



City of Bloomington Common Council

Legislative Packet

Regular Session

21 February 2007

Office of the Common Council
P.O. Box 100
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Bloomington, Indiana 47402

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**City of
Bloomington
Indiana**



City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402

Office of the Common Council
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To: Council Members
From: Council Office
Re: Weekly Packet Memo
Date: February 16, 2007

Packet-Related Material

Memo
Agenda
Calendar
Notices:
None

Reports

- Environmental Commission Annual Report 2006
- 2006 Bloomington Environmental Quality Indicator (BEQI) Report – Executive Summary

Legislation for Final Action:

- **App Ord 07-01** To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund for Animal Care & Control)
Contact: Susan Clark at 349-3416 or clarks@bloomington.in.gov

Please see the [Legislative Packet](#) issued in interest of the Council meeting on 07 February 2007.

- **Ord 07-02** To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Health Sciences Park Planned Unit Development - Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioner)
Contact: James Roach at 349-3527 or roachja@bloomington.in.gov

Please see the [Legislative Packet](#) issued in interest of the Council meeting on 07 February 2007.

Legislation and Background Material for First Reading:

- **Ord 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
 - Memorandum from Patricia S. Bernens, City Attorney
 - Document tracking the Bloomington Municipal Code as amended by Ord 07-03.

Contact: Tricia Bernens at 349-3426 or bernenst@bloomington.in.gov

Minutes from Regular Session:

None

Memo

Two Items Ready for Final Action and One Item to be Introduced at the Regular Session on Wednesday, February 21, 2007

Two items are ready for final action and one item is scheduled for first reading at the Regular Session on February 21, 2007. Additionally, the Environmental Commission will present its 2006 Annual Report and the 2006 Bloomington Environmental Quality Indicator Report.

First Readings

Ord 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

Ord 07-03 amends Title 8 “Historic Preservation and Protection” and Title 17 “Construction Regulations” to reflect changes made to the demolition delay ordinance by the Bloomington Unified Development Ordinance (UDO). Recall that the Council passed the demolition delay ordinance in January 2005 and that the ordinance imposed a waiting period on a proposal to demolish a building or structure listed on the *2001 City of Bloomington Survey of Historic Sites and Structures*. The *Survey* identifies structures that may be appropriate for historic designation but have not yet been designated by action of the Historic Preservation Commission and the Council. The UDO amended the original demolition delay ordinance by:

- clarifying the meaning of “partial demolition;”
- providing stronger enforcement and penalty provisions;
- binding an applicant to the information submitted in his/her application and the representations made by an applicant before the Historic Preservation Commission (HPC); and
- requiring that any applicant for partial demolition include a photograph or accurately-scaled drawing in her/his application.

Parallel amendments to Titles 8 and 17 of the Bloomington Municipal Code are needed in order to implement the aforementioned changes required by the UDO. Ord 07-03 also corrects an oversight in Title 8 by expressly identifying and adopting the *Survey* upon which demolition delay is based.

Below is a more detailed discussion of the demolition delay changes required by the UDO:

Definition of “Partial Demolition”

As you know, partial demolition of any exterior portion of a building or structure listed as Outstanding, Notable or Contributing on the *2001 City of Bloomington Survey of Historic Sites and Structures* is subject to the demolition delay period and requires both a demolition permit and a certificate of zoning compliance. Previous to the UDO, “partial demolition of any exterior portion” was understood to describe any significant exterior change, but left much to administrative interpretation.

The UDO removes much of the administrative interpretation by defining the term and by providing examples. Notably, the new definition includes not only destruction or removal of the façade, but also obscuring facade from view. It also lowers the threshold from disturbance of an entire elevation to disturbance of 40% or more of any one elevation. This change is intended to capture the scenario of a two-story building where the first floor façade is altered in its entirety. The definition also includes all exterior additions, the enlargement of windows and generally excludes accessory structures, except where such structures are the same era of construction as the principal structure.

Chapter 11 of the UDO defines “partial demolition” as follows:

Partial Demolition: The complete or substantial removal or destruction of any discrete exterior portion of a building or structure, which shall include but not be limited to:

- (1) Complete or substantial removal or destruction of a porch, wing, cupola, addition, or similar feature; or
- (2) Partial demolition of a roof shall include work that results in any change to the pitch of any portion of the roof, or; covering or otherwise obscuring an existing roof with a new roof of different pitch, or; adding any gable, dormer or other similar feature to an existing roof; or
- (3) Any work resulting in the obscuring from view of forty percent (40%) or more of the exterior of a façade, but only where a building permit is required under applicable laws; or, removal or destruction of the exterior surface of forty percent (40%) or more of the area of an exterior façade. For purposes of this provision, at least forty percent (40%) of the area of one (1) geographical elevation of the exterior of a façade must be involved before the action shall be construed to constitute partial demolition.
- (4) Construction or attachment of any addition to a building or structure.
- (5) Replacement of any window where the window opening is enlarged in such a manner as to require a building permit (*i.e.* widening of a lintel).

By way of example and clarification, partial demolition shall specifically but not exclusively be interpreted to exclude the following:

- (a) Complete or partial removal or destruction of, or cutting into, any roof, if there is no change in pitch or addition of a gable, dormer or other similar feature; or
- (b) Any action with respect to an accessory building or structure except as otherwise provided in this Unified Development Ordinance; or
- (c) Replacement of any window, except for enlargement of the window opening as described in ***Division (5)***, above.

Ord 07-03 makes parallel changes to Titles 8 and 17 to reflect the UDO’s clarified meaning of partial demolition.

Please note that under Ord 07-03, Partial Demolition is *not* subject to Certificate of Appropriateness in a Conservation District and that a Conservation District is a statutorily-created phase anticipating an historic district, subject to less regulation than an historic district.

Application for Demolition – UDO Changes

Applicant Bound By Submissions The UDO requires that a recipient of *any* permit or other approval under the UDO shall be bound by the representations and information submitted in the original application, revision, amendment or supplement provided to the reviewing authority prior to the issuance of the permit or other approval. This requirement also applies to a permit or other approval authorizing any work that includes partial demolition governed by the demolition delay waiting period (UDO §20.10.040(b)). Where

an application for a demolition delay permit has been placed on the agenda and discussed at one or more public meetings of the HPC, the information and representations placed before the HPC at the last of those meetings prior to the permit issuance, together with any modifications recommended by the HPC and agreed to by the applicant, shall become part of the submission upon which the permit may be issued. This information is binding upon the applicant and the applicant may not execute any work that deviates in any detail from the elevations and the design, type and location of materials depicted in the submission.

Submittal Material The information required by an application for partial demolition includes all the standard information required in a site plan (scaled drawing; location of proposed buildings; design and location of all streets, drives, etc.; location of easements; landscape plan) *plus* a photograph or an accurately-scaled drawing of each building elevation -- both existing and proposed -- that will be physically affected either by the proposed partial demolition or by any proposed construction, reconstruction or alteration. Each such depiction shall also identify with reasonable specificity the type, design and location relative to the elevation of all proposed building materials. (UDO §20.10.120).

As you know, partial demolition is included in the demolition delay ordinance order to prevent piecemeal changes to the exterior of inventoried structures without the delay period to allow HPC consideration and community input. Such changes, over time, could strip a building of its historic character and ultimately preclude designation at a later time. The intent behind both the binding and submittal requirements is to give the HPC a reliable context in which to make its decision whether to designate a property historic when it is under consideration in the demolition delay waiting period.

Penalty Provisions

Ord 07-03 parallels the enforcement and penalty provisions created by the UDO. Recall that the UDO increased the maximum fines (\$2,500 for first violation) and implemented the increased maximum fines for second and subsequent violations allowed by State statute (\$7,500/violation). The ordinance defines a subsequent offense as violation of any provision of Title 8 within three years of the first Title 8 violation. The ordinance also makes explicit the previously-implied rule that a violation continues to exist -- with each day constituting a separate, finable offense -- until the problem is "corrected." Ord 07-03 defines "correction" as including, but limited to, the following: 1) cessation of an unlawful practice; 2) removal of a building, structure, or other improvement; 3) faithful or otherwise-approved restoration or replacement of a building, structure, site or other feature; and 3) other remedy acceptable to the City.

Grace Period

The UDO closed an unintended “loophole” in the demolition delay ordinance. As mentioned in the *Memorandum* from City Attorney Bernens, the original demolition delay law created a one-year period in which demolition would be allowed without imposition of delay where the original delay did not result in designation. As mentioned by Bernens, the intent of this provision was to not subject an owner to a second delay period if s/he fails to demolish immediately and to allow the owner time to freely pursue demolition and its alternatives without fear that the HPC will change its mind. The problem with the old provision was that, while partial demolition triggered demolition delay, the provision would allow complete demolition to occur within the grace period. The UDO corrects this oversight by specifying that the grace period applies only to demolition of the same scope as the proposed work that triggered the initial delay period. Ord 07-03 adds a cross-reference to the new grace period of the UDO in Title 8.

