

CITY COUNCIL ORDINANCE NO. 05-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE
ADOPTING A NEGATIVE DECLARATION AND APPROVING ZONE
CHANGE 38413-ZC TO ESTABLISH CITYWIDE REGULATIONS FOR
WIRELESS COMMUNICATION FACILITIES

WHEREAS, the City of Irvine has initiated Zone Change 38413-ZC to revise the Zoning Code to establish updated regulations for wireless communication facilities citywide as detailed in Exhibit 1 attached hereto; and

WHEREAS, the intent of the proposed regulations is to regulate wireless communication facilities in a manner that will allow adequate siting opportunities while enhancing the City's ability to improve the aesthetic and visual impacts associated with such facilities; and

WHEREAS, the regulations pertaining to satellite dish antennas contained in this ordinance address the City's significant health, safety and aesthetic objectives. These objectives are to insure that satellite dish antennas are not placed in areas which are visible in front yards or readily visible from the public right-of-way. The regulations contained herein further that interest by requiring that such antennas be located in less noticeable areas and that they be screened. The City further believes that any and all costs associated with complying with these regulations will be minimal and will not interfere with fair and effective competition among competing communication service providers; and

WHEREAS, the Zone Change is considered a "project" pursuant to the California Environmental Quality Act; and

WHEREAS, a Negative Declaration has been prepared for the project and has been distributed for public review from May 22, 2002 to June 12, 2002; and

WHEREAS, the Planning Commission of the City of Irvine reviewed the subject application at a public hearing held on June 20, 2002, and recommended approval of the project to the City Council; and

WHEREAS, the City Council of the City of Irvine has considered information presented by the Community Development Department staff, the applicant, and other interested parties at a public hearing held on July 23, August 13, September 10, September 24, 2002, November 18, 2003, July 27 and September 14, 2004, January 11, March 8, May 10, June 14, and June 28, 2005.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Article 6 of the State CEQA Guidelines, the City Council finds that there is no substantial evidence, in light of the whole record before the lead agency, that the proposed project may have a significant effect on the environment. This conclusion is based upon the administrative record, the initial study and comments received during the public review process, and the independent judgment of the City. Therefore, the Negative Declaration is hereby adopted. The City Council, as the lead agency, finds that the Negative Declaration represents the independent judgment of the City. Prior to approving the project, the City has considered the Negative Declaration, together with the comments received during the public review process and the response thereto.

SECTION 2. Pursuant to Title 14, California Code of Regulation Section 753.5(c)(1), the City Council has determined that, after considering the record as a whole, there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which the wildlife depends. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code Section 711.2 and Title 14, California Code of Regulations Section 753.5(a)(3), payment of Fish and Game Department filing fees is not required in conjunction with this project.

SECTION 3. That the findings required by Section 2-38-7 of the City of Irvine Zoning Code for approval of a zone change have been made as follows:

- A. The proposed zone change is consistent with the City of Irvine General Plan.

The zone change is consistent with the City of Irvine General Plan in that the regulations for wireless communication facilities do not conflict with any applicable goal or policy of the General Plan in that the General Plan contains no goals or policies that address the provision of communication facilities.

- B. The proposed zone change is consistent with any applicable concept plan.

The zone change is consistent with all affected concept plans in that the regulations for wireless communication facilities do not conflict with any provision of any concept plan because there are no known provisions of any concept plan relating to the provision of communication facilities.

- C. The proposed zone change meets all the requirements set forth in Division 8 for the dedication of permanent open space through a specified phased implementation program for affected planning areas and zoning districts.

The zone change establishes new regulations pertaining to the siting and design of wireless communication facilities throughout the city. As no change in allowed development intensity is proposed in association with this zone change, there are no requirements for additional open space dedications.

- D. The proposed zone change is in the best interests of the public health, safety, and welfare of the community.

The zone change is in the best interests of the public health, safety, and welfare in that it will establish siting, design and operational criteria that are intended to protect the public health in compliance with safety standards established by the Federal Communications Commission and to enhance the aesthetics of such facilities.

