

City of Bloomington Common Council

Legislative Packet

Committee of the Whole

Wednesday, 24 October 2012

All materials are included herein.

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



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Discussion at the Committee of the Whole:

- **Res 12-14** To Approve an Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana – Re: Building Code Authority
 - Memo to Council from Margie Rice, Corporation Counsel;
 - Interlocal Agreement (Building Code Authority)

*Contact: Margie Rice at 349-3426 or ricem@bloomington.in.gov
Tom Micuda at 349-3423 or micudat@bloomington.in.gov*

Memo

Reminder: Internal Work Session on Monday at Noon in the McCloskey Room

**One Resolution for Discussion at the Committee of the Whole
on Wednesday, October 24th**

There is one resolution ready for discussion at the Committee of the Whole next Wednesday. It is included in this packet and is summarized below.

Item One – Res 12-14 (Approving the Interlocal Agreement with the County Regarding Building Code Authority)

Res 12-14 approves an Interlocal Agreement with the County which would continue the County's authority over the administration of building codes for another five years. The City and County have had agreements over building codes and the planning and zoning jurisdictions since 1996, when the County adopted a comprehensive plan and was able to exercise zoning authority over the former 2-mile fringe. As Margie Rice, Corporation Counsel, notes in her memo, its principal benefit is in "provid(ing) convenient and efficient "one-stop-shopping"

for citizens of Monroe County and the City of Bloomington” who are in need of building permits.

Since 1996, the parties have continued this cooperation with a series of legislation that, on occasion called for brief extensions to allow for completion of negotiations, and more often, granted full, five-year agreements.¹ The current agreements expired in March 31, 2012 and, while the parties are still negotiating the agreement regarding planning and zoning, the agreement on building code authority is now ready for your consideration.²

This agreement would cover the period from April 1, 2012 to March 31, 2017 and contains essentially the same terms as the last one. The remainder of this summary briefly describes the significant terms of the agreement.

Under the agreement, the Monroe County Building Department will enforce all State building, plumbing, electrical, mechanical, energy conservation and fire building safety codes within the City and unincorporated areas of the County, and the City will administer all planning, zoning, and subdivision compliance functions within the City’s Zoning Jurisdiction Area.³

Along with providing for the future modification of the agreement and liberal interpretation of their terms, recognizing that each term is contingent upon the appropriation of funds, and requiring that cooperation be not unreasonably withheld, the remainder of the agreement provides for the following:

- The Monroe County Building department will process all permits and fees related to the building codes.
- The City Planning Department will pick up and drop off permit materials every day until the County is able to transmit this information electronically and both parties agree to make their best efforts to expedite the permitting process.

¹ The legislation authorizing past agreements included: Res 96-33 (authorizing a 5-year term for both the planning and building codes); Res 01-31 (authorizing a 3-month extension for both planning and building codes); Res 02-09 (authorizing a 5-year term for planning and zoning) and Res 02-10 (authorizing a 1-year term for building codes); Res 02-38 (authorizing a 4-year term for the building codes); and, Res 07-02 (authorizing a 5-year term for one agreement covering both planning, zoning and building codes).

² The agreement was signed by the Monroe County Commissioners last month.

³ The term “City Zoning Jurisdiction Area” is defined as “those portions of the County over which the City, by law or interlocal agreement, possesses planning, zoning, and subdivision control authority.” This definition will account for any change in zoning jurisdiction that might arise as a result of a new interlocal agreement with the County in that regard.

