(passed 9-0)

ORDINANCE 07-03

TO AMEND TITLE 8 "HISTORIC PRESERVATION AND PROTECTION" AND TITLE 17 "CONSTRUCTION REGULATIONS" OF THE BLOOMINGTON MUNICIPAL CODE
Re: To Implement Revisions to the Demolition Delay Ordinance, Including Enforcement Provisions, as Provided by the Bloomington Unified Development Ordinance and Codifying the Adoption of the 2001 City of Bloomington Survey of Historic Sites and Structures

WHEREAS, the City of Bloomington has a rich historic and architectural heritage, which has been catalogued in the *2001 City of Bloomington Survey of Historic Sites and Structures*; and

WHEREAS, the City adopted Ordinance 05-01 and Ordinance 05-02 ("Demolition Delay Ordinance") in 2005 which imposed a delay upon demolition of certain buildings and structures that have been listed on the *Survey* but not yet protected by formal historic designation; and

WHEREAS, In January of 2007, the City adopted Ordinance 06-24 which repealed and replaced Titles 19 and 20 of the Bloomington Municipal Code and replaced these Titles with a single "Bloomington Unified Development Ordinance" codified as Title 20; and

WHEREAS, the Unified Development Ordinance became effective on February 12, 2007; and

WHEREAS, the Bloomington Unified Development Ordinance revised the Demolition Delay Ordinance by: requiring applicants to be bound by their submissions; requiring accessory structures to be covered by Demolition Delay provisions if constructed in same era as principal building; clarifying the meaning of "partial demolition;" and outlining the submittal material needed to address partial demolition requests; and

WHEREAS, these changes insure the harmonious and orderly growth and development of the City and work to preserve community character; and

WHEREAS, parallel amendments to the Historic Preservation and Construction Regulations sections of the Bloomington Municipal Code are needed in order to implement the aforementioned changes required by the Bloomington Unified Development Ordinance; and

WHEREAS, the Bloomington Unified Development Ordinance also strengthened the enforcement and penalty provisions applicable to violations of the Ordinance, including Demolition Delay; and

WHEREAS, it is reasonable and in the public interest to similarly strengthen the enforcement and penalty provisions of Title 8 "Historic Preservation and Protection" in order that violations affecting designated structures and structures under interim protection may be prosecuted as effectively as are violations affecting structures that are merely inventoried;

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

Amendments to Title 8 "Historic Preservation and Protection"

SECTION I. Section 8.02.020 of the Bloomington Municipal Code entitled "Definitions" shall be amended by amending the definition of "Demolition" to read as follows:

"Demolition" means the complete or substantial removal of any structure. The term "demolition," except where it appears in Sections 8.08.020 (a)(3)(B), 8.08.010(b), and 8.02.020 "Conservation District," shall also include Partial Demolition as defined herein.

SECTION II. Section 8.02.020 of the Bloomington Municipal Code entitled "Definitions" shall be amended by adding the following definition of "Partial Demolition" in alphabetical order:

"Partial Demolition" shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.

SECTION III. Section 8.08.016 of the Bloomington Municipal Code entitled "Limited Effect of Interim Protection or Historic Designation in Certain Situations" shall be amended by deleting the entire provision and replacing it with the following:

8.08.016 Limited effect of interim protection or historic designation in certain situations.

Placing a property under interim protection pursuant to Section 8.08.015, or historic designation of a property pursuant to this chapter, which includes designation as a Conservation District, shall not result in revocation of, or prevent issuance of, any permit or certificate of zoning compliance authorizing demolition of a property in the following situations; provided, however, when the waiting period was triggered by an application for partial, rather than complete, demolition, the limitations on this provision that are set forth in Title 20 of the Bloomington Municipal Code, including but not limited to Sections 20.09.040(b); 20.09.120(d)(6)(B) and 20.09.230(b)(4), shall obtain:

(a) During any one-year period after the termination of a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code; or

(b) During any one-year period following a final vote of the common council not to adopt an ordinance designating a property as historic, where the council was acting during a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code or was acting after the expiration of such a waiting period but as a result of an HPC recommendation that included interim protection and was made during a demolition waiting period under that section.

SECTION IV. New Section. Section 8.08.060 of the Bloomington Municipal Code shall inserted into the table of contents and the body of Chapter 8.08 "Historic Districts and Standards" and shall read as follows:

8.08.060 Survey Adopted.

The Commission's official Survey, entitled Indiana Historic Sites and Structures Survey: 2001 City of Bloomington Interim Report, adopted by the Commission on October 17, 2002, as the same may be hereafter amended or replaced, is hereby adopted and made a part of this Title. The Survey identifies properties that may be proposed for Historic Designation under this Chapter, and further serves as the basis for mandatory delay of proposed demolition as set forth in Title 20 "Unified Development Ordinance" of the Bloomington Municipal Code. Two copies of said Survey are available for inspection and copying in the Office of the City Clerk and in the Office of the Housing and Neighborhood Development Department, City of Bloomington.

SECTION V. Section 8.12.010, "Demolition and Public Safety, Generally" of the Bloomington Municipal Code shall be amended by deleting subsection (b) and replacing it with the following:

(b) Certificate of Appropriateness Required. A certificate of appropriateness must be issued by the commission before a demolition permit is issued by other agencies of the city and work is begun on the demolition of any building or structure in any area of an historic district or conservation district. Pursuant to Section 8.02.020 of this Title, demolition of a building or structure in a conservation district excludes partial demolition as defined herein.

