

## Case # ZO-30-24 Memo

**To:** Bloomington Common Council

**From:** Jackie Scanlan, AICP Development Services Manager

**Date:** August 14, 2024

**Re:** Text Amendments to Unified Development Ordinance

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The Plan Commission heard case #ZO-30-24 on August 12, 2024 and voted to send the petition to the Common Council with a positive recommendation with a vote of 8-0. The report and documents submitted to the Plan Commission by the Planning and Transportation Department are below.

The Planning and Transportation Department proposes an update to the Unified Development Ordinance (UDO), Title 20 of the Bloomington Municipal Code, in order to address two legislative changes that affect this Title.

Title 13 was approved by the Bloomington Common Council on May 8, 2024 and signed into law by Mayor Thomson on May 13, 2024. Title 13 went into effect on July 1, 2024. Title 13, Stormwater, addresses stormwater permitting requirements enacted by the Indiana Department of Environmental Management. Stormwater management was previously, in part, regulated by Title 20. This Ordinance seeks to amend Title 20 in order to align it with approved Title 13. The changes to Title 20 include a removal of the grading permit and a reconfiguration of permitting the rest of the site improvements, including parking, landscaping, bicycle parking, etc. that were previously reviewed for permitting in through the grading permit process. There are also updates in the parking section related to stormwater treatment in parking lots, as well as the removal of the Erosion and Siltation section. All items removed from Title 20 are now covered by the permitting process in Title 13.

The second legislative change was approved by the State of Indiana legislature and is related to steep slope regulation. The regulations related to development on steep slopes is contained within Title 20. This Ordinance seeks to amend Title 20 in order to align it with the new State regulations. Title 20 is proposed to change the outlying slope percentage from 18 percent to less than 25 percent.

# BLOOMINGTON INDIANA



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**(b) Effect of Change in the Law after Filing of Complete Petition**

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- (1) For any petition filed with the city prior to the effective date of this UDO for any permit or approval listed in Section 20.01.040(b)(3), the effect of any change in the applicable law after submittal of such petition but prior to the grant or denial of the permit or approval sought shall be governed by the transition rules of the prior zoning ordinance that was in effect on the date of petition submittal.
- (2) Whenever a complete petition is filed with the city on or after the effective date of this UDO for any of the permits or approvals listed in Section 20.01.040(b)(3), the grant or denial of such permit or approval, and the grant or denial of any secondary, additional or related permit or approval required by the city with respect to the general subject matter of the first complete petition, shall be governed by the statutes, ordinances, rules, development standards, and regulations applicable to the property in question ("Requirements") that were in effect at the time of the first complete petition, for the time periods listed in Section 20.01.040(b)(4), notwithstanding any change in such requirements that occurs after such first petition but prior to the grant or denial of such permit or approval, except as otherwise provided herein.
- (3) The permits and approvals covered by this section are:
  - (A) Section 20.06.050(a) (Site Plan Review);
  - (B) Section 20.06.050(b) (Conditional Use Permit);
  - (C) Section 20.06.060(b) (Primary Plat);
  - (D) Section 20.06.060(c) (Secondary Plat);
  - (E) Section 20.06.050(e) (~~Site Development Permit~~Grading Permit);
  - (F) Section 20.06.050(f) (Certificate of Zoning Compliance);
  - (G) Section 20.06.070(c) (Rezoning to Planned Unit Development).
- (4) The requirements in effect at the time of the first complete petition submittal for a permit or approval described in Section 20.01.040(b)(2) shall continue to govern such first complete petition and any secondary, additional or related permits described in that subsection for a period of at least three years from the date of the first complete petition. If no construction or other activity to which the permit or approval relates is commenced within that three-year period, then after that period the renewal of any expired permit, and the grant or denial of any new petition for any secondary, additional or related permit, shall be governed by then current regulations if the Planning and Transportation Director, based upon advice from the City Legal Department, determines that such action is lawful and does not deprive the owner or petitioner of any vested right. Moreover, if construction or other activity to which the permit or approval relates is not completed within 10 years of the date upon which such construction or other activity commenced, then after that period the renewal of any expired permit, and the grant or denial of any new petition for any secondary, additional or related permit, shall be governed by then current regulations if the Planning and Transportation Director, based upon advice from the City Legal Department, determines that such action is lawful and does not deprive the owner or petitioner of any vested right.
- (5) Where a permit or approval is rendered pursuant to this section, any construction, use or other activity authorized by such permit or approval shall be treated as lawfully nonconforming to the extent such activity does not conform to the current requirements of this UDO and shall be subject to the provisions of Section 20.06.090 (Nonconformities).

Communication facilities	Communication facilities are exempt from height restrictions, subject to the limitations of 20.03.030(f)(1) (Communication Facility).
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No building or structure or part of a building or structure shall exceed the maximum building height within any zoning district unless authorized in Table 04-7, or elsewhere in this UDO.

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### (g) Building Floor Plate

- (1) The area of the lot covered by the primary building shall be included in the calculation of building floor plate in all districts.
- (2) The area of a lot covered by accessory buildings, parking garages, carports, and utility and storage sheds shall not be included in this calculation.

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### (h) Minor Modification

Minor modifications to some of the dimensional standards in this section may be available through the Minor Modification process in Section 20.06.080(a) (Minor Modification), which may be approved by staff during the petition process without the need to apply for a variance, provided that the criteria in Section 20.06.080(a) are met.

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## 20.04.030 Environment

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### (a) Purpose

The Bloomington area is characterized by a wide variety of environmental features that affect the way land is developed. These features include karst geology (sinkholes, caves, springs, etc.), wetland areas, steep slopes, mature tree stands, and water resources such as lakes, streams and other surface watercourses. It is prudent and necessary that every area that becomes the subject of a petition for development be routinely scrutinized for the presence of environmental features in order to protect and enhance these environmental features and help mitigate the climate and extinction emergencies as well as the public health, ecology, and welfare.

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### (b) Applicability

Compliance with this Section 20.04.030 (Environment) shall be required pursuant to Section 20.04.010 (Applicability) and the specific applicability criteria established in Sections 20.04.030(c) through ~~20.04.030(i)~~20.04.030(j).

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### (c) Steep Slopes

#### (1) Applicability

This section shall apply to all land-disturbing activities on properties that contain naturally occurring steep or excessive slopes.

#### (2) Slope Measurement

For the purposes of this section, the percent slope shall be calculated by dividing the number of feet of elevation change between the top and toe of the slope in question by the horizontal distance of the slope in question, then multiply by 100 to acquire a percent figure.

(3) **Easements**

All slope areas required to be preserved subject to this section shall be placed within conservation easements pursuant to the standards of Section 20.05.040 (Easements).

(4) **Excessive Slopes**

Areas of land where the pre-development slopes are ~~25 percent or greater~~<sup>greater than 18 percent</sup> shall not be disturbed for any improvements with the exception of utility lines.

(5) **Steep Slopes**

Any development on slopes between 12 percent and ~~less than 25~~<sup>18</sup> percent shall be allowed a maximum disturbance of 50 percent of the total slope area. Priority for slope preservation shall be given to slope areas that exhibit one or more of the following characteristics:

- (A) Presence of highly erodible soils as identified in the Web Soil Survey produced by the National Cooperative Soil Services and operated by the USDA Natural Resources Conservation Service;
- (B) Adjacent to slopes of greater than 18 percent;
- (C) Adjacent to water resources;
- (D) Adjacent to other environmental features that are required to be preserved as part of this UDO;  
or
- (E) Presence of tree cover on 50% or more of the surface area of the slope.

(6) **Construction Measures**

Any development on slopes between 12 percent and 18 percent shall incorporate construction measures such as retaining walls and walkout basements as well as current preferred practices for erosion control measures during construction, as provided in ~~Section 20.04.030(d)(3)(A)~~<sup>Title 13 (Stormwater) of the Bloomington Municipal Code</sup>.

(7) **Street Grades**

Arterial and collector streets shall not exceed grades of six percent and local streets or alleys shall not exceed grades of eight percent unless the petitioner demonstrates that steeper grades will minimize disturbances to existing topography.

(8) **Street Design**

All drives and streets shall follow the topography with a minimum of cutting and filling.

(9) **Soil Constraints**

When unstable or contaminated soils are found, the effect of cutting and filling, alterations to slope, and the stabilization measures required to either avoid or address unstable or contaminated soils shall be minimized to the maximum extent practicable, given the soil condition to be avoided or mitigated.

(10) **Overlapping Preservation Areas**

Where acreage set aside to fulfill the conservation or buffer requirements in Section ~~20.04.030(d)~~<sup>20.04.030(e)</sup>, Section ~~20.04.030(f)~~<sup>20.04.030(g)</sup>, Section ~~20.04.030(g)~~<sup>20.04.030(h)</sup>, and Section ~~20.04.030(h)~~<sup>20.04.030(i)</sup> also meets the requirements for steep slope preservation under this section, such acreage shall be counted toward fulfillment of all applicable requirements.

