessible to the operator a container that is open, that has a broken seal or from which some or all of the contents have been removed, commits a violation of this chapter. For purposes of this section, an area accessible to the operator is one that is within reach of the operator.~~

~~14.50.050 Citation.~~

~~An officer of the city's police department may issue a citation to a person who violates this chapter and an attorney of the legal department of the city may prosecute the violation in Monroe County Circuit Court.~~

~~14.50.060 Penalties.~~

~~A violation of this chapter shall be subject to a fine of no more than fifty dollars.~~

~~14.50.070 Defense.~~

~~Transportation of open containers for recycling, catering, picnic, or other similar purposes may be raised as a defense to a violation of the chapter so long as consumption of alcohol does not occur during transportation and all open containers are kept within a closed box, bag, or other container. However, the burden shall be on the person raising the defense to establish this defense.~~

~~14.50.080 Signs.~~

~~Signs giving notice of the prohibition of open alcoholic beverage containers in motor vehicles may be posted at locations deemed appropriate by the city engineer.~~

~~14.50.090 Recordkeeping.~~

~~The police department shall keep records of violations of this chapter. These records shall contain the name of the person cited, date of violation, basis for stop, case number and level of Blood Alcohol Content (BAC) if applicable, whether injuries or property damage were involved, disposition of the matter, and other information as is necessary to determine the efficacy of this chapter. A summary of these records shall be sent to city clerk annually. Any unresolved cases shall be included in subsequent annual summaries.~~

Chapter 15.08 ADMINISTRATION

Sections:

~~15.08.010 Traffic Engineer.~~

~~15.08.020 Authority to install traffic control devices.~~

15.08.030 Traffic control devices.

15.08.040 Temporary, experimental or emergency traffic regulations.

Comment [pmm15]: This job title was moved to Title 2 for consistency with the Code. The actual job description has been removed from the code, as no other position has its job description in the code. The job description will be in HR's actual job description.

~~15.08.010 Traffic Engineer.~~

- (a) ~~The city engineer shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this chapter.~~
- (b) ~~It shall be the duty of the traffic engineer or designee to determine the installation, proper timing, and maintenance of traffic control devices; to conduct engineering analyses of traffic accidents and to devise remedial measures; to conduct engineering investigations of traffic conditions, including those studies required by law for adoption of additional traffic regulations with respect to streets and highways under city jurisdiction; to cooperate with other city officials in the development of ways and means to improve traffic conditions; to test traffic control devices under actual conditions of traffic; and to carry out any additional powers and duties imposed by this chapter or other ordinances of the city.~~
- (c) ~~The traffic engineer is authorized to designate and maintain appropriate devices, marks or lines upon the surface of the roadway and crosswalks at intersections and at such other places where there is particular danger to pedestrians, and to mark lanes for traffic on streets at such places as deemed necessary, consistent with this title.~~

~~15.08.020 Authority to install traffic control devices.~~

~~The traffic engineer shall designate and maintain official traffic control devices when and as required by this title to effectuate city traffic ordinances, and may place and maintain such additional official traffic control devices as deemed necessary to regulate, warn, or guide traffic under city or state traffic laws.~~

15.08.030 Traffic control devices.

All traffic control signs, signals and devices erected under this title shall conform to the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as approved by the Indiana Department of **Highways Transportation**. All signs and signals shall as far as practicable be uniform as to type and location throughout the city.

15.08.040 Temporary, experimental or emergency traffic regulations.

The chief of police with the approval of the city transportation and traffic engineer is empowered to make regulations necessary to effectuate the provisions of this title and any other city traffic ordinances, and to make and enforce temporary or experimental regulations. Either the chief of police or the transportation and traffic engineer is empowered to make regulations necessary to deal with emergencies or special conditions.

- (a) Temporary, experimental, or emergency regulations shall not remain in effect for more than ninety days;
- (b) In the event the chief of police, city transportation and traffic engineer or Traffic Commission recommends that any order entered under this section be made permanent, such recommendation shall be made in writing and submitted to the Common Council for its consideration within sixty days of the date of entry of said order.

15.12.030 Signalized Intersections

- (a) The intersections described in Schedule D(1), attached hereto and made a part hereof, are designated signalized intersections. When appropriate traffic control signals are installed at each intersection, the operator of a vehicle entering the intersections shall obey the signal displayed as the driver approaches the intersections except when directed by an officer to do otherwise. The city transportation and traffic engineer shall determine which intersections shall operate during certain times with flashing signals, which days and hours such intersections shall flash, and the preferentiality of such intersections (i.e. which streets/direction shall flash red and which yellow). The operator of a vehicle entering an intersection controlled by a flashing signal shall obey the signal displayed as the driver approaches the intersection.
- (b) The intersections described in Schedule D(2), attached hereto and made a part hereof, are designated pedestrian hybrid beacon signal intersections. When appropriate traffic control signals are installed at such an intersection, the operator of a vehicle entering the intersection shall obey the signal displayed as the driver approaches the intersection except when directed by an officer to do otherwise. The operator of a vehicle entering an intersection and facing a pedestrian hybrid beacon on which no indication is displayed may proceed without stopping. The operator of a vehicle entering an intersection and facing a pedestrian hybrid beacon on which a yellow lens with an arrow illuminated with rapid intermittent flashes is displayed may turn only after yielding to oncoming traffic. The city engineer shall determine which intersections shall operate during certain times with flashing signals, which days and hours such intersections shall flash, and the preferentiality of such intersections (i.e. which streets/direction shall flash red and which yellow).

15.24.030 School speed zones.

It is hereby determined that school speed zones be established on the streets or parts of streets described in Schedule J, attached hereto and made a part hereof, because of the existence of special hazards at such locations. When appropriate signs are erected, no person shall drive a vehicle at a speed greater than that posted, except that the time of such reduced speed limits shall be confined to periods when children are present. The transportation and traffic engineer shall notify the State Highway Commission Indiana Department of Transportation in the event that school zones are located on state highways.

15.26.020 Neighborhood traffic safety program.

The neighborhood traffic safety program developed ~~administered~~ by the ~~city engineering planning and transportation~~ department and the bicycle and pedestrian safety commission shall be incorporated by reference into this chapter and includes any amendments to the program, as approved by the common council by ordinance. Pursuant to Indiana Code 36-1-5-4, two copies of the neighborhood traffic safety program shall be available in the city clerk's office for public inspection.

15.28.040 Enforcement.

- (a) The city clerk shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted. The maps shall be kept on file in the office of the city clerk and shall be available to the public.
- (b) The ~~transportation and~~ traffic engineer shall cause all truck routes and those streets upon which truck traffic is prohibited to be clearly posted to give notice of the provisions of this chapter.
- (c) No person shall be charged with violating the provisions of this chapter by reason of operating a truck upon a street where truck travel is prohibited unless appropriate signs are posted on the truck routes.
- (d) A police officer shall have the authority to require any person operating a truck on a street on which truck traffic is prohibited to proceed to any public or private scale to determine whether this chapter has been violated.

15.32.090 Limited parking zones.

- (a) The streets or parts of streets described in Schedule N, attached hereto, and made a part hereof, are designated limited parking zones. When appropriate signs are erected no person shall park a vehicle upon any of the streets or parts of streets for a period of time longer than the maximum limit designated in the schedule.
- (b) No person shall park a vehicle within the same one hundred block of any street during any calendar day after the maximum time limit contained in Schedule N has expired during the hours that the restrictions on parking are in effect.

- (c) After the maximum time limit has expired, a separate additional violation occurs each period of time equal to the maximum time limit for which the vehicle remains parked in the limited parking zone to which the limit applies.
- (d) The boundaries and the parking restrictions listed in Schedule N shall be superseded by any provision of this code which prohibits parking in a given area and by any other restrictions of this code that may apply. This includes, but is not limited to, yellow curbs, loading zones, bus zones, official vehicle zones, parking near intersections as prohibited in Section 15.32.130 and parking spaces designated as accessible parking for persons with physical disabilities. The boundaries and the parking restrictions listed in Schedule N shall also be superseded by clear and visible signage to the contrary if such signage was installed under the authority of the city of Bloomington.
- (e) Should the boundaries of any parking areas listed in Schedule N overlap then the restriction of the shorter duration shall apply.
- (f) **Special Events Parking Permits.** Upon approval of application, the **planning and transportation** department of ~~public works~~ may issue a special events parking permit which temporarily exempts for specified time periods certain vehicles and uses from the parking control listed elsewhere in this section.
 - (1) Applications for such permits shall be submitted to the **planning and transportation** department of ~~public works~~ at least seven days prior to the time that reserved parking spaces are needed.
 - (2) The special events parking permits are valid only for the specific parking spaces and the specific dates designated on an approved application.
 - (3) The **planning and transportation** department of ~~public works~~ shall post notice of the parking space reservation at least twenty-four hours in advance of the time the reservation shall become effective.
 - (4) Permitted uses for a special events parking permit shall include, but are not limited to, buses transporting guests to and from lodging establishments, and buses and other vehicles used in association with the production or presentation of performances at entertainment venues.
 - (5) A special events parking permit issued under the authority of this section shall exempt permit holders from prohibitions listed in Bloomington Municipal Code Sections 15.32.070 and 15.48.010.
 - (6) The fee for a special events parking permit shall be the hourly parking rate per vehicle parking space for each hour reserved by the permit.
 - (7) **Administrative Fee.** An administrative fee of \$5.00 per permit applicant shall be levied at the issuance of a permit to offset the cost of implementing, enforcing and administering the provisions of this section.