Accessory Structures

The UDO also included accessory structures within the protection of demolition delay if the structures are of the same era of construction as the principal structure. Previous to the UDO, it was unclear whether an accessory structure fell within the purview of demolition delay or not. The UDO and the changes made by Ord 07-03 make the scope of the provision clear.

Adoption of the Survey

Ord 07-03 also corrects an oversight in Title 8 by expressly adopting the *2001 City of Bloomington Survey of Historic Sites and Structures*.

Happy Birthday David Sabbagh on February 20, 2007!

**NOTICE AND AGENDA FOR
COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, FEBRUARY 21, 2007
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 NORTH MORTON**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

IV. REPORTS FROM:

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Appropriate Ordinance 07-01 To Specially Appropriate From the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund for Animal Care & Control)

Committee Recommendation: Do Pass 7 – 0 – 0

2. Ordinance 07-02 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Health Sciences Park Planned Unit Development – Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioner)

Committee Recommendation: Do Pass 8 – 0 – 0

VII. LEGISLATION FOR FIRST READING

1. 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

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT

City of
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To: Council Members
From: Council Office
Re: Calendar for the Week of February 19-24, 2007

Monday, February 19, 2007

4:00 pm Council for Community Accessibility, McCloskey
5:00 pm Farmers' Market Advisory Council, Parks and Recreation, Showers Building Room 250
5:00 pm Utilities Service Board, IU Research-North Showers, 501 N. Morton Street 100B
5:30 pm Bicycle & Pedestrian Safety Commission, Hooker Room
5:30 pm *Bark & Wine*, Tutto Bene Wine Café, 213 S. Rogers St.
6:30 pm Home Construction and Remodeling for Energy Efficiency, Convention Center, Rogers Room, 302 S. College Ave.

Tuesday, February 20, 2007

3:00 pm Board of Public Safety, McCloskey
4:00 pm Community & Family Resources Commission, Hooker Room
5:30 pm Animal Control Commission, McCloskey
5:30 pm Bloomington Public Transportation Corporation, Transportation Center, 130 W. Grimes Lane
5:30 pm Board of Public Works, Council Chambers

Happy Birthday David Sabbagh, Councilmember, District V!

Wednesday, February 21, 2007

4:00 pm Martin Luther King Jr., Birthday Commission, McCloskey
6:30 pm Metropolitan Planning Organization Citizens' Advisory Committee, McCloskey
7:00 pm Council of Neighborhood Associations, Dunlap
7:30 pm Common Council Regular Session, Council Chambers

Thursday, February 22, 2007

8:00 am Contractors Open House, City Hall Atrium
10:30 am Address Coordination, McCloskey
1:00 pm Emergency Housing Committee Meeting, McCloskey
5:00 pm West 2nd Street Public Meeting, Council Chambers
6:00 pm Public Input Meeting for Parks & Recreation Comprehensive Plan, Cascades Golf Course, 3550 N. Kinser Pike

Friday, February 23, 2007

12:00 pm Economic Development Commission, Hooker Room

Saturday, February 24, 2007

8:30 am Homebuyers Club, Bloomington Adult Community Center, 349 S. Walnut St.
7:00 pm 2nd Annual Black History Month Gala: An Evening of Elegance Celebrating Ebony Beauty, Bloomington Country Club, 3000 S. Rogers St.

City of Bloomington Environmental Commission Annual Report 2006

Submitted by Isabel Piedmont, 2006 EC Chair

2006 was a busy and productive year for the EC. We finished our Bloomington Environmental Quality Indicators website (launched in January 2007), we provided input on the city's Unified Development Ordinance, and we completed two reports to support greenhouse gas reduction at the local level. We also held five public forums on issues related to greenhouse gas reduction and participated in two important community environmental events: Earth Week and Simply Bioneers. All these efforts would not have been possible without the countless hours of dedicated work by our members, interns, and staff liaison. I thank everyone for the energy, time, and commitment they dedicated to the EC this past year, which enabled us to accomplish so much.

Personnel

Members

1. Deb Backhus, Staff Coordinator (Jan.-Sept.)
2. Kelly Boatman
3. Kriste Lindberg
4. Michael Litwin
5. Don Moore (Feb.-Dec.)
6. Phaedra Pezzullo, Staff Coordinator (Oct.-Dec.)
7. Isabel Piedmont, Chair
8. Heather Reynolds, Vice-Chair
9. Rebecca Lowe (May-Oct.)
10. Michael Tosick, Secretary/Treasurer
11. Laura Trout

Interns

1. Mike Steinhoff (Spring)
2. Eric Roberts (Spring)
3. Joe Fish (Spring and Summer)
4. Becky Barrick (Spring and Fall)

Staff Liaison: Linda Thompson, Senior Environmental Planner

Planning Committee

Members: Kelly Boatman, Mike Litwin, Kriste Lindberg (Jan.-April), Rebecca Lowe (May-Oct.)

Development Petitions Reviewed:

1. Third & Cory – This was officially reviewed by the EC in 2005, but the EC followed up regarding water quality monitoring in 2006
2. Gentry Estates – EC expressed concern about conservation easements on homeowner plots, given that homeowners are often not aware of easement requirements. Set-back from conservation area lines was also a concern.
3. Woolery Woods – Similar concerns as with Deckard. Also, a 25-foot buffer between Thompson Park and the closest lots was recommended.

4. Indiana Health Sciences Park – A conservation easement was recommended as a condition of approval to protect environmentally sensitive areas and preserve green space. The EC expressed concerns about disturbing steep slopes to put in a bridge across the creek, and opposed extension of Weimer Rd. in the southwest sector of the site.
5. Jill's House/Meadowood Expansion – The EC was concerned about further development in the Griffy watershed but supported the rain garden features of the additional Meadowood homes and the fact that the development would be along ridges and not in low-lying areas.
6. CVS at South Walnut & Country Club – This previously developed area had few environmental features worth preserving. A diversity of native trees was recommended for landscaping.
7. Baywood at Clear Creek – Sink hole protection.
8. Blackwell project on S. Sare Rd. – Native landscaping was recommended.
9. Park Place homes on Kimball Dr. – Biofiltration in detention ponds recommended, as well as provision of bicycle racks. EC concerned about required street trees being placed on private property.
10. Ivy Chase on S. Walnut St. Pike – Concern about tree preservation and sinkhole protection. Recommended moving lots farther from sinkholes and eliminating some lots to save trees.
11. Century Village – Concern about tree and green space preservation, especially due to dubious community benefit of the project (sprawl).

Other Concerns

The EC felt that there should be a moratorium on approval of development petitions in the fall when the UDO was being revised, until its final adoption. This recommendation was passed on to the Planning Director.

Education Committee

In 2006, the EC Education Committee worked jointly with the Bloomington Commission on Sustainability Education Committee.

Members from the EC: Kriste Lindberg, Isabel Piedmont, Laura Trout

Members from BCOS: Bob Bent, Christine Glaser, Jeanne Leimkuhler

Events

- | | |
|-------------|---|
| April 18: | Lecture and slide presentation by Dave Wann, author of <i>Superbia! 31 Ways to Create Sustainable Neighborhoods</i> . |
| April 19: | Community discussion on sustainable neighborhoods with Dave Wann, with considerable assistance from EC vice chair Heather Reynolds. |
| April 19: | Earth Week film showing of "The Next Industrial Revolution" |
| April 22: | Earth Day table in Dunn Meadow for the Earth & Music Festival |
| May 22: | Public forum "The US Mayors Agreement on Climate Change... and What YOU Can Do" |
| Sept. 26: | Public forum "Saving Monday by Saving Energy...and the Planet Too" |
| Oct. 20-21: | Table at Simply Bioneers teleconference |
| Oct. 23: | Public forum "Renewable Energy for You" |
| Nov. 13: | Public forum "Building an Energy Efficient House" |
| Nov. 14: | Public forum "Energy Efficiency in Your Home" |

Bloomington Environmental Quality Indicators Committee

Members: Isabel Piedmont, Heather Reynolds, Mike Tosick
Interns: Joe Fish, Becky Barrick

The BEQI was developed as a website comprised of six sections: Transportation, Energy, Waste, Air, Water, and Green Infrastructure. In each category, data was analyzed to determine trends affecting our community's environment. The interns collected and organized the data, whereas the BEQI Committee guided the project by providing feedback on the written work and recommendations for data to include. The Committee also wrote the executive summary of the website. The site was launched in January 2007.