- The Monroe County Building department shall not to issue a building permit within the City's planning jurisdiction without receiving a certificate of zoning compliance from the City and without transcribing the conditions onto the permit. They shall not issue any occupancy permit without requiring compliance with the conditions of the permit.
- The City will be responsible for determining zoning and subdivision compliance and administer bonds within its planning jurisdiction area and the County must e-mail any notice of certificate of occupancy permit to the City in order to facilitate simultaneous inspections. Both parties agree to provide information requested by the other party in a timely fashion.
- For residential rental property within the corporate limits, the County may not issue any type of permit that changes the disposition of the structure until the HAND department has reviewed and released the application and cannot issue a certificate of occupancy until HAND has confirmed compliance with the Property Maintenance Code.
- The County will waive fees for affordable housing projects within the City as provided by BMC 17.08.050(c).
- The County will cooperate with the City in sharing GIS information. This will entail handling and transmitting permit-related data to the City in a manner that meets the City's needs, yet accounts for the County's capabilities.
- The County will notify the appropriate Fire department of pertinent applications and transcribe all the requested notations onto the temporary and permanent Certificates of Occupancy. The County will also notify the City Fire Department of all applications for variance from the fire code regarding properties within the City in order to help coordinate communication with the State Fire and Building Safety Commission.
- The County shall inspect permit activity in areas between buildings and the connection to the City's main or meter, and determine compliance with applicable ordinances and regulations.
- The County shall issue Stop Work Orders upon the written request of the City Planning Director, Manager of Engineering Services, or the Director of HAND. These orders will be used to stop construction activity when there has been a violation of the zoning or subdivision ordinance or in those circumstances when the matter will be presented to the Board of Zoning Appeals. The party whose ordinance(s) have been violated will be responsible for enforcing the violation.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL COMMITTEE OF THE WHOLE
7:30 P.M., WEDNESDAY, OCTOBER 24, 2012
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

Chair: Chris Sturbaum

1. Resolution 12-14 Approval of Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana— Re: Building Code Authority

Asked to Attend: Tom Micuda, Director, Planning Department
Margie Rice, Corporation Counsel



City of Bloomington
Office of the Common Council

To Council Members
From Council Office
Re Weekly Calendar – 22– 27 October 2012

Monday, 22 October

12:00 pm Staff – Council Internal Work Session, McCloskey
5:00 pm Utilities Service Board, Utilities Board Room, 600 E. Miller Dr.
5:30 pm Bloomington Human Rights Commission, McCloskey

Tuesday, 23 October

4:00 pm Board of Park Commissioners, Council Chambers
5:30 pm Bloomington Public Transportation Corporation Board of Directors, Public Transportation Center, 130 W. Grimes Lane
5:30 pm Board of Public Works, Council Chambers
5:30 pm Deer Task Force, Hooker Room
5:30 pm ArtWORKS, McCloskey

Wednesday, 24 October

10:00 am Metropolitan Planning Organization Technical Advisory Committee, McCloskey
4:30 pm Dr. Martin Luther King, Jr. Birthday Commission, McCloskey
5:30 pm Traffic Commission, Council Chambers
6:30 pm Metropolitan Planning Organization Citizens' Advisory Committee, McCloskey
7:30 pm Common Council—Committee of the Whole, Council Chambers

Thursday, 25 October

10:30 am Address Coordination Meeting, McCloskey
11:00 am Monroe County Suicide Prevention Coalition Awareness Committee, Kelly
11:00 am Monroe County Suicide Prevention Coalition Training Committee, Hooker Room
12:00 pm Monroe County Suicide Prevention Coalition, Hooker Room
5:15 pm Monroe County Solid Waste Management District Citizens' Advisory Committee, McCloskey
6:30 pm Arts Alliance of Greater Bloomington, Council Chambers
7:00 pm Environmental Commission, McCloskey

Friday, 26 October

12:00 pm Economic Development Commission, Hooker Room

Saturday, 27 October

9:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

Posted and Distributed: Friday, 19 October 2012

RESOLUTION 12-14

APPROVAL OF INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF BLOOMINGTON AND MONROE COUNTY, INDIANA -

Re: Building Code Authority

WHEREAS, Indiana Code allows and permits governmental entities to jointly exercise powers through interlocal cooperation agreements; and

WHEREAS, the City of Bloomington and Monroe County have exercised such powers since 1996 in order to coordinate and combine certain building code services, as explained and set forth in the attached Interlocal Cooperation Agreement which is incorporated herein as Exhibit A (“Agreement”); and

WHEREAS, the Board of Commissioners of Monroe County previously approved the attached Agreement, extending cooperation under same or similar terms for a period from April 1, 2012 until March 31, 2017; and

WHEREAS, it is in the best interests of the citizens of Bloomington that such cooperation continue for the above-stated period of time;

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

SECTION 1. It is in the best interests of the citizens of Bloomington, Indiana, to coordinate and combine certain building code services through interlocal cooperation with Monroe County Government as has been done since 1996; therefore, the City of Bloomington shall continue such cooperation from 2012 until 2017, under the terms of the attached Interlocal Cooperation Agreement.