**(d) ~~Siltation and Erosion Prevention~~**

**(1) ~~Applicability~~**

~~(A) This subsection applies to any land development or land-disturbing activities that include one or more of the following conditions:~~

- ~~i. That disturbs a ground surface of 2,500 square feet or more;~~
- ~~ii. That involves excavation or filling of dirt, sand, or clean fill, including but not limited to single-family development;~~
- ~~iii. That involves street, highway, or bridge construction, enlargement, relocation or reconstruction; or~~
- ~~iv. That involves the laying, repairing, replacing, or enlarging of an underground pipe, facility, or any utility.~~

~~(B) All municipal government departments, including the City Utilities Department, shall comply with this section.~~

**(2) ~~Compliance with Other Regulations Also Required~~**

~~Compliance with the requirements set out in this section shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15 (Article 15), regarding stormwater runoff; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management (IDEM); all applicable provisions of Title 10 (Wastewater) of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the City Utilities Department regarding stormwater management practices.~~

**(3) ~~Erosion and Pollutant Control Requirements~~**

**(A) ~~Current Preferred Practices~~**

~~All sites undergoing land disturbing activities, regardless of size, shall prevent the erosion of sediment or any other contaminant off site or conveyed into any bodies of water, either by wind or water. All land disturbing activities shall be protected by current preferred practices (CPP) including, but not limited to silt or erosion control fences, filter socks, straw bales, sedimentation basins, articulated concrete blocks, mechanically stabilized earth, storm grate filters, or erosion control mats.~~

**(B) ~~Environmental Features~~**

~~For land disturbing activities that occur adjacent to environmentally sensitive areas including but not limited to steep slopes, sinkholes, floodplain, and riparian buffers; redundant erosion control measures, such as additional barriers and reduced timelines for soil stabilization, shall be required, as determined by the Planning and Transportation Director.~~

**(C) ~~Waste and Material Disposal~~**

~~Waste and unused building materials (e.g., garbage, debris, cleaning wastes, concrete waste, wastewater, toxic materials or hazardous materials) shall be properly disposed of in facilities labeled and designed for the containment of those materials while minimizing air, soil, and water pollution to the maximum degree practicable.~~

**(D) — Tracking**

~~Each site shall have sediment control devices or crushed stone streets, access drives, and parking areas of sufficient size and thickness to prevent sediment from being tracked onto public or private streets. Such areas shall be maintained at sufficient size and thickness throughout the duration of the construction activity on site. Any sediment that leaves the site is a violation of this UDO.~~

**(E) — Drain Inlet Protection**

~~All storm inlets shall be protected with best management practices meeting accepted design criteria, standards and specifications.~~

**(F) — Sediment Control**

~~Sediment shall be controlled and contained on site, and control measures shall prevent damage to existing vegetation or pavement.~~

**(G) — Ground Cover**

~~Vacant land held for development shall be planted with grass or other vegetative ground cover that complies with Section 20.04.080(l) (Vacant Lot Landscaping).~~

**(H) — Inspection**

~~All erosion control measures shall be installed by the developer and inspected and approved by the City Planning and Transportation Department before land-disturbing activity may take place. Where applicable, developers shall follow their self-monitoring inspection program throughout construction as outlined in Bloomington Municipal Code Section 10.21.070(r).~~

**(I) — Finished Grade**

~~Disturbed areas that are at finished grade with installed utilities shall be permanently seeded or mulched within seven days.~~

**(J) — Unfinished Grade**

~~Areas that have undergone land-disturbing activities and are not yet at finished grade, and that have no construction activity for 15 days or more, shall be established with temporary vegetation, seed, and/or straw, or other measures approved by the City.~~

**(K) — Soil Stockpiles**

~~All soil stockpiles shall be protected by erosion control barriers and areas that remain inactive for seven days or more shall be seeded, covered, or protected.~~

**(L) — Plastic Netting**

~~Under no circumstances shall plastic netting or plastic mesh be used on site for any type of landscaping or erosion control.~~

**(M) — Single-Family Lots**

~~Single-family lots that remain inactive for 15 days or more shall be established with temporary vegetation.~~



~~(N) Channelized Runoff~~

~~Channelized runoff from off-site areas passing through a construction site shall be diverted around disturbed areas. Sheet flow runoff from off-site areas shall also be diverted around disturbed areas. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.~~

~~(O) Sequence of Land-Disturbing Activity~~

~~Land-disturbing activity shall be performed in a construction sequence that minimizes the area of bare soil exposed at any one time. Construction sequencing shall be subject to the approval of the City Planning and Transportation Department.~~

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~~(e)(d) Drainage~~

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**(1) Applicability**

All proposed site plans submitted for approval, under the provisions of this UDO, shall provide for the collection and management of all surface water drainage.

**(2) Exemption**

The construction of single-family, duplex, triplex, fourplex, Mobile home, and manufactured home dwellings on existing lots of record where fully engineered drainage infrastructure is in place prior to occupancy of the home shall be exempt from the requirements of this Section 20.04.030 (Environment).

~~(3) Drainage Plan~~

~~All grading permit petitions shall include the submittal of a drainage plan to the City Utilities Department. The drainage plan shall include, but not be limited to, the following items:~~

- ~~(A) Complete construction plan showing all proposed detention and retention facilities, swales, and drainage structures.~~
- ~~(B) All proposed piping including size and location of proposed stormwater lines, as well as plan and profile drawings for all proposed improvements.~~
- ~~(C) Complete and accurate stormwater calculations justifying methodology of the drainage plan in compliance with City Utilities Department standards.~~

~~(4) Stormwater Mitigation Requirements~~

~~Drainage facilities shall be provided to control runoff from all upstream drainage areas and from all areas within the site to a location adequate to receive such runoff, and shall:~~

- ~~(A) Be designed and constructed in accordance with City Utilities Department standards.~~
- ~~(B) Be durable, easily maintained, retard sedimentation, and retard erosion, not endanger the public health and safety, and not cause significant damage to property.~~
- ~~(C) Be sufficient to accept runoff from the site after development and the present water runoff from all areas upstream to achieve discharge rates meeting City Utilities Department standards.~~
- ~~(D) Provide stormwater runoff quality mitigation in compliance with City Utilities Department standards.~~

~~(5)~~(3) **Poorly Drained Sites**

Development proposed for sites that are adjacent to a floodplain area, located in an area with converging drainage flows, located in an area characterized by documented drainage problems, or located in an area with closed, depressed contour lines as shown on the City's GIS maps shall be subject to a higher level of drainage plan review. Site plans for these areas shall submit documentation that finished floor elevations of structures shall be at least two feet above areas that would be flooded during a one hundred-year storm event.

~~(6)~~(4) **Dry Hydrants**

Any development that incorporates a retention pond with a standing pool of water of at least 10,000 cubic feet in volume shall provide a dry hydrant that meets the specifications of the National Fire Protection Association (NFPA) Standard on Water Supplies for Suburban and Rural Fire Fighting, NFPA 1142 Chapter 9 (2001 Edition), or any subsequent amendment thereto.

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~~(f)~~(e) **Riparian Buffers**

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(1) **Applicability**

- (A) This subsection shall apply to all land development activities on properties that are contiguous with or contain intermittent or perennial streams. However, lots of record of less than one-half acre in size shall not be subject to ~~20.04.030(e)(6)~~~~20.04.030(f)(6)~~ (Intermediate Zone) nor ~~20.04.030(e)(7)~~~~20.04.030(f)(7)~~ (Fringe Zone) of this section.
- (B) Any new, non-single-family development that is exempt from providing riparian buffer zones as outlined in ~~20.04.030(e)(1)~~~~20.04.030(f)(1)~~, shall provide at least a 25-foot wide streamside buffer zone in compliance with the design standards of ~~20.04.030(e)(5)~~~~20.04.030(f)(5)~~. Additionally, two of the following best management practices, including plans for post-installation maintenance of such practices, shall be incorporated into the site design:
  - i. Use of 100 percent native vegetation;
  - ii. Use of permeable pavement for 100 percent of all the on-site parking areas;
  - iii. Biofiltration swales; or
  - iv. 50 percent vegetated roof.

(2) **Adjacent Properties**

Where intermittent or perennial streams are present on adjacent properties, and where required buffer zones for such streams would extend onto the subject property, the buffer zones required by this subsection ~~(e)~~~~(f)~~ shall be established.

(3) **Easements**

All riparian buffer zones required to be preserved subject to this subsection ~~(e)~~~~(f)~~ shall be placed within riparian buffer easements pursuant to the standards of Section 20.05.040 (Easements).

(4) **Graduated Buffer Zones**

All intermittent or perennial streams shall be protected by a riparian buffer composed of three distinct zones. These zones shall be defined as:

(A) **Streamside Zone (Zone 1).**

The primary function of the streamside zone is to ensure stream-bank stabilization.

**(B) Intermediate Zone (Zone 2)**

The primary function of the intermediate zone is to protect soil particles that trap nutrients and chemicals.

**(C) Fringe Zone (Zone 3).**

The primary function of the fringe zone is to filter runoff, and to maximize infiltration, water storage, and nutrient absorption.

**(5) Streamside Zone Design**

The streamside zone (Zone 1) shall be designed as follows:

**(A) Location**

Immediately adjacent to the stream channel.

**(B) Buffer Width**

The width of this zone shall be a minimum of 25 feet on each side of the stream, measured from the centerline of the stream.

**(C) Vegetation Requirements**

All vegetative cover within this zone shall consist of undisturbed, existing vegetation, except that invasive and nonnative plants may be removed with permission from the Planning and Transportation Department. In cases where little or no existing vegetation is present, only native, water tolerant species shall be planted. Acceptable species for planting within buffer zones are listed in Section 20.04.080(d) (Permitted Plant Species). Plant spacing and density for new vegetation within buffer zones shall comply with current preferred practices for each plant type.

**(D) Disturbance Activities**

Only the following land disturbance activities may be allowed within this zone, subject to approval of the City Planning and Transportation Department:

- i. Utility installation; if no alternative location is available;
- ii. Street crossings, where necessary to achieve connectivity;
- iii. Bicycle and/or pedestrian crossings, where necessary to achieve connectivity;
- iv. Connector path and multi-use trail constructed with a permeable surface.

**(6) Intermediate Zone Design**

The intermediate zone (Zone 2) shall be designed as follows:

**(A) Location**

Immediately outside the streamside zone (Zone 1).

