Passed:

ORDINANCE 98-24

TO AMEND THE TEXT OF TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ZONING" (Regulating Communications Facilities - "Cellular Towers")

WHEREAS, the Bloomington Plan Commission wishes to regulate the construction, placement, and modification of communications facilities in order to preserve the aesthetic character of the City of Bloomington; and

WHEREAS, the Bloomington Plan Commission wishes to minimize the land use impacts of communication facility construction, placement, and modification; and

WHEREAS, the Bloomington Plan Commission wishes to provide the community with the benefits of new technological advances in communication and promote long-range planning and cooperation between the city and communications providers; and

WHEREAS, the Bloomington Plan Commission has considered this case, ZO-29-98, and recommended that the Bloomington Municipal Code be changed and request that the Common Council consider their petition;

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

SECTION I. Section 20.02.04.00, entitled "Rules of Construction" shall be renumbered as Section 20.02.05.00.

SECTION 2. A new Section 20.02.04.00, entitled "Definitions Specific to Communications Facilities," shall be reflected in the Table of Contents and inserted which shall read as follows:

20.02.04.00 Definitions Specific to Communications Facilities

Antenna:	Any structure or device used for the purpose of collecting or transmitting electromagnetic waves including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
Attached Communications Facility:	A communications facility that is affixed to an existing structure, as an existing building, tower, water tank, utility pole, etc.
Co-location:	Locating communications equipment from more than one provider on a single site.
Communication Facilities	Antennas and antenna tower structures including, but not limited to, any towers, equipment enclosures, or other structures intended for use in connection with the wireless transmission or receipt of radio, television, or any other electromagnetic spectrum-based transmissions or receptions. The following shall ***not*** be considered as communications facilities for the purpose of this ordinance: satellite reception dishes less than three (3) feet in diameter; wireless communication facilities that are completely located within a principal structure and that operate with the sole purpose of providing communications within said structure; and, hand-held wireless communications devices.
Tower:	Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas including, but not limited to, guyed towers, wooden poles, lattice towers, and monopoles. The term includes radio and television transmission towers, microwave towers, cellular telephone and wireless communications towers, alternative tower

structures, etc.

Electromagnetic Field (EMF):	The local electric and magnetic fields that envelop the surrounding space. The most ubiquitous source of EMF's is from the movement and consumption of electric power, such as with transmission lines, household appliances, and lighting.
Equipment Enclosure	A small structure, shelter, cabinet, box or vault used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.
Radio Frequency (RF)	A non-ionizing electromagnetic energy used to transmit RF emission communication signals through space. Non-ionizing energy is absorbed as heat, if absorbed at all.

SECTION 3. Section 20.05.04.06, entitled "Additional Criteria for Certain Categories of Conditional Use," shall be amended to add the following at the very end of the provision:

B.3. Communications facilities

1. The proposed facility must comply with Section 20.05.15.00 of this zoning ordinance.
2. The Board shall consider whether a proposed facility minimizes land use impacts by being designed to accommodate future co-location by other users, thus reducing the total number of future towers.
3. The Board shall consider the extent to which the tower has been masked to better blend with surroundings and reduce negative visual impact.

SECTION 4. Section 20.05.15.00, entitled "Communications Facilities," shall be added to the code and reflected in the Table of Contents and shall read as follows:

<u>20.05.15.00 Communications Facilities</u>

20.05.15.01 Purpose of communications facilities regulation

The purpose of this section of the zoning ordinance is to regulate the construction, placement, and modification of communications facilities; to preserve the aesthetic character of the City of Bloomington and minimize the land use impacts of communication facility construction, placement, and modification; to provide the community with the benefits from new technological advances in communication; to promote long-range planning and cooperation between the city and communications providers, and among communications providers; and, to protect the public health, safety, and welfare.

20.05.15.02 Classification of Communications Facilities

A. Minor Facilities: Minor facilities shall be permitted by right, subject to staff level site plan review, and subject to the standards set forth in 20.05.15.03, below. Any communications facility utilized in commercial wireless communications services or similar services which satisfies the following requirements shall be considered a minor facility for purposes of this ordinance:
   1. The communications facility is listed as a permitted use in the zoning district in which it is proposed to be located.
   2. The communications facility is designed, constructed, and placed to minimize visual impact through one of the following:
      a. The facility is an attached communications facility; or,
      b. The facility is structurally designed and capable of allowing other carriers to co-locate on the tower structure as set forth in 20.05.15.03.A.3, below; or,
      c. The facility is to be located on public land or in the public

right-of-way as set forth in 20.05.15.06, below.