Budget Committee

Members: Deb Backhus, Isabel Piedmont, Laura Trout

This committee met early in the year to discuss the EC's 2007 budget with Tom Micuda in the Planning Department. In recent years, the EC's budget has been a nebulous portion of Planning's overall budget, and we wanted to have a more concise budget so we knew exactly how much we had to spend in a given year. We attained that goal for the 2007 budget. Most of the EC budget is in intern wages.

Kyoto Protocol Committee

Members: Deb Backhus, Heather Reynolds, Dave Rollo (City Council), Isabel Piedmont
Interns: Eric Roberts, Mike Steinhoff

This committee worked with our interns to develop two reports to support a local application of the Kyoto Protocol on greenhouse gas reduction. Our work helped support the Mayor's signing of the US Mayors Climate Protection Agreement and the City Council passage of Resolution 06-05 "Supporting the Kyoto Protocol and the Reduction of the Community's Greenhouse Gas Emissions" in April.

Two reports produced and finalized in July:

1. *Preliminary Assessment of Greenhouse Gas Emissions Associate with Activities in Bloomington, IN: Inventory and Trends* (Steinhoff)
2. *A Framework for Developing a Greenhouse Gas Reduction Plan for Bloomington, IN* (Roberts)

On May 15, Isabel Piedmont's guest editorial on climate change ran in the Herald Times. She submitted this as the chair of the EC to highlight the recent actions of the mayor and city council, and to publicize the May 22 forum co-sponsored by the EC and BCOS on "The US Mayors Agreement on Climate Change... and What YOU Can Do."

Greenhouse Gas Reduction Committee

This committee was formed as a joint committee of the EC and BCOS to develop a concrete plan to implement the US Mayors Climate Protection Agreement in Bloomington.

Members from EC: Mike Tosick, Isabel Piedmont, Don Moore
Members from BCOS: Dave Rollo, Christine Glaser, Bob Bent

The committee has held two meetings and is thus still in the early stages of planning.

Feedback on the Unified Development Ordinance

The EC gave input into the UDO as it was developed and discussed during the year in the Planning Department, Plan Commission, and City Council.

Main areas of concern:

- Encouraging green building and sustainable development
- Protecting streams, sinkholes and other environmentally sensitive areas
- Protecting trees and increasing tree cover
- Encouraging the use of conservation subdivision planning
- Requiring the use of native and non-invasive vegetation, and encouraging green landscaping
- Minimizing impervious surface

EC Representation on Other Committees

- Tree Commission: Mike Tosick
- Citizens Advisory Committee of the Metropolitan Planning Organization: Isabel Piedmont
- Parks and Recreation Environmental Resources Advisory Committee (ERAC): Mike Litwin
- Lake Lemon Conservation District/CBU sediment removal advisory committee: Deb Backhus

Guest Speakers

The EC invited the following guest speakers who attended meetings in 2006 to provide information on topics of concern to the EC.

February:	Lisa Abbott, HAND, regarding “weed ordinance” and backyard wildlife habitats
March:	Katherin Chi, Mike Harpring, and Emily Roberts, IU students, regarding “Commercial Food Waste Diversion: Creating a Zero-Waste Community”
November:	Steve Cotter, Parks & Rec, regarding invasive plant control at Lake Griffy
December:	Jeffrey Kaden, IU Architects Office, regarding green building and the use of LEED guidelines at IU

In addition, Rick Alexander or Joyce Williams from the city engineering department attended most of our meetings to provide a report on erosion conditions at building sites in the city.

Submitted February 12, 2007

2006 Bloomington Environmental Quality Indicator (BEQI) Report Executive Summary

January 8, 2007

The 2006 Bloomington Environmental Quality Indicator (BEQI) Report presents a snapshot of current environmental quality in our community and tracks trends in our environmental quality over time. The report is organized into six categories: transportation, energy, waste, air, water, and green infrastructure. One or more indicators of environmental quality are provided for each category. Data are provided at the scale of Bloomington when possible, although some data are available only at the aggregate scale of Monroe County. Each category of the report also includes background information and recommended actions for improving Bloomington's environmental quality. The BEQI report highlights the environmental progress Bloomington has made as well as areas still in need of improvement. It is intended to inspire critical thinking, community discussion, prioritization of environmental management efforts, and most of all, **action**, in order to ensure the environmental health of Bloomington for generations to come. We encourage Bloomington citizens, businesses and government to use the BEQI Report as a guide to how and where the city needs to improve its environmental quality. Summaries of the BEQI's main findings for each environmental category are provided below. The full report may be accessed at: www.bloomington.in.gov/environment

Transportation

Fossil fuel-powered transportation contributes to air and water pollution and global warming, and thus vehicle miles traveled, mode of commute to work, and bus ridership were selected as key indicators of environmental quality in the transportation category. Based on the 2000 U.S. Census, over two-thirds of Bloomington citizens drove to work alone, while only about one-fourth of the population carpoolled, walked, biked, or used public transportation. Bicycling increased by 19% from 1990 to 2000, but the number of citizens driving to work alone also increased and carpooling, walking and use of public transportation decreased over this time period. More recent trends indicate that public transportation is on the rise in Bloomington, with bus ridership increasing by 29% from 1999 to 2004.

Increased reliance on public transportation, walking and biking, and decreased single passenger vehicle trips would promote Bloomington's environmental and public health. The city should foster the former modes of transportation by continuing to expand its bike and pedestrian network and by promoting New Urbanism and smart growth development patterns.

Energy

Fossil fuels are also used to fulfill society's electrical and heating needs, with the same consequences for global warming and environmental pollution. Important energy-related environmental indicators therefore include electricity and natural gas consumption. Unfortunately, efforts to gather data relating to electricity and natural gas consumption in Bloomington have been challenging, and such data are not currently included in the report. However, data on IU's energy use, largely fueled by coal, were available. Coal is the fossil fuel that produces the most pollution and the highest greenhouse gas emissions, while natural gas is the cleanest burning fossil fuel and has the lowest greenhouse gas emissions. Yet due to increased natural gas prices, the Indiana University Central Heating Plant (CHP) has increased coal consumption by 43% and decreased natural gas usage by 95% since 2000. Total IU electricity usage has increased 16% and consumption of electricity per student has risen 7% during the same time frame. Mandatory Clean Air Act regulations will come into effect in November 2007, and should result in reduced CHP emissions.

It is widely recognized that a dual strategy of increased energy efficiency/conservation and a shift to renewable energy sources is needed in order to move our society towards sustainable energy use. Indiana University and the City of Bloomington need to take a leadership role in this effort. Some examples of practical steps that citizens and others can take include switching from conventional light bulbs to compact fluorescent bulbs, enhancing insulation of homes and other buildings, buying energy-efficient appliances, and utilizing alternative energy sources such as geothermal, photovoltaics, and passive solar.

Waste

The amount of solid and hazardous waste a society generates is an indicator both of energy and resource use and environmental pollution. Total solid waste generated in Monroe County rose by nearly 50% between 1994 and 2004. The solid waste generated per person was 7 pounds per day in 2004 (3 pounds lower than in comparable Indiana counties). Some of this waste is recycled, however, and in Bloomington recycling has nearly doubled (to 23%) since the city program began in 1991. Likewise, the Monroe County Solid Waste Management District collects 5,000-6,000 tons of recyclables annually, while Indiana University recycles an additional 1,800 tons (25-30%) of its waste annually. Solid waste includes hazardous waste, such as electronic equipment, oil, paint, and batteries. In 2005, Monroe County diverted approximately 900,000 pounds of hazardous waste from conventional landfills, and some of this waste was recycled. Indiana University ships its hazardous waste (recently approx. 35 tons per year) to an incinerator in Arkansas. Reported toxic chemical releases in Bloomington have declined by 50% since 1995. Although several PCB superfund sites have been mitigated in Bloomington, a few troublesome areas remain and continue to threaten our natural environment, especially our natural aquatic systems.

Some key strategies to reduce solid waste are expansion of recycling efforts to include residential apartments, restaurants, bars, and other businesses; increased reliance on high-quality, long-lasting, recycled and/or reusable products; buying bulk food items and other products with minimal packaging; and composting of food scraps and yard waste. Bloomington citizens and businesses alike should also educate themselves about hazardous waste, seeking out non-toxic substitutes for hazardous products wherever possible and properly disposing of or recycling hazardous waste through the Monroe County Solid Waste Management District.

