ORDINANCE NO. 82-7

TO ADOPT CHAPTER 17.16 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "UNSAFE BUILDING LAW"

WHEREAS, IC 18-5-5-1 et seq., which detailed the procedure for effecting building code compliance and enforcement in terms of unsafe buildings, for the City Bloomington, was repealed on September 1, 1981, and

WHEREAS, the City of Bloomington is now authorized by provisions of IC 36-7-9 to inspect and order repair or removal of unsafe buildings within the City of Bloomington by passage of an Unsafe Building Law,

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

SECTION I. That a new chapter be added to the Bloomington Municipal Code to be entitled, "Unsafe Building Law", and to read as follows:

Chapter 17.16

UNSAFE BUILDING LAW

Sections:

17.16.010 Title
17.16.020 Adoption by reference
17.16.030 Public nuisance
17.16.040 Definitions
17.16.050 Order and notice
17.16.060 Hearing and review
17.16.070 Emergency orders
17.16.080 Manners of performance
17.16.090 Costs
17.16.100 Unsafe building fund
17.16.110 Standards of work
17.16.120 Inspection warrants
17.16.130 Legal procedings
17.16.140 Violations

17.16.010. Title This chapter shall be known as the Unsafe Building Law of the City of Bloomington, Indiana.

17.16.020. Adoption by Reference Indiana Code 36-7-9-1--36-7-9-28 is hereby accepted by reference as the City of Bloomington Unsafe Building Law. In the event provisions of this ordinance conflict with provisions of Indiana Code 36-7-9-1--36-7-9-28, then provisions of the state statute shall control. The rules of the Administrative Building Council are adopted as the standard for construction for matters considered by this ordinance.

17.16.030. Public Nuisance. All buildings or portions thereof within the City of Bloomington which are determined after inspection by the city engineer or building commissioner to be unsafe as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal. The city engineer through himself or his designated agent, the building commissioner, is authorized to order repair or removal of unsafe buildings according to procedures described in this ordinance.

17.16.040 Definitions. As used in this chapter the following terms have the following meanings unless otherwise designated:

(a) "Department" means the engineering department of the city authorized to administer this chapter.
(b) "Enforcement authority" means the city engineer or his appointed agent. For enforcement purposes the city engineer may designate the building commissioner as his agent. The enforecement authority has only the discretion to determine whether rules and standards in this chapter have been violated.

(c) "Hearing authority" means the board of public works of the city, designated by the mayor as the official hearing board for disputes from the rules and regulations set forth in this chapter. Appeals and variances shall be through the State Administrative Building Council.

(d) "Sealing a building" means that the structure is padlocked, posted with a notice forbidding entry and all ground and first floor openings are secured in a manner directed by the enforcement authority to prevent entry.

(e) "Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

(f) "Unsafe building or structure" means any building or structure or part of building or structure that is:

(1) In an impaired structural condition that makes it unsafe to a person or property; or
(2) A fire hazard; or
(3) A hazard to the public health; or
(4) A public nuisance; or
(5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
(6) In any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

(aa) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
(bb) Whenever the stress in any materials, member or portions thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose, or location;
(cc) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location;
(dd) Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;
(ee) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
(ff) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose or location without exceeding the working stresses permited for such buildings;

(gg) Whenever the building or structure, or any portion thereof, because of (A) dilapidation, deterioration, or decay; (B) faulty construction; (C) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (D) the deterioration, decay, or inadequacy of its foundation; or (E) any other cause, is likely to partially or completely collapse;

(hh) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(ii) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plum line passing through the center of gravity does not fall inside the middle one-third of the base;

(jj) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(kk) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become (A) an attractive nuisance to children, or (B) freely accessible to persons for the purpose of committing unlawful acts;

(ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

(mm) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than fifty percent, or in any supporting part, member, or portion less than sixty-six percent of the (A) strength, (B) fire resisting qualities or characteristics, or (C) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location;

(nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease;

(oo) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the engineering department to be a fire hazard;

(pp) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(g) "Unsafe premises" includes both an unsafe building and tract of real property on which the building is located.