15.32.160 Emergency vehicle lanes.

- (a) It is unlawful to cause or permit any vehicle or other obstacle to park or remain in any lane, alley, privately owned public parking lot, driveway, or service area, within sixteen feet of any building, accessory structure or sidewalk which is immediately adjacent to or attached to any building, where such building is occupied for commercial, professional, religious, or other type of occupancy or assembly, in such a manner as would obstruct the free passage of fire department vehicles, police cars, emergency or rescue vehicles, or any other vehicles performing a public or emergency function, except for such time as is necessary for the loading or unloading of passengers or merchandise. Where there are areas inaccessible to vehicular traffic between a lane, alley, privately owned public parking lot, driveway, or service area and any building, accessory structure or sidewalk immediately adjacent to or attached to any building, the restricted area of sixteen feet shall be measured from the inaccessible areas abutting the lane, alley, privately owned public parking lot, driveway, or service area and a sixteen-foot emergency vehicle lane established so as to permit free and continuous passage of emergency vehicles.
- (b) The city fire department shall inspect the area surrounding all buildings to which this section applies, and the fire chief with the approval of the transportation and traffic engineer shall determine the location of emergency vehicle lanes and shall notify the affected property owners in writing, together with a notation as to the number of signs deemed necessary by the fire department to properly notify drivers of the existence and location of emergency vehicle lanes. Where it is the opinion of the fire chief that compliance with this subsection would not serve to further the purposes intended by this section, he or she shall advise the affected property owners or managers in writing that such compliance, in part or full, is waived. The erection and maintenance of signs shall be the responsibility of each property owner.
- (c) It shall be the joint duty of the officers of the police and fire departments to enforce the provisions of this section. To aid in enforcement, the fire chief shall obtain from each property owner, lessee or person in possession of property subject to this section an affidavit granting permission and consent to the towing away of any personal property which is obstructing emergency vehicle lanes. The original affidavits shall be kept on file in the city attorney's office legal department with duplicates filed in the fire chief's office.
- (d) Any person who fails to erect or maintain an emergency vehicle sign as directed by the fire department commits a Class B violation and is subject to the penalty listed in Section 15.64.010(b).
- (e) Any person who permits or suffers a vehicle or obstacle to remain in an emergency vehicle lane in violation of subsection (a) commits a Class C Traffic Violation and is subject to the penalty listed in Section 15.64.010(c) and the enforced removal of the vehicle or obstacle in violation. Each day that a violation continues shall constitute a separate offense.

15.32.180 Contractor/construction parking permit.

- (a) Upon approval of application, the permit shall allow for parking temporarily on a street to any person who, in the ordinary course of trade or business, is engaged in the construction, reconstruction, remodeling, servicing, maintenance or repair of buildings or other structures. A separate permit shall be required for each parking space needed for any vehicle, equipment or staging. Said permit shall be for a limited period of time at a specifically designated site.
- (b) The permit shall allow parking within the limited parking zones designated in Schedule N, the on-street metered parking zones designated in Schedule U, or the residential neighborhood permit parking zones designated in the Bloomington Municipal Code Chapter 15.37 while performing the work described above.
- (c) A contractor/construction parking permit issued under the authority of this section shall exempt permit holders from prohibitions listed in Bloomington Municipal Code Section 15.32.070.
- (d) Fee. The cost for a contractor/construction parking permit shall be the hourly parking rate per vehicle parking space for each hour reserved by the permit.
- (e) Administrative Fee. An administrative fee of five dollars per permit applicant shall be levied at the issuance of a permit to offset the cost of implementing, enforcing, and administering the provisions of this section.
- (f) For permits lasting up to fourteen days, the ~~public works~~ **planning and transportation** department ~~of public works~~ must approve the application. For permits exceeding fourteen days, the board of public works must approve the application.

15.32.185 Delivery parking permits.

- (a) Upon approval of application, the ~~parking enforcement manager~~ **planning and transportation department** or designee may issue a permit to any entity that, in the ordinary course of trade or business, is engaged in the delivery of merchandise or supplies. Delivery vehicles eligible for this permit must be visually identified with the name of the entity engaged in the delivery.
- (b) The delivery permit shall allow temporary parking, not to exceed fifteen minutes, within the limited parking zones designated in Schedule N, the on-street metered parking zones designated in Schedule U, or the residential neighborhood zones designated in Bloomington Municipal Code Chapter 15.37 while performing the delivery.

Chapter 15.34 ACCESSIBLE PARKING FOR PEOPLE WITH PHYSICAL DISABILITIES

Sections:

[15.34.010 Definitions.](#)

[15.34.020 Parking for persons with physical disabilities required.](#)

[15.34.030 Use of accessible parking spaces—Decals and/or registration plates required.](#)

[15.34.040 Violations.](#)

[15.34.050 Enforcement.](#)

[15.34.060 Penalties.](#)

[15.34.070 Disposition of revenue—Community accessibility fund.](#)

[15.34.080 Citizens' accessible parking enforcement patrol.](#)

- (c) Fee. The cost for a delivery parking permit shall be one hundred dollars per permit per year. The director of parking enforcement the planning and transportation department or designee may issue additional permits if such need is shown by permit applicant.

15.34.050 Enforcement.

- (a) The provisions of Section 15.34.040(a) and (b) of this chapter may be enforced as follows:
- (1) The violator may be issued a citation for the commission of a Class C infraction pursuant to the provisions of Indiana Code 5-16-9-5; or
 - (2) The violator may be issued a citation for the violation of the local ordinance herein established.
- (b) The provisions of Section 15.34.040(c) of this chapter may be enforced as follows:
- (1) The violator may be issued a citation for the commission of a Class C misdemeanor pursuant to the provisions of Indiana Code 5-16-9-5; or
 - (2) The violator may be issued a citation for the violation of the local ordinance herein established.
- (c) Officers of the Bloomington police department and the parking enforcement officers division, and members of the citizens' accessible parking enforcement patrol shall have the authority to issue citations for violations of the parking provisions of this chapter.

~~15.34.080 Citizens' accessible parking enforcement patrol.~~

~~The Bloomington police department may create a citizens' accessible parking enforcement patrol program as set forth in Indiana Code 5-16-9-11. Members of the patrol will assist the Bloomington police department in the enforcement of this chapter.~~

15.36.070 Issuance and revocation of permits.

- (a) The application for a permit under the provisions of this chapter shall be submitted to the city controller who shall forward it to the ~~transportation and~~ traffic engineer. The ~~transportation and~~ traffic engineer shall approve or disapprove the application in accordance with the provisions of this chapter. An adverse ruling may be appealed to the Board of Public Works, whose decision shall be final.
- (b) The Board of Public Works shall have the authority to revoke any permit upon finding violation of the regulations in this chapter and to order the forfeiture of all fees paid.

15.37.040 Eligibility.

Each single household detached dwelling and multiple household dwelling is entitled to obtain one parking permit per motor vehicle. Each single household detached dwelling and multiple household dwelling is entitled to purchase one visitor permit for each household. Appeals for additional parking and/or visitor permits shall be made in writing, with all relevant documentation attached, to the ~~parking enforcement office manager~~ ~~planning and transportation department~~, or ~~his or her~~ designee.

15.37.080 Decal required.

Regular permits shall be visibly displayed and permanently affixed to the vehicle in the lower left corner of the rear window or other location as determined by the ~~parking enforcement office manager~~ ~~planning and transportation department~~. Visitor permits shall be visibly displayed by hanging the permit from the rearview mirror in the front windshield.

15.37.100 Replacement of permit.

If the make, model or license tag number of a permitted vehicle changes during the year, the applicant may bring in the new information to the ~~parking enforcement office~~ ~~planning and transportation department~~ to obtain a replacement sticker. The fee for a replacement sticker will be ten dollars.

15.37.130 Precedence of no parking zones.

The Residential Neighborhood Permit Parking Zones do not take precedence over temporary or permanent no parking zones posted by the street department, ~~engineering department~~ ~~planning and transportation department~~ or police department for tree removal, snow removal, street sweeping, or other actions deemed necessary by the city of Bloomington.

15.37.140 Special exceptions.

Any person or persons requesting special exception from the residential neighborhood permit parking regulations for a one-day period only may make such a request to the ~~parking enforcement office manager~~ ~~planning and transportation department~~ and may be granted a temporary one-day permit. This is not in lieu of a service permit. There will be no fee for this permit.

15.37.190 All zone permits.

Upon approval of application, the ~~director of parking enforcement~~ ~~planning and transportation department~~ may issue an "all-zone" residential permit to landlords, property managers and qualified service companies, which will allow vehicles bearing this permit to park in any of the residential zones while employees are performing work in that zone.

- (a) Eligibility. Landlords and property managers registered with the city will be allowed to purchase one sticker for every ten units or properties within the residential zones. Landlords and property managers with fewer than twenty units will be allowed a maximum of two permits. Realty companies who show property in the residential zones will be allowed a maximum of one all-zone permit per ten realtors employed by the company. Properly registered and verified service companies will be allowed a maximum of two permits per company. The ~~director of parking enforcement~~ ~~planning and transportation department~~ or designee may issue additional permits if such need is shown by permit applicant.
- (b) Fees. The costs of an all-zone permit shall be fifty-five dollars per year.

15.38.010 City employee parking.

With the exception of the parking spaces that are designated for persons with physical disabilities according to Section 15.32.150, Schedule S, the lots and streets or parts of streets described in Schedule T, attached hereto and made a part hereof, are designated as city employee parking zones.

Processes and procedures for the application for, distribution of, and display of city employee parking permits for parking in city employee parking zones shall be at the direction of the **planning and transportation** department ~~of public works~~, which is authorized to allocate permits, assign permitted areas to city employees and apply whatever terms and conditions on such permits and their utilization as it deems appropriate.

15.38.020 Restrictions.

- (a) No person shall park between five a.m. and five p.m., Monday through Friday in any of the spaces described in Schedule T without a properly authorized and displayed city employee permit, unless granted proper authorization by the **planning and transportation** department ~~of public works~~.
- (b) No person shall park in Lot 11 between five a.m. and five p.m., Monday through Friday without a Green FT Employee permit.
- (c) During farmers' market season the following restriction shall apply to parking in Lot 11:

No person shall park between four a.m. to two p.m. on Saturdays with the following exception: Registered farmers' market vendors with proper authorization from the parks and recreation department, under the direction of said department, and at the times and locations within the lot specified by that department. This prohibition applies to city employees with an otherwise properly authorized and displayed city employee permit.

