

ORDINANCE NO. 2012 - 12
ORDINANCE NO: 5434

**AN ORDINANCE AMENDING THE OPERATING STRUCTURE OF BLOOMINGTON
NORMAL PUBLIC TRANSIT SYSTEM**

WHEREAS, the Town of Normal and City of Bloomington, by intergovernmental agreement, established an intergovernmental agency known as the Bloomington Normal Public Transit System; and

WHEREAS, the Bloomington Normal Public Transit System was established pursuant to home rule and intergovernmental cooperation authority set forth in Sections 6 and 10 of Article 7 of the 1970 Constitution of the State of Illinois; and

WHEREAS, pursuant to the same authority, the Town of Normal and City of Bloomington desire to revise the governing ordinances for the operation and control of the Bloomington Normal Public Transit System.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE TOWN OF NORMAL AND THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, AS FOLLOWS:

SECTION ONE: DEFINITIONS. As used herein the following terms shall have the following meaning:

- A. Board means the Board of Trustees of the Bloomington Normal Public Transit System.
- B. Corporate Authorities means (1) the Board of Trustees of the Town of Normal, and (2) the City Council of the City of Bloomington.
- C. Mass Transit Facility means any local public transportation facility utilized by a substantial number of persons for their daily transportation, and includes not only the local public transportation facility itself but ancillary and supporting facilities such as, for example, motor vehicle parking facilities, as well.
- D. System means the Bloomington Normal Public Transit System created by the Town of Normal and the City of Bloomington.

SECTION TWO: CONTINUATION OF SYSTEM. The Bloomington Normal Public Transit System previously established as an intergovernmental agency of the Town of Normal and City of Bloomington be and the same is hereby confirmed and continued for the purpose of acquiring, constructing, owning, operating and maintaining mass transit facilities for public service or subsidizing the operation thereof.

SECTION THREE: AREA OF SERVICE. The operating area of the Bloomington Normal Public Transit shall be the combined corporate limits of the Town of Normal and the City of Bloomington as the same now or hereafter exists.

SECTION FOUR: BOARD OF TRUSTEES.

A. General. The powers of the Bloomington-Normal Public Transit System shall repose in and be exercised by a Board of Trustees consisting of seven members. The Board shall set policy, but not have any direct control over the day-to-day administration of the System; day-to-day administration being a function of a General Manager appointed by the Board pursuant to Section 4H. Four of the trustees shall be citizens of the City of Bloomington and three shall be citizens of the Town of Normal. The City Managers of Bloomington and Normal shall be non-voting ex-officio members of the Board of Trustees.

B. Method of Selection. Four trustees shall be appointed by the Mayor with the advice and consent of the corporate authorities of the City of Bloomington and three trustees shall be appointed by the President of the Board of Trustees with the advice and consent of the corporate authorities of the Town of Normal. Vacancies shall be filled for an unexpired term in the same manner as an original appointment. Re-appointment shall be at the discretion of the appointing body. A Certificate of Appointment of any trustee shall be filed with the Clerk of each municipality and shall be conclusive proof of the due and proper appointment of such Trustee.

C. Term of Office. The terms of trustees shall be of four years duration. In order to promote orderly succession in the replacement of trustees, the terms of trustees appointed as of the effective date of this ordinance shall be staggered by lot, with two current trustees to serve a term of four years, two current trustees to serve a term of three years, and three current trustees to serve a term of two years. Terms of trustees appointed thereafter shall be four years in duration. Terms of trustees shall be deemed to expire at the end of the last day of June in the year they are to expire; however, trustees shall be permitted to hold over in their terms until their successors have been appointed.

D. Compensation. Trustees shall receive no compensation for their service, but shall be entitled to the necessary expenses, including travel expenses incurred in the discharge of their duties.

E. Operating Procedure. The majority of the trustees holding office shall constitute a quorum of the Board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the Board upon a vote of the majority of the trustees present, unless in any case the Bylaws of the Board shall require a larger number. The Board shall elect a Chair Person, a Vice Chair Person and a Secretary from among the trustees. The Board shall be considered a public body for purposes of the Illinois Open Meeting Act and the Illinois Freedom of Information Act.

