

(Passed 9-0)

ORDINANCE 04-24

**TO CODIFY THE PROVISIONS OF ORDINANCE 79-74, AND ORDINANCE 87-31,
EACH AS AMENDED, ESTABLISHING AND AUTHORIZING EXPENDITURES
FROM THE SPECIAL NON-REVERTING IMPROVEMENT FUND,
TO CODIFY THE PROVISIONS OF ORDINANCE 96-31 AS AMENDED
ESTABLISHING AND AUTHORIZING EXPENDITURES FROM THE
TELECOMMUNICATIONS FUND, AND TO AUTHORIZE EXPENDITURES FROM
THE MAYOR'S PROMOTION OF BUSINESS LINE
IN THE MAYOR'S OFFICE BUDGET**

- WHEREAS, the Bloomington Common Council adopted Ordinance 79-74, "To Create a Special Non-Reverting Improvement Fund," which provides that all monies received by the City pursuant to the 1979 Agreement In Lieu of Annexation as approved and ratified by Ordinance 79-73, shall be placed in the special non-reverting fund; and,
- WHEREAS, Ordinance 87-31 provides that all monies received by the City pursuant to the 1987 Agreement In Lieu of Annexation, as approved and ratified by Ordinance 87-30, shall be placed in the special non-reverting fund, and that a "Road and Traffic Improvement Account" be created within the special non-reverting fund; and,
- WHEREAS, Ordinance 97-55 provides that all monies received by the City pursuant to the Agreement to Modify and Extend the 1987 Agreement, as approved and ratified by Resolution 98-02, shall be placed in the special non-reverting fund with certain funds to be allocated to the Road and Traffic Improvement Account within that fund; and,
- WHEREAS, the Agreement provides that monies received by the City may be used for any legal public purpose; and,
- WHEREAS, Ordinance 79-74, with subsequent amendments thereto, provides that the monies in the fund may be used for various purposes, and,
- WHEREAS, the Bloomington Common Council adopted Ordinance 96-31, "To Establish a Telecommunications Non-Reverting Fund," which provides that all monies received by the City from cable franchise fees and from monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure shall be placed in said non-reverting fund; and,
- WHEREAS, Ordinance 96-31 also provides that the monies in the fund may be used for various purposes; and,
- WHEREAS, it would be of benefit to the City to have the provisions of said Ordinances set out as provisions within the Bloomington Municipal Code; and,
- WHEREAS, Indiana Code § 36-7-2-7 empowers cities to promote economic development and tourism, and for such purposes the City of Bloomington may expend moneys from the General Fund for civic or governmental purposes in the best interest of the City; and,
- WHEREAS, The City of Bloomington budgets and appropriates funds into the Mayor's Promotion of Business line in the Mayor's Office budget for such civic and governmental purposes; and,
- WHEREAS, The State Board of Accounts has advised cities and towns that it believes a general ordinance authorizing such expenditures is necessary under Home Rule, in addition to the budgeting and appropriation of such funds;

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

SECTION I. Ordinance 79-74 as amended is hereby repealed and Chapter 2.26 of the City of Bloomington Municipal Code 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 2.26.010. Special Non-Reverting Fund – Establishment and Funding

There is hereby created a Special Non-Reverting Improvement Fund. All monies received by the City pursuant to the Agreement in Lieu of Annexation approved by Ordinance 87-30, and the Agreement to Modify and Extend the 1987 Agreement approved by Ordinance 97-55 and Resolution 98-02, shall be placed in the Special Non-Reverting Improvement Fund. Within the Special Non-Reverting Fund shall be a “Road and Traffic Improvement Account” as authorized by Ordinance 87-31, to receive and expend funds in a manner consistent with the provisions of the Agreement in Lieu of Annexation as modified and amended.