**(B) Buffer Width**

The required width shall be a minimum 25 feet on each side, measured perpendicularly from the outer boundary of Zone 1.

- (B) Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New plantings shall be given sufficient water and protection to ensure reestablishment.
- (C) In order to ensure vegetative diversity, a minimum of nine different plant species shall be used within the overall riparian buffer area. At least three of these species shall be trees selected from Section 20.04.080(d) (Permitted Plant Species).
- (D) No alteration to the shoreline or bed of a stream or creek shall be made unless written approval is obtained from the appropriate governmental agencies. Alterations subject to this requirement include, but are not limited to, filling, damming, or dredging of a stream, creek, ditch, or wetland.

**(9) Riparian Buffer Maintenance**

Management of riparian buffers shall be limited to the minimum necessary, with no alterations of forest understory, except for the removal of nonnative or invasive species. Limited mowing may occur in Zone 3 but shall be prohibited in Zones 1 and 2.

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**~~(g)~~(f) Karst Geology**

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**(1) Applicability**

- (A) This section shall apply to all land-disturbing activities on properties that contain surface and subsurface karst features.
- (B) In the event an undetected karst feature is formed on a developed lot or parcel, the Planning and Transportation Director may authorize emergency remediation measures subject to guidance from the City Senior Environmental Planner.

**(2) Adjacent Properties**

Where surface or subsurface karst features are present on adjacent properties, and where required conservation areas for such karst features would extend onto the subject property, the buffer zones required by this subsection ~~(f)~~~~(g)~~ shall be established.

**(3) Compound Karst Features**

For the purposes of this subsection, compound karst features shall be defined as any two or more karst features where the last closed contour of the features are located within 100 feet of each other. The outer boundary of the compound karst feature shall be drawn by connecting the last closed contour at its widest point of each individual karst feature with a tangential line.

**(4) Karst Conservancy Easement (KCE)**

All karst features shall be protected by Karst Conservancy Easements (KCE). Such easements shall be established in accordance with the following standards:

- (A) No land-disturbing activity, permanent or temporary structures, or the placement of any fill material shall be allowed within a KCE.
- (B) The outer perimeter of the KCE shall be protected with silt fencing and/or tree protection fencing during the entire period of construction.

- (C) For all individual karst features, the KCE shall encompass the entire feature and all of the area within 25 feet horizontally from the last closed contour line of the feature. The last closed contour line shall be as shown on the City's geographic information system (GIS) using a contour interval of two feet. When the City has reason to doubt the accuracy of the GIS data, the City shall use field verification to determine the location of the last closed contour.
- (D) For all compound karst features, the KCE shall encompass the entire outer boundary of the compound karst feature as defined in ~~20.04.030(f)(3)~~~~20.04.030(g)(3)~~ above and all of the area within 25 feet horizontally from the outer boundary of the compound karst feature.
- (5) **Setback**  
No structures shall be located within 10 feet of a Karst Conservancy Easement.
- (6) **Stormwater Discharge**  
Stormwater discharge into a karst feature shall not be increased over, or substantially reduced below its pre-development rate.
- (7) **Stormwater Detention**  
Karst Conservancy Easements shall not be used for stormwater detention. Drainage shall be designed to route runoff through vegetative filters or other filtration measures before entering a karst feature.
- (8) **Disturbance**  
No land-disturbing activity, mowing, or temporary or permanent structure shall be allowed within the sinkhole nor within 25 feet of the last closed contour of the sinkhole.
- (9) **Spring or Cave Entrances**  
Spring or cave entrances shall not be modified except for the placement of a gate to prevent human access.

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## ~~(h)~~(g) Wetlands

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- (1) **Applicability**  
This section shall apply to all land-disturbing activities on properties containing wetlands.
- (2) **Adjacent Properties**  
Where wetlands are present on adjacent properties, and where required buffer areas for such wetlands would extend onto the subject property, the buffer zones required by this subsection ~~(g)(h)~~ shall be established.
- (3) **Compliance with Other Regulations Also Required**  
In addition to the standards of this UDO, all determined and delineated jurisdictional wetlands subject to disturbance shall be governed by Indiana Department of Natural Resources (DNR), Indiana Department of Environmental Management (IDEM), and Army Corps of Engineers regulations.
- (4) **Disturbance**  
No land-disturbing activity, mowing, or temporary or permanent structure shall be allowed within 25 feet of a wetland.

**(5) Wetland Conservancy Easement**

A wetland buffer area extending 25 feet from a delineated wetland shall be placed within a conservancy easement consistent with the standards of Section 20.05.040 (Easements) and shall be protected with silt fencing, tree protection fencing, or both, during the entire period of construction.

**(6) Draining**

Draining of a delineated wetland is prohibited.

**(7) Stormwater Discharge**

Stormwater discharge into a wetland shall not be increased over, or substantially reduced below, its preexisting rate.

**(+)(h) Tree and Forest Preservation**

**(1) Applicability**

This section shall apply to all land-disturbing activities on properties containing closed-canopy wooded areas.

**(2) Retention of Existing Canopy**

The following table shall be used to determine the minimum amount of existing vegetation canopy that must be retained during land-disturbance activity.

**Table 04-8: Minimum Required Vegetation Canopy**

Baseline Canopy Cover	Retained Canopy Cover
80—100%	0.50 × Baseline canopy cover
60—79%	0.60 × Baseline canopy cover
40—59%	0.70 × Baseline canopy cover
20—39%	0.80 × Baseline canopy cover
0—19%	0.90 × Baseline canopy cover

**Example:**

For a property of 20 acres with 50 percent canopy cover (i.e., 10 acres), a development would be required to maintain at least seven acres (10 acres × 0.70) of canopy cover.

**(3) Preference to Stands of Vegetation**

The retention standards outlined above shall be applied to retain high-quality stands of native trees, undisturbed woodlands, and corridors of contiguous vegetation in priority over individual specimen trees, or younger stands of vegetation. No more than 10 percent of the canopy retention standard shall be met by preserving individual trees not included within preferred wooded areas as defined in this subsection (h)(+). Where individual specimen trees are to be preserved, preference shall be given to protecting heritage trees that are of particular value due to their type, size or age.

(4) **Smaller Parcels**

For parcels of land less than two acres, the preservation standards in Table 04-8: Minimum Required Vegetation Canopy, may be altered by the City Planning and Transportation Director to allow preservation of individual specimen trees or tree lines along property borders in lieu of the minimum required vegetation canopy.

(5) **Overlapping Preservation Areas**

Where acreage set aside to fulfill the conservation or buffer requirements found in 20.04.030(c), ~~20.04.030(d)~~~~20.04.030(e)~~, ~~20.04.030(f)~~~~20.04.030(g)~~, and ~~20.04.030(g)~~~~20.04.030(h)~~ also meets the requirements for tree and forest preservation under ~~20.04.030(h)(2)~~~~20.04.030(i)(2)~~, such acreage shall be counted toward fulfillment of all applicable requirements.

(6) **Conservancy or Tree Preservation Easement**

Where contiguous areas of at least 8,712 square feet (0.20 acres) of tree cover are required to be preserved, a conservancy and/or tree preservation easement shall be required per Section 20.05.040 (Easements). The edges of such easements shall be delineated 10 feet beyond the driplines of the trees to be preserved.

(7) **Tree Protection During Construction**

A tree protection zone shall be installed per Section 20.04.080(c)(3) and inspected by the Planning and Transportation Department prior to any land-disturbing activities. The tree protection zone and the tree protection barrier shall remain undamaged and unmoved during the entire duration of construction. If a petitioner believes the conditions of a tree protection zone cannot be established, they shall contact the Planning and Transportation Department and the Urban Forester in order to develop an individual plan for tree protection.

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**(j)(i) Lake Watershed Areas**

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(1) **Applicability**

This section shall apply to all land-disturbing activities on properties located within the watersheds of Lake Monroe and Griffy Lake as delineated on the City's geographic information system (GIS).

(2) **Exception**

Single-family, duplex, triplex, fourplex, mobile home, and manufactured home dwellings on existing lots of record shall not be subject to the requirements of this section.

(3) **Geotechnical Report**

When required by the Planning and Transportation Director, based on potential development impacts, site plans, subdivision plats, and Planned Unit Development plans shall include a report prepared by a geotechnical consultant that addresses soil stabilization, erosion/siltation control and stormwater runoff quality. The geotechnical consultant who prepares the required report shall be a licensed professional engineer.

(4) **Site Design**

Site design shall locate structures and land-disturbing activities so as to avoid tree concentrations. Streets, parking areas, and building pads shall conform closely to existing contours and minimize grading.

**(h) Adjustments to Maximum Parking Allowance**

No use shall provide vehicle parking spaces in an amount exceeding the maximum established in Table 04-10: Maximum Vehicle Parking Allowance, unless approved by the City Planning and Transportation Department based on the following:

- (1) The proposed development has unique or unusual characteristics that typically do not apply to comparable developments, uses, or combinations of uses, such as high sales volume per floor area or low parking turnover, that create a parking demand that exceeds the maximum ratio;
- (2) The petitioner submits a parking demand study demonstrating that anticipated off-street vehicle parking demand for the proposed development, use, or combination of uses will be more than that calculated from Table 04-10: Maximum Vehicle Parking Allowance, and the City Planning and Transportation Department determines that the information and assumptions used in the study are reasonable and that the study accurately reflects maximum reasonably anticipated off-street vehicle parking demand for the proposed development, use, or combination of uses; and
- (3) Any parking provided above the maximum required in Table 04-10: Maximum Vehicle Parking Allowance, is constructed in a parking structure or with approved pervious surfaces.

**(i) Vehicle Parking Location and Design****(1) Applicability**

The standards in 20.04.060(i) shall apply to all surface and aboveground vehicle parking and maneuvering areas.

