

## CHAPTER 834

### ZONING ORDINANCE: WIRELESS COMMUNICATIONS FACILITIES

#### 834-1.

##### Purpose

The purpose of this chapter is to regulate the design, construction, placement, modification, and removal of wireless communications facilities; to allow the providers of wireless communications services to provide for adequate coverage and capacity while minimizing the total number and overall impact of additional towers; to encourage co-location, the use of attached facilities, and the use of appropriate public and semi-public properties where possible; to require designs and parameters compatible with adjacent land uses; to conserve the scenic, historic, aesthetic and environmental quality of Monroe County and the tourism industry based thereon from the adverse impacts of wireless communications facilities development; promote long-range planning and cooperation between the citizens and property owners of Monroe County, the Monroe County Plan Commission and County Commissioners, and the wireless communications services providers; to protect the public health, safety and general welfare of the community; and to give due regard to the policies of Monroe County's Comprehensive Plan and the City of Bloomington's Growth Policies Plan in evaluating proposals for wireless communications facilities.

#### 834-2.

##### Permitted, Conditional and Exempt Uses

(A) Permitted Uses. Permitted uses include:

- (1) Co-location: placement of an Antenna Array if located on:
  - (a) a legal existing or previously approved WCF;
  - (b) a previously constructed broadcast tower; or,
  - (c) an existing communications tower where the engineering specifications of the tower(s) permit and no increase in the height of the tower is required.
- (2) Attached Wireless Communications Facilities: placement of an Antenna Array if integrated with/within another existing structure (i.e. a building facade, church steeple, water tower) and no more than a 15 ft. increase in the height of the existing structure is required.
- (3) Replacement of a legal, existing WCF, Support Structure, or Antenna Array with a similar facility of an equal or smaller size, subject to the application procedures, general requirements and abandonment provisions of this Chapter.
- (4) WCF Overlay District: Placement of Antenna Arrays or construction of Wireless Communications Facilities shall be permitted within a WCF Overlay District (designated on the Monroe County Zoning Maps). Amendments to the WCF Overlay District (map amendments) shall be subject to the procedures and requirements for rezone approval as described in Section 834-9 below.

- (B) Conditional Uses. In addition to the requirements of this Chapter, Conditional Uses shall be subject to the requirements of Chapter 813 (Conditional Uses), Sections 813-3, and 813-5 through 813-7. Conditional Use approval shall be required for the following:
- (1) Placement of a WCF in the following zoning districts: LI, HI, IP, ME, IL, IG, BP, I, and Q.
  - (2) Placement of a WCF in an AG/RR or FR zoning district provided that the proposed WCF would be set back from side and rear property lines a distance of at least one thousand (1000) feet.
- (C) Exemptions. The following wireless communications facilities are exempt from the provisions of this chapter: police, fire, ambulance and other emergency dispatch; amateur (HAM) radio; antennas used solely for residential household television and radio reception and satellite dishes measuring 2 meters or less in diameter.
- (D) Prohibitions. WCF not expressly permitted under subsection (A), Permitted Uses, or subsection (B), Conditional Uses, or not exempted under subsection (C), Exemptions, are prohibited.
- (E) Conditions of Approval. The following conditions apply to all permitted and conditional uses:
- (1) All Wireless Communications Facilities and Support Structures shall be designed for, and constructed in accordance with, provisions for co-location (defined by Section 834-5, Table 34-1);
  - (2) Applicants and/or petitioners agree to make a good faith effort on terms consistent with any applicable national agreement or on terms common to the region, to accommodate requests for co-location that originate from a provider, from the WCF owner, or from the Planning Department;
  - (3) Property owners and/or agents shall accept and accommodate the provisions for co-location prescribed by this ordinance, and shall agree to the renting or leasing of space on a Support Structure or WCF, for co-location, at fair market prices and terms without discrimination.
  - (4) Upon completion of the Support Structure or WCF, owners and/or operators of the Support Structure or WCF agree to make a good faith effort to accommodate co-location (placement of additional Antenna Arrays) in a timely manner, including those WCF or Antenna Arrays proposed by other service providers.
  - (5) No approval for a WCF or Support Structure shall become valid until authorization (written approval) or a written statement of no objection from all relevant federal, state or local agencies with regulatory authority has been submitted to the Planning Department.