Air

The EPA recognizes two categories of air pollutants: criteria (carbon monoxide, sulfur dioxide, nitrogen oxide, ozone, lead, and particulate matter) and hazardous. Around 70% of criteria pollutants emitted in Monroe County come from motor vehicles. The most abundant pollutant is carbon monoxide (40,000 tons per year), of which 90% is due to vehicular exhaust. Since 1985, criteria emissions appear to have declined in Monroe County. During the years 1996 to 2001, for instance, total criteria pollutants declined by 6%. Better air quality can be attributed to the Clean Air Act and more stringent pollution control measures. Between 1997 and 2001, hazardous air pollutants from point sources declined by 43%. Non-road mobile source hazardous air pollution (e.g. from lawnmowers), however, has nearly doubled.

Since air quality is closely related to transportation and its accompanying noxious emissions, a significant decrease in private car use and a switch to more energy-efficient vehicles (e.g. hybrid cars) are desirable in order to further lower the burden of carbon monoxide and other air pollutants within Monroe County. Businesses and households can also contribute to cleaner air by seeking out less-polluting substitutes to dry cleaning and other solvents, paints, and degreasers.

Water

Fresh water quality and quantity is vital for drinking and bathing, irrigation, fisheries, and recreation, among other services. Good indicators of the status of Bloomington's water resources are water quality reports and surface water assessments as well as data on water consumption. While over 70% of Bloomington waters support safe human contact, less than 30% of these waterways fully support aquatic life, and every water body in the city has some kind of impairment. Monroe Reservoir, which supplies Bloomington's drinking water, is only slightly impaired by Indiana Department of Environmental Management standards, but it is plagued by invasive species, as are Lakes Griffy and Lemon. Total water consumption in Bloomington has declined about 10% since 1990. This reduction is attributable to declines by the commercial/industrial sector rather than by household users; per-capita residential water consumption has actually increased over the same time period, from about 70 to about 90 gallons per day.

Strategies to improve water quality include planting green roofs and/or rain gardens, reducing or eliminating the use of pesticides and chemical fertilizers, and cutting down on fossil fuel use via alternative transportation, energy use efficiency, and conservation and use of renewable energy sources. Strategies to reduce water usage include installing low-flow shower heads, maximizing washing machine loads, landscaping with water-efficient native plants, and capturing roof runoff for irrigation.

Green Infrastructure

Buildings, roads and utilities provide essential services for modern human society, but underlying this man-made infrastructure is a natural, *green* infrastructure of life-supporting services provided by ecosystems. Key indicators of green infrastructure quantity and quality include greenspace, invasive plant species, and Backyard Wildlife Habitats. Bloomington is losing greenspace annually. Without preventative measures, most remaining greenspace not currently owned by the city or Indiana University is likely to be developed in the next 40 years. To combat this loss, Bloomington is actively acquiring available greenspace, such as the CSX rail corridor. Another threat to Bloomington's green infrastructure is invasive plant species such as Brazilian elodea, which has invaded Griffy Lake. The City of Bloomington works to eliminate invasive species and prevent their spread through mechanical, biological, and chemical control measures. Bloomington has sought to combat greenspace reduction and the appearance of non-native species by establishing Backyard Wildlife Habitats. The city is registered with the National Wildlife Federation as a Community Wildlife Habitat and has numerous homes, schools, and businesses that are certified individually. Over 100 sites in the city are certified, which is more than any other comparable Midwestern city.

Bloomingtonians can do their part to preserve quality green infrastructure by not planting non-native, invasive plant species in their gardens and yards, and by instead planting native species. It is also very important to adequately protect riparian areas by not allowing development infringement and/or the loss of vegetated buffers near creeks, stream, and rivers. Protection of riparian areas not only supplies habitat for aquatic and terrestrial species (green infrastructure), it also greatly aids in the reduction of pollution to our water supply.

Conclusion

The 2006 BEQI report presents a mixed picture of Bloomington's environmental quality. The overall snapshot shows that Bloomington is still very much entrenched in the industrial paradigm of the 20th century, with heavy dependence on fossil fuels and single vehicle transportation, high energy and resource use, alteration and loss of natural ecosystems by development, and participation in a

“cradle-to-grave” flow of resources that ends by delivering profligate amounts of solid waste to landfills or by emitting waste in gaseous or aqueous form to air, water, or soil. This linear model has been repeated in city after city throughout the developed and developing world over the last 100 years, resulting in environmental degradation at local to global scales. Environmental regulations, such as the Clean Air and Water Acts, have helped to slow the rate of degradation. Yet collectively, humans have transformed nearly half of the Earth’s habitable land to urban and agricultural systems, altered atmospheric chemistry, and accelerated rates both of species extinctions and invasions into previously unoccupied habitat. Thus, as we enter the 21st Century, humanity finds itself well into the 6th major extinction event in the history of life, at the threshold of global climatic change, and faced with a host of other major environmental problems -- soil erosion, air and water pollution and rapidly disappearing natural ecosystems.

There is increasing recognition, however, in Bloomington and around the world, that humans depend crucially on natural ecosystem processes for basic life support services such as air purification, climate regulation, waste decomposition, and essential consumable goods such as food, pharmaceuticals, and fresh water. Clearly humans are degrading the environment at risk to their own health and prosperity and that of future generations. Achieving a sustainable biosphere is arguably society’s most pressing challenge and must become its organizing principle. To do this, cities will need to move away from the linear industrial model of the 20th century toward more cyclical, high efficiency “cradle-to-cradle” models that rely on renewable energy and integrate the built and natural environments in a mutually beneficial, cost-effective manner. The 2006 BEQI report shows that Bloomington is taking small steps toward this model. Encouraging trends include increased bicycling and bus ridership, increased recycling, decreased reported toxic releases, progress in clean up of PCB contamination, decreased air pollution, decreased water consumption and substantial participation in creating backyard wildlife habitats.

Much remains to be done, however, and there is a great need for action in every environmental category. Our city government has acknowledged this reality already with bold initiatives such as the formation of a Commission on Sustainability, signing on to the Mayor’s Climate Protection Agreement, and city council resolutions in support of the Kyoto Protocol, a reduction of our community’s greenhouse gas emissions, and future planning for oil scarcity. The 2006 BEQI report presents additional recommendations and concrete and commonsense steps that citizens, businesses and government can take to improve Bloomington’s environmental quality and move Bloomington along the path toward sustainability. Our city is blessed with an aware and proactive citizenry, and numerous non-profit groups such as the Center for Sustainable Living and the new Caldwell Center for Culture and Ecology are already working to implement these actions. We are therefore confident that our special city is up to the challenge of sustainability, and expect that the next iteration of the BEQI report will see great strides taken toward improving Bloomington’s environmental quality.

Bloomington Environmental Commission
December, 2006

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 be 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.

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

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 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*.

INTERDEPARTMENTAL MEMORANDUM

City of Bloomington Legal Department

TO: Common Council

FROM: Patricia S. Bernens, City Attorney

RE: Ordinance 07-03, Amending Titles 8 and 17 of the BMC

DATE: February 16, 2007

Ordinance 07-03 would amend Title 8, "Historic Preservation and Protection," and Title 17, "Construction Regulations," to implement changes to demolition delay and enforcement that were included in the Unified Development Ordinance (UDO) that was approved by the Council on December 18, 2006.

As you may recall, the UDO contains revised provisions concerning demolition delay, which is the common name for the waiting period that is imposed upon any proposal to demolish a building or structure that is listed on the *2001 City of Bloomington Survey of Historic Sites and Structures*. The Survey identifies structures that may be appropriate for historic designation but have not yet been designated by action of the Historic Preservation Commission (HPC) and Common Council pursuant to Title 8 of the Bloomington Municipal Code. Once designated, a structure may not be demolished without permission of the HPC. However, structures that are merely listed on the Survey are not so protected. The demolition delay provisions of the previous zoning ordinance, which was just replaced by the UDO, were enacted for the following purposes: to allow time for interested citizens and groups to explore alternatives to demolition; and, to insure that the HPC would have an opportunity to consider designation before such structures could be demolished without discretionary review by a public entity.

The original demolition delay ordinance was enacted in January of 2005. With experience in administering the program, HAND, Planning and Legal staff identified areas in which the ordinance needed clarification. As a result, the UDO incorporated a number of revisions to the demolition delay provisions of the zoning ordinance. Ordinance 07-03 proposes to add parallel provisions to the other two Titles of the BMC that work together with the UDO to effectuate demolition delay.

Below is a list of the pertinent UDO revisions and a brief description of the parallel changes proposed in Ordinance 07-03.

1. **UDO Provision:** A detailed definition of "partial demolition" was added, to remove uncertainty about the scope of work - short of complete removal of a structure - that would trigger the delay.