**(2) Location****(A) Generally**

- i. All parking spaces required to serve buildings or uses erected or established after the effective date of this ordinance shall be located on the same lot as the building or use served, unless otherwise allowed pursuant to 20.04.060(g)(1).
- ii. Parking areas shall be designed to ensure safe and easy ingress, egress, and movement through the interior of the lot.
- ~~iii. For surface parking lots with 100 or more parking spaces, landscaped bioretention areas located below the surface level of the parking spaces, shall be provided on the interior of the parking lot to help direct traffic flow and to provide landscaped areas within such lots.~~
- ~~iv.iii.~~ No park strip shall be used for parking unless otherwise approved by the City Planning and Transportation Department based on considerations of pedestrian and traffic safety, visual appearance, and buffering.
- ~~v.iv.~~ All parking shall comply with parking landscape standards in Section 20.04.080 (Landscaping, Buffering, and Fences).
- ~~vi.v.~~ For single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, Parking shall be prohibited within the setback between the street and the building except on a driveway that meets the provisions of this Section 20.04.060.
- ~~vii.vi.~~ No commercial vehicles or trailers shall be parked overnight at a residence unless that home is occupied by the business owner or employee.



- (B) If the petitioner can provide different acceptable standards based on a professionally recognized source of parking lot design, the City Planning and Transportation Department may approve alternative standards pursuant to the minor modification process outlined in Section 20.06.080(a) (Minor Modification).

**(4) Stacked Parking**

Stacked parking arrangements are permitted.

**(5) Back-out Parking**

**(A) Generally**

All on site vehicle parking areas shall be designed to avoid the need for vehicles to back onto public streets when exiting the parking space, unless otherwise stated in this UDO.

**(B) Exceptions**

Single-family, duplex, triplex, and fourplex uses in any zoning district shall be permitted to back-out directly onto an alley or a public street, other than an arterial street.

**(C) Back-out Parking Waiver**

Back-out parking within the required side or rear setback may be allowed onto adjacent alleys subject to the following standards:

- i. The lot in question does not exceed 20,000 feet in area;
- ii. A maximum of eight back-out parking spaces are permitted per site; and
- iii. Parking shall directly access an improved alley.

**(6) Stormwater Drainage**

~~(A) Parking lots shall be constructed such that all surface water is directed into an approved landscape bumpout, island, or endcap per Section 20.04.080(h)(2) (Landscape Bumpouts, Islands, and Endcaps). Stormwater run-off that cannot be directed into approved landscape bumpouts, islands, or endcaps shall be treated using one or more of the best management practices prescribed in Section 20.04.060(i)(6)(E) or directed into the stormwater drainage system.~~

~~(B)~~(A) Water draining from a parking lot shall not flow across a sidewalk.

~~(C)~~(B) Stormwater drainage plans for off-street parking lots shall be reviewed and approved by the City.

~~(D)~~(C) All parking lots, excluding drives that do not afford direct access to abutting parking spaces, shall have a slope of five percent or less.

~~(E) For all new parking lots containing 12 or more spaces, the following best management practices shall be used to improve stormwater infiltration and water quality:~~

- ~~i. Permeable pavement materials shall be installed. If such materials are the only practice employed from this list, then they shall cover at least 25 percent of the total parking lot area; or~~
- ~~ii. Treatments such as culvert outfalls, bioretention basins, or vegetated swales designed to the specifications of City of Bloomington Utilities shall be installed; or~~

~~iii. Other combinations of best management practices for stormwater infiltration and water quality subject to approval by the City of Bloomington Planning and Transportation and Utilities Departments.~~

### (7) Surface Material

- (A) Except for dwelling, single family (detached), dwelling, single-family (attached), dwelling, duplex, dwelling, triplex, and dwelling, fourplex residences or as stated in subsection (6) above, or an exception is provided elsewhere in this UDO, all areas used for parking shall be hard surface of concrete, asphalt, brick pavers, or other approved material. Where crushed stone parking surfaces are approved, they shall be contained within a raised, permanent border.
- (B) All new driveway aprons onto a street shall be surfaced with concrete. Enlargement or modification of an existing driveway shall require the driveway apron to be surfaced with concrete, except that the driveway apron for a single-family, duplex, triplex, or fourplex use on a local street may use asphalt or concrete.
- (C) Areas using permeable parking pavers shall not count towards impervious surface calculations.
- (D) Except for single-family, duplex, triplex, fourplex, mobile home, and manufactured home residential uses, and display areas for vehicle sales and rental uses, all off-street parking spaces shall be striped or otherwise designated to clearly mark each space.
- (E) All driving lanes and parking aisles in parking lots shall be curbed, unless an alternative design allowing for adequate stormwater management is approved.

### (8) Electric Vehicle Charging

Parking areas with 50 or more parking spaces shall provide a minimum of one parking space dedicated to electric vehicles for every 25 parking spaces provided on site. The provision of three or fewer electric vehicle parking spaces shall not count toward the maximum allowed number of parking spaces. The provision of four or more electric vehicle parking spaces shall count toward the maximum allowed number of parking spaces. The electric vehicle parking space shall be:

- (A) Located on the same lot as the principal use;
- (B) Signed in a clear and conspicuous manner, such as special pavement marking or signage, indicating exclusive availability to electric vehicles; and
- (C) Outfitted with a standard electric vehicle charging station.

### (9) Parking Area Landscaping

All development shall comply with Section 20.04.080(h).

### (10) Parking Area Lighting

All development shall comply with Section 20.04.090.

### (11) Pedestrian and Bicycle Circulation

All development shall comply with Section 20.04.050.

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## (j) Loading Area Location and Design

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### (1) Applicability

This Section 20.04.060(j) shall apply to all loading areas.

**(4) Vehicles and Trailers**

Except for uses where auto repair is authorized, the parking of vehicles or trailers of any type without current license plates or in an inoperable condition shall be prohibited for periods in excess of 30 days, unless such vehicle or trailer is completely enclosed within a building or within an approved Salvage or Scrap Yard.

**(5) Storage, Occupancy, or Similar Uses**

Vehicles, campers or tractor/trailers of any type shall not be used for the purpose of storage, occupancy, or similar use.

**(o) On-street Parking Standards for Private Streets**

The following standards related to on-street parking apply to all developments where the City has approved the use of private streets that have not been dedicated to the City.

**(1) No Parking Signs**

Any side of a street where parking is not permitted shall be clearly delineated with yellow curbs or no parking signs noting such restrictions.

**(2) Bump-outs**

(A) Bump-outs may be required at street intersections where on-street parking is used. Where required, bump-outs shall use a six-inch standing curb, unless the City determines that a curb and gutter is required based on considerations of public safety, utility design, or site constraints.

(B) Bump-outs shall be designed to extend a minimum of eight feet from the curb line and may not reduce the travel lane widths below the standards of the Transportation Plan. The City may allow alternative bump-out widths based on considerations of public safety, utility design, or site constraints.

~~(C) Curbing may include cuts for water runoff collection into approved swale or the like to improve water quality.~~

~~(D)~~(C) Bump-outs shall be installed at angles greater than 90 degrees away from the street curb to facilitate street maintenance and shall use designs approved by the Transportation and Traffic Engineer based on considerations of pedestrian and traffic safety and efficient maintenance.

**(p) Outdoor Storage****(1)**

In all zoning districts, except for the M1 zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited. Shipping containers, cargo containers, and portable on-demand storage units may not be used for long-term storage, and may only be located on a lot or parcel:

- (A) To provide storage for construction projects during the period of an approved construction project on the same lot or parcel; or
- (B) During the process of being loaded or unloaded, the duration of which may not exceed 72 consecutive hours.

(C) **Vehicular and Pedestrian Movement**

Plant materials shall be located to avoid interference with vehicular and pedestrian movement and shall not project over sidewalks, paths, or trails below a height of eight feet. Plant materials shall not project over street curbs or pavement within rights-of-way or access easements below a height of 15 feet.

(D) **Vision Clearance**

Landscape materials shall be located to avoid interference with visibility per Section 20.04.050(c)(4) (Vision Clearance Triangle).

(E) **Green Infrastructure**

All green infrastructure facilities, including detention basins, bioswales, and raingardens shall be planted with only native seed and/or plugs.

(F) **Installation Prior to Occupancy**

All landscaping required by the approved site plan shall be installed and inspected prior to issuance of a recommendation for final occupancy, unless an extension is approved by the Planning and Transportation Department for weather-related or unique circumstances.

(2) **Plant Material Standards**

(A) **Live Plantings**

All plant material shall be living and healthy. Dead, ailing, diseased or artificial plants shall not be recognized as contributing to required landscape treatments.

(B) **Species Identification**

New plantings shall have species identification tags on the plant or paid purchase identification labels on the plants during the final inspection. A receipt with purchase order for plantings may be submitted prior to inspection in lieu of tags or labels on site.

(C) **Prohibited Plant Species**

Species identified as invasive, detrimental, or noxious shall not be planted under any circumstances and will not be counted toward landscape requirements. Unless specifically approved by the City Urban Forester or Senior Environmental Planner, the use of columnar trees is not allowed.

(D) **Species Diversity**

- i. On sites that require an aggregate total of 20 or more new trees, any given genus of tree shall be limited to a maximum of 20 percent of the total number of newly planted trees on site.
- ii. Where shrubs are required to be planted, up to 15 percent of the total number of required shrubs may be substituted with perennial forb species, graminoids, or ferns. This does not apply to shrubs required as part of a landscape buffer requirement per Section 20.04.080(g). Any substituted plants used toward parking lot perimeter requirements shall be species that typically grow to be at least four feet in height, and shall be maintained in accordance with Section ~~20.04.120(a)~~20.04.120(b) (Landscaping).