- E. Based upon information available at the time of approval, adequate sewer and water lines, utilities, sewage treatment capacity, drainage facilities, police protection, fire protection/emergency medical care, vehicular circulation, and school facilities will be available to serve the area affected by the proposed zone change when development occurs.

The zone change establishes regulations pertaining to the siting and design of wireless communication facilities throughout the city. It will not change the type or intensity of development allowed on individual parcels in the city. Consequently, the zone change will have no impact on any of the listed public facilities or services.

- F. If the proposed zone change affects land located within the coastal zone, the proposed zone change will comply with the provisions of the land use plan of the certified local coastal program.

The zone change does not include any provision known to conflict with applicable provisions of the certified local coastal program.

SECTION 4. That based on the above findings, the City Council of the City of Irvine DOES HEREBY approve Zone Change 38413-ZC as set forth in Exhibit 1 (Zoning Code Text Changes) attached hereto.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 12th day of July, 2005.


MAYOR OF THE CITY OF IRVINE

ATTEST:


DEPUTY CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, TERI L. BEACH, Deputy City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on June 28, 2005, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the 12th day of July, 2005, by the following vote:

AYES:	5	COUNCILMEMBERS:	Agran, Choi, Kang, Shea and Krom
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None


CITY CLERK OF THE CITY OF IRVINE

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF IRVINE)

I, TERI L. BEACH, Deputy City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 22nd day of July, 2005, I caused to have posted the foregoing true and correct copy of Ordinance No. 05-15 of the City of Irvine in the following public places in the City:

- 1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.
- 2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.
- 3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 22nd day of July, 2005.



DEPUTY CITY CLERK OF THE CITY OF IRVINE

**CITY COUNCIL ORDINANCE 05-13
JUNE 28, 2005**

CHAPTER 1-2. DEFINITIONS.

Add the following definitions to Section 1-2-1, General definitions

Accessory Wireless Equipment: Any equipment associated with the installation of a wireless communications facility including but not limited to cabling, generators, air conditioning units and equipment cabinets.

Antenna: Any device used to transmit and/or receive electromagnetic waves, particularly radio frequency (RF) or microwaves, which may be composed of one or more antenna arrays or panels as necessary for the device to properly function as an antenna.

Antenna Array: Group of antenna elements located on the same geometric plane.

Antenna Classes: Wireless Communication Facilities and their attendant accessory equipment are Antennae separated into the following distinct "antenna classes" based on observed aesthetic impacts as follows:

Class 1 Antenna: An antenna mounted on a non-residential building and fully screened using camouflage design techniques so that the antenna panels are not visible. Typical examples include building mounted antennae behind a visually opaque screen designed to pass radio frequency signals that match or complement existing exterior surfaces of the building, or antennae designed to be incorporated within a vertical architectural feature of a building such as a steeple, cross, or other integral vertical element.

Class 2 Antenna: An antenna mounted behind screens designed to replicate natural features such as rocks and shrubbery and mounted in hillside areas or other natural areas where the screen effectively and fully blends into the surrounding vegetation or topography so that the antenna is not visible. Typical examples include a monorock or monoshrub.

Class 3 Antenna: An antenna mounted on a streetlight standard or traffic signal standard. Typical examples include antennae mounted atop a utility pole within a street right-of-way or a streetlight or traffic signal standard by extending the height of the pole and utilizing a cylindrical antenna unit that replicates the diameter and color of the standard. Any new streetlight standard or traffic signal standard proposed must be consistent with Section 103 or 104 respectively, of the City Standards and Design Manual. Other examples covered by this definition are small box antenna units intended for wireless internet connections that are mounted on the underside of a standard arm near the streetlight or traffic signal. Class 3 antennae are typically

smaller than three (3) cubic feet in size. Proposals for Class 3 antennae that exceed three cubic feet in size will be classified and processed as Class 6 antennae.

Class 4 Antenna: An antenna co-located on an approved or existing Wireless Communications Facility and mounted in the same manner and with the same camouflage design techniques as the approved or existing Wireless Communications Facility. No more than three antennae may be located on the same Wireless Communications Facility. Co-location on a new site may also be allowed but shall be processed according to the type of facility being proposed and its location, pursuant to Section 2-37.5-3 (i.e. a new co-located site proposed on a monopalm would be processed as a Class 10 Antenna). Typical examples include co-located facilities or distributed antennas systems.