Section VI. Section 8.16.020 of the Bloomington Municipal Code entitled "Enforcement, Penalties and Judicial Review," shall be amended by deleting subsection (b) "Penalties," and replacing it with the following:

(b) Penalties and Remedies:

(1) Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of this Title shall pay a fine, as follows, for each offense. Each day any violation of this Title continues without correction shall be a separate offense. Correction shall include but not be 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 other feature;
(D) Other remedy acceptable to the City.

(2) Each violation of this Chapter shall be subject to a fine of not more than two thousand five hundred dollars ($2,500.00) for the first offense, and not more than seven thousand five hundred dollars ($7,500.00) for the second and subsequent offenses, in addition to any and all other remedies provided for by law. A second or subsequent offense means a violation of any provision of this Title within three (3) years of the first violation of any provision of this Title.

(3) The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provision of this Title is declared to be in violation of this Title and unlawful. The City may institute a suit for injunction in circuit court to restrain any person or governmental unit from violating a provision of this Title or an ordinance adopted under this title and to cause such violation to be prevented, abated, corrected and/or removed or any other remedy available in law or equity. Such action may also be instituted by any interested party who is adversely affected by the violation of any provision of this Title.

Amendments to Title 17 "Construction Regulations"

SECTION VII. Section 17.04.050 of the Bloomington Municipal Code entitled "Definitions" shall be amended by deleting subsection (k) and replacing it with the following:

(k) "Demolition" includes not only complete destruction of any building or structure but also any action that would result in partial demolition of any exterior portion of a building or structure that is listed as outstanding, notable or contributing, or a structure accessory thereto to the extent provided in Section 20.09.220(b)(5) of the Bloomington Municipal Code, on the 2001 city of Bloomington survey of historic sites and structures adopted on October 17, 2002 by the Bloomington historic preservation commission (hereinafter "HPC") as the same may be hereafter amended or replaced (hereinafter "historic survey"). "Partial Demolition" shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.

SECTION VIII. Section 17.08.030(7) of the Bloomington Municipal Code entitled "Permit application" shall be amended by deleting division (a) entitled "Information Required" and replacing it with the following:

(a) Information Required. Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this title. However, when a permit is sought for the partial demolition of a building or structure listed as Outstanding, Notable or Contributing, or a structure accessory thereto to the extent provided by Section 20.09.220(b)(5) of the Bloomington Municipal Code, on the Historic Survey governed by the demolition delay waiting period of Section 20.09.230 of the Bloomington Municipal Code, the application shall include the information required by 20.09.120(d)(6)(B) of the Bloomington Municipal Code.

SECTION IX. Section 17.08.030(7) of the Bloomington Municipal Code entitled "Permit application" shall be amended by adding division (g) entitled, "Recipient Bound" as follows:

(g) Recipient Bound. A recipient of any permit provided under Title 20 of the Bloomington Municipal Code shall be bound by the representation and information submitted in the original application and in any revisions, amendment, or supplement to the original application pursuant to Section 20.09.040 of the Bloomington Municipal Code.

SECTION X. Section 17.08.100 of the Bloomington Municipal Code entitled "Permits involving demolition" shall be amended by deleting the entire Section and replacing it with the following:

17.08.100 Permits involving demolition.

Any permit issued by Monroe County or the city of Bloomington authorizing demolition of any building or structure within the city corporate boundaries, whether denominated a "demolition permit" or any other type of permit authorizing demolition, shall require approval by city engineering, which shall not approve such permit until the planning director or his designee has approved such permit. Approval by the planning director shall indicate that the proposed demolition complies with all applicable provisions of Title 8 and Title 20 of the Bloomington Municipal Code, including but not limited to those provisions restricting demolition of certain buildings and structures on the historic inventory. In the case of a permit authorizing work that includes partial demolition governed by the demolition delay waiting period of 20.09.230, the requirements of 20.09.040(b) shall obtain and the recipient shall be bound by the submission as provided in 20.09.120(d)(6)(B). In such case, a new permit application shall be required for any work that substantially deviates from the submission, and such new permit application shall commence a new waiting period, as provided by Section 20.10.230 "Demolition Delay" of the Unified Development Ordinance.

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

SECTION XII. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor and publication in accordance with State law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 7th day of MARCH, 2007.

DAVE ROLLO, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 8th day of MARCH, 2007.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 7TH day of MARCH, 2007.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 8 and Title 17 to implement changes made to the demolition delay provisions by Ordinance 06-24, the Bloomington Unified Development Ordinance, strengthens enforcement and penalty provisions and expressly identifies and adopts the document upon which demolition delay is based – the *2001 City of Bloomington Survey of Historic Sites and Structures*.

Note: The ordinance was revised after it was distributed in the packet and introduced for first reading. The revision was made to Section XII and reflected the need to publish the ordinance before it can go into effect.

Signed copies to:

legal (10)
CA/CA (3)
Clerk
File
BMC File (2)
Planning
HAND (Hiestand)
Monroe Co. Building Dept.
HT for publication
Historic Preservation Commission