- (d) No person shall park in Lot 12 at anytime, either in the spaces designated for city employees or in any other spaces in that lot, without a properly authorized and displayed permit for that lot, with the following exceptions:
 - (1) Persons parking between eight a.m. and five p.m. in designated visitor parking who are currently within 501 North Morton Street in the showers complex while that building is open to the public, or moving directly between their vehicle and that building.

- (2) Persons attending the farmers' market in Lot 11 between seven a.m. and twelve fifteen p.m. Saturdays when it is open for business.
- (e) No person shall park at any time in Lot 14 without a properly authorized and displayed city employee permit.
- (f) No person shall park at any time in Lot 16 without a properly authorized and displayed city employee permit.
- (g) The **planning and transportation** department of ~~public works~~ is authorized to adopt, with proper and adequate notice, further restrictions on the ability of city employees to utilize the spaces described in Schedule T as events and circumstances may warrant.

15.40.015 Parking meter fund, purpose and expenditures.

- (a) A parking meter fund (fund) is hereby established within the office of the controller. This special non-reverting revenue fund is authorized under Indiana Code 36-9-12 et seq.
- (b) All monies received by the City of Bloomington from fees paid for the on-street parking of a vehicle by the use of a parking meter shall be deposited into this fund.
- (c) All expenditures from this fund shall be subject to appropriation by the city's fiscal body ~~and shall be budgeted through the department of public works.~~
- (d) Disbursements from the fund shall be made only on orders of the board of works for the purposes provided in IC § 36-9-12-4 (b), which include:
 - (i) The purchase price, rental fees, and cost of installation of the parking meters;
 - (ii) The cost of maintenance, operation, and repair of the parking meters;
 - (iii) Incidental costs and expenses in the operation of the parking meters, including the cost of clerks and bookkeeping;
 - (iv) The cost of traffic signal devices used in the municipality;
 - (v) The cost of repairing and maintaining any of the public ways, curbs, and sidewalks where the parking meters are in use, and all public ways connected with them in the municipality;
 - (vi) The cost of acquiring, by lease or purchase, suitable land for off-street parking facilities to be operated or leased by the municipality;
 - (vii) The principal and interest on bonds issued to acquire parking facilities and devices;
 - (viii) The cost of improving and maintaining land for parking purposes and purchasing, installing, and maintaining parking meters on that land; and

- (ix) The cost of providing approved school crossing protective facilities, including the costs of purchase, maintenance, operation, and repair, and all other incidental costs.
- (e) Money deposited into the fund may be expended only upon a specific appropriation made for that purpose by the common council in the same manner that it appropriates other public money. The board of public works shall prepare an itemized estimate of the money necessary for the operation of parking meters for the ensuing year at the regular time of making and filing budget estimates for other departments of the city. These estimates shall be made and presented to the common council in the same manner as other department estimates.
- (f) The fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the fund at termination shall be deposited into the general fund.

15.40.020 Garage and lot permits.

- (a) Except as otherwise expressly provided herein, references to "the city" in this chapter shall mean the **planning and transportation** department ~~of public works~~, acting through its director, director's designee or an agent appointed hereunder. The city may issue permits for its parking garages and lots allowing their use without the application of time charges that would otherwise apply. The city shall negotiate leases for Lots 12 and 13. The city through its board of public works may contract with one or more agents to administer on its behalf and at its direction the provisions of this chapter relating to one or more city parking facilities.
- (b) Garage and lot permit fees are specified in Schedule V of this chapter. A reserved lease grants parking privileges for a particular parking space in one specific municipal lot or garage. A nonreserved parking lease grants parking privileges for the times specified in Schedule V within a designated area in a specific municipal lot or garage, and that area shall exclude reserved lease spaces and meter only spaces.
- (c) No permit shall be issued under this chapter except upon:
 - (1) Provision by the permit applicant of all information and documentation requested by the city, which may include but shall not be limited to information and documentation regarding the name, current and permanent addresses, current telephone number, driver's license, and vehicle registration of the permit applicant and any other intended final user of any permit and;

- (2) Execution of a written lease between the city and the permit holder. Such lease shall incorporate all requirements of this chapter and such other terms and conditions as may be agreed upon by the parties.

Violation of any provision of a permit lease shall constitute a violation of this chapter subject to all penalties and remedies provided herein, including but not limited to revocation of the permit or permits covered by the lease.

- (d) The city shall determine the number and type of permits to be issued and the method for their allocation. The presence of a price in Schedule V does not necessarily mean that the corresponding parking permit is available.
- (e) No permit will be issued until all outstanding debts, related to the vehicle associated with the permit or the vehicle's owner, owed to the city of Bloomington or any of its agencies, have been paid. This includes, but is not limited to, all outstanding penalties for parking violations.
- (f) No refund or rebate on any portion of a parking lease or permit shall be given until all outstanding debts, related to the vehicle associated with the lease or permit or the vehicle's owner, owed to the city of Bloomington or any of its agencies, have been paid. This includes, but is not limited to, all outstanding penalties for parking violations.
- (g) A parking permit holder may not resell, sublet or otherwise distribute the permit to another party without a written agreement with the city to do so.
- (h) A parking permit holder may enter into a written agreement with the city for the distribution of parking permits to its employees or tenants.
 - (1) Should the holder charge another party for use of a permit more than it paid for the permit, the city may cancel any and all permits held by the holder, in addition to invoking all other penalties and remedies available hereunder.
 - (2) The city reserves the right to withhold the release of the permit or permits until it is provided all requested information regarding the final user or users and their vehicle(s) pursuant to subsection (c) of this section.
 - (3) The city reserves the right to withhold the release of a permit until all outstanding debts, related to the vehicle associated with the permit final user or the vehicle's owner, and any other debts owed to the city of Bloomington or any of its agencies, have been paid. This includes, but is not limited to, all outstanding penalties for parking violations.
- (i) The charge for replacement permits and parking garage access cards shall be ten dollars each and shall be available under conditions determined by the city. Use of such duplicates for any purpose other than that determined by the city may result in the cancellation of the original permit, in addition to invoking all other penalties and remedies available hereunder.
- (j) The city is neither required to sell permits for periods of less than one month nor to rebate fees paid in advance for periods of less than one month.

15.40.060 Violations.

- (a) No person shall permit a vehicle to remain in a metered parking space after the purchased time has elapsed or after any restriction on the length of time a vehicle may park in a particular municipal parking lot, garage and/or on-street metered parking space has elapsed. After the purchased time has elapsed, a separate and/or additional violation occurs no more frequently than every two hours.
- (b) No person shall park in a leased stall in any city garage or lot without a valid lease for that space. The vehicle shall indicate possession of such a lease in a manner directed by the planning and transportation department ~~of public works~~.
- (c) No person shall park in any city garage or lot in an area designated for nonreserved leases without a valid lease for such spaces as described in this chapter. The vehicle shall indicate possession of such a lease in a manner directed by the planning and transportation department ~~of public works~~.
- (d) No person shall park in any of the lots or garages described in Section 15.40.010 of this chapter unless permitted and authorized as described by the provisions of this chapter or by the planning and transportation department ~~of public works~~.
- (e) No person shall permit a vehicle to remain parked in a backed position in a parking space in any municipal parking lot.
- (f) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this chapter.
- (g) No person shall deposit or cause to be deposited in any parking meter any substitute for proper payment.
- (h) No person shall park a vehicle in any lot or garage described in Section 15.40.010 unless the vehicle indicates permission or authorization to park in that lot or garage in a manner directed by the planning and transportation department ~~of public works~~.
- (i) No person shall park a vehicle in the spaces designated City Hall Visitor Parking in Lot 11 unless the driver of the vehicle is within city hall at 401 North Morton Street or space utilized by the city at 501 North Morton Street or moving directly between the parked vehicle and those locations any time those buildings are open to the public.
- (j) No permit holder for a reserved space in a city parking facility shall park a motor vehicle covered by the permit in any space in the same facility other than the reserved space, including spaces intended for transient or hourly parking during any time the reserved space permit is valid.
- (k) No party to a permit lease with the city pursuant to this chapter shall violate any term or condition of such lease.
- (l) No person shall resell a permit except in compliance with Section 15.40.030(g), (h) and (i).
- (m) No person shall use a duplicate permit or access card except in compliance with Section 15.40.030(j).

15.48.020 Removal and impoundment procedure.

- (a) Any officer of the Bloomington Police Department or parking enforcement officer discovering a public nuisance as described in Section 15.48.010 shall cause the vehicle to be removed by an authorized towing service. If the vehicle owner or last operator appears at the site of the violation before the vehicle is removed and provides to the towing service the vehicle owner's and last operator's names and addresses, if different, then the vehicle shall be released.
- (b) Impounded vehicles shall be released without payment of the towing and storage charges upon: provision to the towing service of names and addresses of the vehicle owner and last operator, if different; order of the Bloomington Police Department; or order by the judge of a court of competent jurisdiction.

15.56.090 Bicycle parking.

- (a) No person shall park a bicycle:
 - (1) In a manner as to hinder or obstruct pedestrian traffic or to damage public property in any manner; or
 - (2) In any space designed and intended for use by motor vehicles unless such area shall be specifically allocated to bicycle parking by placement of a bicycle rack.
- (b) Bicycle racks may be installed in the public rights-of-way upon application for a no-charge permit from the ~~office of the city engineer~~ planning and transportation department and approval of the board of public works. All bicycle racks constructed pursuant to this section shall be located, constructed and maintained in accordance with the specifications of the city transportation and traffic engineer who shall be responsible for keeping sufficient records of permits and specifications.
- (c) Any bicycle parked in violation of this chapter or abandoned pursuant to Section 15.56.095 is subject to impoundment. It is lawful for the city to remove locking devices in order to impound a bicycle. The city shall not be responsible for damage done to locks during impoundment.

15.56.095 Abandoned bicycles.

(a) Abandoned Bicycles.

(1) No person shall abandon any bicycle on any public way within the city. A bicycle shall be deemed abandoned if it: (i) is in such a state of disrepair as to be incapable of being operated in its present condition, (ii) has not been moved for at least two weeks; or (iii) bears physical indicia of having been abandoned.

