



MEMO FROM COUNCIL OFFICE ON:

Ordinance 23-04 through **Ordinance 23-07** – Four proposals certified to the Council by the Plan Commission to amend the text of Title 20 of the Bloomington Municipal Code (BMC) entitled “Unified Development Ordinance” (UDO)

Background

On March 6, 2023, the Plan Commission considered four proposals brought forward by city planning staff to make various changes to the UDO (this Plan Commission meeting can be viewed online here: <https://catstv.net/m.php?q=12184>). The following table lists the four proposals and relevant information for each:

Council Ordinance #	Plan Com. Case #	Plan Com. Vote	Date certified to Council	90 days from certification
Ordinance 23-04 - Technical Corrections	ZO-04-23	9-0-0	March 15, 2023	June 13, 2023
Ordinance 23-05 - Chapter 3: Use Regulations Chapter 5: Subdivision Standards Chapter 7: Definitions	ZO-05-23	9-0-0	March 15, 2023	June 13, 2023
Ordinance 23-06 - Chapter 4: Development Standards & Incentives	ZO-06-23	8-0-0	March 15, 2023	June 13, 2023
Ordinance 23-07 - Chapter 6: Administration & Procedures	ZO-07-23	8-0-0	March 15, 2023	June 13, 2023

This memo addresses relevant procedures and considerations applicable to these four ordinances. Please note that the materials forwarded by the Plan Commission and planning staff included one redline document showing potential changes proposed by all four ordinances. The Council Office has requested that separate redline documents be provided for each ordinance so that the Council can review the changes associated with each individual proposal. Planning staff have prepared individual memos that explain the proposals, along summary tables of changes for each.

Relevant Materials

- Ordinance 23-04 through Ordinance 23-07
- Red-line amendments showing changes proposed by the four ordinances
- Certification forms from Plan Commission for each ordinance
- Attachment A & staff memo, with tables summarizing changes for each ordinance



Contacts

Scott Robinson, Director, Planning and Transportation Department, 812-349-3423, robinsos@bloomington.in.gov

Jacqueline Scanlan, Development Services Manager, 812-349-3423, scanlanj@bloomington.in.gov

Summary

The administration is proposing text amendments to the city's Unified Development Ordinance ("UDO") as part of an effort to bring regular maintenance updates forward. These proposed changes follow an overhaul of the UDO that began several years ago. General information about the UDO, including the complete text of the current UDO, can be found here: <https://bloomington.in.gov/planning/udo>. For information about the Council's 2019 repeal and replacement of the UDO, please visit the following site: <https://bloomington.in.gov/council/plan-schedule>. Finally, councilmembers and the public can find the city's Comprehensive Plan online here: <https://bloomington.in.gov/planning/comprehensive-plan>.

A summary of the changes that each ordinance proposes is as follows:

- Ordinance 23-04 makes administrative, technical corrections to the UDO, including correcting misspellings, misplaced references, missing periods, and other formatting errors.
- Ordinance 23-05 includes administrative and substantive changes to Chapters 3, 5, and 7 of the UDO regarding use regulations, subdivision standards, and definitions. Changes include those required by state law regarding floodplain regulation administration and other changes that clarify existing provisions.
- Ordinance 23-06 addresses several administrative and substantive changes to Chapter 4 of the UDO regarding design standards and incentives. Changes vary widely from those that substantively alter design requirements to those that clarify existing provisions in an attempt to increase consistency, clarify existing practices, align code with state law, and consider future development in relation to city plans and policies.
- Ordinance 23-07 makes several substantive and administrative changes to Chapter 6 of the UDO regarding administration and procedures. The changes identified were made to clarify existing processes, alter the appeals process, and revise language to reflect current definitions in code.

For more information on the specific details regarding the proposed changes, please consult the staff memoranda (with tables of the proposed changes) for each ordinance.

Proposals to amend the text of the UDO are governed by state law under Indiana Code (IC) 36-7-4 in the "600 Series - Zoning Ordinance." As a threshold matter, state law provides that the purpose of the local planning and zoning laws are "to encourage units to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end:



1. that highway systems be carefully planned;
2. that new communities grow only with adequate public way, utility, health, educational, and recreational facilities;
3. that the needs of agriculture, forestry, industry, and business be recognized in future growth;
4. that residential areas provide healthful surroundings for family life; and
5. that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.”

Further, in considering UDO text amendments, both state and local codes require the legislative body to pay reasonable regard to:

1. the Comprehensive Plan;
2. current conditions and the character of current structures and uses in each district;
3. the most desirable use for which the land in each district is adapted;
4. the conservation of sensitive environmental features (a local criteria)
5. the conservation of property values throughout the jurisdiction; and
6. responsible development and growth.

Importantly, these are factors that a legislative body must *consider* when deliberating on zoning ordinance proposals. However, nothing in statute requires that the Council find absolute conformity with each of the factors outlined above. Instead, the Council is to take into consideration the entire constellation of the criteria, balancing the statutory factors. Notably, Indiana courts have found that comprehensive plans are guides to community development, rather than instruments of land-use control. A municipality must consider all factors and make a balanced determination. *Borsuk v. Town of St. John*, 820 N.E.2d 118 (2005).

IC 36-7-4-607 provides the following procedure that applies to a proposal to amend or partially repeal the text of the UDO:

- After the Plan Commission determines its recommendation on a proposal, it certifies the proposal to the Council with either a favorable recommendation, an unfavorable recommendation, or no recommendation. All four proposals sent to the Council received a favorable recommendation by the Plan Commission (votes listed above). The Council must consider these Commission recommendations before acting on the proposal.
- At the first regular meeting of the Council after the proposal is certified (or at any subsequent meeting within 90 days after the proposal is certified), the Council may adopt, reject, or amend the proposal. The Council must post and give notice at least 48 hours in advance of its intention to consider the proposal at a meeting.
- If the Council fails to act on a proposal that received a positive recommendation within 90 days after certification (deadlines listed above), the proposal would take effect as if it had been adopted (as certified) 90 days after certification.



City of Bloomington Indiana

City Hall | 401 N. Morton St. | Post Office Box 100 | Bloomington, Indiana 47402

Office of the Common Council | (812) 349-3409 | Fax: (812) 349-3570 | email: council@bloomington.in.gov

- Assuming the Council does act within the 90 days after a proposal is certified to it, the Council can adopt, reject or amend the proposal. If the Council amends or rejects a proposal, the Council must return that proposal to the Plan Commission along with a written statement of the reasons for the amendment or rejection. Doing so would start a 45-day period for the Plan Commission to consider the Council's amendment or rejection.
- If the Plan Commission approves of the Council's amendment or fails to act within 45 days, the ordinance would stand as passed by the Council. If the Plan Commission disapproves of the amendment or rejection, the Council's action on the original amendment or rejection stands only if confirmed by another vote of the Council within forty-five (45) days after the Plan Commission certifies its disapproval.

These detailed procedures may seem cumbersome, but are designed to ensure that there is a dialogue between the Plan Commission and the Council.