

ORDINANCE 23-20

**TO AMEND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “STREETS, SIDEWALKS, AND STORM SEWERS”**

Re: Establishing a New Section 12.04.130, Entitled “Obstructing the right-of-way”

- WHEREAS, pursuant to Indiana Code §§ 36-9-2-5, 36-9-6-15, 36-9-2-7, 36-9-2-6 and other legal authorities, the City of Bloomington (“City”) has the power and responsibility to act as a conscientious and diligent steward of the public’s right-of-way; and
- WHEREAS, the public’s right-of-way, which includes but is not limited to streets and sidewalks, is a common good intended for the free and open travel of the public at large and should not be appropriated for the use of singular individuals or entities to the exclusion of other members of the Bloomington community; and
- WHEREAS, individuals and entities frustrate, impede, and/or exclude the general public from using the right-of-way when they camp upon, store personal property upon, or place obstructions within the public’s right-of-way; and
- WHEREAS, among its other duties, the City has a responsibility to ensure that the public’s right-of-way is accessible and available to all members of the Bloomington community, including persons with disabilities and persons with limited mobility who are particularly vulnerable to right-of-way obstructions; and
- WHEREAS, the City should take steps to prevent individuals and entities from impermissibly obstructing the public’s right-of-way;

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

SECTION 1. A new Section 12.04.130 of the Bloomington Municipal Code entitled “Obstructing the right-of-way” shall be added to Chapter 12.04, which shall be listed as such in the Table of Contents for the chapter and shall read as follows:

Section 12.04.130 - Obstructing the right-of-way.

- (a) It is unlawful to camp in the right-of-way, store personal property in the right-of-way, or otherwise block the right-of-way in a manner that obstructs pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way. A sidewalk, street, or other public right-of-way is considered obstructed if:
- (1) more than half of its width is blocked at any point;
 - (2) the normal flow of pedestrians or vehicles is disrupted;
 - (3) pedestrians are compelled to step onto the street or otherwise expose themselves to danger in order to pass around the blockage; or
 - (4) it is rendered inaccessible to those protected by the Americans with Disabilities Act (ADA) or other local, state, and federal laws.
- (b) Individuals obstructing pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way shall be afforded at least one opportunity to remove the obstruction. Should an individual fail or refuse to comply, the City may immediately clear the right-of-way. Individuals who fail or refuse to remove an obstruction in the right-of-way after being required to do so are considered to be trespassing.
- (c) It is not a violation of this section for an individual lawfully permitted or authorized to utilize the right-of-way to obstruct the right-of-way in a manner consistent with said permit or authorization.

SECTION 2. If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions 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 3. This ordinance shall be in effect after its passage by the Common Council and approval of the Mayor, any required publication, and, as necessary, other promulgation in accordance with the law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

NICOLE BOLDEN, Clerk

SIGNED AND APPROVED by me this _____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

Ordinance 23-20 clarifies that placing obstructions within the public's right-of-way or otherwise obstructing the public's right-of-way is impermissible, and the ordinance defines the circumstances under which the right-of-way is considered to be obstructed.