(2) Any bicycle deemed abandoned pursuant to subsection (1) of this section may have a notice affixed to it which informs the bicycle's owner that the bicycle appears to be abandoned. The ~~manager of parking enforcement~~ **police department** or designee is authorized to affix such notices upon bicycles. This notice shall indicate: (i) a telephone number for the owner to call to inform the ~~department of parking enforcement~~ **police department** that the bicycle is not abandoned; and (ii) the date after which the bicycle may be removed if it is not claimed by its owner. A bicycle shall not be deemed to be abandoned if the owner of the bicycle, within seven days of the affixing of a notice of abandonment, notifies the ~~department of parking enforcement~~ **police department** that the bicycle is not abandoned.

(3) If a bicycle is not relocated or claimed by its owner within seven days of the affixing of a notice of abandonment, that bicycle may be removed and impounded by the ~~department of parking enforcement~~ **police department**.

(b) Reclaiming Impounded Bicycle. Impounded bicycles may be reclaimed by the owner of the bicycle. A fee of thirty dollars shall be paid before the bicycle is released to the owner.

(c) An impounded bicycle shall be subject to disposal in accordance with state law if the bicycle has remained unclaimed for at least one year.

15.64 – Traffic Violation Schedule

15.64.010 Violations and Permits

The penalties for the classes of traffic violations referred to in this title are as follows:

(d) Class D Traffic Violations (most parking violations).

Fine:	\$20.00, \$40.00 (depending upon when paid)	
Covers:	15.32.010	Parking adjacent to yellow curb
	15.32.020	Parking in alley beyond limit
	15.32.030	Violating angle parking
	15.32.040	Parking car in street for washing, repairing
	15.32.080	Parking in no parking zone
	15.32.090	Parking beyond time limit
	15.32.100	Parking beyond loading zone limit
	15.32.110	Parking in bus zone
	15.32.120	Parking in official vehicle zone
	15.32.130	Parking near intersections
	15.32.140	Obstructing traffic
	15.32.170	Parking facing traffic
	15.32.175	Parallel and angle parking
	15.36.100	Parking in resident-only space
	15.37.150	Parking in residential permit area; Permit displayed in an ineligible motor vehicle (plate non-match)
	15.38.020	City employee parking; unauthorized parking in city employee parking lots including during Farmers' Market
	15.40.025(a)	Parking beyond time restrictions
	15.40.025(b)	Overnight parking in city parks and recreation parking lots between eleven p.m. and five a.m.
	15.40.050	Parking in space designated for city hall visitors when not in city hall or moving between vehicle and city hall
	15.40.060(a), (c), (d), (e), (f), (g), (h)	Backing in and overtime parking in municipal parking lots, garages and on-street metered parking spaces; defacing parking meters; depositing or causing to be deposited in a parking meter a substitute for proper payment; and unauthorized parking in a municipal lot or garage
	15.60.020	Parking illegally in park, picnic ground, or golf course
	15.60.040	Parking on sidewalk

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(1) The fine for Class D traffic violations shall be twenty dollars if paid within seven calendar days. The fine shall automatically increase to forty dollars if not paid within the seven calendar days.

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(2) A person may appeal the issuance of a traffic violation citation and corresponding fine, provided the appeal is filed with the city clerk's office within the seven calendar days immediately following the issuance date of the traffic violation citation.

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(A) The city clerk, or his or her designee(s), shall hear all appeals of Class D traffic violation citations and all violations of the Neighborhood Residential Permit Parking Program (15.37.150).

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(B) The city clerk, or his or her designee(s), shall have the authority to declare any traffic violation citation which has been properly appealed null and void, or valid.

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(C) If the city clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be null and void, then the traffic violation citation shall be dismissed from further prosecution.

(D) If the city clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be valid, then the traffic violation citation shall be due and payable as determined by either the city clerk, or his or her designee(s).

(E) The decision of the city clerk, or his or her designee(s), is final, subject to judicial determination if such a determination is requested and is requested in a manner consistent with Indiana law.

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(3) For purposes of this section, the following persons are the only persons which may challenge a traffic violation citation:

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(A) The registered owner of the motor vehicle which received the traffic violation citation;

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(B) An attorney representing the owner of the motor vehicle which received the traffic violation citation;

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(C) The person who was legally responsible for the motor vehicle which received the traffic violation citation; or

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(D) An attorney representing the person who was legally responsible for the motor vehicle which received the traffic violation citation.

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Deleted: , or his/her attorney.

Title 17 CONSTRUCTION REGULATIONS

Chapters:

[Chapter 17.04 - GENERAL](#)

[Chapter 17.08 - ADMINISTRATION AND ENFORCEMENT](#)

[Chapter 17.12 - LICENSE REQUIREMENTS AND BOARDS](#)

[Chapter 17.16 - UNSAFE BUILDING LAW](#)

Chapter 17.04 GENERAL

Sections:

- 17.04.010 Title.**
- 17.04.020 Purpose.**
- 17.04.030 Scope.**
- 17.04.040 Violations and penalties.**
- 17.04.050 Definitions.**
- 17.04.060 Adoption of building rules, code and standards by reference.**
- 17.04.070 Jurisdiction.**
- 17.04.080 Change in use.**
- 17.04.090 Property owner doing own work.**
- 17.04.100 Appeals and variance.**

17.04.010 Title.

These regulations shall be known as "Construction Regulations," and may be cited as such and will be referred to herein as "this title."

17.04.020 Purpose.

The purpose of this title is to provide for the administration and enforcement by the City of the technical codes adopted by the State of Indiana and the City and to provide minimum standards for the protection of life, limb, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and residences.

17.04.030 Scope.

The provisions of this title shall serve as the administrative, organizational, and enforcement rules and regulations for the technical codes which regulate the site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures, building service equipment and systems within the City of Bloomington and its jurisdiction. These rules and regulations shall be supplemental to those adopted by the Indiana Fire Prevention and Building Safety Commission and other sections of the municipal code.

Where these regulations may conflict with rules established in the Indiana Administrative Code, such rules shall take precedence. Any provision of this title governing the interpretations of or variance from the provisions of the adopted rules shall be consistent with those of the Indiana Fire Prevention and Building Safety Commission.

17.04.040 Violations and penalties.

It shall be a violation of this code to fail to comply with regulations set forth in this title. Where specific penalties are not provided, a violator may be subject to the fines provided in the general penalty clause of Section 1.01.130.

17.04.050 Definitions.

As used in this title, the following terms have the following meanings and where terms are not defined, they shall have their ordinarily accepted meanings within the context with which they are used.

- (a) "Board" means the electrical examination and registration board as established by this title.
- (b) "Building official" means the city transportation and traffic engineer or his or her designee and has no link to the term used in state rules, codes, etc.
- (c) "Building sewer" means the pipe which is connected to the building or house at a point approximately three feet outside the foundation walls of the building and which conveys the building's sanitary sewage discharge from that point to the public sewer.
- ~~(d) "City engineer" means the city engineer and his designees.~~
- (ed) "Commercial, industrial, electrical contractor" means one who may undertake electrical construction of multi-family dwellings over two stories, commercial and industrial electrical construction as well as the type of electrical construction permitted residential electrical contractors, in subsection (i), of this section.
- ~~(fe) "Planning jurisdiction" means the corporate limits of the city and the two-mile fringe as defined by the plan commission.~~
- (gf) "Plumber, journeyman" means a person engaged in the practice of plumbing for hire who is qualified to install plumbing in accordance with the standards and regulations set forth by the state and this chapter.
- (hg) "Plumbing contractor" means a person engaged in the plumbing business for the general public, or who maintains a plumbing shop, and is qualified to install plumbing in accordance with the standards and regulations set forth by the state and in this chapter.
- (ih) "Residential electrical contractor" means one who undertakes electrical construction for single, duplex, and two story or less multi-family dwelling with single-phase electrical service.
- (ji) "Technical codes" means the codes, standards, rules and regulations made a part of this title by Section 17.04.060.

- (k) "Demolition" means and includes not only complete destruction of any building or structure but also any action that would result in partial demolition of any exterior portion of a building or structure that is listed as outstanding, notable or contributing, or a structure accessory thereto to the extent provided in Section 20.09.220(b)(5) of the Bloomington Municipal Code, on the 2001 city of Bloomington survey of historic sites and structures 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"). "Partial demolition" shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.

17.04.060 Adoption of building rules, code and standards by reference.

- (a) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this title, and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:
- (1) Article 13 - Building Codes.
 - (A) Fire and Building Safety Standards;
 - (B) Indiana Building Code;
 - (C) Indiana Building Code Standards;
 - (D) Indiana Handicapped Accessibility Code.
 - (2) Article 14 - One and Two Family Dwelling Codes.
 - (A) Council of American Building Officials One and Two Family Dwelling Code;
 - (B) CABO One and Two Family Dwelling Code Amendments;
 - (C) Standard for Permanent Installation of Manufactured Homes.
 - (3) Article 16 - Plumbing Codes.
 - (A) Indiana Plumbing Code.
 - (4) Article 17 - Electrical Codes.
 - (A) Indiana Electrical Code;
 - (B) Safety Code for Health Care Facilities.
 - (5) Article 18 - Mechanical Codes.
 - (A) Indiana Mechanical Code.
 - (6) Article 19 - Energy Conservation Codes.
 - (A) Indiana Energy Conservation Code;
 - (B) Modifications to the Model Energy Code.
 - (7) Article 20 - Swimming Pool Codes.
 - (A) Indiana Swimming Pool Code.

(b) Copies of adopted building rules, codes, and standards are on file in the city clerk's office.

17.04.070 Jurisdiction.

This title shall apply to the Planning jurisdiction of the City of Bloomington.

17.04.080 Change in use.

The provisions of this title shall apply to all buildings which are to be devoted to a new use or occupancy for which the requirements of this title, or of the zoning regulations, are in any way more stringent than the requirements covering the previous use of the building.

