

(passed 5-3; Diekhoff
Mayer
Pizzo)

ORDINANCE 00-45

**TO AMEND ORDINANCE 96-31 WHICH ESTABLISHED A
TELECOMMUNICATIONS NON-REVERTING FUND
(Dedicating Revenues from the City's Telecommunications Infrastructure for
Telecommunications Infrastructure Projects)**

WHEREAS, in June of 1996 the City adopted Resolution 96-12, which declared the intent of the City to set aside cable franchise fee revenues into a dedicated fund; and

WHEREAS, in November of 1996 the City adopted Ordinance 96-31, which established the Telecommunications Non-Reverting Fund (herein after known as the Fund); and

WHEREAS, according to said ordinance, sixty percent (60%) of franchise fee revenues were set aside for the support of public, education, and government access/ telecommunications services (otherwise known as the Telecommunications Services) and forty percent (40%) of franchise fee revenues were set aside for the planning and development of the city's telecommunications infrastructure (otherwise known as the Telecommunications Infrastructure); and

WHEREAS, since that time the City has begun a program of installing telecommunications conduit in its rights-of-ways with the following objectives:

1. encouraging telecommunication providers to invest in this community by lowering the cost for and assuring access to conduit;
2. protecting use and attractiveness of city's rights-of-way by limiting the number of roadway cuts needed to lay conduit; and
3. providing telecommunication infrastructure for the City government operations; and

WHEREAS, in furtherance of these policies, the Mayor proposed and the Common Council passed Appropriation Ordinance 00-02, which appropriated \$185,000 from the Fund for the purpose of laying about 3 miles of fiber optic conduit in coordination with a cable project being undertaken by Kiva Telecom that will eventually place a fiber ring within the center of the city; and

WHEREAS, it is expected that fiber optic conduit will generate revenues for the City; and

WHEREAS, the City desires to use these revenues to further the purposes of planning and development of the city's telecommunications infrastructure;

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

SECTION I This ordinance shall amend Section II of Ordinance 96-31, entitled "Source of Revenues," so that it will read as follows:

SECTION II. Source of Revenues. The Fund shall derive its revenues from cable franchise fees and from monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure.

SECTION II. This ordinance also shall amend Section III of Ordinance 96-31, entitled "Dedication of Revenues; Purpose of the Fund," by adding the following sentence at the end of the provision:

In addition to the 40% of the cable franchise fees dedicated for Telecommunications Infrastructure, all monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure shall also be dedicated for this purpose up to the amount specified in Section IV.

SECTION III. This ordinance also shall amend Section IV of Ordinance 96-31, entitled "Flow of Funds," so that it will read as follows:

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legal (S)
controller
Telecom Council

SECTION IV. Flow of Funds. All cable franchise fee revenues received by the City shall be deposited into this Fund and used for Telecommunications Services or Telecommunications Infrastructure according the provisions of Section III of this ordinance. In addition, all monies received by the City from the sale, lease, operation, or other use of its telecommunications infrastructure up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the Telecommunications Infrastructure portion of the Fund shall be deposited into the Fund and used for Telecommunications Infrastructure.

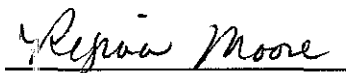
SECTION IV Severability. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given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

SECTION V. 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.

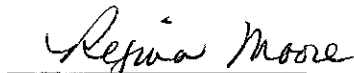
PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 15th day of November, 2000.


TIMOTHY MAYER, President
Bloomington Common Council

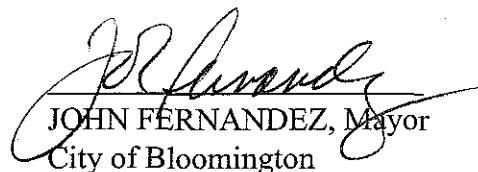
ATTEST:


REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 16th day of November, 2000.


REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 16th day of November, 2000.


JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance is sponsored by David Sabbagh and Jeffrey Willsey. It amends Ordinance 96-31, which established the Telecommunications Non-Reverting Fund (Fund), by dedicating all monies received by the City from the sale, lease, or other use of its cable conduit for the planning, design, development and construction of the City's telecommunications infrastructure.

Note: On November 15, 2000, the Council adopted Amendment 01 by a vote of 5-3, which amended Sections II, III & IV of this ordinance in order to limit the return of proceeds to 125% of the total amount previously appropriated for Telecommunications Infrastructure.