3. The tower height for a stand-alone tower does not exceed 200'. Attached communications facilities must not exceed the height specified in each zoning district in which they are permitted by more than ten (10) feet without a variance.

B. Major facilities shall consist of any communications facility which does not conform to the criteria in A, above. Major facilities shall require Conditional Use Approval prior to staff level site plan review. Major facilities shall comply with the standards set forth in 20.05.15.03, below.

20.05.15.03 General Requirements for Minor and Major Communications Facilities

A. Each application for a communications facility shall be accompanied by the following information:

1. Written approval or written statement of no objection from all relevant federal and state agencies including, but not limited to, the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), the U.S. Environmental Protection Agency (EPA), and the Indiana Department of Environmental Management (IDEM).
2. An inventory of the provider's existing facilities within the City's planning jurisdiction or within two miles of the boundaries of the City's planning jurisdiction, along with a master plan describing any potential future facility locations. This inventory and master plan shall include the following specific information for each such facility:
   a. The location (by address and latitude/ longitude coordinates);
   b. Height;
   c. Design, including the technical feasibility of allowing other providers to co-locate on the facility; and,
   d. The terms and conditions for co-location, including lease rates.
3. In the case of a new tower structure, evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence may consist of any of the following:
   a. There are no existing towers or structures meeting the applicant's engineering requirements within the geographic area the antenna is intended to serve.
   b. Existing towers or structures do not have sufficient height and/or structural strength to meet the applicant's engineering requirements.
   c. The applicant's proposed antenna would cause electromagnetic (EMF) interference with the antenna on the existing towers or structures, or vice versa.
   d. A financial analysis that documents the fees, costs, or contractual provisions required by the owner in order to co-locate, or to adapt an existing tower to make it suitable for co-location, exceed the costs of new tower development. Such analysis shall include written lease/cost quotes or estimates from the tower owner.
   e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
4. In the case of a new tower structure, a notarized letter of intent either:
   a. Committing the antenna tower owner or lessee, on behalf of themselves and their successors in interest, that the antenna tower shall be shared with additional users if the additional

user(s) agrees to meet reasonable terms and conditions of shared use; or,

b. Stating the reasons why the new structure can not or will not be shared with additional users in the future.

5. Certification by a qualified and licensed professional engineer that the design of the antenna support tower conforms to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronic Industry Association. Such certification must take into account any existing or proposed future users of the antenna tower structure.

6. Commercial wireless communications service providers shall provide documentation that proposed communications facilities comply with the latest applicable Federal and State environmental, health, and safety standards, including those established by the Federal Communications Commission on Radio Frequency Emissions (REF) and exposure thereto.

7. Visual Impact Analysis. In the case of a new tower, or where an existing structure is being enlarged in size, a visual impact analysis shall be prepared and certified by a qualified professional engineer or architect . Such analysis shall include the following information:

   a. Identification of significant existing natural and manmade features adjacent to the proposed tower location, indicating those features that will provide buffering for adjacent properties and rights-of-way.

   b. Identification of at least three specific points within a 2,000 foot radius of the proposed tower from which the line of sight analysis is presented. The exact number and location of these points shall be determined in coordination with staff prior to the preparation and completion of the analysis. Applicant shall then prepare a graphic illustration of the visual impact of the proposed tower, at a scale that does not exceed five degrees of horizontal distance, presented from the specific points identified. Such graphic illustration shall be a computer enhanced photograph with the computer-generated tower image depicted to an accurate scale; the photograph shall include text indicating from where the photograph was taken, and how many feet from the proposed tower site.

   c. A statement as to the potential visual and aesthetic impacts of the proposed tower on all adjacent properties. Such statement shall provide specific explanation as to the feasibility of camouflage given the needed height and design of the tower.

   d. Such other additional information as may be required by staff to fully review and evaluate the potential impact.