17.04.090 Property owner doing own work.

No section or provision in this title is to be interpreted as prohibiting a property owner from doing work on a residence which he or she owns and in which he or she lives or plans to live. Property for resale is not included in this exemption. Permits are required when work or construction equals or exceeds the scope set forth in this title.

17.04.100 Appeals and variances.

~~The board of zoning appeals of the city is established as the official hearing board for disputes or variances from the rules and regulations set forth in this title, but it shall not be empowered to grant variances from any of the state technical codes adopted by this title, unless such variances are approved by the Indiana Fire Prevention and Building Safety Commission. The city transportation and traffic engineer shall be the final local authority over disputes with regard to the interpretation of the technical codes. Appeals and variances shall be through the Indiana Fire Prevention and Building Safety Commission in accordance with I.C. 22-13-2-7 and I.C. 4-21.5-3-7.~~

Comment [pmm16]: The State has consistently ruled that local units of government cannot grant variances from the State's building codes.

Chapter 17.08 ADMINISTRATION AND ENFORCEMENT

Sections:

~~17.08.010 Engineering Department Planning and transportation department.~~

~~17.08.020 Scope and permits required.~~

~~17.08.030 Permit application.~~

~~17.08.050 Fees.~~

~~17.08.060 Certificate of occupancy.~~

~~17.08.070 Inspections.~~

~~17.08.080 Special plumbing regulations.~~

~~17.08.090 Special electrical regulations.~~

~~17.08.100 Permits involving demolition.~~

Comment [pmm17]: Since the Building Department handles the building code and the inspections for the building codes these codes are no longer relevant.

Comment [pmm18]: Since the Building Department handles the building code and the inspections for the building codes these codes are no longer relevant.

~~17.08.010 Engineering Department Planning and transportation department.~~

It shall be the duty of the City transportation and traffic Engineer to administer all of the provisions of this title as required in Indiana Code 36-7-2-9.

- (a) Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the City transportation and traffic Engineer may appoint building inspectors, and other related technical officers and inspectors and other employees as shall be authorized from time to time.
- (b) Stop Work Orders. Whenever any work is being done contrary to the provisions of this title, the City transportation and traffic Engineer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such person shall forthwith stop until authorized by the City transportation and traffic Engineer to proceed with the work. It shall be a violation of the ordinances of the City of Bloomington to continue work on any project after a stop work order has been duly issued.
- (c) Returning Site to Original Condition. After a stop work order has been issued and/or after a person or firm is denied a permit to continue the work the site or structure must be returned to its original condition.

~~17.08.020 Scope and permits required.~~

~~It shall be a violation of this title for any person firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure or make any installation, alteration, repair, replacement or remodel any building service equipment regulated by this title without first obtaining a separate, appropriate permit for each building, structure or building service equipment from the building official.~~

It shall be a violation of this title for any person to make any connection in any manner with the water or sewage system of the City, or to install any plumbing in any building which connects with the City water or sewage system until a permit has been granted by the City; provided, however, that a plumbing permit shall not be required for repairing or replacing a fixture, fitting, faucet or valve by one to be used for the same purpose, for forcing out stoppage, repairing leaks or relieving frozen pipes and fittings. However, when such repairs or alterations include new vertical or horizontal lines of soil, waste or vent pipes, or where their location is changed, a permit is required and the work is subject to inspection by the City building inspector.

- (a) ~~Exempted Work. Ordinary repairs and maintenance to buildings may be done without application or notice to the City Engineer but such repairs shall not include the cutting of any wall partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements; nor, shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.~~
- (b) ~~Responsibility. It shall be the duty of the property owner to see that all necessary permits as required by this title have been secured from the City Engineer, before any work has been started. Failure of the party responsible for the securing of such permit to do so, shall be subject to a fine as provided in Section 1.01.130 of the Bloomington Municipal Code.~~
- (c) ~~Failure to Obtain Permit. When any person proceeds to do any work or construction covered by this chapter without the required permit, a penalty of three times the applicable permit fee shall be charged. In addition the applicable permit fee shall also be charged. The payment of this penalty does not release the person in default from any other penalties provided. If the person can prove that failure to obtain a permit was: (1) an error made in good faith, (2) resulted in no advantage to him, and (3) that the construction which resulted conformed to all city building and zoning regulations, the city engineer may waive the penalty.~~

17.08.030 Permit application.

To obtain a permit, the applicant shall first file an application in writing on a form furnished by the city engineer. When a design release issued by the State Building Commission is required pursuant to rules of the Indiana Fire Prevention and Building Safety Commission (675 IAC 12), no permit shall be issued until the design release is received by the city engineer. Every applicant shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the land on which the proposed work is to be done by street address, lot number, addition and/or legal description.
- (3) Indicate the use or occupancy for which the proposed work is to be used.
- (4) Be accompanied by plans, diagrams, computations and specifications and other data as required in subsection 7(a) below.
- (5) State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.
- (6) Be signed by the applicant, or his authorized agent, who may be required to submit evidence to indicate such authority.
- (7) Give such other data and information as may be required by the city engineer. Plans, engineering calculations, diagrams, and other data shall be submitted in two sets with each application for a permit. The city engineer may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.
 - (a) Information Required. Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this title. However, when a permit is sought for the partial demolition of a building or structure listed as outstanding, notable or contributing, or a structure accessory thereto to the extent provided by Section 20.09.220(b)(5) of the Bloomington Municipal Code, on the historic survey governed by the demolition delay waiting period of Section 20.09.230 of the Bloomington Municipal Code, the application shall include the information required by Section 20.09.120(d)(6)(B) of the Bloomington Municipal Code.
 - (b) Exceptions. The city engineer may waive the submission of plans, calculation, etc., if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.
 - (c) Expiration of Plan Review. Applications for which no permit is issued within one hundred eighty days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the city engineer.
 - (d) Expiration. Every permit issued by the city engineer under the provisions of this title shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within three hundred sixty days from the date of such permit or if the building or work authorized by such permit is suspended or abandoned for a period of three hundred sixty days after the work is commenced. Before such work can be

recommenced, a new permit shall be first obtained. In order to renew
action on a permit after expiration a new application must be made,
reviewed, and the current permit fee paid.

- (e) ~~Suspension or Revocation. The city engineer may, in writing, suspend or
revoke a permit issued under the provisions of this title whenever the
permit is issued in error or on the basis of incorrect information supplied,
or in violation of this title or upon revocation of the State Building
Commission design release. Said revocation shall be effective
immediately.~~
- (f) ~~Renewal. A permit may be renewed only one time. Application for
renewal must be made at least ten days before the permit's expiration date.
The fee for renewal shall be fifty percent of the original fee.~~
- (g) ~~Recipient Bound. A recipient of any permit provided under Title 20 of the
Bloomington Municipal Code shall be bound by the representation and
information submitted in the original application and in any revisions,
amendment, or supplement to the original application pursuant to Section
20.09.040 of the Bloomington Municipal Code.~~

17.08.050 Fees.

- (a) The fee for each permit shall be as set forth below except that no fee shall be collected for a permit issued to Monroe County, Indiana. ~~The determination of value or valuation under any of the provisions of these codes shall be subject to verification by the city engineer. The value to be used in computing the building permit fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment.~~
- (b) ~~The permit fee for any commercial construction undertaken by an owner or contractor who employs a state or International Conference Building Official certified inspector, or a professional engineer registered in the state of Indiana, or a professional architect, holding a certificate of registration from the state of Indiana, shall be reduced by two-thirds under the following conditions:~~
 - (1) ~~At the time property owner applies for a building permit, he must make a request for the reduced fee in writing to the city engineer;~~
 - (2) ~~Inspector must furnish evidence to the city engineer of the current registration of its architect, engineer or inspector;~~
 - (3) ~~Owner must agree to furnish the engineering department copies of all the
inspector's reports covering all aspects of the project's construction as well as
copies of all reports filed with the Indiana Fire Prevention and Building Safety
Commission.~~

~~(e) Affordable Housing Permit Program. Applicants for eligible affordable housing projects may apply for the waiver of certain permit fees under the following conditions. The application for the waiver must be submitted at same time as the permit application for the project. The housing project must be an eligible housing project, which is one that has been approved under programs identified by the director of housing and neighborhood development. In furtherance of this permit program, the director of housing and neighborhood development shall prepare and amend as necessary, a list of appropriate affordable housing programs and distribute the list to the engineering department and the office of city clerk. Once the foregoing conditions have been met, the following fees shall be waived in the following circumstances:~~

- ~~(1) For the construction of eligible single family projects the minimum fee shall be waived;~~
- ~~(2) For the rehabilitation or renovation of eligible single family projects, the base fee and minimum fee shall be waived;~~
- ~~(3) For the construction of eligible multifamily projects the base fee shall be waived; and~~
- ~~(4) For the renovation of eligible multifamily projects the base fee and minimum shall be waived.~~

~~(db)~~ The city transportation and traffic engineer shall keep an accurate account of all fees collected under this chapter, and they shall be deposited at least once each week with the city controller and become part of the general fund of the city.

~~(ec)~~

The fees shall be as follows:

Permit	Fee
Change in use/temporary uses.	\$250
Grading and site development permits.	\$115 per acre (rounded to nearest tenth of an acre);

Comment [pmm19]: No longer applicable.