F. Conflict of Interest. For purposes of complying with 5 ILCS 420/4A-101 et.seq., Disclosure of Economic Interest, the System shall be considered a unit of local government, and

for purposes of complying with Article 70 of the State Official and Employees Ethics Act, the System shall be considered a governmental entity.

G. Removal. A trustee whose term has not expired may be removed at will by the body which appointed said trustee. Removal may be by the Mayor with the majority consent of the Council or by a two-thirds majority of the Council without the consent of the Mayor. An order of removal shall be filed with the Clerk of the body which appointed the trustee and a copy provided to the trustee.

H. Officers and Employees. The Board shall appoint a General Manager of the System who shall have authority to hire or contract with a private contractor which shall recommend management services, any and all employees, agents, professionals and other persons, permanent and temporary, as determined necessary to operate and maintain the System. The General Manager shall, within the constraints of the approved budget, fix and determine compensation of all persons employed, including pay scales for employee classifications within the parameters of the pay scale established by the Board and shall also fix and determine qualifications, duties and the amount of bond, if any, to be furnished by employed persons. Upon consent of the Board, the General Manager may engage one or more attorneys to secure necessary legal services for the System. For such legal services as may be required, the Board may call upon the chief law offices of the City of Bloomington or Town of Normal or may employ and fix the compensation of its own counsel and legal staff or other attorneys.

I. Powers of the Board.

- (a) The Board of Trustees of every System may establish or acquire any or all manner of mass transit facility. The Board may engage in the business of transportation of passengers on scheduled routes and by contract on nonscheduled routes within the territorial limits of the counties or municipalities creating the System, by whatever means it may decide. Its routes may be extended beyond such territorial limits with the consent of the governing bodies of the municipalities or counties into which such operation is extended.
- (b) The Board of Trustees may for the purposes of the System, acquire by gift, purchase, lease, legacy, condemnation, or otherwise and hold, use, improve, maintain, operate, own, manage or lease, as lessor or lessee, such cars, buses, equipment, buildings, structures, real and personal property, and interests therein, and services, lands for terminal and other related facilities, improvements and services, or any interest therein, including all or any part of the plant, land, buildings, equipment, vehicles, licenses, franchises, patents, property, service contracts and agreements of every kind and nature. Real property may be so acquired if it is situated within or partially within the area served by the System or if it is outside the area if it is desirable or necessary for the purposes of the System.

- (c) The Board of Trustees may contract with any person or corporation or public or private entity for the operation or provision of transit facilities and services upon such terms and conditions as the Board shall determine.
- (d) The Board of Trustees shall have the authority to contract for any and all purposes of the System, including with an interstate transportation authority, or with local Mass Transit System or any other municipal, public, or private corporation entity in the transportation business including the authority to contract to lease its or otherwise provide land, buildings, and equipment, and other related facilities, improvements, and services, for the carriage of passengers beyond the territorial limits of the System or to subsidize transit operations by a public or private or municipal corporation operating entity providing mass transit facilities.
- (e) The Board of Trustees shall have the authority to establish, alter and discontinue transportation routes and services and any or all ancillary or supporting facilities and services, and to establish and amend rate schedules for the transportation of persons thereon or for the public or private use thereof which rate schedules shall, together with any grants, receipts or income from other sources, be sufficient to pay the expenses of the System, the repair, maintenance and the safe and adequate operation of its mass transit facilities and public mass transportation system and to fulfill the terms of its debts, undertakings, and obligations.
- (f) The Board of Trustees of every System shall have perpetual succession and shall have the following powers in addition to any others in this Ordinance granted:
 - (1) to sue and be sued;
 - (2) to adopt and use a seal;
 - (3) to make and execute contracts loans, leases, subleases, installment purchase agreements, contracts, notes and other instruments evidencing financial obligations, and other instruments necessary or convenient in the exercise of its powers;
 - (4) to make, amend and repeal bylaws, rules and regulations not inconsistent with this Ordinance;
 - (5) to sell, lease, sublease, license, transfer, convey or otherwise dispose of any of its real or personal property, or interests therein, in whole or in part, at any time upon such terms and conditions as it may determine (with public bidding if the value exceeds \$10,000), at negotiated, competitive, public, or private sale;