(E) **New Planting Sizes**

The following minimum sizes shall apply to all required plant material:

i. **Deciduous Trees**

All newly planted deciduous trees shall be at least two-inch caliper.

ii. **Evergreen Trees**

All newly planted evergreen trees shall be at least six feet in height.

iii. **Shrubs**

Shrubs shall be at least three-gallon container size and a minimum of 18 inches in height.

(F) **Substitution**

i. **Public Art**

The Planning and Transportation Department may allow up to five percent of the minimum landscape area requirement to be replaced with public art. Public art shall not replace required buffer yard landscaping as required by Section 20.04.080(g) or required parking lot landscaping required by Section 20.04.080(h) and shall not count towards impervious surface area on the lot.

ii. **Existing Vegetation**

1. The City Planning and Transportation Department may permit the substitution of required on-site landscape excluding street tree requirements with existing vegetation provided that the existing vegetation is in good health and quality and is found on the permitted plant list in this UDO.
2. Vegetation preserved to meet the requirements of Section ~~20.04.030(h)~~~~20.04.030(i)~~, (Tree and Forest Preservation), may be substituted for required landscaping, provided it meets the requirements of Section 20.04.080(c)(2).
3. Existing vegetation listed in Section 20.04.080(d), shall be credited towards required landscaping based on the following values:

[a] **Deciduous Trees**

A credit of one tree per every four inches DBH of an existing qualified deciduous tree is earned. No single existing tree shall count towards more than four individual required trees.

[b] **Evergreen Trees**

A credit of one tree per every 12 feet in height of an existing qualified evergreen tree is earned. No single existing tree shall count towards more than three individual required trees.

[c] **Shrubs**

A credit of one shrub per every one existing qualified shrub is earned.

(G) **Ground Cover**

- i. Except in the PO zoning district, turf grass and other vegetative ground cover shall be used for all landscaped areas, except as listed below. Crushed rock or gravel is not allowed as ground cover.

ii. **Type**

A minimum of 75 percent of the required trees shall be large, canopy trees.

iii. **Location**

Trees shall be planted within 10 feet of the parking lot edge.

(C) **Shrubs**

i. **Number**

Parking lot perimeter areas shall contain a minimum of three shrubs per one parking space.

ii. **Location**

Shrubs shall be planted within five feet of the parking lot edge. In situations where there is a sidewalk immediately adjacent to a parking area, the required shrubs must be within 5' of the edge of the sidewalk.

iii. **Height**

Shrubs planted in parking lot perimeter areas shall be selected from species that grow to a minimum height of four feet.

(2) **Landscape Bumpouts, Islands, and Endcaps**

(A) **Number**

Parking lots with 12 or more parking spaces shall provide one landscape bumpout, island, or endcap per every 10 parking spaces.

(B) **Minimum Area**

The width and length of each required landscape bumpout, island, or endcap shall be equal to the width and length of the adjacent parking space.

(C) **Minimum Planting**

Each landscape bumpout, island, or endcap shall contain at least one large canopy tree and four shrubs or native grasses. Where a bumpout, island, or endcap area is equal to the width and length of two parking spaces, a minimum of two large canopy trees and eight shrubs or native grasses shall be provided. Required trees within bumpouts, islands, or endcaps do not count toward required street tree totals, required parking lot perimeter area tree totals, or required interior plantings tree totals.

(D) **Stormwater Filtration**

Parking lot bumpouts, islands, or endcaps shall be installed ~~lower than the parking surface to allow stormwater run-off to enter the bumpout, island, or endcap for natural treatment and filtration. Any parking areas with curbing shall incorporate gaps to allow stormwater to enter the bumpout, island, or endcap in order to meet Title 13 (Stormwater) of the Bloomington Municipal Code.~~

(E) **Placement**

Landscape bumpouts, islands, or endcaps shall be installed to control vehicular circulation and define major drives. Such islands shall be placed at intervals of no more than 10 consecutive spaces.

- i. One floor of building height, not to exceed 12 feet, beyond the maximum primary structure height established for the zoning district where the project is located, as identified in Section 20.04.020 (Dimensional Standards).
- ii. Projects that qualify for the affordable housing incentives in Section 20.04.110(c) (Affordable Housing) in addition to the sustainable development incentive in 20.04.110(d)(2) shall be eligible for the additional incentive height described in Section 20.04.110(c)(5)(B)iv).

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## 20.04.120 Operation and Maintenance

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### ~~(a)~~ **Siltation and Erosion**

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- ~~(1) Sedimentation basins and other control measures necessary to meet the requirements of Section 20.04.030(d) (Siltation and Erosion Prevention) shall be maintained by the property owner during construction.~~
- ~~(2) Any site stabilization measures shall be maintained by the property owner in perpetuity.~~
- ~~(3) Sediment shall be removed to maintain a depth of three feet.~~

### ~~(b)~~**(a) Landscaping**

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Developers and their successors in interest shall be responsible for the regular maintenance of all landscaping elements in perpetuity. Failure to maintain all landscaping is a violation of this UDO. Specifically:

- (1) All plant material, including plant material on vegetated roofs, shall be maintained alive, healthy, and free from disease and pests;
- (2) All landscape structures including, but not limited to, vegetated roof infrastructure, raised landscape planters, fences, and walls shall be repaired or replaced periodically to maintain a structurally sound and aesthetic condition;
- (3) Ground cover shall be maintained in compliance with Title 6 (Health and Sanitation) of the Bloomington Municipal Code; and
- (4) Public sidewalks shall be maintained in compliance with Title 12 (Streets, Sidewalks, and Storm Sewers) of the Bloomington Municipal Code.

### ~~(c)~~**(b) Outdoor Lighting**

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All lighting fixtures that are required to be shielded shall be installed and maintained so that they maintain compliance with all standards for shielded fixtures as specified in this Section 20.04.090 (Outdoor Lighting).

### ~~(d)~~**(c) Signs**

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All signs and components thereof shall be kept in good repair and in safe, clean, neatly painted, and working condition.

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## 20.05.040 Easements

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### (a) Applicability

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All proposed plats submitted for approval under the provisions of this Chapter 20.05: (Subdivision Standards) shall comply with the standards in this Section 20.05.040.

### (b) General Standards

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- (1) All easements and corresponding utility location plans shall be approved prior to the approval of the plat.
- (2) All necessary easements shall be clearly identified on secondary plats and shall be recorded per processes as defined within Chapter 20.06: (Administration & Procedures), and shall include a definition consistent with Section 20.05.040(e).
- (3) All proposed plats shall clearly identify all existing easements on the property, including dimensions, bearings, and recorded instrument numbers.
- (4) Signs shall not be located within utility easements unless the sign is a public sign authorized by Section 20.04.100(c)(2)(A) (Public Signs), and is further authorized by the city.
- (5) Each easement shall allocate sufficient areas for the utilities, infrastructure, amenities, or features that are the subject of the easement, including but not limited to drainage, utilities, tree preservation, environmental conservation, pedestrian access, vehicular access, and transit facilities, wherever necessary.

### (c) Environmental Features

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The following environmental features that are determined to not be developable per Section 20.04.030 (Environment) shall be placed within the appropriate easements on the secondary plat or set aside in easements on a deed where no plat is required or proposed, as identified in Section 20.04.030 (Environment).

- (1) All areas of excessive slope as defined in Section 20.04.030(c) (Steep Slopes).
- (2) All karst features and their required buffer zones as defined in Section ~~20.04.030(f)~~20.04.030(g) (Karst Geology).
- (3) All required riparian buffer areas as defined in Section ~~20.04.030(e)~~20.04.030(f) (Riparian Buffers).
- (4) All areas within regulatory floodways and flood fringes as defined in Section 20.04.040 (Floodplain).
- (5) All delineated wetlands and required wetland buffer areas as defined in Section ~~20.04.030(g)~~20.04.030(h) (Wetlands).
- (6) All trees required to be preserved by Section ~~20.04.030(h)~~20.04.030(i) (Tree and Forest Preservation).

### (d) Maintenance

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- (1) For features required to be in an easement, maintenance shall generally be the responsibility of the lot owner, except as expressly provided otherwise in this UDO or in the development approval.



iii. **Slope**

The man-made slopes within the detention facility shall not exceed a four to one ratio.

iv. **Perimeter Access**

1. A buffer area around the full circumference of the facility of at least 25 feet from the top of bank shall be available as open space.
2. This open space (facility and buffer area) shall be planted and maintained as usable area. This includes use of prairie grasses, native species, native ground cover, or lawn grass. Tree planting shall not be within the basin area or on the slopes of the bank.

(D) **Regulated Floodplain**

The regulated floodplain of any stream, regulated drain, or river shall count toward the open space requirements.

(E) **Other**

Other common areas set aside to meet open space requirements.

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(h) **Storm Water**

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(1) **Applicability**

All proposed subdivisions submitted for approval, under the provisions of this UDO, shall provide for the collection and management of all surface water drainage.