Class 5 Antenna: An antenna and associated equipment system that is a temporary (not more than 180 days) and mobile unit intended to provide coverage on an interim basis until a permanent facility to provide coverage for the same general area is operational, or in connection with a special event of a temporary duration (not more than 30 days). Typical examples include a "Cell-On-Wheels" (COW). A COW installation associated with a special event permit shall be exempt from the review process described in Section 2-37.5 provided that the COW is included in the description of the special event permit.

Class 6 Antenna: An antenna mounted on an existing sports field light standard or utility lattice tower or a Class 3 antenna that exceeds the size limitations of a Class 3 antenna. Typical examples include antennae mounted to a sports field lighting standard or a utility lattice tower where the antenna panels are visible and the placement of the antennae in relation to the light fixtures or the structural elements of the lattice tower and appropriate paint applications are applied to match the color of the light standard or tower as a means to disguise the installation. Other examples include antennae mounted on a streetlight standard or traffic signal standard that exceed the size limitations of a standard Class 3 antenna.

Class 7 Antenna: An antenna mounted within the cylinder of a flagpole or other cylindrical vertical structure. Typical examples include antennae mounted inside a flagpole or on top of a flagpole using a cylindrical antenna unit that replicates the diameter and color of the flagpole or other similar vertical element.

Class 8 Antenna: An antenna mounted on a non-residential building or structure that is treated with camouflage design techniques, but with only the antenna panels still visible. Typical examples of this class of antenna would include antennae mounted on the exterior of the building or fixed to the side of some other structure, such as a above-ground water storage tank, so that the antenna panels are visible but painted to match the color of the building or structure.

Class 9 Antenna: An antenna mounted on the interior of a freestanding structure that has been built solely for the purpose of supporting the Wireless Communications Facility using camouflage design techniques so that the Wireless Communications Facility is fully enclosed within the structure and the antenna panels are not visible. Typical structures used to enclose the freestanding facilities may include signs, clock towers, lighthouses, water towers, campanile (bell tower), windmill, or other suitable vertical structures. Such structures shall always be compatible with and not out of character with other surrounding structures, facilities, and surroundings.

Class 10 Antenna: An antenna mounted on the exterior of a freestanding structure that has been built primarily for the purpose of supporting the Wireless Communications Facility using camouflage design techniques that only partially hide or disguise the antenna panels but leave them visible. Typical examples include monopines or monopalms.

Class 11 Antenna: An antenna mounted on the exterior of a freestanding pole that has been built primarily for the purpose of supporting the Wireless Communications Facility, or on the exterior of an existing pole-style utility line tower, using minimal camouflage design techniques that leave the antenna panels clearly visible. Typical examples include monopoles.

Cell Site: Transmitting and receiving antennae with associated equipment.

Co-location: The installation of more than one Wireless Communication Facility by more than one carrier mounted on a single building or structure.

Federal Communications Commission (FCC): The independent federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

Lattice Tower: A freestanding structure used for siting a facility typically constructed with a framework of open metal crossbeams or crossbars.

Monopole: Freestanding structure composed of a single spire used primarily or solely to support a Wireless Communications Facility.

Radio Frequency Radiation (RF): Electromagnetic radiation in the portion of the spectrum from 3 kHz (kilohertz) to 300 GHz (gigahertz).

Satellite Dish Antenna: Any parabolic, spherical, and/or disc antenna of either solid or mesh type construction, intended for the purpose of receiving or transmitting telecommunications signals, including without limitation radio and television transmissions from or to any source or receptor including orbiting satellite transmitters.

Camouflage Design Techniques: Measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. Techniques may include the following:

- Screening elements to camouflage, disguise, or otherwise hide the wireless communication facility from view from surrounding uses.
- Painting and/or coloring the facility to blend into the predominant visual backdrop.
- Siting the facility to utilize existing features (buildings, topography, vegetation, etc.) to screen, camouflage, or hide the facility
- Utilizing simulated natural features (trees, rocks, etc.)
- Providing facilities of a size that, as determined by the City, is not visually obtrusive such that any effort to screen the facility would create greater visual impacts than the facility itself.