Section 2.26.020. Special Non-Reverting Fund – Uses

Pursuant to the provisions of the Agreement in Lieu of Annexation as modified and amended, the monies in the Special Non-Reverting Improvement Fund, other than those deposited in the Road and Traffic Improvement Account, may be used for any legal public purpose. The uses of said funds shall include but not be limited to:

- (a) the provision of police and fire protection service and other services related to health and safety, including animal care and control and the acquisition of emergency equipment.
- (b) road and traffic improvements, including but not limited to right-of-way procurement, traffic signalization and the construction or reconstruction of streets, curbs and gutters, and any and all costs associated with the acquisition of land and/or payment for improvements thereon in order to serve the existing industries and encourage development in the vicinity of the industries, thereby strengthening the City’s position for future annexation.
- (c) payment for professional services, salaries, material and equipment necessary to prepare fiscal plans and other reports and studies required to proceed with annexation of the areas contiguous to the City of Bloomington, including services provided by the City Controller’s Department staff in the development of written fiscal plan(s) for annexation of contiguous territory, and to obtain federal and non-federal grant funding that may be used for the benefit of the City or industries which are party to the agreement.
- (d) advances on expenditures for capital improvement projects in anticipation of the issuance of bonds; and advances on expenditures for capital improvement projects in anticipation of receipt of anticipated tax revenues. Upon issuance of bonds, said advances shall be repaid from bond proceeds; upon receipt of anticipated tax revenues, said advances shall be repaid from said revenues.

Section 2.26.030. Special Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

Expenditures from the Special Non-Reverting Fund and the Road and Traffic Improvement Account within that Fund which are not included in the annual budget appropriation shall be authorized by approval of an appropriation ordinance by the City’s fiscal body. The Special Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

SECTION II. Ordinance 96-31 as amended is hereby repealed and Chapter 2.26 of the City of Bloomington Municipal Code 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 2.26.040. Telecommunications Non-Reverting Fund – Establishment and Funding

A Telecommunications Non-Reverting Fund (Fund) shall be established in the Office of the Controller. 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. All cable franchise fee revenues received by the City shall be deposited into the Fund. 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 2.26.050. Telecommunications Non-Reverting Fund – Uses

Sixty percent (60%) of cable franchise fees shall be dedicated for audio-visual and information technology, and public, education, and government access/telecommunications services (hereinafter known as Telecommunications Services) and forty percent (40 %) of cable franchise fees shall be dedicated for audio-visual and information technology, and for the planning, design, development, construction, maintenance, and repair of the City's telecommunications infrastructure (hereinafter known as Telecommunications Infrastructure). 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 2.26.040.

Section 2.26.060. Telecommunications Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

All expenditures from the Telecommunications Non-Reverting Fund shall be subject to appropriation by the City's fiscal body and shall be budgeted through the Department of Public Works. The Telecommunications Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

SECTION III. The Common Council is hereby authorized to budget and appropriate funds from the General Fund of the City, to pay the expense of or to reimburse City officials for expenses incurred in promoting the best interest of the City of Bloomington. Such expenses may include but shall not be limited to expenses incurred in promoting industrial, commercial, or residential development; expenses incurred in developing relations with other units of government; and any other expense of a civic or governmental nature deemed by the Mayor or the Common Council to be in the best interest of the City of Bloomington.

SECTION IV. 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 8th day of September, 2004.


MICHAEL DIEKHOFF, 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 8th day of September, 2004.

Regina Moore
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 8th day of SEPTEMBER, 2004.

Mark Kruzan
MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance has three goals: (1) to codify and update the language contained in Ordinances 79-74 and 87-31, both as amended, regarding the establishment and funding of the Special Non-Reverting Improvement Fund into which payment from those industries which are parties to the Agreement in Lieu of Annexation are deposited, and uses of that fund; (2) to codify and update the language contained in Ordinance 96-31, as amended, regarding the establishment and funding of the Telecommunications Fund and uses of that fund; and (3) to formally authorize expenditures from the Promotion of Business line of the Mayor's budget as required by the State Board of Accounts.

Signed copies to:
Legal (5)
Controller
Public Works
Telecom comm. file

Econ. Dev. Director
BMC code file
Clerk
file

CA/CA(O)