B. Placement: Towers may not be located in the street setback, except under the following circumstances:

1. To allow the integration of the communications facility into an existing or proposed structure such as a church steeple, light standard, power line support, flagpole, or similar structure.

2. Communications facilities may be placed within a yard abutting a local street if the site has multiple street frontages, and if there are physical constraints to placing the facility in the side or rear yard.

C. Setback Requirements:

All communications facilities must comply with the following setback requirements, and must also comply with 20.05.15.03.B, above.

1. Major and minor towers shall be set back from lot lines and roadway centerlines a minimum of the applicable district setback requirement of Table 7-3 "Height, Bulk and Density Standards" in Chapter 20.07, plus an additional number of setback feet based on the height of the tower multiplied by the largest of the applicable "increment values" established in Table 1 below. In all cases, the minimum setback shall be based on the largest or most stringent applicable setback increment value.

2. Attached communications facilities shall comply with the structure setback requirements of the zoning district in which they are located.

3. Equipment enclosures shall comply with the setback requirements of the zoning district in which they are located.

4. In all cases, setbacks for guyed towers shall be measured from the guy anchorages.

Table 1
Minimum District Setback Requirement Increment Values

	Major Facilities		Minor Facilities	
	Monopole	Guyed Lattice	Monopole	Guyed Lattice
Proximity to Residential				
RE2.5, RE1, RS2,	0.6	0.9	0.4	0.6
RS3.5, RS4.5,RT7, RM7,	1.2	1.8	0.8	1.2
RM15, Residential PUDs				
Proximity to nonresidential				
IS, IL, IG	0.15	0.2	0.1	0.15
BP, I, M, CL, CG, CA, CD	0.3	0.45	0.2	0.3
Q	0.1	0.15	0.05	0.1

Note 1: To calculate total minimum setback distance required:

(Largest applicable setback requirements of the district in which the tower is located)
+
(Height of tower)*(Largest applicable Increment value cited above) =
Minimum setback distance required

Example: A 180 foot high minor tower is proposed for an IL zoned tract that is surrounded by CG zoned land. The IL tract is bounded by principal collector streets. On one side of the subject IL parcel, the CG tract is a narrow 110 feet-wide intervening strip of land adjacent to a RS3.5 zoned tract. This minor tower proposed in an IL district would require a total minimum roadway setback of:

	60 feet --	Centerline setback requirement for district (principal collector)
+	144 feet --	Height Increment (180*0.8) due to proximity to RS3.5
=	204 feet from zoning district boundary of RS 3.5 zoning district line	

Note that if the subject IL parcel was not proximate to the residentially zoned land, the applicable setback would be 96 feet from the centerline of the principal collector (60 feet roadway setback plus 36 feet setback from the surrounding IL zoned parcels (180 * 0.2)).

Note 2: If adjacent zoning is Planned Unit Development (PUD), the increment value is based on the requirements of the zoning district that is most equivalent to the approved uses for that portion of the PUD adjacent to the proposed tower location.

D. Fencing and Screening. The tower and any equipment enclosures shall be visually screened on a year round basis with suitable vegetation. Notwithstanding the minimum size requirements found in 20.06.04.02.I.1, the scale and nature of the vegetation shall be of sufficient density to screen the lowest ten feet of the tower and equipment enclosure within three years of installation. A security fence shall be erected within the visually screened area.

E. Lighting. Antennas and towers shall not be illuminated by artificial means and shall not display strobe lights unless such is specifically required by the FAA or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. Necessary lighting for equipment enclosures shall be subject to Section 20.06.04.06.E.

F. Signage. The use of any portion of a communications facility for signs other than warning or equipment signs is prohibited.

G. Aesthetics. The tower and any antenna located on the tower must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. This requirement may be superseded by written requirements of federal or state agencies possessing jurisdiction over communication towers.

H. Planned Unit Developments. Communications facilities shall be considered to be permitted uses in any previously approved planned unit developments (PUD's), provided that the list of uses approved for the individual PUD consists entirely of commercial and/or industrial uses. Communications facilities shall not be considered to be permitted principal uses in PUD's that include any residential land uses in the list of approved uses, except as accessory uses as specified in 20.05.15.04, below.