(2) **Drainage Plan**

All subdivision requests shall include the submittal of a drainage plan to the City Utilities Department, ~~and are subject to the requirements of Title 13 (Stormwater) of the Bloomington Municipal Code.~~ ~~The drainage plan shall include, but not be limited to, the following items:~~

~~Complete grading plan showing all proposed detention and retention facilities, swales, and drainage structures;~~

~~All proposed piping including size and location of proposed stormwater lines, as well as plan and profile drawings for all proposed improvements;~~

~~Complete and accurate stormwater calculations justifying methodology of the drainage plan in compliance with City Utilities Department standards; and~~

~~The finish floor elevation of all proposed structures.~~

~~Stormwater Mitigation Requirements~~

~~Drainage facilities shall be provided to control runoff from all upstream drainage areas and from all areas within the proposed subdivision to a location adequate to receive such runoff. Furthermore, drainage facilities shall:~~

~~Be designed and constructed in accordance with City Utilities Department standards.~~

~~Be durable, easily maintained, retard sedimentation, and retard erosion. Facilities shall not endanger the public health and safety or cause significant damage to property.~~

~~Be sufficient to accept runoff from the site after development and the present water runoff from all areas upstream to achieve discharge rates meeting City Utilities Department standards.~~

~~Provide stormwater runoff quality mitigation in compliance with City Utilities Department standards.~~

(3) **Common Area**

Engineered and built drainage improvements, including but not limited to detention and retention facilities, for subdivisions shall be contained within common areas. Such improvements shall be constructed and maintained according to City Utilities Department standards, ~~and a Facilities Maintenance Plan shall be required pursuant to the Administrative Manual.~~

(4) **Easements**

Features and improvements shall be located within easements where required, in accordance with the Administrative Manual and this UDO.

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(i) **Flood Damage Mitigation**

All subdivision proposals shall:

- (1) Be consistent with the need to minimize flood damage.
- (2) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) Have adequate drainage provided to reduce exposure to flood hazards.

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(j) **Streets and Rights-of-Way**

(1) **Applicability**

All developments submitted for subdivision approval shall allocate adequate areas for new streets in conformity with this UDO and Transportation Plan.

(2) **Private Streets**

- (A) Unless approved by the Plan Commission and the Board of Public Works, private streets are not permitted. All proposed streets shall have right-of-way dedicated as indicated on the Transportation Plan.
- (B) All private streets shall be constructed to the public street standards established in this UDO and other applicable City standards.

(3) **Dedication of Right-of-Way**

In developments that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established in the Transportation Plan, the petitioner shall dedicate additional width along either one or both sides of such streets in order to bring them up to standards.

(4) **Construction and Installation Standards for Streets**

- (A) All street improvements are to be designed, constructed and installed per the City Planning and Transportation Department Standards and Specifications.
- (B) Any new development that includes the construction of a new or widened public street shall be required to install underground telecommunications conduit to extend the City's fiber optic network, known as the Bloomington Digital Underground (BDU). Conduit installation shall be in accordance with BDU specifications and permit requirements of the City of Bloomington. This requirement shall not apply if the Planning and Transportation Director determines that the installation of underground telecommunications conduit is not necessary after review by the City's Director of Information and Technology Services.

- (A) Primary plats;
- (B) Secondary plats;
- (C) Requests for vacation of plats or parts of plats.

(2) **Procedures**

The Plat Committee shall review and hear petitions pursuant to procedures adopted by the Plan Commission by rule.

## 20.06.030 Summary Table of Review Procedures

Table 06-1 lists the development petitions authorized by this UDO, whether public notice is required, whether pre-submittal activities are required, and the role of City review and decision-making bodies.

**Table 06-1: Summary Table of Review Procedures**

R = Review and Recommendation D = Decision A = Appeal \* = Public Hearing Required

Procedure	UDO Section	Public Notice			Pre-Submittal Activities			Review and Decision-Making Bodies						
		Published	Mailed	Posted	Pre-Submittal Meeting	DRC Meeting	Neighborhood Meeting	Staff	Plan Commission	Plat Committee	Board of Zoning Appeals	Common Council	Hearing Officer	Historic Preservation Commission
<b>Development Permits and Procedures</b>														
Site Plan Review, Minor	20.06.050(a)				✓			D	A					
Site Plan Review, Major	20.06.050(a)	✓	✓	✓	✓	✓	✓	R	D*					
Conditional Use Permit	20.06.050(b)	✓	✓	✓	✓			R			D*/A		D*	
Demolition Delay Permit	20.06.050(c)			✓	✓			R						D
Floodplain Development Permit	20.06.050(d)							D						
<a href="#">Site Development/Grading</a> Permit	20.06.050(e)							D						
Certificate of Zoning Compliance	20.06.050(f)							D						
Certificate of Occupancy	20.06.050(g)							D						
Certificate of Final Acceptance	20.06.050(h)							D						
Certificate of Nonconforming Use	20.06.050(i)							D						
Sign Permit	20.06.050(j)							D						
Temporary Use Permit	20.06.050(k)							D						
Easements	20.06.050(l)	See 20.06.050(l) (Easements)												
<b>Subdivision Procedures</b>														
Primary Plat	20.06.060(b)	✓	✓	✓	✓	✓		R	D*/A	D*				

**Table 06-1: Summary Table of Review Procedures**

R = Review and Recommendation D = Decision A = Appeal \* = Public Hearing Required

Procedure	UDO Section	Public Notice			Pre-Submittal Activities			Review and Decision-Making Bodies						
		Published	Mailed	Posted	Pre-Submittal Meeting	DRC Meeting	Neighborhood Meeting	Staff	Plan Commission	Plat Committee	Board of Zoning Appeals	Common Council	Hearing Officer	Historic Preservation Commission
Secondary Plat	20.06.060(c)							R / D	D/A	D				
Vacating Plat	20.06.060(d)	✓	✓	✓	✓	✓		R	D*/A	D*				
<b>Plan/Ordinance Amendments</b>														
Comprehensive Plan Amendment	20.06.070(a)	✓						R	R*			D*		
Zoning Map Amendment	20.06.070(b)	✓	✓	✓	✓	✓	✓	R	R*			D*		
Rezoning to Planned Unit Development (PUD)	20.06.070(c)	✓	✓	✓	✓	✓	✓	R	R*			D*		
Zoning Text Amendment	20.06.070(d)	✓	✓		✓			R	R*			D*		
<b>Flexibility and Relief Procedures</b>														
Minor Modification	20.06.080(a)				✓			As required for associated petition						
Variance	20.06.080(b)	✓	✓	✓	✓			R			D*/A		D*	
Administrative Interpretation	20.06.080(c)							D			A			
Administrative Appeal	20.06.080(d)	✓	✓					R			D*			

## 20.06.040 Common Review Procedures

### (a) General

- (1) The common review procedures in this Section 20.06.040 provide the foundation for specific review and approval procedures identified in Section 20.06.050 through Section 20.06.080. The common review procedures are illustrated in Figure 06.04-1. Tailored versions of this illustration appear in each of the specific petition types.
- (2) Not all common review procedures apply to every development petition type. Sections 20.06.050 through Section 20.06.080 identify how these common review procedures are applied to specific petition types, and identify additional procedures and requirements beyond the common review procedures.

iv. Creation or expansion of any vehicular parking area.

**(B) Activities Exempt from Site Plan Review**

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this UDO and building permit review:

- i. Construction of a single-family detached, duplex, triplex, or fourplex dwelling on a single lot, additions to such dwellings, an accessory dwelling unit, and structures accessory to such dwellings; and
- ii. Construction or erection of accessory buildings, fences, hedges, or walls; and
- iii. Interior tenant alterations or improvements that do not increase parking requirements or alter exterior building appearances.
- iv. Projects that fall below the thresholds for minor site plan review in Section 20.06.050(a)(2)(C)i).

~~v. Activities that require a grading permit but do not require any site improvements.~~

**(C) Thresholds for Minor and Major Site Plan Review**

Site plan review is conducted by the Planning and Transportation Director or the Plan Commission, based on the thresholds below:

**i. Minor Site Plan Review**

Minor site plan review is required for any of the following activities unless that activity is exempt from the site plan process under Section 20.06.050(a)(2)(B), or the project meets or exceeds the thresholds requiring major site plan review under Section 20.06.050(a)(2)(C)ii:

1. A change in use that involves or requires site improvements;
2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section 20.06.050(a)(2)(C)(ii).
3. Development that contains 20,000 square feet or less of new non-residential gross floor area;
4. Development that contains 50 dwelling units or less;
5. The alteration of any vehicular parking area;
6. Petitions for a site development grading permit ~~where site improvements are required~~; or
7. Projects that qualify for affordable housing incentives and/or sustainable development incentives established in Section 20.04.110 (Incentives), provided that, if located adjacent to one or more lots in an R1, R2, R3, or R4 district or such project does not contain more than 75 dwelling units.

**ii. Major Site Plan Review**

Major site plan approval is required for any project that meets or exceeds the following criteria, unless otherwise exempted from site plan review under Section 20.06.050(a)(2)(B):

(C) **Staff Review and Action**

i. **Generally**

1. The Planning and Transportation Director shall review the minor site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).
2. Alternatively, the Planning and Transportation Director may refer the petition to the Plan Commission pursuant to Section 20.06.040(d)(2) (Petition Routing).

ii. **Commitments**

The Planning and Transportation Director may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.06.040(d)(8) (Commitments).

iii. **Additional Review for Drainage and Floodplain**

Any projects that are determined by the Planning and Transportation Department to be located within an identified floodway, flood fringe, or within the floodplain shall also meet the criteria in Section 20.04.040 (Floodplain).

(D) **Post-Decision Actions and Limitations**

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

i. **Notification of Findings**

The Planning and Transportation Director shall make and sign written findings concerning each decision to approve or disapprove a minor site plan, and such written findings shall be made available to the petitioner.

ii. **Expiration of Approval**

Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval). A site plan approval will be considered expired if no Site Development Permit has been approved related to the site plan within the one year period or the approved extended time period. Or, in the case where no Site Development Permit is required, no Certificate of Zoning Compliance for a building permit on the site plan has been approved related to the approval within the one year period, or the approved extended time period.

iii. **Modification or Amendment of Approval**

An approved minor site plan may be modified or amended in accordance with Section 20.06.040(h)(3) (Modification or Amendment of Approval).