17.16.050 Order and notice. (a) The enforcement authority is authorized to issue an order requiring any remedies described in IC 36-7-9-5 and containing information and time limit required by that reference. (b) An order requiring sealing a building under IC 36-7-9-5(a) requires notification to each person holding any fee interest or life estate; for other orders under IC 36-7-9-5 each person having a substantial property interest in the unsafe premises must be notified. Notification procedure shall be as stated in IC 36-7-9-25.

17.16.060 Hearing and review. Hearing and review are provided as set forth in IC 36-7-9-7 and 36-7-9-8. A hearing is not required to carry out an order to seal a building, but a previously issued order to seal may be modified or rescinded as long as the persons previously notified have been notified of the change or recission by means of a written statement as set out in IC 36-7-9-6. The order to seal does not become final until ten days from issuance within which time a fee interest or life estate holder may request in writing a hearing.

17.16.070 Emergency orders. Emergency action in order to protect life, safety or property may be taken without issuing an order or giving notice, but shall be taken in accordance with IC 36-7-9-9. The action is limited to removal of any immediate danger. The city may recover costs of the action by filing suit in circuit or superior court against persons holding fee interest or life estate in the premises at the time. As an alternative, the enforcement authority may bring a civil action under IC 36-7-9-17 and 36-7-9-22, alleging the existence of unsafe premises presenting an immediate danger to the community sufficient to warrant emergency action. In such case there shall be a hearing within ten days on the complaint.

17.16.080 Manners of performance. Manners of performance of work including bids and notification are to be in accordance with IC 36-7-9-11.

17.16.090 Costs. Costs for work performed under this chapter are the responsibility of the fee interest or life estate holders in the unsafe premises. Costs shall be determined on the basis of the factors listed in IC 36-7-9-12. Objections and requests for a hearing on bills submitted to responsible parties may be filed in circuit or superior court. Unpaid costs are subject to the procedure in IC 36-7-9-13, and may result in a judgment against and lien on real or personal property of persons responsible for the costs.

17.16.100 Unsafe building fund An unsafe building fund is hereby established in the operating budget of the city in accordance with the provisions of IC 36-7-9-14.

17.16.110 Standards of work. All work for reconstruction, alteration, repair or demolition shall be performed in good workmanlike manner according to the accepted standards and practices in the trade. Rules pertaining to construction, plumbing, electrical, mechanical, and one and two family dwellings, promulgated by the Administrative Building Council of Indiana, shall be considered accepted standards and practice.

17.16.120 Inspection warrants. The enforcement authority may obtain an inspection warrant from the court in cases when the owner or possessors refuse the authority permission to inspect as provided in IC 36-7-9-16.

17.16.130 Legal proceedings. The engineering department may direct the legal department to bring civil action in the circuit or superior court seeking remedies authorized in IC 36-7-9-19--36-7-9-22, including a request to the court for forfeiture up to one thousand dollars.

17.16.140 Violations. It shall be a violation of this chapter for a person to (a) remain in, use, or enter a building in violation of this chapter, (b) knowingly interfere with or delay the carrying out of an order made under this section, (c) knowingly obstruct, damage, or interfere with persons engaged or property used in performing any work or duty under this chapter or (d) fail to comply with IC 36-7-9-27 regarding information on transfers of property

interest. Violators shall be subject to a fine not to exceed five hundred dollars for each offense. Each day the violation continues shall constitute a separate offense.

SECTION 2. Severability. If any sections, sentences or provisions 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.

This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 10 day of February, 1982.

Patrick J. Murphy, President
Bloomington Common Council

ATTEST:

Patricia Williams, City Clerk

Presented by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 11 day of February, 1982.

Patricia Williams, City Clerk

Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

This ordinance adds a new chapter to the Municipal Code to be known as the "Unsafe Building Law". The state statute which the Engineering Department previously utilized in condemning unsafe buildings was repealed September 1, 1981 and cities were authorized to enact ordinances to adopt new procedures.