Ordinance 07-03: The UDO definition of “partial demolition” is incorporated in both Title 8 and Title 17 to insure that coverage of those titles mirrors the UDO.

2. **UDO Provision:** Accessory structures are expressly included in the protection of the delay provisions, but only if the accessory structure is of the same era of construction as the principal structure. The need for this provision stems from the Survey’s failure to expressly account for accessory structures on listed lots. As a result, uncertainty arose when permits were requested for demolition of accessory structures, many of which were much later and clearly non-historic additions, but some of which merit protection along with the main building.

Ordinance 07-03: Provides that accessory structures are protected to the extent provided by Title 20.

3. **UDO Provision:** Language is added to close a potential “loophole” in the one-year grace period that follows a delay where the delay period does not result in historic designation. The original demolition delay provisions created a one-year period during which demolition would be allowed without imposition of a delay in such circumstances. The rationale is that once the HPC has decided, during the initial delay period, that it will not pursue designation, the owner should not face a second delay period if, for whatever reason, he or she fails to demolish immediately. In other words, the owner does not bear the risk of the HPC changing its mind during that one year grace period, and therefore is free to consider alternatives to demolition without risk. The possible loophole in this provision stems from the fact that *partial* demolition requests trigger delay but the original ordinance would allow *complete* demolition to occur within the grace period without a further delay. The UDO corrects this problem by specifying that the grace period applies only to “demolition” of the same scope as the proposed work that triggered the initial delay period.

Ordinance 07-03: Adds a cross reference to the new grace period provisions of the UDO in the pertinent section of Title 8.

4. **UDO Provision:** The UDO contains stronger enforcement and penalty provisions than the prior code for all violations, including demolition delay violations. In particular, the UDO increases maximum fines; implements the increased maximum fine for second and subsequent violations now allowed by state law; and makes express the formerly implied rule that a violation continues to exist – with each day being a separate, fineable offense – until “correction” occurs. The last provision is needed to resolve ambiguity in situations such as demolition and removal of mature trees, in which the status quo cannot be truly restored so that a question arises about whether the violation is a single offense or a continuing offense and, if the latter, when the violation is considered to have stopped.

Ordinance 07-03: In line with the new UDO provisions, increases the permissible fines for any violation of Title 8; clarifies that a separate fine may be assessed for each day between the initial offense and the date the violation is corrected; and, defines “correction.”

Finally, this Ordinance corrects an oversight in Title 8 by expressly identifying and adopting the Survey upon which demolition delay is based.

Please do not hesitate to contact me if you have questions or concerns prior to your meetings, and I will also be present at your meetings to discuss the ordinance with you. Thank you for your consideration.

cc: Kevin R. Robling, Corporation Counsel
Maria Heslin, Communications Director
Tom Micuda, Director of Planning
Nancy Hiestand, Program Manager of HAND

~~strike~~ – proposed deletion
bold – proposed addition
► -- relevant section

**TITLE 8 ENTITLED “HISTORIC PRESERVATION AND PROTECTION”
AND
TITLE 17 ENTITLED “CONSTRUCTION REGULATIONS”
AS AMENDED BY ORDINANCE 07-03**

Title 8

HISTORIC PRESERVATION AND PROTECTION

Chapters:

- | | |
|------|--|
| 8.02 | Purpose and Definitions |
| 8.08 | Historic Districts and Standards |
| 8.12 | Demolition and Public Safety |
| 8.16 | Administration and
Enforcement |
| 8.20 | List of Designated Historic
Districts |

Chapter 8.02

PURPOSE AND DEFINITIONS

Sections:

- 8.02.010 Purpose of historic preservation and protection.
- 8.02.020 Definitions.

8.02.010 Purpose of historic preservation and protection.

In order to promote the educational, cultural and general welfare of the citizens of Bloomington and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional downtown area and to enhance tourism within the city; it is deemed essential by the city that qualities relating to its history and a harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regards to style, form, proportion, texture, and material between historic buildings and those of contemporary design. It is the intention of the city through this title to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods which impart a distinct aesthetic quality to the city and serve as visible reminders of its historic heritage. (Ord. 95-20 § 1 (part), 1995).

8.02.020 Definitions.

The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word “person” includes a firm, a partnership, or a corporation, as well as an individual. Terms not defined in this section shall have the meanings customarily assigned to them.

“Alteration” means a material or color change in the external architectural features of any structure within an historic district.

Conservation District. Pursuant to Indiana Code 36-7-11-19, the provision that a district may be created which is called a conservation district, the second phase of which is the conversion to historic district status, if the common council decides, after the conservation district has been in effect for three years, to enact an ordinance to elevate the district to historic district status. Regulation in a conservation district is less stringent than in an historic district. In a conservation district, a certificate of appropriateness must be granted for:

- (1) The demolition of any building;
- (2) The moving of any building;
- (3) Any new construction of a principal building or accessory building or structure subject to view from a public way.

► “Demolition” means the complete or substantial removal ~~of any historic structure or any structure which is located within an historic district or conservation district~~ **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.**

“Design guidelines” means criteria, locally developed, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction.

Economic Hardship. For the purpose of this title, “economic hardship” shall be established when a preponderance of evidence establishes that the property in question cannot obtain a reasonable economic return or be put to any economically beneficial use.

“Fair market value” means the most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

“Historic district” means a single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites designated by ordinance adopted under this title. Property not so designated will not be considered an historic district within the terms of this title.

“Historic preservation and protection district ordinance,” hereinafter to be referred to as “this title.”

“Interested party” means one of the following:

- (1) The mayor;
- (2) The common council;
- (3) The city plan commission;
- (4) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of an historic district designated by an ordinance adopted under this title;
- (5) An owner or occupant of a property located in an historic district established by an ordinance adopted under this title;
- (6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors;
- (7) The state historic preservation officer designated under Indiana Code 14-3-3.4-10.

► **“Partial Demolition” shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.**

“Primary area” means the principal area of historic and/or architectural significance within an historic district.

“Ratings”:

- (1) Outstanding: The “O” rating means that the property has sufficient historic or architectural significance that it is already listed, or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state, or national importance.
- (2) Notable: A rating of “N” means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.
- (3) Contributing: A “C” rating means the property is at least forty years old, but does not meet the criteria for an “O” or “N” rating. Such resources are important to the density or continuity of the area’s historic fabric. Contributing structures can be listed on the National Register only as part of an historic district.
- (4) Non-contributing: Property rated “NC” is not included in an inventory unless it is located within the boundaries of an historic district. Such properties may be less than fifty years old, or they may be older structures that have been altered in such a way that they have lost their historic character, or they may be

otherwise incompatible with their historic surroundings. These properties are not eligible for the National Register.

“Reasonable return” means a measure of the economic return that is, or can be, earned on the fair market value of a property, and that demonstrates that the owner has not been deprived of all economically beneficial or productive use of the property.

“Routine maintenance” means work which would not require a building permit, and any change that is not construction, removal or alteration and for which no certificate of appropriateness is required.

“Secondary area” means an area in an historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

“Streetscape” means appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e.g., street lamps, trash receptacles, benches, etc.), use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

“Visual compatibility” means those elements of design that meet the standards set out in Section 8.08.040 of this title. (Ord. 95-20 § 1 (part), 1995).

Chapter 8.08

HISTORIC DISTRICTS AND STANDARDS

Sections:

- 8.08.010 Establishment of historic districts and conservation districts.
- 8.08.015 Interim protection.
- 8.08.016 Limited effect of interim protection or historic designation in certain situations.
- 8.08.020 Certificates of appropriateness.
- 8.08.025 Staff approvals.
- 8.08.030 Maintenance standards.
- 8.08.040 Development standards.
- 8.08.050 Preservation of historical and architectural character upon alteration or relocation mandated.
- **8.08.060 Survey Adopted**

8.08.010 Establishment of historic districts and conservation districts.

(a) Initiating an Historic District Recommendation. All recommendations for establishment of an historic district shall be in the form of a written report and must be based on the criteria outlined in this title. A recommendation for establishing an historic district may be initiated from either of the following two sources:

(1) Based on its survey, the commission may draw and submit historic district maps for common council approval.

(2) Owners of property in fee simple wishing to establish an historic district which includes their property may petition the commission to consider drawing and submitting a map of such a district to the common council for its approval. The commission may establish in its rules criteria to be met before it considers a petition. The commission shall determine its recommendation within ninety days of receipt of a petition.

(b) The commission may recommend, and the council may provide that the establishment of an historic district shall occur in two phases. Under the first phase, to be called a conservation district, a certificate of appropriateness is required for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building, or structure subject to view from a public way.

