# ORDINANCE 01-10

## TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ADMINISTRATION AND PERSONNEL" (Adding Provisions to Chapter 2.25 (Information and Technology Services Department) which Establish Fees for Providing Electronic Maps and Enhanced Access to City Databases and Establish Related Dedicated Funds)

WHEREAS, the City of Bloomington, by and through its Department of Utilities and Department of Public Works ("City Departments"), has implemented a computerized mapping program to provide a geographic based information system for planning, engineering, utilities and related public services activities, which project is called the City of Bloomington Geographic Information System Database ("GIS Database"); and,

WHEREAS, all activities related to the implementation of the GIS Database, a copyrighted database, are under the management and control of these City Departments through their respective Boards, and the City of Bloomington Information and Technology Services Department coordinates the operation, maintenance, protection and upkeep of this database as well as numerous other databases which have been developed by various City of Bloomington departments and which contain public records; and,

WHEREAS, the City Departments are "public agencies" as defined in I.C. 5-14-3-2, and are subject to the general provisions of the Indiana Public Records law as set forth in I.C. 5-14-3-1 et. seq., and to the provisions of those sections regarding enhanced access and electronic maps in particular; and,

WHEREAS, I.C. 5-14-3-2 defines "enhanced access" as "the inspection of a public record by a person other than a governmental entity and that: (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information", and I.C. 5-14-3-8(h) authorizes the City to charge a reasonable fee for providing enhanced access to public records; and,

WHEREAS, I.C. 5-14-3-2 defines an "electronic map" as "copyrighted data provided by a public agency from an electronic geographic information system", and I.C. 5-14-3-8(j) authorizes the City to establish a uniform fee for providing electronic maps that is based upon a reasonable percentage of the City's direct cost of maintaining, upgrading and enhancing the electronic map, and for the direct cost of supplying the electronic map in the form requested by the purchaser; and,

WHEREAS, I.C. 5-14-3-8(j) provides that the fee the City charges for providing an electronic map is subject to the approval of this Council; and,

WHEREAS, I.C. 5-14-3-8.3 requires that, should the City choose to charge a fee for enhanced access to public records, the City must create a dedicated "Enhanced Access Fund" which is administered by the public agency or officer designated in the ordinance or resolution and is dedicated to the purposes of (1) the replacement, improvement, and expansion of capital expenditures, and (2) the reimbursement of operating expenses incurred in providing enhanced access to public information; and,

WHEREAS, I.C. 5-14-3-8.5 requires that should the City choose to charge a fee for providing electronic maps, the City must create an "Electronic Map Generation Fund" which shall be administered by the public agency that collects the fees and is dedicated to the purposes of (1) the maintenance, upgrading, and enhancement of the electronic map, and (2) the reimbursement of expenses incurred by a public agency in supplying an electronic map in the form requested by a purchaser; and,

WHEREAS, it is the goal of the City of Bloomington to provide access to any disclosable public record information which is in an electronic format and to its electronic maps, with a fee assessed only in those instances where additional labor, materials or equipment costs are incurred by the City; and

WHEREAS, pursuant to I.C. 5-14-3-4, the City has the authority to limit access to records where issues such as privacy and security arise, and the City intends to continue to take these issues into consideration in providing access to records which may be excepted from the requirements of the Public Records law;

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

SECTION I. Chapter 2.25 of the City of Bloomington Municipal Code be and is hereby amended by adding the following section titles to the index for this chapter and by adding the following sections which shall read as follows:

Section 2.25.030. Public Access to Disclosable Records in Electronic Format

The City of Bloomington shall make every effort to provide public access to all disclosable records which it may possess in electronic format, including its GIS electronic map database, to the extent practicable and feasible given the resources at the City's disposal to implement such access.

Sec. 2.25.040. Basis for Fees and Refusal of Service

The fees charged for the inspection or copying of all or any portion of the GIS Database or any other electronic database shall be based upon the labor, material and equipment costs which the City of Bloomington must incur to comply with the request for inspection or copying which it receives. The City of Bloomington reserves the right to refuse a request for inspection or copying of an electronic database if compliance with said request would unreasonably interfere with the ongoing operations of the City by requiring an inordinate diversion of City manpower, materials or equipment use, or would necessitate utilization of an outside contractor.

Sec. 2.25.050. Schedule of Electronic Data Fees

The fees charged for providing inspection and copying of electronic databases are set forth in the Schedule of Electronic Data Fees (Schedule), which are incorporated by reference into this code. Pursuant to I.C. 36-1-5-4 two copies of the Schedule are filed in the Office of the City Clerk and are available for public inspection.

Sec. 2.25.060. Electronic Map Generation Fund

The City of Bloomington GIS Database Electronic Map Generation Fund is hereby established, which Fund shall consist of the fees collected by City Departments for providing electronic maps. The Electronic Map Generation Fund shall be a dedicated fund administered jointly by the City Controller and the Director of the Information and Technology Services Departments with the following purposes:

(a) the maintenance, upgrading and enhancement of the GIS Database; and,
(b) the reimbursement of expenses incurred by the City Departments in supplying GIS Database information in the form requested.

Monies in this fund shall be appropriated by the Common Council and shall be returned to the fund if unexpended by the end of the year.

Sec.2.25.070. Enhanced Access Fund

The City of Bloomington Enhanced Access Fund is hereby established, which Fund shall consist of the fees collected by City Departments for providing enhanced access to City of Bloomington electronic databases. The Enhanced Access Fund shall be a dedicated fund administered jointly by the City Controller and the Director of the Information and Technology Services Department with the following purposes:

(a) The replacement, improvement, and expansion of capital expenditures; and,
(b) The reimbursement of operating expenses incurred in providing enhanced access to public information.

Monies in this fund shall be appropriated by the Common Council and shall be returned to the fund if unexpended by the end of the year.

SECTION III. 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 section are declared to be severable.

SECTION IV. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval by the Mayor and promulgation according to law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 18th day of April, 2001.

Patricia Cole
PATRICIA COLE, President
Bloomington Common Council

ATTEST:

Regina Moore
REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 18th day of April, 2001.

Regina Moore
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 19 day of April, 2000.

J Fernandez
JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance establishes a policy of promoting public access to all disclosable records that the City possesses in electronic format. It limits the fees for such service solely to the costs of the labor, material, and equipment used in order to comply with the request for information. The ordinance further approves the Schedule of Electronic Data Fees. Lastly, it establishes the Electronic Map Generation Fund and the Enhanced Access Fee Fund which, according to statute, are for the purpose of supporting those programs. The funds will be jointly administered by the Controller and Information and Technology Departments and the monies will be appropriated by the Common Council.

ITS
Controller
GIS
Legal