Camouflage Facility: A Wireless Communications Facility utilizing effective and appropriate Camouflage Design Techniques such that the antennae and accessory wireless equipment are not visible or not readily visible.

Utility Building and Facility: A building or land used for private or public utility purposes, but not including wireless communication facilities.

Wireless Communications Technology: A field of communications technology intended to establish a network to transmit and receive messages using radio frequency signals.

Wireless Communication Facility: A facility for use by wireless carriers that typically utilizes any type of antenna components (including microwave dish, directional panel, and/or omni-directional whip) to send and/or receive radio frequency signals and the accessory wireless equipment.

CHAPTER 2-2 ADMINISTRATIVE RELIEF PROCEDURE

No changes to Sections 2-2-1 through 2-2-11

Insert Section 2-2-12 (presently Reserved) to read as follows:

Section 2-2-12 Findings for Wireless Communication Facility Separation

In order for the approval authority to approve administrative relief from the minimum 2,000-foot separation between Class 9, Class 10, or Class 11 antennae, the approval authority shall find that:

1. The intent of Chapter 3-8 of the zoning ordinance, as modified by the intent articulated in Chapter 2-37.5 of this Ordinance, is being preserved.
2. The proposed antenna will not pose a detrimental aesthetic or visual impact on the subject site or the surrounding properties.
3. The proposed reduction in the 2,000-foot separation requirement is necessary to address and overcome technical siting constraints to be documented by an independent radio frequency coverage report as may be required, reviewed, and approved by the City.
4. The proposed separation between the subject antenna and the nearest Class 9, Class 10, or Class 11 antenna is the maximum feasible distance that addresses the technical constraints identified in the radio frequency coverage report.

No other changes to Chapter 2-2.

CHAPTER 2-9 CONDITIONAL USE PERMIT PROCEDURE

No changes to Section 2-9-1 through 2-9-3.

Revise Section 2-9-4.A, to add the following to the list of uses for which the Zoning Administrator has the final approval authority:

“Wireless Communications Facilities (depending on location, certain classes of antennae may be processed as a minor conditional use permit subject to review and approval by the Zoning Administrator pursuant to the table provided in Section 2.37.5-3).

No other changes to Chapter 2-9.

Insert New Chapter 2-37.5 to read as follows:

CHAPTER 2-37.5. WIRELESS COMMUNICATION FACILITY PERMIT

- | | |
|----------------|---|
| Sec. 2-37.5-1. | Intent. |
| Sec. 2-37.5-2. | Need For a Wireless Communication Facility Permit or Conditional Use Permit. |
| Sec. 2-37.5-3. | Wireless Communication Facility Permit and Conditional Use Permit Review Procedure. |
| Sec. 2-37.5-4. | Application Requirements. |
| Sec. 2-37.5-5. | Findings. |
| Sec. 2-37.5-6. | Approval Body. |
| Sec. 2-37.5-7. | Hearing and Notice. |

- Sec. 2-37.5-8 Appeal.
- Sec. 2-37.5-9. Reservation of the Right to Review Permits.
- Sec. 2-37.5-10. Nonconforming Facilities and Revocation of Permit.
- Sec. 2-37.5-11. Removal of an Abandoned, Unused, or Inoperable Facility.

Sec. 2-37.5-1. Intent.

The purpose of this section is to establish a process that balances the need for Irvine residents to access wireless communications, the general welfare of Irvine residents, and the requirements of state and federal law, to guide applicants for wireless communication facilities in the City of Irvine with respect to the City requirements.

To facilitate the above stated intent, the procedures described in this Chapter are intended to function in combination with the development standards established in Chapter 3-8, Wireless Communication Facility, Satellite Dish and Antenna Standards, to ensure all Wireless Communication Facilities are appropriately located, designed and maintained to protect the public health, safety, and welfare, while minimizing their adverse visual and environmental effects.

