

RESOLUTION NO. 2021-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, ESTABLISHING A FEE SCHEDULE FOR WIRELESS ENCROACHMENT PERMITS TO INSTALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY PURSUANT TO CITY MUNICIPAL CODE CHAPTER 46, ARTICLE IV, DIVISION 3 “WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY”**

**WHEREAS**, Chapter 46, Article IV, Division 3 of the City’s Municipal Code governs the permitting, installation, and regulation of personal wireless services in the City’s public right-of-way (ROW); and

**WHEREAS**, Section 46-223(a) of the City’s Municipal Code requires approval of a wireless encroachment permit to install and operate such facilities; and

**WHEREAS**, the City Council wishes to establish a fee schedule for wireless encroachment permits; and

**WHEREAS**, the purpose of setting fees is to cover the City’s costs for processing applications for wireless encroachment permits; and

**WHEREAS**, the Federal Communications Commission, in its Declaratory Ruling and Third Report and Order adopted on September 26, 2018 establishing rules for small cell facilities, held that presumptively reasonable (“safe harbor”) amounts for non-recurring fees are as follows: \$500 per application including up to five small cell facilities, with an additional \$100 for each small cell facility beyond five; and \$1000 per application for a new pole intended to support one or more small cell facilities; and

**WHEREAS**, the City intends to use these FCC safe harbor fees for its wireless encroachment permit fees for services and regulatory activity required by City Municipal Code Chapter 46, Article IV, Division 3 until it completes a related cost study or otherwise has reason to amend the fee amounts; and

**WHEREAS**, on December 21, 2020, the City Council conducted and concluded a duly noticed public meeting as required by law and received testimony from City staff and all interested parties regarding the fee schedule; and

**WHEREAS**, all legal prerequisites to the adoption of the Resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pomona as follows:

**SECTION 1. Findings.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2. Definitions.** The definitions set forth in Section 46-222 of the Municipal Code are incorporated by reference into this Resolution.

**SECTION 3. Administration.** The collection, processing, and other acts contemplated in this Resolution shall be administered by the City Engineer, who is hereby authorized to take all actions on behalf of the City with regard to this Resolution.

**SECTION 4. Fees.** From the date hereof until the City updates its wireless encroachment permit fees, the following fees shall apply:

Permit	Code Section	Initial Fee
Wireless Encroachment Permits - small cell collocation applications	City Municipal Code Chapter 46, Article IV, Division 3	\$500.00 per application for an application containing up to five (5) facilities, with an additional \$100.00 for each facility beyond five (5)
Wireless Encroachment Permits - applications not constituting a collocation	City Municipal Code Chapter 46, Article IV, Division 3	\$1,000.00 per application

**SECTION 5. Severability.** If any provision of this Resolution or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

**SECTION 6. Certification of Resolution.** The City Clerk shall certify to the adoption of this Resolution and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of Pomona, and shall post a certified copy of this Resolution, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code Section 36933.

**SECTION 7. Records.** The documents and materials associated with this Resolution that constitute the record of proceedings on which the City Council's findings and determination are located at 505 S. Garey Avenue, Pomona, CA.

**SECTION 8. Publication of Resolution.** The City Clerk shall certify the adoption of this Resolution and cause it, or a summary of it, to be published as required by law.

**PASSED, APPROVED AND ADOPTED** this 1st day of February, 2020.

**CITY OF POMONA:**

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Tim Sandoval  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

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Sonia Carvalho  
City Attorney

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Rosalia A. Butler, MMC  
City Clerk

I, HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of Pomona at a regular meeting thereof held on February 1, 2021 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Rosalia A. Butler, MMC  
City Clerk