SECTION 2. The Common Council of the City of Bloomington, as the fiscal and legislative body of the City of Bloomington, in Monroe County, Indiana, hereby approves the Interlocal Cooperation Agreement, pursuant to IC 36-1-7-1, et seq.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2012.

TIMOTHY MAYER, 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 _____, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

The attached Interlocal Cooperation Agreement extends the long-term arrangement between the City of Bloomington, Indiana and the County of Monroe, Indiana, to combine and coordinate the provision of certain building code services. The interlocal cooperation is allowed by Indiana Code 36-1-7-1.



**CITY OF BLOOMINGTON
LEGAL DEPARTMENT
MEMORANDUM**

TO: Members of the Common Council of the City of Bloomington

FROM: Margie Rice, Corporation Counsel

**CC: Mark Kruzan, Mayor
Dan Sherman, Council Administrator/Attorney**

RE: Interlocal Agreement for Building Code Services

DATE: October 16, 2012

Since 1996, the City of Bloomington and the County of Monroe, Indiana, have worked cooperatively to combine and coordinate certain City and County building code services. The Interlocal Cooperation Agreements, entered into over the years under the authority of Indiana Code 36-1-7-1 et seq., have provided convenient and efficient “one-stop-shopping” for citizens of Monroe County and the City of Bloomington. Citizens can go to a single entity – the Monroe County Building Department – for all questions related to permit application processing and issuance, project inspections, and building code administration regardless of whether the project is located within or outside of City limits.

The proposed Agreement is essentially the same as in years’ past, given that the terms have worked well for both the City and the County. The Monroe County Commissioners approved a five-year extension of the Interlocal Cooperation Agreement on September 7, 2012, making the agreement retroactive to April 1, 2012. The agreement provides that the Monroe County Building Department shall enforce all State building, plumbing, electrical, mechanical, energy conservation, and fire building safety codes, as adopted by City and County ordinances, within the corporate limits of the City, and within all other unincorporated areas of Monroe County, Indiana. The City administers planning, zoning, and subdivision compliance functions within the City Zoning Jurisdiction Area, including, without limitation, the assignment of street addresses. The City Zoning Jurisdiction Area is confined to the City limits or any areas of the County which by law or interlocal cooperation agreement the City possesses control and authority. No authority is lost by either entity as a result of the Agreement, but authority is shared cooperatively to the benefit of all citizens and taxpayers.

Details are provided in the Agreement to assure smooth operations. For example, provisions are made for the County to accept fees for projects within the City and remit those to the City on a quarterly basis. City zoning compliance review and the issuance of a certificate of zoning compliance are conditions precedent to the issuance of a building permit by the County. Further, the County shall ensure certain City departments, namely Housing and Neighborhood Development and Fire, inspect and approve the areas over which they have jurisdiction prior to issuing certificates of occupancy.

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE
CITY OF BLOOMINGTON AND MONROE COUNTY, INDIANA
REGARDING BUILDING CODE AUTHORITY

WHEREAS, Indiana Code § 36-1-7-1 et seq. permits governmental entities to jointly exercise powers through interlocal cooperation agreements; and

WHEREAS, in 1996, the City of Bloomington, Indiana ("City"), acting by and through its Mayor and its Common Council, and the County of Monroe, Indiana ("County"), acting by and through its Board of Commissioners and its County Council, determined that the interests of the citizens of Monroe County, Indiana, would be better served by coordinating and combining certain City and County building code services through an interlocal cooperation agreement; and

WHEREAS, in 1996, the City and the County entered into a five-year interlocal cooperation agreement, effective beginning April 1, 1997, that conferred County-wide Building Code administration authority on the Monroe County Building Department; and

WHEREAS, in March of 2002 said interlocal cooperation agreement was extended for a one year period, ending March 31, 2003, and in January of 2003, said interlocal cooperation agreement was extended for an additional four year period, ending March 31, 2007; and in April of 2007, said interlocal cooperation agreement was extended for a five year period ending March 31, 2012.