I. Lawful existing communications facilities that do not conform with these provisions shall be considered lawful nonconforming uses and/or structures, subject to Chapter 20.08 of this zoning ordinance. However, placing additional antennas on a nonconforming tower structure in accordance with the provisions of these regulations shall not be considered expansion of a nonconforming use, nor shall it be considered to increase the degree of nonconformity.

J. The discontinuation of use, disconnection or shutdown of any communication facility shall be reported immediately in writing by the service provider to the Planning Director. Communication facilities that are not operated for communication for a period of six months or more shall be deemed to be abandoned. Such discontinued facilities shall be completely removed within six (6) months of the cessation of its operation, and the site shall be restored to its pre-existing condition. If such communication facility is not removed within six (6) months, the City may remove the discontinued facility at the owner's expense. If there are two or more users of a single communications facility, this provision shall not apply until all users cease operating from said facility.

20.05.15.04 Communications Facilities as Accessory Uses

The following regulations apply to the use of antennas and other communications facilities for accessory purposes. Accessory communications facility uses are not subject to the regulations of 20.05.15.03, except for 20.05.15.03.B and 20.05.15.03.H.

A. Non-Residential Districts, except CD. Antennas and other communications facilities are permitted as an accessory to the principal use of the property. If located on the ground, communications facilities are subject to the height limits of the zoning district in which they are located. No antenna may be located in the street setback. If located on the roof of the associated principal building, communications facilities may exceed the height limit of the zoning district by a maximum of twenty (20) feet.

B. CD District. Antennas and other communications facilities are permitted as an accessory to the principal use of the property, subject to the height limit of the zoning district, plus ten (10) additional feet. Ground mounted facilities are prohibited in the CD district. Any communications facility must be located or mounted on a building; such building must be a minimum of two stories in height, excluding basement.

C. Residential Districts. Noncommercial antennas for individual use, including but not limited to, amateur radio antennas and satellite reception dishes, shall be permitted as an accessory use in all residential districts. The height of such tower/antenna configurations shall be limited to a maximum height of seventy-five feet, whether mounted on the roof or the ground. No antenna may be located in the street setback.

20.05.15.05 Inspections Required

A. All communications facilities shall be required to be inspected by a qualified and licensed professional engineer, on the following timetable:
   1. Monopoles: Once every ten years.
   2. Lattice (un-guyed): Once every 5 years.
   3. Guyed towers: Annually.
   4. Facilities attached to other structures: Annually.

B. If the engineer finds the facility to be structurally sound, he or she shall provide the owner/operator and the Planning Department with a written certification that the facility meets the minimum safety standards of the Uniform Building Code and the Electronic Industry Association.

C. Any safety problems or failure to comply with the design approved at time of permit issuance shall be reported by certified mail, return receipt requested, by the engineer to the owner/operator of the facility and to the Planning Department. The owner/operator of the facility must correct the deficiencies within thirty days. The engineer shall then re-inspect the facility. If the engineer finds that the deficiencies have been corrected, he shall provide the owner/operator and the Planning Department with a certification that the facility meets the minimum safety standards of the Uniform Building Code and the Electronic Industry Association.

D. In the event that an owner/operator fails to schedule the required inspection in a timely fashion, the City shall notify the owner/operator of the requirement and shall allow sixty days for the owner/operator to obtain said inspection. If the inspection has not taken place within that time, the City may choose an engineer to perform the inspection, placing a lien upon the property for the costs of such inspection and for any required repairs. Delay by the City in taking action under this provision shall not in any way waive the City's right to take action.

20.05.15.06 Locating Communications Facilities on Public Land

Antennas and towers may be installed and maintained on property of the city, including the public right-of-way, under the following

provisions.

A. Procedure
   1. The applicant shall obtain a written report from the Planning Director which evaluates the compatibility of the proposed facility with the existing and/or future public use of the property in question. Said report shall also evaluate the proposed facility's compliance with the comprehensive plan and with this zoning ordinance.
   2. The applicant shall then submit the Planning Director's report, plus any other required materials, to the appropriate public body for review and consideration. For example, if the site is in the public right-of-way or owned by the Civil City the Board of Public Works would be the public body.
   3. Once the applicant has executed a contract with the appropriate body, the Planning Department shall issue a Certificate of Zoning Compliance for the proposed minor facility; or, for major facilities, shall forward the case to the BZA for conditional use approval.