**(D) Scheduling and Notice of Public Hearings**

The major site plan petition shall be scheduled for a public hearing before the Plan Commission and noticed in accordance with 20.06.040(e) (Scheduling and Notice of Public Hearings).

**(E) Review and Decision**

**i. Generally**

The Plan Commission shall review the major site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(g) (Review and Decision), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).

**ii. Commitments**

The Plan Commission may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.06.040(d)(8) (Commitments).

**iii. Additional Review for Drainage and Floodplain**

Any projects that are determined by the Planning and Transportation Department to be located within an identified floodway, flood fringe, or within the floodplain shall also meet the criteria in Section 20.04.040 (Floodplain).

**(F) Post-Decision Actions and Limitations**

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

**i. Notification of Findings**

The Plan Commission shall make written findings concerning each decision to approve or disapprove a major site plan, and such findings shall be made available to the petitioner.

**ii. Expiration of Approval**

Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval). A site plan approval will be considered expired if no Site Development/Grading Permit has been approved related to the site plan within the one year period or the approved extended time period. Or, in the case where no Site Development/Grading Permit is required, no Certificate of Zoning Compliance for a building permit on the site plan has been approved related to the approval within the one year period, or the approved extended time period.

**iii. Modification or Amendment of Approval**

An approved major site plan may be modified or amended in accordance with Section 20.06.040(h)(3) (Modification or Amendment of Approval).

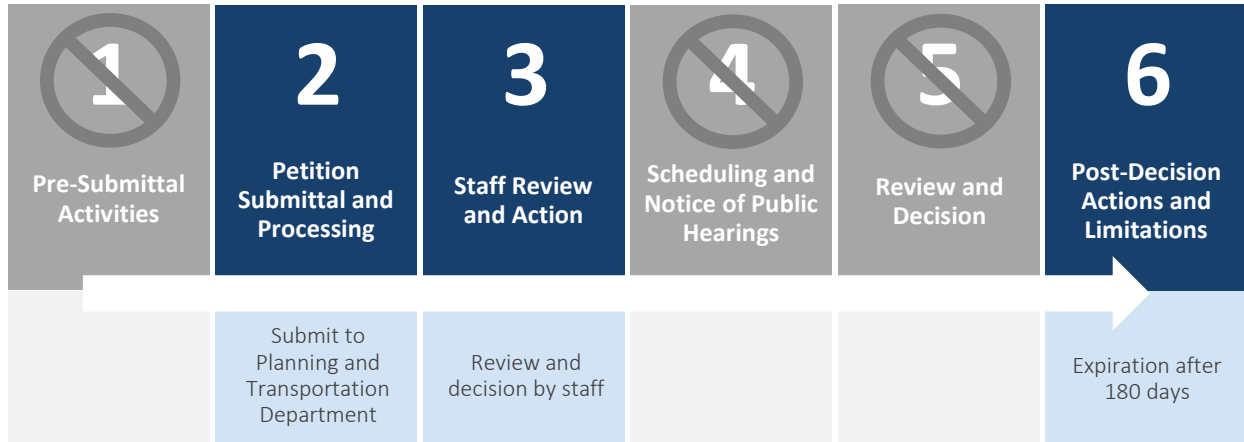
**(2) Applicability**

- (A) No development shall occur in any special flood hazard area (SFHA) and known flood prone areas, unless a required stormwater management grading permit per Title 13 (Stormwater) of the Bloomington Municipal Code for such activity has been issued. In cases where a stormwater management permit is not required, no development shall occur unless a site development permit has been issued.
- (B) Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices established in federal and state law and all other applicable rules, regulations, standards and specifications of the City regarding development within a floodplain.

**(3) Floodplain development permit Review Process**

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to floodplain development permit review. Additions or modifications to the common review procedures are noted below.

**Figure 06.05-5: Summary of Floodplain development permit Procedure**



**(A) Petition Submittal and Processing**

The floodplain development permit petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing) with the following modifications:

**i. Petition Submittal Requirements**

The petition shall include, but not be limited to, the following documents:

1. A description of the proposed development;
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
3. A legal description of the property site;
4. A site development plan showing existing and proposed development locations and existing and proposed land grades;
5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;



iv. **Revocation of Permits**

1. The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this UDO, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
2. The Floodplain Administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this UDO.

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(e) **Site Development Grading Permit**

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(1) **Purpose**

The site development grading permit procedure is intended to ~~mitigate the environmental impact of site development and to protect the water quality of the City of Bloomington, Monroe County, and surrounding areas, and to~~ provide a mechanism to ensure compliance with this UDO by providing a thorough permitting and inspection process for all site development grading activities.

(2) **Applicability**

No site development~~land-disturbing~~ activity shall occur on platted or unplatted lands in any zoning district, unless a site development grading permit for such activity has been issued.

(A) **Exemptions**

- ~~i. Land-disturbing activity covering an area less than 2,500 square feet;~~
- i. Site development~~land-disturbing~~ activity on lots containing the uses: dwelling, single-family (attached); dwelling, single-family (detached); dwelling, duplex; dwelling, triplex; or dwelling, fourplex.
- ii. Site development activity containing only new buildings or changes, alterations, or additions to an existing building, with no additional improvements required.
- iii. Site development activity containing only new signs, or changes, alterations, or additions to a sign.
- ~~ii.iv. Site development activity containing related to an approved temporary use.~~  
~~Land-disturbing activity solely for new foundations for buildings or additions with a footprint of 5,000 square feet or less.~~

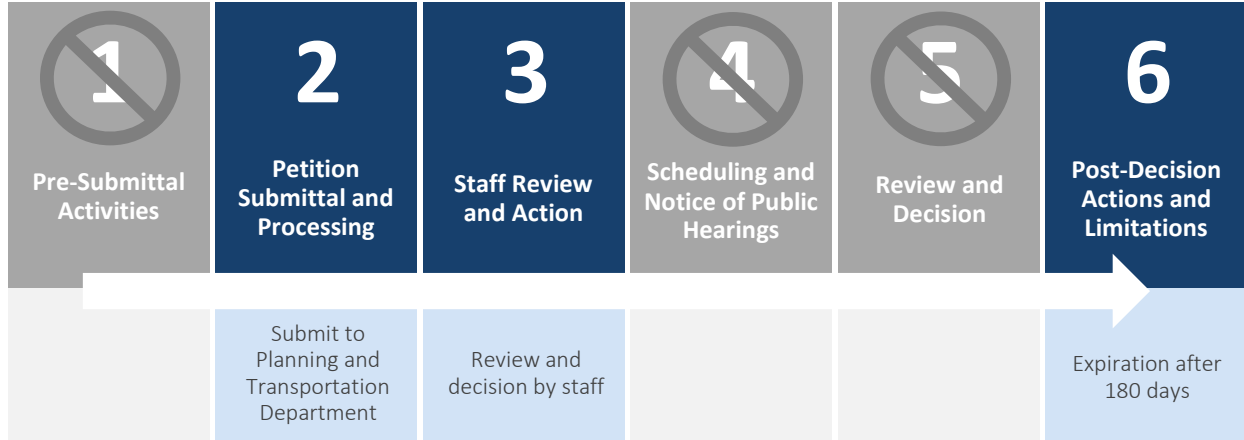
(B) **Additional Requirements**

~~Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5, and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management; all applicable provisions of Title 10 (Wastewater) of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the City Utilities Department regarding stormwater management practices.~~

(3) **Site Development Grading Permit Review Process**

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to site development grading permit review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-6: Summary of Site Development Grading Permit Procedure



(A) **Petition Submittal and Processing**

The site development grading permit petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing) with the following modifications:

i. **Petition Submittal Requirements**

The petition shall include, but not be limited to, the following documents:

1. Verification of site plan approval when such approval is required;
- ~~2. Construction plan including all proposed site improvements;~~
- ~~2. Estimate prepared by a licensed engineer of erosion control features for erosion control measures based on fair market price;~~
3. Topography of the site - proposed and existing two-foot contours;
4. Identification of environmental features, including but not limited to karst, water, trees, and steep slopes.

(B) **Staff Review and Action**

The planning and transportation staff shall review the site development grading permit petition and approve, approve with conditions, or deny the petition within 20 working days of the receipt of a complete petition and all supportive documents in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in 20.06.040(d)(6)(B) (General Compliance Criteria) and the following specific approval criteria.

**i. Construction Plan**

~~The construction plans shall include all required and proposed environmental protections including but not limited to: tree protection zones, easements and setbacks from environmental features and conservation areas; as well as all required and proposed site improvements. The requirements are further detailed in the Administrative Manual. As required by Title 10 (Wastewater), of the Bloomington Municipal Code, a construction plan including the stormwater pollution prevention plan for the site shall be approved by the appropriate local, state, and federal authorities prior to the issuance of a grading permit.~~

**ii. Planned Unit Development Approval**

An approved final plan shall be in place prior to the issuance of a grading permit.

**iii. Stormwater Permit**

~~If required by Title 13 (Stormwater) in the Bloomington Municipal Code, petitioner must submit an application for a stormwater management permit to the City of Bloomington Utilities Department at the time of application for the site development permit.~~

**(C) Post-Decision Actions and Limitations**

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

**i. Duration**

- ~~1. Site development~~Grading permits shall be valid for a period of 180 days, as measured from the date on the certificate of zoning compliance or run concurrently with the building permit or other construction authorizations, whichever is longer.
2. At the written request of the petitioner, the city may extend the period one or more times for up to a maximum of an additional 180 days. ~~The city may require additional erosion control measures as a condition of the extension if they are necessary to meet the requirements of this UDO.~~

**ii. Changes or Amendments**

1. The petitioner may submit revisions or amendments to an approved ~~site development~~grading permit for consideration by the local, state, and federal authorities having jurisdiction. A revision or amendment to an approved ~~site development~~grading permit shall only be authorized upon review and approval by all the local, state, and federal authorities having jurisdiction.
2. Changes to the ~~site development~~grading permit shall be approved in writing.