WHEREAS, the City and the County have determined that it is more cost effective and convenient for the citizens of Monroe County, Indiana, to continue to have the authority, power and responsibility for local building code administration, including permit application processing, project inspection, and permit issuance vested in a single entity, the Monroe County Building Department; and

WHEREAS, this Interlocal Cooperation Agreement ("Agreement") reflects the commitments and understandings agreed to by the City and the County in order to efficiently and effectively provide the transfer of powers between the City and the County;

NOW, THEREFORE, the City and the County hereby agree as follows:

Part 1. Definitions.

"Building Permit" shall include without limitation any permit for construction, remodeling, demolition, moving, plumbing, electrical, or any other permit that affects construction, demolition, use and/or occupancy of land, buildings or structures, provided that such permit is within the scope of "Building Code Jurisdiction" as defined herein.

"Building Code Jurisdiction" refers to applicability, administration and enforcement of City and County ordinances adopting state building, plumbing, electrical, mechanical, energy conservation, swimming pool, and fire safety codes; specifically, this term refers to Monroe County Code Chapter 430 and to those portions of Bloomington Municipal Code Title 17 that concern such State codes.

"City Zoning Jurisdiction Area" refers to those portions of the County over which the City, by law or by interlocal cooperation agreement, possesses planning, zoning, and subdivision control authority.

"County Zoning Jurisdiction Area" refers to those portions of the County over which the County, by law or by interlocal cooperation agreement, possesses planning, zoning, and subdivision control authority.

Part 2. Building Code Jurisdiction.

The Monroe County Building Department shall enforce all State building, plumbing, electrical, mechanical, energy conservation, and fire building safety codes, as adopted by City and County ordinances, within the corporate limits of the City, and within all other unincorporated areas of Monroe County, Indiana. The City will administer planning, zoning, and subdivision compliance functions within the City Zoning Jurisdiction Area, including, without limitation, the assignment of street addresses.

- A. The Monroe County Building Department shall accept building permit applications and will provide review, issue permits, receive fees, and provide inspections and enforcement, as required, for all buildings within the County in accordance with County Building Codes.
- B. City zoning compliance review and the issuance of a Certificate of Zoning Compliance ("CZC") by the City are conditions precedent to the issuance of a building permit for any project located within the City Zoning Jurisdiction Area. For projects located within the City Zoning Jurisdiction Area, the County will collect the City Zoning Compliance Review Fee, in the amount established by the City, in addition to the County Building Permit Fee.
- C. The County will not issue a building permit for a project located within the City Zoning Jurisdiction Area unless and until a Certificate of Zoning Compliance has been issued for the project by the City. The County will transcribe the CZC conditions required by the City onto the building permit; and the County will require compliance with the conditions as part of any temporary or permanent Certificate of Occupancy issued for the project by the County.
- D. The City Planning Department will send a staff person to the Monroe County Building Department once a work day to pick up and return all permit application materials until such time as the Monroe County Building Department is able to electronically transmit such application materials directly to the City Planning Department. Both parties agree to make their best efforts to expedite the processing of permits under this agreement, and specifically, County agrees to insure that permit applications are ready to be picked up by

the City Planning Department as soon as reasonably possible after receipt by the County, and City agrees to review and act upon all permit applications as soon as reasonably possible after receipt from the County.

- E. The City will inspect and enforce zoning and subdivision compliance and administer bonds within the City Zoning Jurisdiction Area. The Monroe County Building Department will e-mail the City Planning Department a Notice of Certificate of Occupancy Inspection to allow the City and the County inspections to take place simultaneously where reasonably possible. The County and the City will cooperate in providing information requested by the other party in a timely fashion.
- F. The County will not issue any construction, remodel, demolition, moving, or any other type of permit that might change the disposition of a structure to a residential rental within the corporate limits of the City until the City Code Enforcement Division ("HAND") has completed plan review and released the application. The County will schedule all final inspections of those permits with HAND where reasonably possible. The County will not issue a Certificate of Occupancy to a residential rental property within the corporate limits of the City unless and until compliance with the City of Bloomington Property Maintenance Code has been determined by HAND.
- G. For projects located within the corporate limits of the City, the County agrees to recognize and enforce Section 17.08.050(c) of the Bloomington Municipal Code which provides for the waiver of fees under specified conditions for eligible affordable housing projects up to the amount of \$2,500.00 per year.
- H. In recognition of the City's investment in the GIS mapping system, the County agrees to collect and verify GIS data for the City in a manner consistent with both the informational needs of the City and the information gathering and processing capabilities of the County. The County shall provide such data as is customarily obtained through building permit administration and planning subdivision approvals. The County will cooperate in enhancing its computer capability and compatibility for information exchange with the City.
- I. The County will notify the appropriate Fire Department for fire code inspections and shall transcribe all notations requested by the Fire Department, with jurisdiction over the project area, on to temporary and permanent Certificates of Occupancy. The County will notify the City Fire Department to coordinate review, response, and comment to the State Fire and Building Safety Commission regarding all applications for variance within the corporate boundaries of the City.
- J. The County shall inspect for compliance with all City of Bloomington Utilities regulations and any City ordinances governing construction/connection of utilities related to permit activity between the building and the connection to City's meter or main.
- K. The County shall issue stop work orders on Building Permits issued by the County where violations of applicable City zoning/subdivision or historic preservation regulations, including erosion control, would result from continued construction activity, or where work

