ORDINANCE 94-21

TO AMEND TITLE 3 OF THE BLOOMINGTON MUNICIPAL CODE, ENTITLED "CABLE COMMUNICATIONS SYSTEMS" (Regulating Customer Service and Revising Procedures for the Regulation of Basic Tier Rates and Related Charges)

WHEREAS, in January of this year the Common Council adopted Ordinance 94-08 which established the procedures under which the City could regulate the basic tier cable rates and related charges; and

WHEREAS, those procedures were drafted in accordance with the Cable Television Consumer Protection and Competition Act of 1992(P.L. 102-385)(Cable Act)and various FCC regulations interpreting and implementing that act; and

WHEREAS, portions of the FCC regulations regarding the request of additional rate filing information, the treatment of confidential information, and the authority of the City to impose sanctions and remedies have been revised, and the City desires to reflect those revisions in local procedures; and

WHEREAS, the Common Council also desires to exercise the power articulated in the Cable Act to develop and enforce standards for cable consumer service; and

WHEREAS, after careful consideration the Council believes that it is in the best interest of the cable consumer and the City for the Telecommunications Council to promulgate and enforce rules regarding cable consumer service and protection;

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

SECTION I. Section 3.02.300 Authority be amended to add the words "and amendments thereof" after the words "Cable Television Consumer Protection and Competition Act of 1992" in the first paragraph of that section.

SECTION II. Subsection (a) of Section 3.02.310 General procedures covering all filings be amended to delete the words "properly completed" where they appear in that subsection.

SECTION III. Subsection (b)(5) of Section 3.02.310 General procedures covering all filings be amended to read as follows:

(5) At any point during the rate review process the City of Bloomington may require the cable operator to submit additional information that is reasonably necessary to make a rate determination. The request for supplemental information shall specify what information is needed, why it is needed, and provide a reasonable time for the cable operator to respond. The cable operator shall provide all the requested information in a timely manner.

SECTION IV. Subsection (c)(1) of Section 3.02.310 General procedures covering all filings be amended to read as follows:

1) Every rate filing shall become the sole property of the City and all contents will be available to the public unless otherwise properly designated as "Confidential" by the cable operator in accordance with applicable law;

2) The cable operator shall submit information which it believes is confidential separately in a sealed envelope marked "Confidential," or the City will treat the information as public;

3) The cable operator cannot subsequently

designate information as "Confidential" after that information has been filed;

4) Requests for information designated as "Confidential" shall be handled according to the procedures outlined in Indiana Public Records Law (I.C. 5-14-3);

SECTION V. That Section 3.02.350 Remedies be amended by adding the following paragraph after the first paragraph in that section:

To the extent permitted by state law, local ordinances and FCC Regulations, the City of Bloomington may toll deadlines, delay rulings and impose forfeitures or fines on the cable operator for violations of the City's rules, orders or decisions, including filing deadlines and requests or orders to provide information.

SECTION VI. That part IV. CONSUMER PROTECTION be added to the ordinance with the following provisions:

IV. CONSUMER PROTECTION

3.02.400 Cable Consumer Protection (a) The Telecommunications Council shall have the power and duty to adopt, in addition to provisions contained in other ordinances, any and all rules and regulations it deems necessary to protect cable television subscribers, provided that such rules or regulations shall be reasonable and shall not unconstitutionally conflict with the rights granted in the franchise contract.

(b) Rules or regulations adopted by the Telecommunications Council shall be approved or rejected by the Board of Public Works at its next regularly scheduled meeting following notification by the Telecommunications Council that a proposed new rule or regulation has been adopted. Proposed rules or regulations disapproved by the Board shall have no effect.

(c) The Board of Public Works shall notify the Clerk of the adoption of rules and regulations by the Board. If within thirty (30) days after delivery of notification to the Clerk the Common Council shall by Council action disapprove or reject such rules and regulations, the proposed new rules adopted by the Telecommunications Council and approved by the Board of Public Works shall be of no effect. If the Council does not act within the thirty (30) days after delivery of notification, the adopted rules and regulations shall become effective.

SECTION VII. 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 VIII. 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 18 day of MAY, 1994.

JIM SHERMAN, President
Bloomington Common Council

ATTEST:

D.C.C.

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 19 day of MAY, 1994.

D.C.C.

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 19 day of MAY, 1994.

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends certain procedures recently adopted by the Common Council to regulate the basic tier of cable rates and related charges. These changes reflect the latest clarifications in FCC regulations regarding status of incomplete rate filings, requests for additional rate filing information, the treatment of confidential information, and the authority of the City to impose sanctions and remedies. This ordinance also delegates the power and duty to develop and enforce cable consumer protection standards to the Telecommunications Council.

Signed copies to:
BMC - File
CA/CA
Clerk
Legal - 5
HT legal ad
Public Works
TCC
TCI