B. Communications facilities located on public land which meet any one of the following standards are a permitted use in any district and are also exempt from setback requirements.
   1. Facilities proposed to be attached to an existing structure, such as a street light standard, traffic signal, traffic sign, or building and the proposed facility does not cause the height of the structure to exceed the maximum height of the zoning district in which it is located.
   2. Proposed new facilities with a total height of less than 30' which are designed to blend into the existing features of the site.

SECTION 5. Section 20.07.02.02, regarding Permitted Uses in the Estate Residential 2.5 zoning district shall be amended to add "Minor Communications Facilities (17)," to the permitted use list.

SECTION 6. Section 20.07.02.03, regarding Conditional Uses in the Estate Residential 2.5 zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 7. Section 20.07.03.03, regarding Conditional Uses in the Estate Residential 1 zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 8. Section 20.07.09.02, regarding Permitted Uses in the Arterial Commercial zoning district shall be amended to add "Minor Communications Facilities (17)" to the permitted use list.

SECTION 9. Section 20.07.09.03, regarding Conditional Uses in the Arterial Commercial zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 10. Section 20.07.10.02, regarding Permitted Uses in the Downtown Commercial zoning district shall be amended to add "Attached Communications Facilities (17)" to the permitted use list.

SECTION 11. Section 20.07.11.02, regarding Permitted Uses in the Limited Industrial zoning district shall be amended to add "Minor Communications Facilities (17)" to the permitted use list.

SECTION 12. Section 20.07.11.03, regarding Conditional Uses in the Limited Industrial zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use

list.

SECTION 13. Section 20.07.12.02, regarding Permitted Uses in the General Industrial zoning district shall be amended to add "Minor Communications Facilities (17)" to the permitted use list.

SECTION 14. Section 20.07.12.03, regarding Conditional Uses in the General Industrial zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 15. Section 20.07.13.03, regarding Conditional Uses in the Business Park zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 16. Section 20.07.13.03, regarding Conditional Uses in the Business Park zoning district shall be amended to add "Minor Communications Facilities (17)" to the conditional use list.

SECTION 17. Section 20.07.14.01 (B), regarding Permitted Uses in the Institutional zoning district shall be amended to add "Minor Communications Facilities (17)" to the permitted use list.

SECTION 18. Section 20.07.14.01 (C), Conditional Uses in the Institutional zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 19. Section 20.07.14.04 (B), regarding Permitted Uses in the Quarries zoning district shall be amended to add "Minor Communications Facilities (17)" to the permitted use list.

SECTION 20. Section 20.07.14.04 (C), regarding Conditional Uses in the Quarries zoning district shall be amended to add "Major Communications Facilities (17)" to the conditional use list.

SECTION 21. Section 20.07.16.01, entitled, "Summary of District Uses" shall be amended to add condition "(17)" to Table 7-2, "Table of Special Conditions," which shall read as follows:

(17) Subject to the provisions of Section 20.05.15.00.

SECTION 22. Section 20.07.16.03, entitled, "Special Bulk, Height, Area, and Aesthetic Requirements" shall be amended to change Table 7-4 "Bulk, Density, Height, Area, and Aesthetic Requirements," by removing the words "radio and television antennae and towers" from Part (B) so that it now reads:

B. The following structures or parts of structures are exempt from the height limitations set forth in the zoning districts: Silos, windmills, chimneys, rooftop mechanicals, derricks, observation towers, power transmission towers, and water towers. Height restrictions in the area of the Monroe County Airport are regulated by the Federal Aviation Administration.

SECTION 23. Section 20.07.16.03, entitled, "Special Bulk, Height, Area, and Aesthetic Requirements" shall be amended to change Table 7-4 "Bulk, Density, Height, Area, and Aesthetic Requirements," to delete the entry that begins with the word "Antennae" and substitute with the following:

Antennae are subject to the provisions of 20.05.15.03(C)(1).

SECTION 24. 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 25. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor and promulgation by law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1ST day of July, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of July, 1998.

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 2 day of July, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends the text of Title 20 entitled "Zoning" and establishes land use regulations for wireless communications facilities (cellular towers).

Signed copies to:

Planning Dept	Clerk
IS Dept	CA/CA
legal - 5	BMC File