Sec. 2-37.5-2. Need for a Wireless Communication Facility Permit or Conditional Use Permit.

Prior to the construction of any Wireless Communication Facility, the applicant shall obtain a Wireless Communication Facility Permit (WCFP). As specified in Section 2-37.5-3, a minor or major conditional use permit shall also be required, depending on the location of the proposed site and the class of antenna. A conditional use permit application is to be heard by the Zoning Administrator or the Planning Commission as indicated in Section 2-37.5-3. The Zoning Administrator reviews minor conditional use permits and the Planning Commission reviews major conditional use permits.

When both a Wireless Communication Facility Permit and conditional use permit are required for a proposed Wireless Communication Facility, the submittal of a Wireless Communication Facility Permit application may be waived by the Director of Community Development, provided the conditional use permit includes all of the information that would be required for a Wireless Communication Facility Permit. If the Wireless Communication Facility Permit is waived, the application shall be reviewed pursuant to the applicable conditional use permit standards.

Sec. 2-37.5-3. Wireless Communication Facility Permit and Conditional Use Permit Review Procedure.

Applications for a Wireless Communications Facility requiring either a Wireless Communication Facility Permit or a Conditional Use Permit shall be subject to the following review procedures as determined by the classification of the antenna installation and the location of the installation site as indicated in the table below:

Review Procedure Matrix

	Location of Proposed Cell Site			
	Inside or Within 150 feet of any Residential District ^h	Inside or Within 150 feet of any Open Space District or Public Park ^c	Non-Residential District Located Within 150 feet to 400 feet of a Residential or Open Space District or Public Park	Non-Residential District Located Beyond 400 feet from Residential or Open Space District or Public Park
Class 1 Antenna ^d Building Mount, Screened	PC	ZA ^b	ZA ^b	WCFP ^a
Class 2 Antenna ^d Monorock/Monoshrub	PC	ZA ^b	WCFP ^a	WCFP ^a
Class 3 Antenna ^d Pole Mount, Visible (Streetlights/ Traffic Signals/Utility Poles)	PC ^g	ZA ^b	WCFP ^a	WCFP ^a
Class 4 Antenna ^d Co-location	PC ^e	ZA ^b /PC ^e	WCFP ^a /ZA ^b /PC ^e	WCFP ^a /ZA ^b /PC ^e
Class 5 Antenna ^d Cell on Wheels (COW)	X	ZA ^b	ZA ^b	WCFP ^a
Class 6 Antenna ^d Pole Mount (Visible Field Lights/Utility Towers)	PC	PC	ZA ^b	WCFP ^a
Class 7 Antenna ^d Flagpole Mount	PC	PC ^f	PC	ZA ^b

Class 8 Antenna^d Building Mount, Visible	X	PC	PC	ZA ^b
Class 9 Antenna^d Monopole, Interior Mount (Enclosed Camouflaged Tower)	PC	PC	ZA ^b	ZA ^b
Class 10 Antenna Monopole, Exterior Mount (Monopalms/Monopines)	PC	PC	PC	PC
Class 11 Antenna Non-Camouflaged Monopole	X	X	X	PC

WCFP – Wireless Communication Facility Permit (administrative, staff-level review)
 ZA – Minor Conditional Use Permit reviewed by the Zoning Administrator
 PC – Major Conditional Use Permit reviewed by the Planning Commission
 X – Not Permitted

- a. At the discretion of the Director of Community Development, any WCFP application may be forwarded to the Zoning Administrator for review and action.
- b. At the discretion of the Zoning Administrator, any minor conditional use permit for a Wireless Communication Facility may be forwarded to the Planning Commission for review and action.
- c. For any application located within a public park or public trail easement, the Community Services Commission shall review the application in accordance with the Community Services Wireless Communications Policy and make a recommendation on the application prior to any action by the Director of Community Development on a Wireless Communications Facility Permit and prior to any action by the Zoning Administrator or the Planning Commission on a required conditional use permit.
- d. Any application for a Wireless Communications Facility that proposes to exceed the height limit of the applicable zoning district by greater than ten (10) feet shall be elevated to the next level of review. Pursuant to this provision, an application that is otherwise subject to Wireless Communications Facility Permit review standards would become subject to a minor conditional use permit level of review and approval by the Zoning Administrator and an application that is otherwise subject to minor conditional use permit review standards subject to Zoning Administrator

approval would become subject to a major conditional use permit level of review and approval by the Planning Commission. Co-located installations may exceed the height limit by up to fifteen (15) feet without requiring elevation to the next level of review, provided that appropriate technical justification to support the added height is submitted as part of the application.