(1) After a conservation district has been in effect for three years, the common council shall decide whether or not to pass an ordinance to elevate the district to historic district status.

(2) Once established a conservation district shall continue, unless removed by ordinance.

(c) Commission Preparation of Historic District Maps. In order to establish an historic district, the commission shall first prepare a map describing the district in accordance with the following:

(1) The map shall be based on a survey conducted or adopted by the commission which identifies historic buildings, structures, and places located within the city.

(2) A district may be limited to the boundaries of a property containing a single building, structure, or site.

(3) The map may divide the district into primary and secondary areas as follows:

(A) Primary area: The principal area of historic and architectural significance;

(B) Secondary area: An area adjacent to a primary area which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

(4) The commission shall classify and designate all buildings and structures within each proposed district as historic or non-historic. Historic buildings or sites may include those buildings or sites that meet the architecturally worthy criteria set out in subsection (e)(2) of this section. The commission shall further classify and designate all buildings and structures within a proposed historic district as follows:

(A) Historic buildings and structures shall be further classified as Outstanding, Notable, or Contributing, as established by the Indiana State Division of Historic Preservation and Archaeology and the local survey.

(B) All non-historic buildings shall be classified as non-contributing.

(5) A written report shall accompany all recommendations for designation before the common council, in accordance with the criteria for designation, stating the case for accepting the district.

(d) Common Council Approval of Maps of Historic Districts. Before an historic district or conservation district is established and the building classification takes effect, the map setting forth the district's boundaries and building classifications must be submitted to, and approved in an ordinance by the common council. The procedure for doing so shall be as follows:

(1) The commission must take official action deciding whether or not to submit a map to the common council for its approval.

(2) Prior to taking action at a meeting, the commission shall hold a public hearing to allow public comment. A public hearing may be held separately or in conjunction with the meeting where action on the district is to occur.

(3) A public hearing held by the commission for the purpose of allowing comment on a proposed historic district designation shall be preceded by public notice as set forth in Indiana Code 5-3-1-1 et seq. In addition, the commission shall adopt rules that ensure that owners of all property within the proposed historic district, and all adjacent property owners, as determined by the most recent real estate tax lists, shall receive written notice of the hearing on the proposed historic district.

(4) A written report shall accompany the map submitted to the common council validating the proposed district by addressing the criteria listed in this section.

(e) Historic District Criteria. An historic district shall include a building, groups of buildings, structure(s), site(s), monument(s), streetscape(s), or neighborhood(s) which meet at least one of the following criteria:

(1) Historic:

(A) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation; or is associated with a person who played a significant role in local, state, or national history; or

(B) Is the site of an historic event; or

(C) Exemplifies the cultural, political, economic, social, or historic heritage of the community.

(2) Architecturally worthy:

(A) Embodies distinguishing characteristics of an architectural or engineering type; or

(B) Is the work of a designer whose individual work has significantly influenced the development of the community; or

(C) Is the work of a designer of such prominence that such work gains its value from the designer's reputation; or

(D) Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

(E) Contains any architectural style, detail, or other element in danger of being lost; or

(F) Owing to its unique location or physical characteristics, represents an established and familiar visual feature of a neighborhood or the city; or

(G) Exemplifies the built environment in an era of history characterized by a distinctive architectural style.

(f) An ordinance approving the establishment of an historic district, may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under Section 8.08.020 before a permit may be issued or work begun. (Ord. 95-20 § 1 (part), 1995).

8.08.015 Interim protection.

(a) When submitting a map to the city council under Section 8.08.010 of this title, the commission may declare one or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

(b) Not more than two working days after declaring a building, structure, or site under interim protection under this section, the commission shall, by personal delivery or first class mail, provide the owner or occupant of the building structure or site with a written notice of the declaration. The written notice must:

(1) Cite the authority of the commission to put the building, structure or site under interim protection under this section;

(2) Explain the effect of putting the building, structure, or site under interim protection; and,

(3) Indicate that the interim protection is temporary.

(c) A building or structure put under interim protection under subsection (a) remains under interim protection until the map is:

(1) Submitted to; and

(2) Approved in an ordinance or rejected by the common council of the city.

(d) While a building, structure, or site is under interim protection under this section:

(1) The building, structure, or site may not be demolished or moved, and,

(2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:

- (a) Addition,
- (b) Reconstruction,
- (c) Alteration.
- (e) The commission may approve a certificate of appropriateness at any time during the interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in Section 8.08.020 and any proposed preservation guidelines prepared for the building, structure, or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure or site is approved by the common council of the city. (Ord. 98-43 § 1, 1998).

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 20.03.05.03(e)~~ **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 ~~Section 20.03.05.03(e)~~ 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.

8.08.020 Certificates of appropriateness.

(a) Certificates of appropriateness required. A certificate of appropriateness must be issued by the commission before a permit is issued for, or work is begun on, any of the following:

- (1) Within all areas of an historic district:
 - (A) The demolition of any building,
 - (B) The moving of any building,
 - (C) A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving, and signs by additions, reconstruction, alteration, or maintenance involving exterior color change if cited by individual ordinance, or
 - (D) Any new construction of a principal building or accessory building or structure subject to view from a public way;
- (2) Within a primary area of an historic district:
 - (A) A change in walls and fences, or the construction of walls and fences along public ways,
 - (B) A conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration and/or maintenance involving exterior color change;
- (3) Within a conservation district:
 - (A) The moving of any building,

(B) The demolition of any building, or
(C) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(b) Application for Certificates of Appropriateness. An application for certificate of appropriateness shall be made in the office of the commission or its designee on forms provided by that office. All applications shall be subject to the rules and requirements established by the commission.

(c) Approval or Denial of Certificate of Appropriateness. The commission may approve or deny certificates of appropriateness for any actions covered by this title. If an application for a certificate of appropriateness is approved by the commission, or is not acted on by the commission within thirty days after it is filed, a certificate of appropriateness shall be issued. The commission may grant an extension of the thirty-day limit if the applicant agrees to it. The commission must report its findings and the reasons for its decision in written form, and supply the applicant with a copy of its report. A copy of the certificate of appropriateness must be submitted with the application for a building or demolition permit; no building or demolition permit shall be issued unless a copy of the certificate of appropriateness is provided by the applicant with the application.

(d) Right to Commission Review. In any case where an applicant does not receive a certificate of appropriateness or otherwise feels aggrieved by an action of the commission, the applicant shall have the right to a rehearing by the commission upon submission of additional evidence or new information.

(e) Criteria for Considering Effect of Actions on Historic Buildings. The commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of an historic building or structure, or any part of or appurtenance to such building or structure, including walls, fences, light fixtures, steps, paving, and signs shall require that such work be done in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the commission shall consider, among other things, the following:

- (1) Purposes of this title;
- (2) Historical and architectural value and significance of the building, structure, or appurtenance;
- (3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
- (4) The texture, material, color, style, and detailing of the building, structure or appurtenance;
- (5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;
- (6) The relationship of buildings, structures, appurtenances, or architectural features similar to ones within the same historic district, including for primary areas, visual compatibility as defined in Section 8.08.040(b); and
- (7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures. (Ord. 95-20 § 1 (part), 1995).

8.08.025 Staff approvals.

(a) The commission may authorize the staff of the commission, on behalf of the commission, to grant or deny an application for a certificate of appropriateness.

(b) The commission must specify the types of applications for minor classifications of work that the staff of the commission is authorized to grant or deny. The staff shall not be authorized to grant or deny an application for a certificate of appropriateness for the following:

- (1) The demolition of a building, structure, or site.
- (2) The moving of a building or site.

- (3) The construction of an addition to a building or structure.
- (4) The construction of a new building or structure. (Ord. 98-43 § 2, 1998).

8.08.030 Maintenance standards.

(a) Conformance to Statutory Requirements of Buildings. Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features. Historic buildings shall be maintained to meet all applicable requirements established under statute and ordinance for buildings generally, including but not limited to Chapters 16.04 and 16.12 of the Bloomington Municipal Code (Property Maintenance Code and Housing Quality) where applicable.

► **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.

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Chapter 8.12

DEMOLITION AND PUBLIC SAFETY

Sections:

- 8.12.010 Generally.
- 8.12.020 Public safety.

8.12.010 Generally.

(a) Purpose. The purpose of this section is to preserve historic buildings and structures that are important to the education, culture, traditions, and economic value of the community by affording the city, preservation organizations, and interested persons the opportunity to acquire or arrange for the preservation of these buildings.