(6) to invest funds, not required for immediate disbursement, in property, agreements, or securities legal for investment of public funds controlled by savings banks under applicable law;

(7) upon consent of the Town of Normal and City of Bloomington, to mortgage, pledge, hypothecate or otherwise encumber all or any part of its real or personal property or other assets, or interests therein;

(8) to apply for, accept and use grants, loans or other financial assistance from any private entity or municipal, county, State or Federal governmental agency or other public entity;

(9) upon consent of the Town of Normal and City of Bloomington, to borrow money from the United States Government or any agency thereof, or from any other public or private source, for the purposes of the System and, as evidence thereof, to issue its revenue bonds, payable solely from the revenue derived from the operation of the System. These bonds may be issued with maturities not exceeding ~~40~~ 20 years from the date of the bonds, and in such amounts as may be necessary to provide sufficient funds, together with interest, for the purposes of the System. These bonds shall bear interest at a rate of not more than the maximum rate authorized by the Bond Authorization Act [30 ILCS 305/0.01 et seq.], as amended at the time of the making of the contract of sale, payable semi-annually, may be made registerable as to principal, and may be made payable and callable as provided on any interest payment date at a price of par and accrued interest under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. Bonds issued under this Section are negotiable instruments. They shall be executed by the chairman and members of the Board of Trustees, attested by the secretary, and shall be sealed with the corporate seal of the System. In case any Trustee or officer whose signature appears on the bonds or coupons ceases to hold that office before the bonds are delivered, such officer's signature, shall nevertheless be valid and sufficient for all purposes, the same as though such officer had remained in office until the bonds were delivered. The bonds shall be sold in such manner and upon such terms as the Board of Trustees shall determine, except that the selling price shall be such that the interest cost to the System of the proceeds of the bonds shall not exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract of sale, payable semi-annually, computed to maturity according to the standard table of bond values.

The ordinance shall fix the amount of revenue bonds proposed to be issued, the maturity or maturities, the interest rate, which shall not exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract of sale, and all the details in connection with the bonds. The ordinance may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter, which will share

equally in the revenue of the System, as may be deemed necessary or advisable for the assurance of the payment of the bonds first issued. The Board may also provide in the ordinance authorizing the issuance of bonds under this Section that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

The ordinance shall pledge the revenue derived from the operations of the System for the purpose of paying the cost of operation and maintenance of the System, and, as applicable, providing adequate depreciation funds, and paying the principal of and interest on the bonds of the System issued under this Section.

(10) to contract with any school System in this State to provide for the transportation of pupils to and from school within such System pursuant to the provisions of Section 29-15 of the School Code [105 ILCS 5/29-15];

(11) to provide for the insurance of any property, directors, officers, employees or operations of the System against any risk or hazard, and to self-insure or participate in joint self-insurance pools or entities to insure against such risk or hazard;

(12) to use its established funds, personnel, and other resources to acquire, construct, operate, and maintain bikeways and trails. Systems may cooperate with other governmental and private agencies in bikeway and trail programs; and

(13) to acquire, own, maintain, construct, reconstruct, improve, repair, operate or lease any light-rail public transportation system, terminal, terminal facility, public airport, or bridge or toll bridge across waters with any city, state, or both.

(14) with respect to instruments for the payment of money issued under this Section to qualify for supplementary grants of power under the Illinois Omnibus Bond Act.

(15) the Board may provide one or more defined contribution or deferred compensation programs for its employees.

(16) the Board may provide life, disability, health, dental, vision and other insurance or similar programs and benefits by self insurance or a third party insurance for the benefit of its employees.

(17) the Board may enter into collective bargaining agreements with employees lawfully represented by an employee association or union.

This Section (f) shall be liberally construed to give effect to its purposes.