**834-3. General Requirements**

The following requirements apply to all WCF that are erected or placed within the County jurisdictional area after the effective date of this chapter:

- (A) For each application, the property owner(s), WCF owner(s), and wireless communications service provider(s) shall be considered co-applicants and shall be jointly and severally subject to the provisions of this ordinance.
- (B) Each permit application for placement of a WCF, WCF Support Structure or Antenna Array shall be accompanied by the following:
- (1) Application Form. A completed application form, with original signatures from all applicants including the property owner(s), WCF owner(s), and wireless communications service provider(s).
  - (2) Statement. A written statement with illustrations that describes the proposed wireless communications facility (type of construction, tower height, provisions for co-location).
  - (3) Inventory. Inventory of the provider's existing Wireless Communications Facilities and/or Antenna Arrays within Monroe County and within three (3) miles of the boundaries of the County planning jurisdiction, along with a plan describing any potential future facility locations. The inventory and master plan shall include:
    - (a) locations of all existing and proposed facilities (by property address, latitude/longitude coordinates, and township, range, section, 1/4 section);
    - (b) height and type of each existing and proposed facility (including antenna types, output frequency, number of channels, power output and maximum power output per channel);
    - (c) for each existing and proposed facility, information on the practical capacity for accommodating additional co-located antenna arrays;
    - (d) delineation of existing and anticipated coverage patterns in Monroe County with brightly colored radial plots showing clear demarcations between signal strengths: for each existing and proposed facility, signal propagation and radio frequency studies and plots shall be prepared, clearly identified, and signed by a qualified radiofrequency engineer (power density calculations shall be in accordance with "worst case" formulas, assuming operation at maximum power and maximum capacity);
    - (e) for each existing or proposed facility, type(s) of services to be provided (i.e. paging, PCS, etc.)
  - (4) Site Plan. A drawing to scale, with the following information:
    - (a) property lines, with distances and bearings illustrated;
    - (b) existing site improvements, including buildings & structures;
    - (c) existing/proposed roadways and easements on the property;
    - (d) proposed wireless communications facilities; and

- (e) proposed landscaping, including existing vegetation where applicable.
- (5) Visual Impact Analysis. A visual impact analysis that includes:
  - (a) current photographs of significant man-made or natural features adjacent to the proposed WCF or Support Structure, indicating those features that will provide buffering for adjacent properties and rights-of-way;
  - (b) a photographic presentation that depicts current site conditions with a super-imposed image of the proposed facilities to demonstrate the anticipated views of the proposed site and facilities upon completion of all improvements. Four views shall be illustrated, at a minimum, from points directly to the north, south, east, and west of the proposed facility at distances no less than one-half (½) mile and no greater than one (1) mile.
- (6) Maintenance and Facility Removal Agreement. For each WCF or Support Structure, a maintenance and facility removal agreement signed by the applicants and/or petitioners. This agreement shall bind the applicants and all successors in interest to properly maintain the exterior appearance of all facilities and, ultimately, remove all facilities upon abandonment in compliance with the provisions of this chapter and any conditions of approval. This agreement shall bind the applicants to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse Monroe County for any and all costs incurred to perform any work required by this agreement that the applicants fail to perform. This agreement shall be signed by the applicants and by the Administrator of the Planning Department and recorded in the office of the Monroe County Recorder.
- (7) Indemnification. Monroe County shall not enter into any lease agreement or authorize the placement of any WCF or Support Structure unless Monroe County obtains an adequate indemnification from the applicants (owners/operators) and/or wireless communications service providers. This indemnification must:
  - (a) Release Monroe County from all liability arising out of the construction, operation, removal or repair of a wireless communications facility and/or antenna array. Parties to a wireless communications agreement agree to not sue or seek any monies or damages from Monroe County in connection with the above.
  - (b) Indemnify and hold harmless Monroe County, its elected and appointed officials, agents, servants and employees, from and against all claims, demands, or causes of action whatsoever, and the resulting losses, costs, expenses, attorney's fees, liabilities, damages, orders, judgements or decrees, sustained by Monroe County or any third party arising out of, or resulting from, each wireless communications facility's owner's, operator's, agent's, employee's, or servant's negligible acts, errors, or omissions.
  - (c) Provide that the covenants and representations relating to the

indemnification provision shall survive the term of any agreement and continue in force and effect as to the responsibility of the party to indemnify.