(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.**

(c) Criteria for the commission to consider in the case of a proposed demolition include the following:

- (1) Effect of the demolition on the character of the historic district;
- (2) State of deterioration, disrepair, and structural stability of the structure. The condition of the building resulting from neglect shall not be considered grounds for demolition;

(3) Balance of the public interest in preserving the structure or the integrity of the district with the interest of the owner of the building or structure in the use and utilization of the property; and

(4) Possible alternatives to demolition.

(d) Factors for Allowing Demolition without Certificate of Appropriateness. If the commission denies the issuance of a certificate of appropriateness for the demolition of a building or structure, a demolition permit may be issued by other agencies and a building may be demolished, but only after the property owner has established all of the following:

(1) The property owner must demonstrate to the commission that an historic building or structure is incapable of earning a reasonable return on its value.

(2) The property owner shall file with the administrator documented evidence that a good faith effort is being made to sell or otherwise dispose of such property to any public or private person or agency which gives a reasonable assurance of its willingness to preserve and restore such property. Such documented evidence shall be provided at the property owner's expense and shall include:

(A) Offering price;

(B) Date the offer of sale began;

(C) Name and address of listing real estate agent, if any;

(D) A copy of an advertisement to run in the same manner as the notice in Section 8.08.010(d)(3) which offers the property for sale; and

(E) An appraisal of the property's fair market value by a licensed real estate appraiser.

(3) Notice of the proposed demolition must be given for a period fixed by the commission, based on the commission classification on the approved map, but not less than sixty days nor more than one year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least three times before demolition, with the first publication not more than fifteen days after the application for a permit to demolish is filed, and the final publication at least fifteen days before the date of the permit issuance.

(A) The period of time that a building is placed upon the open market shall be linked with its classification in the survey, i.e.:

Outstanding 9 months

Notable 6 months

Contributing 4 months

Non-contributing 3 months

(B) The commission may approve a certificate of appropriateness at any time during the notice period described in the preceding paragraph. If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed. (Ord. 95-20 § 1 (part), 1995).

8.12.020 Public safety.

Nothing in this section shall be construed to prevent the construction, reconstruction, alteration, or demolition of a structure, building, or any part thereof within an historic district when so ordered by an agency of government having jurisdiction thereof provided that the following actions occur first:

(a) The agency having jurisdiction shall determine that a structure or building or any part thereof is immediately hazardous or dangerous to the health and safety of persons or to property;

(b) The agency issuing such an order shall notify the commission administrator of intent to issue a demolition permit order; the commission administrator in turn shall notify the commission;

(c) If demolition is ordered, the agency issuing such an order shall make every reasonable effort to secure the property or otherwise delay demolition until the commission can act as designated in this section. Demolition so ordered may occur prior to commission action only when an immediate hazard or danger to the health and safety of persons or property exists and no reasonable steps can be taken to afford protection to persons or property affected;

(d) The commission, on its own initiative, may file a petition with the public safety and housing officer requesting that said officer proceed under the public safety and housing ordinance to require correction of defects or repairs to any structure covered by this section so that such structure be preserved and protected in consonance with this chapter and the public safety and housing ordinance. This section requires that the owner make necessary structural repairs to remain in compliance with minimum building standards and the intent of this chapter. If the owner is unwilling to repair then the city may repair the building and place a lien for said repairs upon the property;

(e) The city has determined it will not undertake such repairs that will remove the threat to health and safety of persons or property and place a lien for said repairs on the property. (Ord. 95-20 § 1 (part), 1995).

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Chapter 8.16

ADMINISTRATION AND ENFORCEMENT

Sections:

- 8.16.010 Conflicts with zoning districts.
- 8.16.020 Enforcement, penalties, and judicial review.
- 8.16.030 Recording the fact of historic district designation.
- 8.16.040 Listing of designated historic districts.

8.16.010 Conflicts with zoning districts.

Zoning districts lying within the boundaries of the historic district are subject to regulations for both the zoning district and the historic district. If there is conflict between the requirements of the zoning district and the requirements of the historic district, the more restrictive requirements apply. (Ord. 95-20 § 1 (part), 1995).

8.16.020 Enforcement, penalties, and judicial review.

(a) Enforcement: This section shall be enforced using personnel and policies designated by the director of housing and neighborhood development.

► (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 of the existence of any violation of this title shall be a separate 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) ~~Not less than ten dollars nor more than twenty five hundred dollars each day for demolition;~~

- ▶ **Cessation of an unlawful practice;**
(B) ~~Not less than ten dollars nor more than one thousand dollars each day for all other offenses.~~
- ▶ **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) 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 provisions 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 any provision of~~
~~this title and to cause such violation to be prevented, abated or removed. Such action may also be instituted~~
~~by any interested party who is adversely affected by the violation of any provision of this title. 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 remedies provided for in this section shall be cumulative and not exclusive and shall be in~~
~~addition to any other remedies provided by law.~~

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.

(c) Every interested party has a private right of action to enforce and prevent violation of a provision of this title or an ordinance adopted under this title, and with respect to any building, structure, or site within a historic district, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this title or an ordinance adopted under this title.

(1) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this title;

(2) The interested party bringing an action under this title is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this title, or an ordinance adopted under this title, had been, or was about to be violated or breached;

(3) An interested party who obtains a favorable judgment in an action under this title may recover reasonable attorney fees and court costs from the person against whom judgment was rendered;

(4) An action arising under this title must be brought in the circuit court of Monroe County. No change of venue from the county shall be allowed in this action.

(5) The remedies provided in this title are in addition to other remedies that may be available at law or in equity.

(d) Judicial review: Any person or party aggrieved by a decision or action taken by the commission shall be entitled to a judicial review thereof in accordance with Indiana Code 4-21.5, Administrative Orders and Procedures.

8.16.030 Recording the fact of historic district designation.

The boundaries of any historic district or conservation district shall be available in the office of the city of Bloomington planning department.

8.16.040 Listing of designated historic districts.

Preexisting historic districts: The following historic districts established under previous ordinances shall be subject to this title but in all other respects shall remain unchanged. All areas within existing districts shall be considered primary areas as defined in this title.

Title 17

CONSTRUCTION REGULATIONS

Chapters:

17.04	General
17.08	Administration and Enforcement
17.12	License Requirements and Boards
17.16	Unsafe Building Law

Chapter 17.04

GENERAL

Sections:

17.04.010	Title.
17.04.020	Purpose.
17.04.030	Scope.
17.04.040	Violations and penalties.
17.04.050	Definitions.
17.04.060	Adoption of building rules, code and standards by reference.
17.04.070	Jurisdiction.
17.04.080	Change in use.
17.04.090	Property owner doing own work.
17.04.100	Appeals and variances.

17.04.010 Title.

These regulations shall be known as “Construction Regulations”, may be cited as such and will be referred to herein as “this title”. (Ord. 82-6 § 1 (part), 1982).

17.04.020 Purpose.

The purpose of this title is to provide for the administration and enforcement by the City of the technical codes adopted by the State of Indiana and the City and to provide minimum standards for the protection of life, limb, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and residences. (Ord. 82-6 § 1 (part), 1982).

17.04.030 Scope.

The provisions of this title shall serve as the administrative, organizational, and enforcement rules and regulations for the technical codes which regulate the site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures, building service equipment and systems within the City of Bloomington and its jurisdiction. These rules and regulations shall be supplemental to those adopted by the Indiana Fire Prevention and Building Safety Commission and other sections of the municipal code.

Where these regulations may conflict with rules established in the Indiana Administrative Code, such rules shall take precedence. Any provision of this title governing the interpretations of or variance from the provisions of the adopted rules shall be consistent with those of the Indiana Fire Prevention and Building Safety Commission. (Ord. 87-28 §§ 1 (part), 2, 1987; Ord. 82-6 § 1 (part), 1982).

17.04.040 Violations and penalties.

It shall be a violation of this code to fail to comply with regulations set forth in this title. Where specific penalties are not provided, a violator may be subject to the fines provided in the general penalty clause of Section 1.01.130. (Ord. 82-6 § 1 (part), 1982).

17.04.050 Definitions.

As used in this title, the following terms have the following meanings and where terms are not defined, they shall have their ordinarily accepted meanings within the context with which they are used.

- (a) “Board” means the electrical examination and registration board as established by this title.
- (b) “Building official” means the city engineer or his designee and has no link to the term used in state rules, codes, etc.
- (c) “Building sewer” means the pipe which is connected to the building or house at a point approximately three feet outside the foundation walls of the building and which conveys the building’s sanitary sewage discharge from that point to the public sewer.
- (d) “City engineer” means the city engineer and his designees.
- (e) “Commercial, industrial, electrical contractor” means one who may undertake electrical construction of multi-family dwellings over two stories, commercial and industrial electrical construction as well as the type of electrical construction permitted residential electrical contractors, in subsection (i), of this section.
- (f) “Planning jurisdiction” means the corporate limits of the city and the two-mile fringe as defined by the plan commission.
- (g) “Plumber, journeyman” means a person engaged in the practice of plumbing for hire who is qualified to install plumbing in accordance with the standards and regulations set forth by the state and this chapter.

