ORDINANCE 16-44

TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE, ENTITLED "UNIFIED DEVELOPMENT ORDINANCE"

(Amending 20.05.020 "CF-01 [Communication Facility; General]")

WHEREAS, During the 2015 legislative cycle the Indiana General Assembly created a new Chapter in the Indiana Code, Chapter 8-1-32.3, entitled "Permits for Wireless Services Providers;" and

WHEREAS, the City of Bloomington ("City") amended Section 20.05.020 "CF-01 [Communication Facility; General]") via Ordinance 15-26 on December 16, 2015 to comply with the said new Indiana Code Chapter; and

WHEREAS, the said new Indiana Code Chapter does not affect the ability of a permit authority to exercise zoning, land use, planning, or permitting authority otherwise allowed under Indiana code, 36-7, Planning and Development, with respect to the siting of new wireless support structures; and

WHEREAS, the said new Indiana Code Chapter does not exempt an applicant from complying with applicable laws and ordinances concerning land use; and

WHEREAS, the City desires to adopt development standards to minimize the adverse visual impacts of Communication facilities; and

WHEREAS, the City desires to protect residential areas and land uses from potential adverse impacts of Wireless and Cellular Telecommunications Towers and Facilities to the extent permitted by applicable law; and

WHEREAS, the Plan Commission considered this case, ZO-38-16 on December 13, 2016 and made a positive recommendation in favor of the amendment to the UDO, as described herein.

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

SECTION 1. Section 20.05.020, entitled "CF-01 [Communication Facility; General]," shall be deleted and replaced with the following:

20.05.020 CF-01 [Communication Facility; General]

Purpose: The purpose of these standards is to provide sensible and reasonable development standards for the provision of reliable public and private telecommunication service; and whereas, there is a need to maximize the use of any communication transmission towers in order to reduce the total number of towers needed to serve the communications needs of the area; and whereas, there is a need to minimize the adverse, undesirable visual effects of such communication towers and to provide for the reasonable location of such towers in the City.

This Communication Facility Standards section applies to the following zoning districts:

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All communication facilities must comply with the following provisions:

(a) Eligible Applicants: Must comply with the standards of Ind. Code § 8-1-32.3-19.
(b) Application Requirements and Review: Must comply with the standards of Ind. Code § 8-1-32.3-20, including:
    (1) A sworn statement shall be submitted documenting why collocation on an existing communication tower cannot meet the applicant's requirements. Such statement must demonstrate that collocation of wireless facilities on an existing communication tower is not a viable option because collocation:
        i. would not result in the same wireless service, functionality, coverage, and capacity;
        ii. is technically infeasible; or
        iii. is an economic burden to the applicant.

(c) Construction Requirements: All antennas, communication towers, accessory structures and any other wiring shall comply with the following requirements:

(1) All applicable provisions of this title and of the Indiana Building Code, as amended, and the Federal Communications Commission (FCC) when applicable.

(2) All communication towers and communication equipment shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the International Building Code, as amended, and the Electronics Industry Association.

(3) With the exception of necessary electric and telephone service and connection lines approved by the board of zoning appeals, no part of any communication equipment or communication tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, trail, or property line without appropriate approval in writing.

(4) All communication towers and communication equipment shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.

(5) All communication towers and communication equipment shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).

(6) All communication towers and communication equipment shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.

(7) An engineer's certification shall be submitted for all communication towers and all other communication equipment to document and verify the design specifications, including, but not limited to, the foundation for all towers, anchors for all guy wires (if used), the location of all collocation sites, calculated fall zone, and strength requirements to withstand natural forces such as ice, wind, and earth movements.

(8) All communication towers shall be of monopole design.

(9) Communication towers shall be set back from all property lines a minimum distance equal to the calculated fall zone, as set forth in the applicant's engineering certification for the communication tower.

(10) Only lighting that is for safety or security reasons, or required by the FAA or other federal or State authority, shall be permitted. All lighting shall meet requirements of 20.05.060, 20.05.061, and 20.05.062 except where state or federal requirements provide otherwise.

(11) Communication towers shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure at ground level to the top of the highest point, including appurtenances.

(12) Screening: The following features shall be located around the outermost perimeter or security fence of a communication facility:

i. An evergreen screen consisting of shrubs planted at a maximum of three (3) feet on center, or a row of evergreen trees planted at a maximum of ten (10) feet on center shall be planted around the entire communication facility. The height of all plants at the time of planting shall be no less than five (5) feet.

ii. An eight (8) foot tall opaque fence or wall shall completely surround the entire communication facility.

(d) Existing Structures: Modifications of existing antennas, communication towers and communication equipment shall comply with Ind. Code § 8-1-32.3-21.

(e) Abandoned Towers: Any tower unused or left abandoned for six months shall be removed by the tower owner at the owner's expense. Should the communication tower owner fail to remove the tower after thirty days from the date a notice of violation is issued, the city may remove the tower and bill the owner for the costs of removal and cleanup of the site.

SECTION 2. 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 3. 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, and after any waiting, notice, or publication requirements provided by Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 14 day of December, 2016.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

Stephen Lucas
~~NICOLE BOLDEN, Clerk~~ Stephen Lucas
City of Bloomington Deputy Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 15th day of December, 2016.

Stephen Lucas
~~NICOLE BOLDEN, Clerk~~ Stephen Lucas
City of Bloomington Deputy Clerk

SIGNED and APPROVED by me upon this 15th day of December, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends 20.05.20 of the Bloomington Municipal Code, entitled "CF-01, Communication Facility; General." These changes re-introduce development standards associated with the construction of communication facilities and are made in the interest of minimizing the adverse visual impacts of such facilities. Statute provides that localities are permitted to exercise such zoning land use authority over the construction of these facilities.

Note: This ordinance was revised after it was issued in the Council's Legislative Packet, but before it was introduced on December 14, 2016, to reflect action taken by the Plan Commission on December 13, 2016.

Distributed to: Office of the Mayor, Office of the City Clerk, Council Administrator, Legal, Planning and Transportation

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 16-44 is a true and complete copy of Plan Commission Case Number ZO-38-16 which was given a recommendation of approval by a vote of 5 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on December 13, 2016.

Date: December 14, 2016

Christy L. Langley, Secretary
Plan Commission

Received by the Common Council Office this 14th day of December, 2016.

~~Nicole Bolden, City Clerk~~
Stephen Lucas, Deputy City Clerk

Appropriation Ordinance # _____

Fiscal Impact Statement Ordinance # _____

Resolution # _____

Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

Fund(s) Affected		
Fund Balance as of January 1	$	$
Revenue to Date	$	$
Revenue Expected for Rest of year	$	$
Appropriations to Date	$	$
Unappropriated Balance	$	$
Effect of Proposed Legislation (+/-)	$	$
Projected Balance	$	$

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

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