All earth grading under Section 20.06.05.03.	\$115 minimum
Right-of-way borings.	\$0.75 per lineal ft; \$50 Min.
Must have current bond on file. Boring work done in city right-of-way.	
Right-of-way cuts.	\$1.00 per square ft; \$100 Min.
Must have current bond on file.	
Any work done in city right-of-way which requires cutting or altering any feature.	
Temporary sign permits.	\$75.00 per application
Temporary signs erected under Title 20 of this code.	
Permanent sign permits.	\$125.00 per sign

Permanent signs erected under Title 20 of this code.	
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17.08.060 ~~Certificate of occupancy.~~

~~(a) — After all inspections when it is found that the building or structure complies with the provisions of the technical codes and the zoning code of the city, the city engineer shall issue a certificate of occupancy which shall contain the following:~~

- ~~(1) — The building permit number;~~
- ~~(2) — The address of the building;~~
- ~~(3) — The name and address of the owner;~~
- ~~(4) — The land use zone;~~
- ~~(5) — The use for which occupancy has been approved; and~~
- ~~(6) — The name of the building official.~~

~~(b) — A temporary certificate of occupancy may be issued by the city engineer for the use of a portion of the building project prior to the completion of the entire project. The city engineer shall take into consideration seasonal construction limitations and other factors. A commitment to complete the project before the expiration of the temporary certificate must be shown by the owner.~~

17.08.070 ~~Inspections.~~

~~All construction or work for which a permit is required shall be subject to inspection by the city engineer. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the city engineer nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.~~

~~(a) — Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the city engineer twenty four hours prior to the requested inspection that such work is ready for inspection. Such request may be in writing or by telephone at the option of the city engineer. It shall be the duty of the person requesting any inspections required by this title to provide access to and means for proper inspection of such work.~~

~~(b) — Approval Required. No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the approval of the city engineer. There shall be a final inspection and approval on~~

~~all buildings, building service equipment and site work when completed and ready for occupancy or use.~~

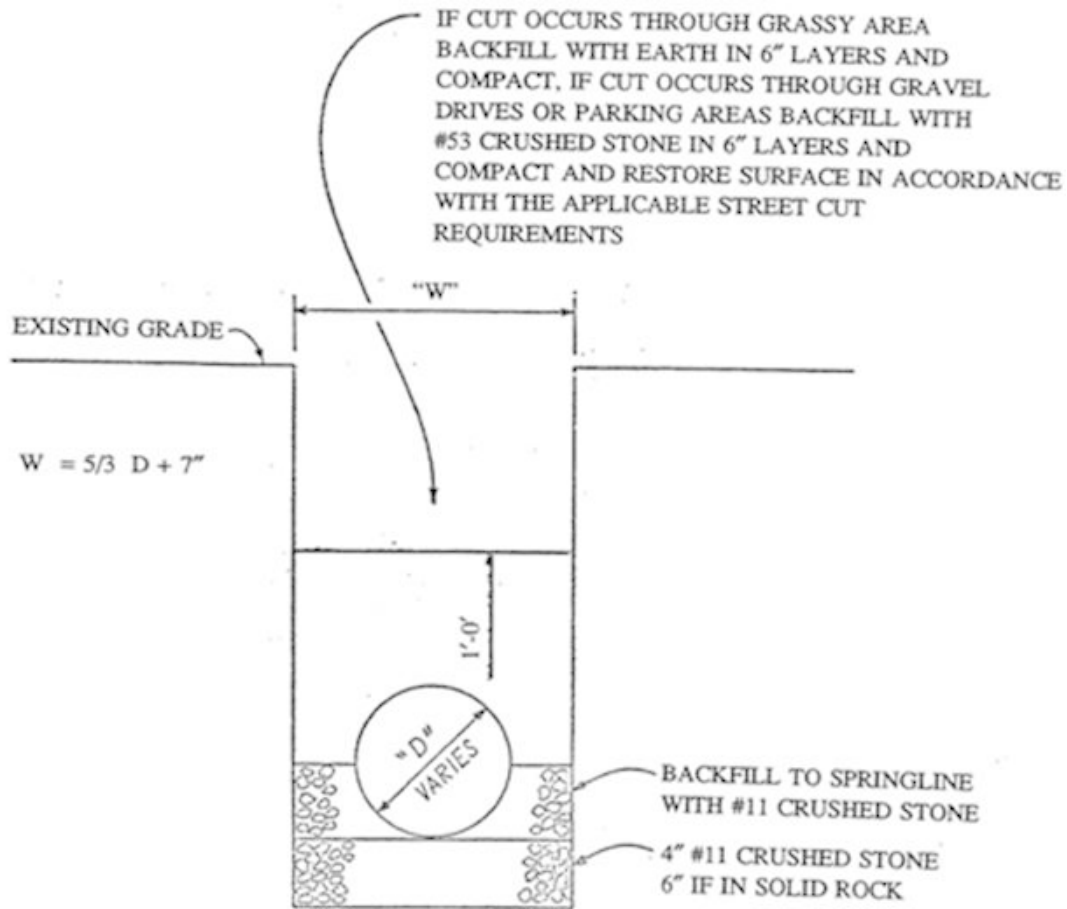
- ~~(c) — Inspection Requirements. Inspections shall be set up on a schedule as provided by the city engineer. Inspections may be waived by the city engineer on any construction on which a licensed architect or engineer of the state is responsible. The architect or engineer must certify that the construction is in compliance with all applicable Indiana rules on the design and construction of the project.~~
- ~~(d) — Entry. Upon presentation of proper credentials, the city engineer or his authorized representative may enter at reasonable times any building, structure or premises in the city of Bloomington to perform any duty imposed upon him by this code.~~
- ~~(e) — Reinspections. A fee as described in Section 17.08.050(d) may be charged for subsequent inspections when an inspection has been requested, but the inspector has been unable to gain entry, or the work is not completed to a stage where inspection is viable or where work is judged incorrect. This fee is payable prior to the issuance of any additional building or occupancy permits.~~
- ~~(f) — Notice of Violations. The contractor shall be notified in writing of any defects detected by the field inspector. The contractor shall correct any deficiencies within the time specified by the inspector before proceeding with the building process. If the applicant fails to comply within the specified period he will be offered the opportunity to appear before the inspector, city engineer and city attorney to present his case. If this step cannot resolve the issue to the satisfaction of the city engineer and an appeal is not filed in accordance with Chapter 17.04 the city engineer shall request the city attorney to initiate legal proceedings for the violation of a city ordinance per Section 1.01.130 of the Municipal Code or for mandatory and injunctive relief which may be joined with action to recover penalties provided for in the code. Each day's violation constitutes a separate offense.~~

17.08.080 — Special plumbing regulations.

- ~~(a) — Remodeling. All remodeling of existing soil, waste, water lines, vent pipes and drains and change in location of fixtures from existing plumbing shall conform in all respects to the requirements of this title.~~
- ~~(b) — Building With No Connection To Sewer System. If water closets or other plumbing fixtures exist in buildings where there is no connection with the city sanitary sewer system evidence of a permit from the county board of health must be submitted before any permits can be issued.~~
- ~~(c) — Equipment To Be Furnished By Plumber. The equipment, material, power and labor necessary for the inspection and tests required under the provisions of this chapter shall be furnished by the plumber.~~

- (d) ~~Air Pressure Test. All the piping of a plumbing system shall be tested with water or air. After the plumbing fixtures have been set and their traps filled with water the entire drainage system shall be submitted to a final air pressure test if required by the building inspector. The building inspector may require the removal of any cleanouts to ascertain if the pressure has reached all parts of the system.~~
- (e) ~~Replacing Defects—Reinspection. If an inspection or test required by this code shows defects, such defective work or material shall be replaced within seven days and tests shall be repeated.~~
- (f) ~~Duty of Plumber Before Notifying Inspector. It shall be the duty of the plumber to ensure that the work will stand the test prescribed before giving the notifications required by this title.~~
- (g) ~~Failure of Inspector to Appear—Affidavit of Plumber. If the building inspector fails to appear within forty-eight hours of the time set for each inspection or test, unless the inspector shall in the meantime have rescheduled the inspection, the inspection or test shall be deemed to have been made. The plumber shall then file at the office of the city engineer an affidavit that the work was installed in accordance with this title, that the required tests have been made and that the plumbing was found free from defects and the system free from leaks and whether the owner or his authorized agent was present when such inspection or test was made or that he was properly notified.~~
- (h) ~~Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found on examination and test by the city engineer to meet all requirements of this title.~~
- (i) ~~Building Sewers Specifications. The building sewer shall be cast iron soil pipe, ASTM specification or equal; vitrified clay sewer pipe, ASTM specification or equal; or plastic sewer pipe, S.D.R. 35 or equal; or other suitable materials as approved by the city engineer. Joints shall be tight and waterproof. No building sewer shall be located in the same trench nor run parallel to and within ten feet of a water service pipe, both lines shall be encased with concrete five feet in each direction from the point of crossing. Cast iron pipe with sealed joints may be required by the city engineer where the building sewer is exposed to damage by tree roots or unstable ground.~~
- (j) ~~Building Sewers Size and Slope. The size and slope of the building sewers shall be subject to the approval of the city engineer, but in no event shall the diameter be less than four inches for single family, or six inches for duplex residential units and eight inches for all other uses. The slope of such four inch pipe shall be not less than one-fourth inch per foot or sufficient slope to maintain a two feet per second velocity in the sewer.~~
- (k) ~~Building Sewer Placement. No building shall be laid parallel to or within three (3) feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings. When vitrified clay or plastic pipe is installed, #9 copper wire or metallic locator tape shall be buried immediately above the pipe and~~

extending its entire length to facilitate future location. Trench details are illustrated in the following diagram:



