

RESOLUTION 20-15

A RESOLUTION EXTENDING THE TERM OF ORDINANCE 20-11

- WHEREAS, on June 17, 2020, the Common Council passed Ordinance 20-11, which took the proactive step of suspending certain portions of the Bloomington Municipal Code during the ongoing public health emergency caused by the COVID-19 virus; and
- WHEREAS, the measures included in Ordinance 20-11 are set to expire on September 30, 2020; and
- WHEREAS, the public health emergency and the COVID-19 pandemic, as well as their impact on Bloomington’s local economy, continue; and
- WHEREAS, Ordinance 20-11, by its own terms, stated that if “the declared disaster emergency for COVID-19 continues past September 30, 2020, the City Council, at its discretion, may take up a resolution to request that [the suspended] formalities be waived for a longer period of time;” and
- WHEREAS, there is presently no sign of the declared emergency ending before September 30, 2020; and
- WHEREAS, the Plan Commission has already taken the proactive step of extending its waiver of certain sign application fees through December 31, 2020; and
- WHEREAS, the City Council therefore wishes to extend the term of the proactive measures it put into place through Ordinance 20-11 to assist the Bloomington business community’s recovery;

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

SECTION 1. The City Council hereby extends the recommended suspension of certain portions of the Bloomington Municipal Code described in Ordinance 20-11 through December 31, 2020.

SECTION 2. The City Council reserves the right to, at its discretion, further extend or, in the alternative, earlier terminate the term of Ordinance 20-11 so that the provisions of Ordinance 20-11 conclude on a date other than December 31, 2020. If the City Council desires to modify the term of Ordinance 20-11, it shall pass another similar resolution altering the term of Ordinance 20-11.

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

STEPHEN VOLAN, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2020.

NICOLE BOLDEN, Clerk
City of Bloomington

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

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This resolution extends the term of Ordinance 20-11, which is set to expire on September 30, 2020, to December 31, 2020. Ordinance 20-11 waived certain formalities contained in the Bloomington Municipal Code related to signs and seating encroachments. The temporary suspension of these formalities has assisted the local business community as it copes with and recovers from the ongoing COVID-19 pandemic.



MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: Common Council
FROM: Michael Rouker, City Attorney
RE: Resolution 20-15 – Extending the Term of Ordinance 20-11 to December 31, 2020
DATE: September 14, 2020

Three months ago during June, in response to the economic fallout caused by the COVID-19 pandemic, the local business community requested that the City Council take several proactive and temporary steps to encourage economic survival and recovery for businesses affected by the COVID-19 pandemic. In response, the City Council passed Ordinance 20-11, which: (1) eased sign regulations for downtown businesses, (2) simplified the procedure for obtaining a sign permit, (3) authorized the periodic closure of portions of Kirkwood Avenue to pedestrian traffic, and (4) allowed for expanded merchandizing and seating encroachments for local businesses.

The measures put into place via Ordinance 20-11 are set to expire on September 30, 2020. However, as the COVID-19 pandemic shows no signs of abating, both the local business community and staff believe that the wise and proactive measures taken by the City Council via Ordinance 20-11 should be extended through December 31, 2020. In Ordinance 20-11, the City Council indicated that it could, at its own discretion, extend the term of Ordinance 20-11 by a future resolution in the event that the COVID-19 pandemic was ongoing. Using this mechanism, Resolution 20-15 extends the term of Ordinance 20-11 through December 31, 2020. Staff recommends that the Common Council adopt Resolution 20-15, which will extend through the end of the year those measures first enacted to aid our local businesses in coping with the economic strain occasioned by the COVID-19 pandemic.

ORDINANCE 20-11

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

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

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

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

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

SECTION 2. Through September 30, 2020, the City of Bloomington Common Council requests that certain sidewalk seating and merchandising encroachment requirements contained in Title 12 of the Bloomington Municipal Code be suspended. This is part of an initiative which, where it may be necessary, is authorized and approved by the Common Council. The initiative would:


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

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

SECTION 4. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in force and effect from and after its passage by the Common Council and approval of the Mayor.


PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 17 day of June, 2020.


STEPHEN VOLAN, President
Bloomington Common Council

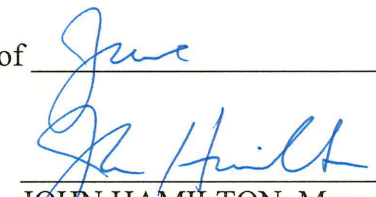
ATTEST:


~~NICOLE BOLDEN, Clerk~~ Nico Sigler, Deputy Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 19 day of June, 2020.


~~NICOLE BOLDEN, Clerk~~ Nico Sigler
City of Bloomington

SIGNED and APPROVED by me upon this 23rd day of June, 2020.


JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

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

Note: This ordinance was revised after it was distributed in the weekly Council Legislative Packet and before it was introduced at the Special Session on Wednesday, June 10, 2020. The revisions added sidewalk merchandising to Section 2 and the Synopsis.

Distributed to Clerk, Controller, Council Attorney, Legal, and Mayor.