



Board of Public Works

Staff Report

Project/Event: Proposed Right-Of-Way Obstruction Ordinance

Petitioner/Representative: Public Works

Staff Representative: Adam Wason

Date: 08/15/2023

Report: 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. To that end, the City recommends taking steps to prevent individuals and entities from impermissibly obstructing the public's right-of-way. Staff requests that the Board adopt Resolution 2023-56, which recommends that City Council adopt the proposed ordinance that changes the city code to address obstructions in the right-of-way.

ORDINANCE XX-XX

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

**Re: Establishing a new section 12.04.130 of the Bloomington Municipal Code,
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;

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;

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;

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. Section 12.04.030 of the Bloomington Municipal Code is revised as follows:

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 or entities 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 subject to the general penalty provisions outlined in Bloomington Municipal Code § 1.01.130 and are considered to be trespassing.
- (c) It is not a violation of this Section for an individual or entity 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.

**RESOLUTION 2023-56
OF THE
CITY OF BLOOMINGTON
BOARD OF PUBLIC WORKS**

RECOMMENDATION TO ADOPT RIGHT-OF-WAY OBSTRUCTION ORDINANCE

WHEREAS, the City of Bloomington has responsibility to ensure that the public's right-of-way is accessible and available to all members of the Bloomington community; and

WHEREAS, the City of Bloomington recommends taking steps to prevent individuals and entities from impermissibly obstructing the public's right-of-way; and

WHEREAS, the Board of Public Works is the body responsible for the public's right-of-way within the City of Bloomington; and

WHEREAS, staff have prepared a proposed city ordinance to change the Bloomington Municipal Code to address obstructions in the right-of-way, which is attached to this Resolution as Exhibit A;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF PUBLIC WORKS THAT:

The Board hereby recommends that City Council adopt the proposed ordinance, attached to this Resolution attached as Exhibit A.

**ADOPTED THIS 15th DAY OF AUGUST, 2023
BOARD OF PUBLIC WORKS**

Kyla Cox Deckard, President

Elizabeth Karon, Vice President

Jennifer Lloyd, Secretary