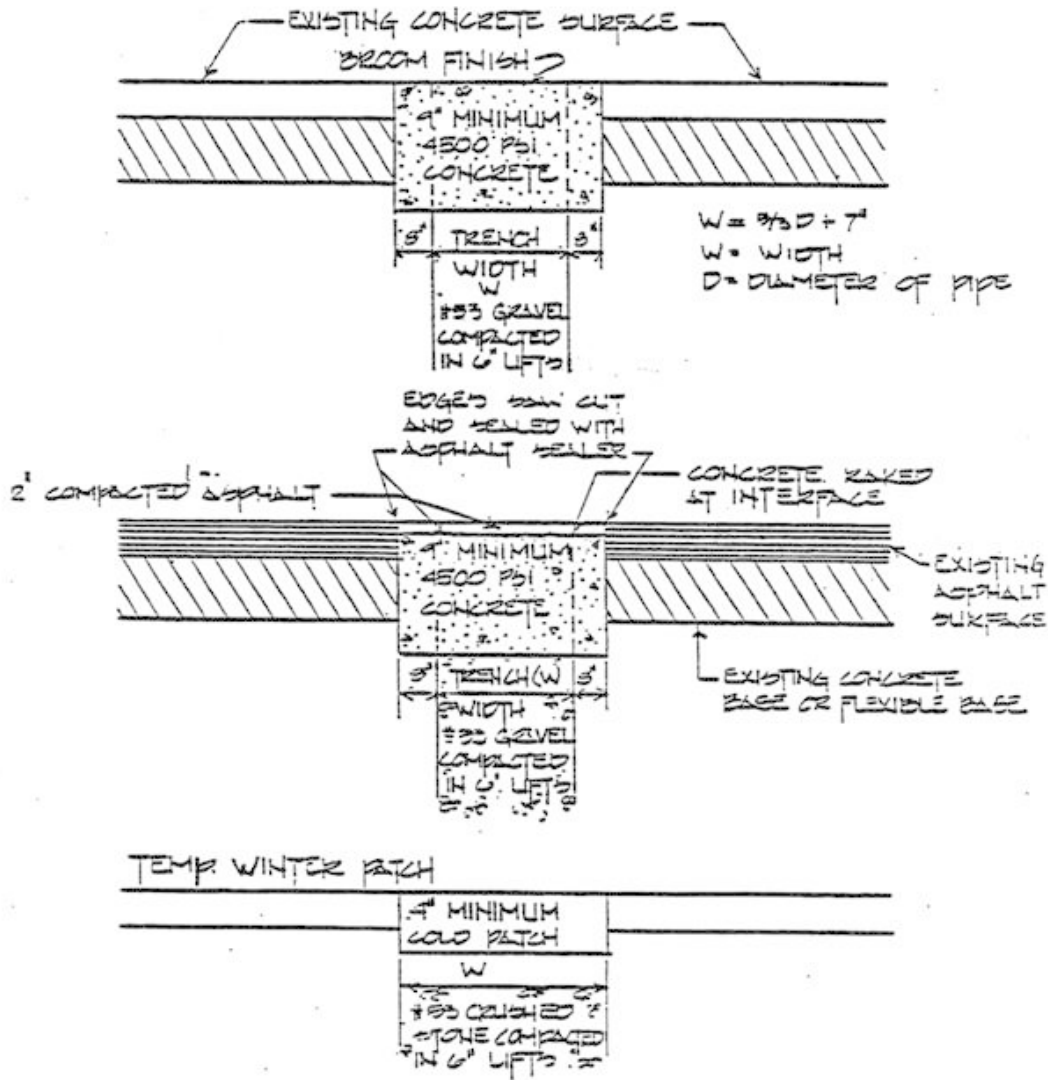
TRENCH BACKFILL DETAIL

NOT TO SCALE

- (1) Street Cuts. Street cuts shall be permanently repaired within forty-eight hours of completion of arterial street and within five days on all other after all subgrade work has been completed. Until subgrade work is completed, temporary repairs to the satisfaction of the City Engineer shall be made to the street daily in order that traffic may proceed across the cut after hours. Street cut repairs shall conform to the following standards: All

bituminous street cut repairs shall consist of a minimum of nine inches of 4000 PSI concrete with a 1.5 inch compacted hot bituminous surface, sealed along all cut edges with a bituminous sealer. All concrete street cut repairs shall consist of ten inches of 4000 PSI concrete with a broomed finished surface. All brick pavement street cut repairs shall consist of a minimum six inch 4000 PSI concrete base with the original or similar paving bricks placed on and bonded to the concrete with an all weather adhesive material. The joints between the paving bricks shall be filled by brushing dry portland cement into the joints and wetted. The Engineering Department shall be notified twenty four hours in advance of placement of a permanent patch so that an inspector may be present at the time of its placement. Any settlement that occurs within one year of completion of the cut shall be repaired to the satisfaction of the City Engineer at the applicant's expense. Failure to repair shall result in suit being filed against the contractor's bond.

CITY STANDARD FOR STREET REPAIRS



(m) Building Sewer Elevation. All buildings must have two feet of vertical drop between the lowest finish floor elevation of the building and the invert elevation of the public sewer at the point of hook on. If two feet cannot be provided, sanitary sewage shall be lifted by approved artificial means and discharged to the building sewer in such a manner that will

provide two feet of drop between the highest part of the building sewer and the invert of the public sewer. No water operated sewage ejector shall be used.

- (n) ~~Building Sewer Joints. All joints in vitrified clay pipe shall be made with ASTM C425 type joints. Joints between clay pipe of other materials shall be made with approved adapter fittings or prefabricated elastometric sealing rings or sleeves. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. Approved joints or prefabricated elastometric seal or sleeves may also be used.~~
- (o) ~~Building Sewer Connection. The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer does not have a properly located "Y" branch, the owner shall at his expense install an approved tapping saddle in the public sewer at the location specified by the City Engineer. The hole shall be drilled with a tapping machine. The tapping saddle shall be of "Y" type and shall be secured by the use of epoxy compound and two stainless steel straps. The centerline of the building sewer at the tapping saddle shall be at or above the centerline of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight. Special fittings may be used for the connection only when approved by the City Engineer. A rubber adapter or transition coupling shall be utilized to connect pipes of dissimilar materials.~~
- (p) ~~Domestic Water Service Placement. Trench bottoms shall be smooth and regular of either undisturbed soil or a layer of compacted backfill so that minimum settlement will take place. The minimum cover shall be three feet below the finished grade. Selected, properly compacted backfill shall be used. When plastic pipe is installed, #9 copper wire or metallic locator tape shall be buried immediately above the pipe and extending its entire length to facilitate future location.~~

17.08.090 ~~Special electrical regulation.~~

~~No person, firm, association or corporation shall furnish any electric current to any building hereafter wired for electricity within this jurisdiction, until it has been furnished with a certificate signed by the electrical inspector showing that such work conforms to this title.~~

17.08.100 Permits involving demolition.

Any permit issued by Monroe County or the city of Bloomington authorizing demolition of any building or structure within the city corporate boundaries, whether denominated a "demolition permit" or any other type of permit authorizing demolition, shall require approval by ~~city engineering~~ the planning and transportation department, which shall not approve such permit until the ~~planning~~ director or his or her designee has approved such permit. Approval by the ~~planning~~ director shall indicate that the proposed demolition complies with all applicable provisions of Titles 8 and 20 of the Bloomington Municipal Code, including but not limited to

those provisions restricting demolition of certain buildings and structures on the historic inventory. In the case of a permit authorizing work that includes partial demolition governed by the demolition delay waiting period of Section 20.09.230, the requirements of Section 20.09.040(b) shall obtain and the recipient shall be bound by the submission as provided in Section 20.09.120(d)(6)(B). In such case, a new permit application shall be required for any work that substantially deviates from the submission, and such new permit application shall commence a new waiting period, as provided by Section 20.10.230 "Demolition delay" of the Unified Development Ordinance.

~~Chapter 17.12 LICENSE REQUIREMENTS AND BOARDS~~

Comment [pmm20]: With the building interlocal we no longer regulate or license electricians or plumbers. This is a section of the code we do not utilize.

~~Sections:~~

- ~~17.12.010 Electric license required.~~
- ~~17.12.020 Electric license classifications.~~
- ~~17.12.030 Electric license -- Reciprocity.~~
- ~~17.12.040 Electric license -- Examination required.~~
- ~~17.12.050 Electric license re-examination.~~
- ~~17.12.060 Electric license -- Examination -- Notice of time and place.~~
- ~~17.12.070 Electric license -- Expiration -- Renewal~~
- ~~17.12.080 Electric license -- Disposition of fees.~~
- ~~17.12.090 Exceptions to electric licensing requirements.~~
- ~~17.12.100 Suspension of electric license -- Appeal.~~
- ~~17.12.110 Plumbing registration.~~
- ~~17.12.120 Plumbing contractors.~~
- ~~17.12.130 Journeymen plumbers.~~

~~17.12.010 Electric license required.~~

~~It is unlawful for any person to engage in the electrical contracting business or to work as an electrical contractor within this jurisdiction without having first obtained a license to do so in the manner provided in this chapter.~~

~~17.12.020 Electric license classifications.~~

~~There shall be two types of electrical contracting licenses and any person desiring to qualify and obtain a license to engage in the business as an electrical contractor shall pay to the controller of the City the following sums as registration fees:~~

- ~~(a) — Residential electrical contractor. A registration fee of thirty five dollars shall be assessed for registration and examination with an additional fee of fifty dollars for license issuance. Annual renewal fees will be fifty dollars payable January 1st and nonrenewable after January 31st.~~
- ~~(b) — Commercial, industrial electrical contractor. A registration fee of fifty dollars shall be assessed for registration and examination with an additional fee of one hundred dollars for license issuance. Annual renewal fees will be one hundred dollars payable January 1st and nonrenewable after January 31st.~~

~~17.12.030 Electric license — Reciprocity.~~

~~The Board may establish a reciprocity agreement with any other municipality or other government body for exemption from the examination requirements. License applications of this basis shall be accompanied by the appropriate registration fee and, upon Board approval of such registration, and the applicable license fee shall also be paid prior to issuing the license.~~

~~17.12.040 Electric license — Examination required.~~

~~Any person desiring to be licensed to perform electrical work or to engage in the business of electrical contractor within this jurisdiction shall be required to pass an examination before the Board. Such examination shall evaluate the applicant's ability, experience, training, and fitness to engage in such work. Upon successfully passing the examination and the payment of fees as appropriate, the applicant shall be issued a license by the city controller pursuant to the order directing the issuance of such license by the Board.~~

~~17.12.050 Electric license re-examination.~~

~~In the event an applicant fails to pass the examination given by the Board, such applicant may, after sixty days have elapsed from the date of filing the original application, file a second application and upon the payment of fees, shall be given a second examination by the Board.~~

~~17.12.060 Electric license — Examination — Notice of time and place.~~

~~All applicants for electrical contractor licenses may take the examination, upon seventeen day's notice to the electrical inspector, at the time and place designated by the electrical inspector.~~

~~17.12.070 Electric license — Expiration — Renewal.~~

~~All licenses issued under the terms of this chapter shall expire on the thirty first day of December in the year for which the same was issued. No license shall be issued for a longer period than one calendar year, but a license may be renewed without re-examination as hereinafter provided. No license holder shall be entitled to renew his license without examination unless he files an application in due form, with proper fee, for such renewal, not later than thirty days after the expiration of his latest license, in the office of the City Engineer, but if the application is so filed and the fee is so paid within thirty days from the expiration date of the latest license, then such renewal shall be granted without examination. No license shall be transferable to any other person, firm, corporation, or partnership.~~

17.12.080 Electric license -- Disposition of fees.

All fees for registration and for electrical contractor license shall be deposited in and become a part of the City general fund.