**iii. Financial Bond Required**

- ~~1. In conjunction with the approval of grading permit, the petitioner shall provide a financial guarantee for erosion control measures, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the City, that all erosion control measures required under the provisions of this UDO and Planning and Transportation Department requirements shall be completed.~~

- ~~2. If the City draws on the erosion control bond to stabilize and reestablish the site, either the erosion control estimate prepared by the licensed engineer or the documented actual dollar per acre amount for reestablishment of the site, whichever is greater, shall be used.~~
- ~~3. The posting of a performance guarantee is not required when the petitioner is the City of Bloomington.~~

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**(f) Certificate of Zoning Compliance**

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**(1) Purpose**

The Certificate of Zoning Compliance procedure is intended to provide a mechanism for City staff to ensure that the establishment of and alterations to uses, sites, and structures conform to the standards of this UDO.

**(2) Applicability**

**(A) Generally**

- i. A Certificate of Zoning Compliance shall be required for any of the following activities:
  1. Alteration, erection, construction, reconstruction, division, enlargement, demolition, partial demolition or moving of any building, structure, sign, or mobile home;
  2. Establishment of a use or change in use to another use (see Section 20.06.090(c)(2) (Change in Use));
  3. Enlargement in the area used for any use or relocation of a use to another portion of a lot, site, or building;
  4. ~~Site Grading, development~~, improvement, or other alteration of land, including paving or the establishment of drives or parking areas, or any other land distributing activity.
  5. Tree removal requests that decrease the baseline canopy cover shall follow the procedures outlined in Section 20.06.050(a) (Site Plan Review), and shall comply with the requirements of Section ~~20.04.030(h)~~~~20.04.030(i)~~ (Tree and Forest Preservation).
  6. Any action that would result in partial or complete demolition of any exterior portion of a building or structure that is listed as "Outstanding," "Notable," or "Contributing" on the City of Bloomington Survey of Historic Sites and Structures as the same may be amended or replaced ("Historic Survey"). Such action shall be subject to the procedures outlined in Section 20.06.050(c) (Demolition Delay Permit). An accessory building or structure not attached to the principal building or structure upon the listed parcel shall not be considered "listed" within the meaning of this UDO unless the accessory building or structure is of the same era of construction as the principal building or structure, as determined by the staff. Such determination shall be based upon resources that may include but shall not be limited to Sanborn Company Fire Insurance maps, visual inspection of the accessory building or structure, and records and expertise of Historic Preservation Commission or its staff.

1. Construction under a valid site development grading permit or building permit has commenced and is ongoing; or
2. Upon petition, the Planning and Transportation Director grants an extension pursuant to Section 20.06.040(h)(1) (Expiration of Approval).

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**(g) Certificate of Occupancy**

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**(1) Purpose**

The Certificate of Occupancy procedure is intended to provide a mechanism for City staff to ensure that the establishment of and alterations to uses, sites, and structures conform to the standards of this UDO.

**(2) Applicability**

**(A) Generally**

A Certificate of Occupancy shall be obtained prior to a building or structure being occupied or used in each of the following situations, except for detached single-family dwellings:

- i. Occupancy or use of any new building or structure;
- ii. Re-use or re-occupancy of any existing building or structure that requires either a permit from the County Building Department or a Certificate of Zoning Compliance from the Planning and Transportation Department;
- iii. Addition to any existing building or structure. Parts of the existing building or structure not included in the addition may continue to be occupied or used.

**(B) Certificate of Occupancy Required**

If a certificate of occupancy is required pursuant to subsection (A) above, it is unlawful and a violation of this UDO for anyone to occupy or use a building or structure, or to cause, suffer or permit another to occupy or use a building or structure, until a temporary or final Certificate of Occupancy has been granted. Any violation of this provision shall be subject to a stop work order, mitigation, and/or fines and penalties as specified in Section 20.06.100 (Enforcement and Penalties).

**(3) Certificate of Occupancy Review Process**

- iii. More than a 10 percent change to the proportion of housing types;
- iv. Substantial increase in the building envelope;
- v. More than a one percent reduction of proposed open space;
- vi. Changes in functional uses of open space, where such change constitutes an intensification of open space usage;
- vii. Substantial change in the ratio of off-street parking spaces to use;
- viii. Substantial changes in standards, continuity, or general location of roads, utilities, or stormwater management features; or
- ix. Substantive changes in the covenants, conditions and restrictions, or other governing agreements, that affect any matter regulated by this UDO.

ii. **Final Plan**

1. **Effect of Approval**

- [a] No permit of any kind shall be issued for any purpose within a Planned Unit Development zoning district except in accordance with the approved final plan. Any material deviation from the final plan is subject to appropriate enforcement action.
- [b] No permit of any kind shall be issued until the final plan has been approved.

2. **Duration**

[a] **Abandonment**

The final plan shall be considered abandoned if no [site development/grading](#) permits or building permits have been obtained and are still valid for the area contained in the final plan within three years after final plan approval has been granted, or if such permits have been obtained but are no longer valid per the terms of this UDO.

[b] **Extension**

An extension, not to exceed 12 months, may be granted by the Plan Commission for good cause shown. The Plan Commission may grant one 12-month extension.

3. **Changes or Amendments**

[a] **Minor Changes**

The Planning and Transportation Director may approve minor changes to an approved final plan, if the changes do not change the concept or intent of the development, without a public hearing or public notice as authorized by rule of the Plan Commission. Such decisions shall be subject to appeal pursuant to Section 20.06.070(c)(3)(E)ii.4). This shall include the following:

- i. Minor changes in the location and siting of buildings and structures;
- ii. Changes in height of less than one story, but not over eight feet in any case;

- [h] The safety of access to the property in times of flood for ordinary and emergency vehicles.
- [i] The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- [j] The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

2. **Review Criteria**

The Board of Zoning Appeals or the Hearing Officer may grant a floodplain variance if, after a public hearing, it makes findings of fact in writing, that there is:

- [a] A showing of good and sufficient cause;
- [b] A determination that failure to grant the variance would result in exceptional hardship;
- [c] A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and
- [d] A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances;

iii. **Commitments**

1. The Board of Zoning Appeals or the Hearing Officer may allow or require the owner of a parcel of real property to make a written and recorded zoning commitment concerning use and/or development of that parcel in connection with approval of a variance pursuant to Section 20.06.040(d)(8) (Commitments).
2. Upon approval of a determinate sidewalk variance, the Planning and Transportation Department staff shall prepare a zoning commitment indicating that the determinate sidewalk variance was approved, and that future installation of sidewalk may be required. The petitioner shall record the zoning commitment in the Monroe Office of the Monroe County Recorder before a certificate of zoning compliance is issued.
3. If the owner of a parcel of real estate fails to accept a condition imposed, or to make a commitment allowed or required, by the Hearing Officer, then the owner's petition shall be considered withdrawn or, if requested by the owner, shall be transferred to the Board of Zoning Appeals.

(F) **Post-Decision Actions and Limitations**

i. **Effect of Approval**

1. The granting of a variance from the development standards authorizes the development and establishes the terms of use.
2. Variances are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits shall be obtained before any site developmentgrading, construction, or use commences.

- (2) Any violation as defined herein is hereby declared a common and public nuisance, and any person who is a responsible party as defined in Section 20.06.100(e) with respect to such violation shall, in addition to any other penalty or remedy provided herein, be liable for maintaining a common and public nuisance.
- (3) Any violation shall be subject to the penalties and remedies provided in this Section 20.06.100, and the City shall have recourse to any remedy available in law or equity.
- (4) Each day that any violation continues shall be considered a separate violation for purposes of the penalties and remedies specified in this chapter. A violation continues to exist until corrected. Correction includes, but is not limited to:
  - (A) Cessation of an unlawful practice;
  - (B) Removal of a building, structure, or other improvement;
  - (C) Faithful or otherwise-approved restoration or replacement of a building, structure, site or natural feature;
  - (D) Any other remedy specified in this UDO; and/or
  - (E) Other remedy acceptable to the City.
- (5) The City Legal Department may institute appropriate action to impose and collect fines and/or other penalties; to enforce or defend any action taken pursuant to Section 20.06.100(e)(5); and to prevent, enjoin, abate, remove or correct any violation of or noncompliance with this UDO or any condition, requirement, or commitment established in connection with this UDO or any development approval hereunder.
- (6) In addition to all other penalties and remedies provided for herein, if a building or structure is demolished (which shall include partial demolition) in violation of Section 20.06.050(c) (Demolition Delay Permit), then, for a period of two years following such demolition, no new certificate of zoning compliance authorizing any use or any release of a building or demolition permit shall be issued for any activity upon the lot of record upon which the building or structure was located, or any adjoining lot of record under common ownership or control, except for an approved restoration or replacement of the demolished building or structure, or as otherwise agreed to by the City or ordered by the Court in enforcement proceedings. The Planning and Transportation Director shall be authorized to execute and record in the Office of the Monroe County Recorder a sworn statement containing these restrictions upon the properties affected thereby.
- (7) In addition to all other penalties and remedies provided for herein, where the violation is removal of one or more trees contrary to Section ~~20.04.030(h)~~20.04.030(i) (Tree and Forest Preservation), the responsible party shall be required to meet the following requirements:
  - (A) Replace the removed trees with healthy trees of similar species.
    - i. The aggregate caliper of replacement trees shall equal the aggregate caliper of removed trees. Determination of total caliper to be replaced shall be made by the Planning and Transportation Director.
    - ii. The size of replacement trees shall be the largest reasonably available which can either be planted or transplanted from another location.