SECTION FIVE: FUNDING OF THE SYSTEM. The Town of Normal and the City of Bloomington shall annually contribute an amount to the System as determined by each municipality, provided such contribution shall be proportionate based on the following formula:

Total contribution amount times cities population divided by combined population of the Town of Normal and City of Bloomington.

Population is to be determined based on the most recent federal census data. The Board shall, by December 1 of each year, provide, in writing, to the Town of Normal and City of Bloomington an estimate of the funding requested from the two cities for the next fiscal year. If either City Council disagrees with such estimated funding request, it shall notify the Board of such disagreement no later than February 1st of the subsequent year.

SECTION SIX: EXEMPTION FOR TAXATION: The System shall be exempt from all country and municipal taxes and registration and license fees; the System shall be exempt from all State taxes and registration and license fees to the extent allowable by law. All property of the System is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or by any subdivision thereof to the extent allowable by law.

SECTION SEVEN: ANNUAL AUDIT. It shall be the duty of the Board of Trustees of the System to cause an annual audit of its account to be made by a certified public accountant of Illinois. The audit shall be completed, filed with the System within four months after the close of each fiscal year of the System. Certified copies of annual audits shall likewise be filed with the Secretary of State and the corporate authorities of Bloomington and Normal.

SECTION EIGHT: ANNUAL BUDGET. The Board shall pass and approve an Annual Budget and provide each City a copy of the Budget prior to the start of the System's fiscal year. The budget shall be effective, unless the corporate authorities of the Town of Normal or City of Bloomington affirmatively vote to reject such budget, prior to the start of the System's fiscal year. The System's fiscal year currently begins on July 1st. If rejected by one or both of the two cities, the cities will work with the Board to develop a new budget for the System.

SECTION NINE: REPORT TO MUNICIPALITIES. The System shall give a monthly report of its activities to the City Managers of Bloomington and Normal. The System shall submit an annual report to the corporate authorities of Bloomington and Normal. The System shall also submit a report prior to any anticipated major change in the level of its service or deviation from its budget; such change or deviation shall not take effect until approved by the corporate authorities of Bloomington and Normal.

SECTION TEN: DISCONTINUANCE. Whenever the Board of Trustees of the System shall determine that there is no longer a public need for its transportation services or that other adequate services are or can be made available or that continued operation of the System is impractical, and that it should terminate its existence and services, it may by resolution so certify

to the corporate authorities of Bloomington and Normal. If the corporate authorities of Bloomington and Normal approve of such discontinuance, they may by ordinance or resolution, as the case may be, authorize the System to discontinue its services and wind up its affairs. The corporate authorities of Bloomington and Normal shall have the power to so terminate the System for any of the aforesaid reasons in the absence of a resolution from the Board. A copy of such ordinance or resolution, or both, shall be filed with the municipal clerks and the Secretary of State. After payment of all its debts and settlement of all obligations and claims, any funds remaining after the sale and disposition of its property shall be disposed of by payment of the treasurers of Bloomington and Normal, first, to repay in whole or pro rata, funds advanced to the System, and the balance, if any, pro rata according to the previous subsidies provided by Bloomington and Normal.

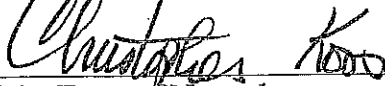
SECTION ELEVEN: VOTING. Whenever this Ordinance requires a matter to be approved by the corporate authorities of Bloomington and Normal, such matter shall require a majority vote of each governing body to receive approval.

SECTION TWELVE: REPEALER. All ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION THIRTEEN: AUTHORITY. This ordinance is enacted pursuant to the home rule powers of Bloomington and Normal bestowed upon them by the 1970 Constitution of the State of Illinois.


SECTION FOURTEEN: EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication by both municipalities as provided by law.

APPROVED:



Mayor of the Town of Normal

ATTEST:



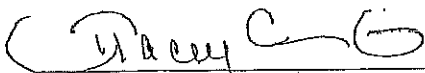
Town Clerk

APPROVED:



Mayor of the City of Bloomington

ATTEST:



City Clerk

This Ordinance was passed by the Normal Town Council on March 19, 2012,
and by the Bloomington City Council on March 12, 2012.