17.12.090 Exceptions to electric licensing requirements.

- (a) All electrical installation within this jurisdiction shall be made by an electrical contractor licensed under the provisions of this chapter but nothing in this chapter shall be construed as prohibiting an owner of a single family residence from making normal electrical installation for his own residence.
- (b) The licensing provisions of this chapter shall not apply to any person or the employees of any firm when such person or firm is not related to the business of electrical contracting, but employs personnel and maintains an electrical service department to perform electrical service work to repair electric wiring upon his or its own property.

17.12.100 Suspension of electric license -- Appeal.

The Mayor of the City is authorized to suspend for any determinate period the license of any electrical contractor issued under the provisions of this chapter. All such suspensions by the Mayor shall be made after recommendation by the Board and upon a hearing by the Mayor. Such recommendations shall be in writing and shall set forth specifically the reasons for such action by the Board. Any person aggrieved by the action of the Mayor in suspending any license under this chapter may appeal to the circuit or superior court of Monroe County by filing therein, within ten (10) days after the action of the Mayor, his complaint against the City and the Board setting forth in such complaint the action of the Mayor complained of and specifying in what way such action by the Mayor is wrongful.

17.12.110 Plumbing registration.

It is unlawful for any person to engage in the plumbing business or practice of plumbing, either as a plumbing contractor or journeyman plumber within this jurisdiction, unless such person has been duly registered as a plumbing contractor or journeyman plumber under the terms and provisions of this chapter.

17.12.120 Plumbing contractors.

Any person desiring to be registered as a plumbing contractor must first show evidence of being licensed with the State of Indiana. Upon presentation of such evidence and registration fee of fifty dollars the City Controller shall register such person as a registered plumbing contractor

~~for the remainder of the calendar year, and assign to such contractor a registration number. Registration expires on December 31st of each year.~~

17.12.130 Journeymen plumbers.

~~Any person desiring to be a journeyman plumber in this jurisdiction must first show evidence of being licensed with the State of Indiana. Upon presentation of such evidence and a registration fee of fifteen dollars the City Controller shall register such person as a journeyman plumber for the remainder of the calendar year, and assign a number until such time as his registration is allowed to lapse. His registration shall be continued from year to year upon proof of a State License and payment of the annual registration fee.~~

Chapter 17.16 UNSAFE BUILDING LAW

Sections:

- 17.16.010 Title.**
- 17.16.020 Adoption by reference.**
- 17.16.030 Public nuisance.**
- 17.16.040 Definitions.**
- 17.16.050 Order and notice.**
- 17.16.060 Hearing and review.**
- 17.16.070 Emergency orders.**
- 17.16.080 Manners of performance.**
- 17.16.090 Costs.**
- 17.16.100 Unsafe building fund.**
- 17.16.110 Standards of work.**
- 17.16.120 Inspection warrants.**
- 17.16.130 Legal proceedings.**
- 17.16.140 Violations.**

17.16.010 Title.

This chapter shall be known as the Unsafe Building Law of the City of Bloomington, Indiana.

17.16.020 Adoption by reference.

Indiana Code 36-7-9-1—36-7-9-28 is hereby accepted by reference as the City of Bloomington Unsafe Building Law. In the event provisions of this ordinance conflict with provisions of Indiana Code 36-7-9-1—36-7-9-28, then provisions of the state statute shall control. The rules of the Indiana Fire Prevention and Building Safety Commission are adopted as the standard for construction for matters considered by this ordinance.

17.16.030 Public nuisance.

All buildings or portions thereof within the city which are determined after inspection by the ~~city engineer or~~ housing and neighborhood development ~~manager~~ department to be unsafe as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal. The ~~city engineer or~~ housing and neighborhood development ~~manager~~ department ~~are~~ is authorized to order repair or removal of unsafe buildings according to procedures described in this ordinance.

17.16.040 Definitions.

As used in this chapter the following terms have the following meanings unless otherwise designated:

- (a) "Department" means the ~~engineering~~ housing and neighborhood development department of the city authorized to administer this chapter.
- (b) "Enforcement authority" means ~~the city engineer~~, the director of housing and neighborhood development, or a designee ~~of either~~.
- (c) "Hearing authority" means the board of public works of the city, designated by the mayor as the official hearing board for disputes from the rules and regulations set forth in this chapter. Appeals and variances shall be through the Indiana Fire Prevention and Building Safety Commission.
- (d) "Sealing a building" means that the structure is padlocked, posted with a notice forbidding entry and all ground and first floor openings are secured in a manner directed by the enforcement authority to prevent entry.
- (e) "Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.
- (f) "Unsafe building or structure" means any building or structure or part of building or structure that is:
 - (1) In an impaired structural condition that makes it unsafe to a person or property; or
 - (2) A fire hazard; or
 - (3) A hazard to the public health; or
 - (4) A public nuisance; or
 - (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
 - (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance; or
 - (7) In any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:
 - (aa) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
 - (bb) Whenever the stress in any materials, member or portions thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose, or location;

- (cc) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location;
- (dd) Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;
- (ee) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
- (ff) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses permitted for such buildings;
- (gg) Whenever the building or structure, or any portion thereof, because of (A) dilapidation, deterioration, or decay; (B) faulty construction; (C) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (D) the deterioration, decay, or inadequacy of its foundation; or (E) any other cause, is likely to partially or completely collapse;
- (hh) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;
- (ii) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plum line passing through the center of gravity does not fall inside the middle one-third of the base;
- (jj) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;
- (kk) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become (A) an attractive nuisance to children, or (B) freely accessible to persons for the purpose of committing unlawful acts;
- (ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building

regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

- (mm) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than fifty percent, or in any supporting part, member, or portion less than sixty-six percent of the (A) strength, (B) fire resisting qualities or characteristics; or (C) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location;
 - (nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease;
 - (oo) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the engineering department to be a fire hazard;
 - (pp) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (g) "Unsafe premises" includes both an unsafe building and tract of real property on which the building is located.

17.16.050 Order and notice.

- (a) The enforcement authority is authorized to issue an order requiring any remedies described in IC 36-7-9-5 and containing information and time limit required by that reference.
- (b) An order requiring sealing a building under IC 36-7-9-5(a) requires notification to each person holding any fee interest or life estate; for other orders under IC 36-7-9-5 each person having a substantial property interest in the unsafe premises must be notified. Notification procedure shall be as stated in IC 36-7-9-25.

17.16.060 Hearing and review.

Hearing and review are provided as set forth in IC 36-7-9-7 and 36-7-9-8. A hearing is not required to carry out an order to seal a building, but a previously issued order to seal may be modified or rescinded as long as the persons previously notified have been notified of the change or rescision by means of a written statement as set out in IC 36-7-9-6. The order to seal does not become final until ten days from issuance within which time a fee interest or life estate holder may request in writing a hearing.

17.16.070 Emergency orders.

Emergency action in order to protect life, safety or property may be taken without issuing an order or giving notice, but shall be taken in accordance with IC 36-7-9-9. The action is limited to removal of any immediate danger. The city may recover costs of the action by filing suit in circuit or superior court against persons holding fee interest or life estate in the premises at the time. As an alternative, the enforcement authority may bring a civil action under IC 36-7-9-17 and 36-7-9-22, alleging the existence of unsafe premises presenting an immediate danger to the community sufficient to warrant emergency action. In such case there shall be a hearing within ten days on the complaint.

17.16.080 Manners of performance.

Manners of performance of work including bids and notification are to be in accordance with IC 36-7-9-11.

17.16.090 Costs.

Costs for work performed under this chapter are the responsibility of the fee interest or life estate holders in the unsafe premises. Costs shall be determined on the basis of the factors listed in Indiana Code 36-7-9-12. Objections and requests for a hearing on bills submitted to responsible parties may be filed in circuit or superior court. Unpaid costs are subject to the procedures in Indiana Code 36-7-9-13 and Indiana Code 36-7-913.5, and may result in a judgment, special tax assessment, and/or lien on real or personal property of persons responsible for the costs.

17.16.100 Unsafe building fund.

An unsafe building fund is hereby established in the operating budget of the city in accordance with the provisions of IC 36-7-9-14.

17.16.110 Standards of work.

All work for reconstruction, alteration, repair or demolition shall be performed in good workmanlike manner according to the accepted standards and practices in the trade. Rules pertaining to construction, plumbing, electrical, mechanical, and one and two family dwellings, promulgated by the Indiana Fire Prevention and Building Safety Commission, shall be considered accepted standards and practice.

17.16.120 Inspection warrants.

The enforcement authority may obtain an inspection warrant from the court in cases when the owner or possessors refuse the authority permission to inspect as provided in IC 36-7-9-16.

17.16.130 Legal proceedings.

The ~~engineering department~~ or director of housing and neighborhood development may direct the legal department to bring civil action in the circuit or superior court seeking remedies authorized in Indiana Code 36-7-9-19—36-7-9-22, including a request to the court for forfeiture up to one thousand dollars.

17.16.140 Violations.

It shall be a violation of this chapter for a person to (a) remain in, use, or enter a building in violation of this chapter, (b) knowingly interfere with or delay the carrying out of an order made under this section, (c) knowingly obstruct, damage, or interfere with persons engaged or property used in performing any work or duty under this chapter or (d) fail to comply with IC 36-7-9-27 regarding information on transfers of property interest. Violators shall be subject to a fine not to exceed five hundred dollars for each offense. Each day the violation continues shall constitute a separate offense.