



MEMO FROM COUNCIL OFFICE ON:

**Ordinance 23-10 – To Amend Title 20 (Unified Development Ordinance) of the
Bloomington Municipal Code –
Re: Amendments and Updates Set Forth in BMC 20.03 and 20.04**

Synopsis

This petition contains amendments in Chapter 3 of the UDO related to chicken flocks and Chapter 4 of the UDO related to maximum parking standards.

Relevant Materials

- Ordinance 23-10
- Certification form from Plan Commission
- Attachment A & staff memo, with redline amendments showing proposed changes
- [*new material*] Amendment 01 to Ordinance 23-10
- [*new material*] Amendment 02 to Ordinance 23-10
- [*new material*] Parking Commission Meeting Memorandum from June 8, 2023

Update for June 21, 2023 Regular Session

This item was introduced for first reading on May 3, 2023, and was subsequently considered by the Council on May 10, 2023, at which time the ordinance was tabled to give the Parking Commission time to consider the proposed changes and make a recommendation to Council. The ordinance now appears on the Council’s June 21, 2023 Regular Session agenda in anticipation of a motion to take the item from the table in order to place it back in front of the Council for consideration and possible final action.

The Parking Commission considered the changes to the maximum parking standards at its meetings on May 25 and June 8, 2023. At its June 8th meeting, the Parking Commission discussed the proposed UDO modifications and voted in support of the parking maximums as proposed and recommended by the Plan Commission. The Parking Commission considered but ultimately did not adopt a resolution recommending that the parking numbers should not be changed for Restaurant and Fitness Center uses. The resolution failed 4-1-3.

Additionally, Councilmember Piedmont-Smith is sponsoring two proposed amendments to this ordinance, which would alter maximum vehicle parking allowances for Restaurant and Stadium uses. Amendment 01 would revert the maximum vehicle parking for restaurants to the current number of 10 spaces per 1,000 square feet GFA, while Amendment 02 would decrease the maximum vehicle parking allowance for stadiums to 1 space per 8 seats. The Plan Commission’s proposed change is 15 spaces per 1,000 square feet for Restaurant uses and 1 space per 4 seats for Stadium uses. Currently, there is no limit on parking allowances for Stadium uses.



Background

On April 10, 2023, the Plan Commission considered a proposal brought forward by city planning staff to make amendments to the UDO related to chicken flocks and maximum parking standards. The Plan Commission Case ZO-12-23 was given a recommendation of approval by a vote of 9-0-0. The April Plan Commission meeting can be viewed online here: <https://catstv.net/m.php?q=12305>).

Summary

The administration is proposing text amendments to the city's Unified Development Ordinance ("UDO") as an addendum to its annual update and amendment to the UDO, which was previously brought forward in four ordinances (Ordinances 23-04 through 23-07) that were adopted during the April 19, 2023 Regular Session.

The amendments within Chapter 4 (Development Standards and Incentives) of the UDO follow Plan Commission discussions regarding parking maximums during its March and April 2023 meetings. The Planning & Transportation Department proposed and the Plan Commission recommended the addition of new parking maximums for nearly 70 land uses in order to align the code with the City's Comprehensive Plan. The staff memo details additional information on this proposal.

One additional change in Chapter 3 (Use Regulations) of the UDO was proposed in anticipation of amendments to Title 7 (Animals) of the Bloomington Municipal Code (BMC) related to chicken flock regulations. A number of councilmembers have expressed interest in proposing an ordinance to increase the number of chicken flocks allowed within city limits. Such a change within Title 7 would necessitate an update to UDO use-specific standards regarding chicken flocks, which currently allow for one chicken flock as an accessory use. The amendment to the UDO does not, by itself, allow for additional chicken flocks. If amended, the UDO use-specific standards would no longer foreclose the possibility of additional chicken flocks if and when Title 7 of the BMC is revised.

General Information about UDO Updates:

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>.



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. This proposal received a favorable recommendation by the Plan Commission of 9-0. The Council must consider the Commission recommendation before acting on the proposal.



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

- 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, the proposal would take effect as if it had been adopted (as certified) 90 days after certification.
- 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.

Contacts

Jacqueline Scanlan, Development Services Manager, 812-349-3423,

scanlanj@bloomington.in.gov

Scott Robinson, Director, Planning and Transportation Department, 812-349-3423,

robinsos@bloomington.in.gov