- e. The review procedure for co-located facilities shall be consistent with the applicable review procedure as identified elsewhere in this table depending on the type of installation and classification of antenna being used for the co-location.
- f. Class 7 antennae shall not be permitted on properties either used or zoned residentially.
- g. Except for such installations located on a streetlight, traffic signal, or utility pole located within the right-of-way of any arterial roadway with a designation of primary highway or greater as designated in Figure B-1 of the Circulation Element of the Irvine General Plan. Class 3 antennas proposed in such locations and within 150 feet of a residential district may be processed through the minor conditional use permit process subject to approval by the Zoning Administrator.
- h. The City has a preference for locating Wireless Telecommunications Facilities on feasible open space sites, as opposed to sites within residential areas. For purposes of this section, feasible open space sites are sites located in open space zones that 1) are not encumbered by deed restrictions or other legal impediments that prohibit the installation of Wireless Communications Facilities; 2) are not restricted by operation of a Natural Communities Conservation Plan and/or Habitat Conservation Plan in a manner that prohibits Wireless Communications Facilities; 3) are owned or controlled by an individual or entity that is willing to allow use of the proposed site for a Wireless Communications Facility installation; 4) include existing structures (such as power line towers or an above-ground water storage tank) upon which Wireless Communications Facilities can be mounted; 5) require no new disruptions (i.e. access roads, retaining walls, etc) that do not primarily serve an open space purpose, and 6) where the proposed Wireless Communications Facilities, including any accessory cabinetry, can be designed, treated, or screened in an aesthetic manner that is in keeping with the surrounding open space.

Sec. 2-37.5-4. Application Requirements.

- A. The property owner or authorized agent of the property owner may request a Wireless Communication Facility Permit.
- B. Prior to any application for a Wireless Communication Facility Permit or conditional use permit for any wireless communication facility located in a public park or easement for a public trail, the applicant shall submit an application for the review and approval by the Director of Community Services and/or the Community Services Commission. As part of this review, the applicant may be required to submit detailed construction drawings and other documents as required by the Director of Community Services. All costs associated with the permit review shall be the responsibility of the applicant.
- C. The information listed below is required at the time a Wireless Communication Facility Permit application is submitted to the Community Development Department.
 1. A complete development case application signed by the property owner or its authorized representative.
 2. A deposit or fee as set forth by ordinance or resolution of the City Council.
 3. A letter of justification describing the proposed wireless communication facility and explaining how it will satisfy the findings in Section 2-37.5-5.
 4. Noticing materials for public meetings and hearings as required to provide public notification pursuant to Section 2-37.5-7.
 5. Information as required by the City of Irvine Wireless Communication Facility Permit information sheet.
 6. Proof that carrier has not entered into any agreement prohibiting co-location at the proposed site, where co-location is otherwise technically feasible.
 7. An accurate map indicating the proposed site and detailing existing wireless communications facility locations owned and operated by the applicant. Applicant shall disclose plans for all planned facility locations for the next 12 months from the date of application submittal.
 8. If applicable, a description of the communications services, equipment, or facilities that the applicant will offer or make available to the City or other public, educational and governmental institutions.