- (8) Proof of Insurance. At a minimum, adequate insurance covering liability, bodily injury and property damage must be obtained and maintained for the entire period the wireless communications facility is in existence. The Monroe County Plan Commission shall be named as an additional insured. A certificate of insurance verifying such insurance shall be submitted at the time of application.
  - (9) Reports. Copies of inspections or reports that are required by, and have been submitted to, the FAA and/or the FCC.
  - (10) Fee. The fee, in accordance with the standards set by the Plan Commission.
  - (11) Proof of Escrow Account. A certificate of funds in escrow, for the benefit of Monroe County, in the amount of five thousand dollars (\$5,000) per support structure and one thousand dollars (\$1,000) per antenna array (the amount applicable to support structures shall not apply to Attached WCF). The escrow account shall be established with a bank located within sixty (60) miles of Bloomington, Indiana. The Administrator or the Plan Commission shall have the authority to draw funds from the account as needed to ensure compliance with the maintenance, indemnification, insurance and abandonment provisions of this Chapter. The account may be released or closed upon the discontinuation of the subject WCF and upon demonstration of compliance with all requirements of this Chapter.
- (C) The requirements of 834-3 (B) (6),(7),(8) and (11) are continuing requirements and are binding on the Applicants, their successors and assigns. In the event of a draw of funds, the Applicants shall be required to restore the escrow account to its original amount. The Applicants, their successors and assigns shall be required to submit documented proof of compliance with the foregoing requirements:
- (1) annually;
  - (2) when ownership of the facility changes;
  - (3) when ownership of the WCF site changes;
  - (4) prior to the expiration or invalidation of a submitted document;
  - (5) upon any other event that would reasonably call the validity or effectiveness of the original document into question.
- (D) The failure to maintain the insurance coverage or the escrow account in the manner required above shall be a violation of the Monroe County Zoning Ordinance. In addition to all other available remedies, the Administrator or Plan Commission may seek a court order that mandates the maintenance of the coverage or account and/or that immediately and permanently prohibits the use of the WCF until compliance with this Chapter is demonstrated.
- (E) Each application for placement of a Wireless Communications Facility or Antenna

Array shall be subject to Co-location Review, as described in Section 834-5.

- (F) In the manner described in Section 834-4 below, the Planning Department and Plan Commission shall employ, on behalf of the county and at the applicant's expense, an independent technical expert to review and assess all technical application materials or conclusions.

**834-4. Provisions for Hiring Independent Consultant**

- (A) Upon submission of an application for a WCF, or petition for amendment to the WCF Overlay, the County shall hire one or more independent consultants of its own choosing. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one of the following fields: telecommunications/radiofrequency engineering; structural engineering; electromagnetic fields (EMF); and, if determined by the Plan Commission, other fields;
- (B) The planning department shall provide the independent consultant with a copy of the complete application for analysis and review;
- (C) The independent consultant(s) shall provide an estimate for the cost of reviewing the application to the planning department. The planning department shall forward this estimate in writing to the applicant, the applicant shall promptly pay this fee during the review process (separate from the general application fee). The estimate shall be regarded as a decision of the Administrator. No application will be processed and no public hearings (where applicable) will be scheduled until full payment has been made;
- (E) The consultant(s) shall work under the direction of the Monroe County Plan Commission and/or Board of Zoning Appeals (if a conditional use or variance is requested). Copies of the consultant(s)' findings and reports shall be made available to the applicant not less than seven (7) days prior to any scheduled public hearing(s), and the applicant shall be given the opportunity to respond to said reports in writing and at the applicable public hearing(s).

**834-5. Co-location Review**

Co-location shall be required for Wireless Communications Facilities or Antenna Array, unless specifically exempted by the provisions of this section.

- (A) Procedures. The Planning Department shall, upon request and/or upon submittal of an application in conformance with Section 834-3, provide applicants with a list of all known existing and proposed wireless communications facilities or support structures that lie within one mile of the proposed site and the names of the applicable owners or providers, based upon the existing inventory of wireless communications facilities in Monroe County and upon known co-location opportunities.
- (B) Basis for Relief. Relief from co-location under this section shall require independent professional verification of the applicant's data and an independent professional evaluation that supports exception from collocation. Relief from this section may be justified by the following:
  - (1) Existing Wireless Communications Facilities or Support Structures do not

fall within location tolerances based upon Radio Frequency mapping;

- (2) Proposed site(s) do not meet minimum height requirements based upon Radio Frequency engineering data;
  - (3) Existing Wireless Communications Facilities or Support Structures do not meet structural integrity requirements for the proposed antenna array; or
  - (4) Placement of the proposed Wireless Communications Facility and/or Antenna Array would impair, or be impaired by, the emission of Radio Frequencies.
- (C) Amendments to the Overlay. A finding that relief from the collocation requirement is justified does not, in itself, imply or guarantee approval of any petition for amendment to the WCF Overlay. All petitions for amendment to the WCF Overlay shall be subject to the criteria specified by this chapter and all procedures and requirements described in Section 834-8.