is stayed due to an appeal to the Board of Zoning Appeals as provided in Indiana Code § 36-7-4-1001. The County shall issue such stop work order upon written request of the City Planning Director, the Manager of Engineering Services, or the Director of Housing and Neighborhood Development. Enforcement action shall be taken by the governmental entity whose ordinances or conditions of approval have been violated.

Part 3. Recitals of Commitment, Purpose, Duration, and Renewal of Agreement.

- A. The level of cooperation recited in this Agreement is intended to exist in perpetuity for the efficient and effective delivery of governmental services to the citizens of Monroe County. However, the parties recognize that modifications may be required, both to the Agreement itself, or to the practices and procedures that bring the recitals contained within this document to fruition.
- B. The County will collect the City Zoning Compliance Review Fee specified by the City, pursuant to Part 2, Paragraph B of this Agreement, and will transmit the collected fees to the City on a quarterly basis. Payments to the City will be made as promptly as possible after April 1, July 1, October 1, and January 1 of each year of this Agreement, allowing for the County's claim processing procedures. No other payments will be due to the City, from the County, under this Agreement.
- C. The term of this Agreement shall be for five (5) years, commencing on April 1, 2012, and ending on March 31, 2017. This Agreement may be renewed by mutual agreement of the parties for an appropriate term of years.
- D. The City and County departments affected by the terms of this Agreement will continue to communicate and cooperate together to assure that the purposes of this Agreement are achieved on behalf of and to the benefit of the citizens of Monroe County, Indiana.

Part 4. Interpretation and Severability.

- A. Because the jurisdictional approach set forth in this Agreement departs from current practice, the parties acknowledge and agree that this Agreement shall be liberally construed so that the parties can cooperatively address unforeseen problems through the implementation of policies, with minimal need for Agreement amendment.
- B. If any provision of this Agreement is declared, by a court of competent jurisdiction, to be invalid, null, void, or unenforceable, the remaining provisions shall not be affected and shall have full force and effect.

Part 5. Approval, Consent and/or Cooperation.

Whenever this Agreement requires the approval, consent and/or cooperation of a party (or parties), said approval, consent and/or cooperation shall not be unreasonably withheld.

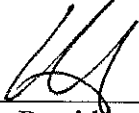
Part 6. Appropriation of Funds.

The parties acknowledge and agree that the performance of this Agreement is subject to the appropriation of sufficient funds by their respective councils. The parties agree to make a good faith effort to obtain all necessary appropriations from their councils and to comply with all provisions of this Agreement to the extent feasible under current or future appropriations.

SO AGREED this 7th day of September, 2012.

MONROE COUNTY, INDIANA
INDIANA

CITY OF BLOOMINGTON,



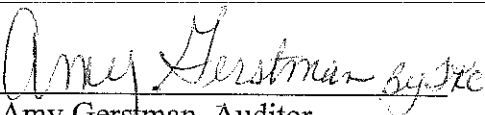
Mark Stoops, President
Monroe County Board of Commissioners

MARK KRUZAN, Mayor

Tim Mayer, President
Bloomington Common Council

ATTEST:

ATTEST:



Amy Gerstman, Auditor

REGINA MOORE, City Clerk