9. Engineering certification demonstrating compliance with all existing RF emissions standards. The technical information submitted must also include technical support/analysis to justify the proposed height of the antenna mount.
10. Alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site, as deemed necessary by the City. The analysis should include an explanation of why other sites considered were not selected. In the case of proposed sites that are inside or within 150 feet of any Residential District, the alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located on Open Space District lands within the vicinity of the proposed site.
11. Alternative configuration analysis, assessing the feasibility of alternative antenna construction configurations – both at the proposed site and in the surrounding vicinity – which would result in a lower Antenna Class installation (i.e. a more visually acceptable antenna), as deemed necessary by the City. This analysis should include an explanation of why other antenna construction configurations were not selected.
12. A projection of the wireless carrier's anticipated future Wireless Communications Facility siting needs within the City, which information may be used by the City as part of a master planning effort designed to ensure a more planned, integrated and organized approach to Wireless Communications Facility siting as the remaining areas of the City are built out.
13. Other information as may be required by the Director of Community Development.

Sec. 2-37.5-5. Findings.

- A. For a Wireless Communication Facility requiring a Wireless Communication Facility Permit, the Director of Community Development may approve said permit without findings.
- B. For a Wireless Communication Facility requiring a either a minor conditional use permit or a major conditional use permit, the Zoning Administrator or Planning Commission may approve the conditional use permit provided that the applicable findings required for a conditional use permit pursuant to Section 2-9-7 and the following findings can be made:
 1. The proposed Wireless Communication Facility is visually compatible with the surrounding neighborhoods.

2. The proposed Wireless Communication Facility is not detrimental to the public health, safety, or general welfare.
3. The proposed Wireless Communication Facility is proposed to function in compliance with all applicable regulations of the Federal Communications Commission.
4. The proposed Wireless Communication Facility complies with the provisions of Chapter 3-8, Wireless Communications Facilities, Satellite Dish and Antenna Standards, as modified by this Ordinance.
5. An alternative site(s) located further from a Residential District or Public Park cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.
6. An alternative antenna construction plan that would result in a lower "Antenna Class" category for the proposed facility is not reasonably feasible and desirable under the circumstances.

Sec. 2-37.5-6. Approval Body.

A. Wireless Communication Facility Permits

The Director of Community Development shall be the final approval body for any Wireless Communication Facility requiring only a Wireless Communication Facility Permit. However, at the Director's discretion, a Wireless Communication Facility Permit application may be forwarded to the Zoning Administrator for review and action. For any application located within a public park or public trail easement, the Community Services Commission shall make a recommendation to the Director of Community Development.

B. Conditional Use Permit for Wireless Communication Facilities

For any Wireless Communication Facility that requires a conditional use permit, the approval body shall be as designated in Section 2-37.5-3. Other commissions, as deemed appropriate, may act as advisory bodies to the Zoning Administrator or Planning Commission. At the Zoning Administrator's discretion, a minor conditional use permit for any Wireless Communications Facility may be forwarded to the Planning Commission for review and action. For any application located within a public park or public trail easement, the Community Services Commission shall make a recommendation to the Director of Community Development, the Zoning

Administrator or the Planning Commission as applicable for the type of permit requested.

Sec. 2-37.5-7 Hearing and Notice.

- A. A Wireless Communication Facility Permit shall not require a public hearing except as may be required for installations located within a public park or public trail easement pursuant to the review process required by the Community Services Commission. If the Director of Community Development forwards a Wireless Communication Facility Permit to the Zoning Administrator for review, a public hearing shall be required with public noticing provided as required pursuant to Chapter 2-23.

For Wireless Communication Facility Permits not requiring a public hearing, public noticing shall be provided as follows:

1. A notification to be mailed to any homeowners association representing property located within 500 feet of the proposed installation site.
2. A notification to be mailed to the owner of any property located within 500 feet of the proposed installation site.
3. A notification to be posted at the installation site.
4. A notification to be posted at the City Hall.

The notification shall provide a brief description of the proposed installation, a map indicating the proposed installation site, information describing the Wireless Communications Permit review process including the anticipated action date on the permit request and the expiration date for the permit appeal period. The public notice required for a Wireless Communication Facility Permit shall be mailed and posted within seven (7) working days of the receipt of the application and at least fifteen (15) working days prior to any action taken on the application.