**834-6.**

**Performance Standards**

- (A) Security. For all WCF excepting Attached WCF, a perimeter fence at least eight (8) feet high shall be installed to circumscribe and contain the WCF, along with all accessory structures and/or facilities. Use of razor wire is prohibited.
- (B) Lighting.
- (1) Security lighting is not required. However, if security lighting is installed it shall be confined to accessory structures(s), directed downward to minimize glare or intrusion into adjoining properties.
  - (2) Other illumination is prohibited. No WCF, Support Structure, or Antenna Array that requires illumination shall be permitted.
- (C) Landscaping.
- (1) The following planting requirements shall be applied to all applications or petitions for construction of WCF and/or Support Structures:
    - (a) A double staggered row of evergreen trees, planted at seven (7) ft. in height (measured from grade) and at no more than fifteen (15) ft. intervals along the perimeter of the fence to screen the facilities from adjoining properties; or
    - (b) A mix of deciduous shade trees (2.5" caliper) and large deciduous shrubs (at least 48") of sufficient density along the perimeter of the fence to adequately screen the facilities from adjoining properties.
  - (2) Existing vegetation within twenty feet of the security fence that is preserved shall be credited towards planting requirements.
  - (3) The provisions of this section may be waived, in whole or in part, by the Planning Department upon a determination that: site conditions would not be adequate to support landscape plantings; or, that architectural camouflage ("stealth" design) will insure compatibility with adjoining land

uses and eliminate the need for screening.

(4) All landscape plantings shall be properly maintained or replaced as necessary to ensure their good health and viability for the life of the WCF and/or Support Structure.

(D) Signage. Identification signage, no more than three square feet in total area, shall be required for each WCF/Support Structure, and/or accessory facility. Identification signage shall include the name(s) of the facility owner(s) or operator(s) and a 24-hour emergency telephone number, and shall be affixed to a perimeter fence where possible. Off-premise and other advertising signage is prohibited.

(E) Attached WCF. Attached WCF shall be appropriately integrated with, or within, existing structures with due consideration given to siting/placement, color, camouflage, size and type of construction. Attached WCF shall be designed to minimize visual impact and Antenna Arrays shall not exceed the height of the existing structure by more than fifteen (15) feet.

(F) Noise.

(1) Noise-producing equipment shall be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occur.

(2) Backup Generators, if used, shall only be operated during power outages and for testing and maintenance purposes. Routine testing and maintenance, if conducted, shall only be conducted between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.

(G) Color and Camouflage.

(1) All WCF, Support Structures, accessory buildings, poles, antennas and other external facilities shall be painted upon installation and thereafter repainted as necessary with a "flat" paint. Except where dictated by the FAA, paint color shall, at the discretion of the Planning Director or Plan Commission, be designed to minimize visibility & blend with the surrounding environment. To this end, improvements which will be primarily viewed against soils, trees or grasslands shall be painted colors matching these landscapes while elements that rise above the horizon shall be painted a blue or gray that matches the typical sky color at that location.

(2) Accessory buildings and/or structures shall be designed to be architecturally similar and compatible with each other, and shall not exceed twelve (12) feet in height and 750 square feet in area. Accessory buildings and/or structures shall be used only for the housing of equipment needed to service the WCF and/or Antenna Array(s) located on the premises. Where possible, accessory buildings and/or structures shall be attached or clustered so as to appear as one building. Exterior facades shall incorporate materials, textures and colors that blend with the surroundings to minimize visual impact.