(h) “Plumbing contractor” means a person engaged in the plumbing business for the general public, or who maintains a plumbing shop, and is qualified to install plumbing in accordance with the standards and regulations set forth by the state and in this chapter.

(i) “Residential electrical contractor” means one who undertakes electrical construction for single, duplex, and two story or less multi-family dwelling with single-phase electrical service.

(j) “Technical codes” means the codes, standards, rules and regulations made a part of this title by Section 17.04.060.

(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.**

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Chapter 17.08

ADMINISTRATION AND ENFORCEMENT

Sections:

17.08.010	Engineering department.
17.08.020	Scope and permits required.
17.08.030	Permit application.
17.08.050	Fees.
17.08.060	Certificate of occupancy.
17.08.070	Inspections.
17.08.080	Special plumbing regulations.
17.08.090	Special electrical regulation.
17.08.100	Permits involving demolition.

17.08.010 Engineering department.

It shall be the duty of the City Engineer to administer all of the provisions of this title as required in Indiana Code 36-7-2-9.

(a) Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the City Engineer may appoint building inspectors, and other related technical officers and inspectors and other employees as shall be authorized from time to time.

(b) Stop Work Orders. Whenever any work is being done contrary to the provisions of this title, the City Engineer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such person shall forthwith stop until authorized by the City Engineer to proceed with the work. It shall be a violation of the ordinances of the City of Bloomington to continue work on any project after a stop work order has been duly issued.

(c) Returning Site to Original Condition. After a stop work order has been issued and/or after a person or firm is denied a permit to continue the work the site or structure must be returned to its original condition. (Ord. 87-28 § 6, 1988; Ord. 82-6 § 1 (part), 1982).

17.08.020 Scope and permits required.

It shall be a violation of this title for any person firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure or make any installation, alteration, repair, replacement or remodel any building service equipment regulated by this title without first obtaining a separate, appropriate permit for each building, structure or building service equipment from the building official.

It shall be a violation of this title for any person to make any connection in any manner with the water or sewage system of the City, or to install any plumbing in any building which connects with the City water or sewage system until a permit has been granted by the City; provided, however, that a plumbing permit shall not be required for repairing or replacing a fixture, fitting, faucet or valve by one to be used for the same purpose, for forcing out stoppage, repairing leaks or relieving frozen pipes and fittings. However, when such repairs or alterations include new vertical or horizontal lines of soil, waste or vent pipes, or where their location is changed, a permit is required and the work is subject to inspection by the City building inspector.

(a) Exempted Work. Ordinary repairs and maintenance to buildings may be done without application or notice to the City Engineer but such repairs shall not include the cutting of any wall partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements; nor, shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

(b) Responsibility. It shall be the duty of the property owner to see that all necessary permits as required by this title have been secured from the City Engineer, before any work has been started. Failure of the party responsible for the securing of such permit to do so, shall be subject to a fine as provided in Section 1.01.130 of the Bloomington Municipal Code.

(c) Failure to Obtain Permit. When any person proceeds to do any work or construction covered by this chapter without the required permit, a penalty of three times the applicable permit fee shall be charged. In addition the applicable permit fee shall also be charged. The payment of this penalty does not release the person in default from any other penalties provided. If the person can prove that failure to obtain a permit was: (1) an error made in good faith, (2) resulted in no advantage to him, and (3) that the construction which resulted conformed to all city building and zoning regulations, the city engineer may waive the penalty.

17.08.030 Permit application.

To obtain a permit, the applicant shall first file an application in writing on a form furnished by the city engineer. When a design release issued by the State Building Commission is required pursuant to rules of the Indiana Fire Prevention and Building Safety Commission (675 IAC 12), no permit shall be issued until the design release is received by the city engineer. Every applicant shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the land on which the proposed work is to be done by street address, lot number, addition and/or legal description.
- (3) Indicate the use or occupancy for which the proposed work is to be used.

(4) Be accompanied by plans, diagrams, computations and specifications and other data as required in subsection 7(a) below.

(5) State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.

(6) Be signed by the applicant, or his authorized agent, who may be required to submit evidence to indicate such authority.

(7) Give such other data and information as may be required by the city engineer. Plans, engineering calculations, diagrams, and other data shall be submitted in two sets with each application for a permit. The city engineer may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.

► (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.**

(b) **Exceptions.** The city engineer may waive the submission of plans, calculation, etc., if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

(c) **Expiration of Plan Review.** Applications for which no permit is issued within one hundred eighty days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the city engineer.

(d) **Expiration.** Every permit issued by the city engineer under the provisions of this title shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within three hundred sixty days from the date of such permit or if the building or work authorized by such permit is suspended or abandoned for a period of three hundred sixty days after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained. In order to renew action on a permit after expiration a new application must be made, reviewed, and the current permit fee paid.

(e) **Suspension or Revocation.** The city engineer may, in writing, suspend or revoke a permit issued under the provisions of this title whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of this title or upon revocation of the State Building Commission design release. Said revocation shall be effective immediately.

(f) **Renewal.** A permit may be renewed only one time. Application for renewal must be made at least ten days before the permit's expiration date. The fee for renewal shall be fifty percent of the original fee. (Ord. 93-41 § 15, 1993; Ord. 91-9 § 1, 1991; Ord. 87-28 § 7, 1987; Ord. 82-6 § 1 (part), 1982).

► (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.**

17.08.050 Fees.

(a) The fee for each permit shall be as set forth below except that no fee shall be collected for a permit issued to Monroe County, Indiana. The determination of value or valuation under any of the provisions of these codes shall be subject to verification by the city engineer. The value to be used in computing the building permit fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire extinguishing systems and any other permanent equipment.

(b) The permit fee for any commercial construction undertaken by an owner or contractor who employs a state or International Conference Building Official certified inspector, or a professional engineer registered in the state of Indiana, or a professional architect, holding a certificate of registration from the state of Indiana, shall be reduced by two-thirds under the following conditions:

(1) At the time property owner applies for a building permit, he must make a request for the reduced fee in writing to the city engineer;

(2) Inspector must furnish evidence to the city engineer of the current registration of its architect, engineer or inspector;

(3) Owner must agree to furnish the engineering department copies of all the inspector's reports covering all aspects of the project's construction as well as copies of all reports filed with the Indiana Fire Prevention and Building Safety Commission.

(c) Affordable Housing Permit Program. Applicants for eligible affordable housing projects may apply for the waiver of certain permit fees under the following conditions. The application for the waiver must be submitted at same time as the permit application for the project. The housing project must be an eligible housing project, which is one that has been approved under programs identified by the director of housing and neighborhood development. In furtherance of this permit program, the director of housing and neighborhood development shall prepare and amend as necessary, a list of appropriate affordable housing programs and distribute the list to the engineering department and the office of city clerk. Once the foregoing conditions have been met, the following fees shall be waived in the following circumstances:

(1) For the construction of eligible single-family projects the minimum fee shall be waived;

(2) For the rehabilitation or renovation of eligible single family projects, the base fee and minimum fee shall be waived;

(3) For the construction of eligible multifamily projects the base fee shall be waived; and

(4) For the renovation of eligible multifamily projects the base fee and minimum shall be waived.

(d) The city engineer shall keep an accurate account of all fees collected under this chapter, and they shall be deposited at least once each week with the city controller and become part of the general fund of the city.

(e) The fees shall be as follows:

Permit	Fee
Change in use/temporary uses	\$250
Grading and site development permits	\$115 per acre (rounded to nearest tenth of an acre);
All earth grading under Section	\$115 minimum
20.06.05.03	
Right-of-way borings	\$0.75 per lineal ft; \$50 Min.
Must have current bond on file. Boring	
work done in city right-of-way.	
Right-of-way cuts	\$1.00 per square ft; \$100 Min.
Must have current bond on file.	
Any work done in city right-of-way which	
requires cutting or altering any feature.	
Temporary sign permits	\$55 (no additional charge for fifteen-day renewal)
Temporary signs erected under Section	
20.06.06.04(b)	
Permanent sign permits	\$55 per sign
All other signs erected under Section	
20.06.06. Includes signs for Large and	
Small Residential Centers, Individual	
Nonresidential Uses, Shopping Centers,	
and Freestanding Signs.	

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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.**