- B. For applications requiring a minor or major conditional use permit pursuant to Section 2-37.5-3, refer to Chapter 2-23 for noticing requirements of public meeting and hearings.
- C. Commissions other than the Zoning Administrator or Planning Commission may review any proposed conditional use permit for a Wireless Communication Facility as a recommending body as determined necessary by the Director of Community Development. If review by one of these commissions occurs, at least

one public hearing shall be held and recommendations shall be prepared for consideration by the appropriate approval body.

- D. The Planning Commission shall hold at least one public hearing, in accordance with Chapter 2-23 of this Zoning Code, and shall adopt a resolution approving, conditionally approving or denying a conditional use permit application request by resolution, based on findings in Section 2-37.5-5.

Sec 2-37.5-8. Appeal.

The appeal procedure for a Wireless Communication Facility Permit or conditional use permit for a Wireless Communications Facility shall be in accordance with Chapter 2-5 of the Zoning Code.

Sec. 2-37.5-9. Reservation of the Right to Review Permits.

A. As a Condition of Approval

The original approval authority may, at its discretion, place a condition on any Wireless Communication Facility Permit that requires a reconsideration of the permit by the original approval authority at the end of a specified time period from the date of the original approval. Items to be reviewed may include but are not limited to conformance with all conditions of approval, operation of the facility in its intended manner, and conformance with all applicable standards and regulations and updates thereof, particularly RF emissions, toxic and/or hazardous materials.

B. Modification of Wireless Communication Facility Permit or Conditional Use Permit

If modifications are proposed to any Wireless Communications Facility, the applicant shall submit an application for a modification pursuant to Chapter 2-19. If the proposed modification is intended for the sole purpose of accommodating the co-location of a Wireless Communication Facility, such modification shall be considered a minor modification provided that no more than ten additional feet in height is needed and the maximum building height pursuant to Section 3-9-1.B is not exceeded. If the maximum building height is exceeded, a major modification would be required. If the existing Wireless Communication Facility already exceeds the district height limit, then a request to co-locate a new antenna on that facility, which adds no additional height or does not exceed the maximum building height by more than fifteen (15) feet, shall be considered a minor modification. If the existing Wireless Communications Facility already exceeds the district height limit by more

than fifteen (15) feet or adds height that brings the facility to more than fifteen (15) feet over the district height limit, a major modification would be required.

Sec. 2-37.5-10. Nonconforming Facilities and Revocation of Permit.

A. Legal Nonconforming Facility

Any Wireless Communication Facility that is lawfully constructed, erected, or approved prior to the effective date of this Chapter, or for which the application for a conditional use permit is deemed complete prior to the effective date of this Section, in compliance with all applicable laws, and which facility does not conform to the requirements of this Section shall be accepted and allowed as a legal nonconforming facility if otherwise approved and constructed. Legal nonconforming facilities shall comply at all times with the laws, ordinances, and regulations effect at the time the application was deemed complete, and any applicable federal and state laws as they may be amended or enacted, and shall at all times comply with the conditions of approval. Any legal nonconforming facility that fails to comply with applicable laws, ordinances, regulations, or the conditions of approval may be required to conform to the provisions of this Section.

B. Illegal Nonconforming Facility

Any Wireless Communication Facility constructed or erected prior to the effective date of this Chapter in violation of applicable laws, ordinances, or regulations shall be considered an illegal nonconforming facility and shall be abated as a public nuisance pursuant to Title 4, Division 11 of the City of Irvine Municipal Code.

The City, its Director of Community Development, Zoning Administrator, Planning Commission, and/or City Council shall reserve the right to revoke or modify any permit granted and approved hereunder for any violations of Chapter 3-8 and/or the conditions of approval on such permit.

Sec. 2-37.5-11. Removal of an Abandoned, Unused, or Inoperable Facility.

Within thirty (30) days of terminating the operation of any Wireless Communication Facility for any reason, including inoperable equipment, abandonment or technical obsolescence, the applicant shall notify the City of such termination. Said notification shall be in writing, shall specify the date of termination and shall include reference to the applicable Wireless Communication Facility Permit number. At the applicant's sole expense and responsibility, all component elements of a terminated Wireless Communication Facility shall be removed in accordance with applicable health and safety requirements and the site