(3) The Planning Department and/or Plan Commission shall reserve the right to require architectural camouflage, or "stealth design", if a proposed site is deemed sensitive for any of the following reasons:

- (a) the prospective site is located in, or within 300 feet of, property officially designated as “Historic” by the State of Indiana, Monroe County or the City of Bloomington, listed with the *Indiana Historic Site and Structures Inventory*, or located within property listed with the National Register of Historic Places;
  - (b) the prospective site lies in, or within 300 feet of, a right-of-way classified as a scenic corridor by the Monroe County Comprehensive Plan or the City of Bloomington’s Growth Policies’ Plan;
  - (c) the prospective site lies within Area 1 or Area 2 of the Environmental Constraints Overlay Zone (Monroe and Griffey Reservoirs).
- (H) Materials. Excepting Attached WCF, all Support Structures shall be constructed of galvanized metal. The provisions of this section may be waived by the Planning Department upon a determination that architectural camouflage (“stealth” design) will satisfy the intent of this section.
- (I) Health and Safety.
- (1) All WCF and/or Support Structures shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e. FCC and FAA) and state standards and requirements.
  - (2) WCF and/or Support Structures that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration, shall not be permitted.
- (J) Other Performance Standards. Refer to Table 34-1.

**834-7.**

**Temporary WCF**

- (A) Temporary WCF or antennas shall be permitted for test purposes, emergency communications or in the event of equipment failure for a maximum period of two (2) weeks, subject to the requirements of Section 834-3 (B) (1) through (5) and (7) through (10).
- (B) If the applicant is investigating co-location opportunities for a proposed Antenna Array, and demonstrates with written documentation that good faith co-location negotiations are in process, a temporary WCF may be approved by the Planning Department for a period not to exceed six months subject to the requirements of Section 834-3 (B) (1) through (5) and (7) through (10).
- (C) An improvement location permit shall be required for each Temporary WCF.

**834-8.**

**WCF Overlay**

The WCF Overlay is incorporated into the Monroe County Zoning Maps and is defined in Chapter 802 of the Monroe County Zoning Ordinance. Amendments to the overlay shall be

subject to the provisions described below in Section 834-9.

**834-9. WCF Overlay Amendment**

- (A) Requests for amendments to the WCF Overlay shall be submitted to the Plan Review Committee for review and recommendation. The petition for map amendment shall then be forwarded to the Plan Commission, in accordance with the procedures and requirements of this Chapter and Chapter 831 of the Monroe County Zoning Ordinance.
- (B) In evaluating a request for map amendment, Monroe County shall give due consideration to the Comprehensive Plan, Growth Policies' Plan, Zoning Ordinance, Zoning Maps, the context of the prospective site, the technical constraints and requirements of the prospective facility, and the purposes, requirements and provisions of this chapter.

**834-10. Abandonment**

- (A) Any WCF or Support Structure that is no longer needed or used for its intended purpose shall be considered abandoned and shall be reported immediately by the service provider to the Planning Department. All abandoned WCF and/or Support Structures shall be completely removed by, and at the expense of, the service provider and/or owner within six (6) months from the date of abandonment and the surface of the site shall be restored to a condition suitable for redevelopment.
- (B) Any discontinued WCF or Support Structure not completely removed within six (6) months from the date of abandonment may be removed by the County. Costs associated with the dismantling and removal of an abandoned WCF or Support Structure and site restoration shall be paid by the service provider and/or owner as bound by the terms of the maintenance and facility removal agreement described in Section 834-3 (B) (6).
- (C) In the event that costs are not covered by the applicant as described above, the County reserves the right to withdraw funds, as needed, to cover costs associated with removal of an abandoned WCF through disbursement of funds from the Escrow Account (per Section 834-3 (B) (11)).

Table 34 - 1	
Performance Standard	All WCF, Support Structures
Type of Construction (WCF or Support Structure)	Monopole
Provisions for Additional Collocated Antenna Arrays	2 (minimum)
Maximum Permitted Height <sup>1</sup>	199 feet
Front Yard Setback (minimum)	200 ft.
Side Yard Setback (minimum)	
adjoining non-residential zone	200 ft.
adjoining residential <sup>2</sup> zone	500 ft.
conditional uses in AG/RR and FR zoning districts	1000 ft.
Rear Yard Setback (minimum)	
adjoining non-residential zone	200 ft.
adjoining residential <sup>2</sup> zone	500 ft.
conditional uses in AG/RR and FR zoning districts	1000 ft.

<sup>1</sup> No WCF, Support Structure, or Antenna Array shall be permitted at a height that would require illumination.

<sup>2</sup> For the purposes of this requirement, residential zones include the following: FR, AG/RR, CR, ER, SR, LR, MR, HR, UR, RE2.5, RE1, RS2, RS3.5, RS4.5, RT7, RM7, RM15.

[end of chapter