

## **RESOLUTION NO. 19-**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA ADOPTING A POLICY IMPLEMENTING DESIGN REQUIREMENTS FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Pursuant to California Constitution and the laws of the State of California, the City of Temecula (“City”) may make and enforce within its city limits all local, police, and sanitary laws and other ordinances, resolutions and other regulations not in conflict with general laws for the preservation of the public health, safety, and welfare.

Section 2. Applicable federal and state laws and regulations reserved to cities authority over the placement, construction, and modification of personal wireless facilities, including reasonable aesthetic and design regulations.

Section 3. The City currently regulates wireless communications facilities via both the California Building Code, including requiring, an encroachment permit for wireless utilities within the right-of-way and reserving the ability to regulate further, provided such regulations are consistent with federal and state law.

Section 4. On September 27, 2018, the Federal Communications Commission (“FCC”) adopted a Declaratory Ruling and Third Report and Order, FCC 18-133, setting forth limitations on local government regulation of small cell wireless facilities in an effort to facilitate and remove barriers for the expansion of 5G technology, effective January 14, 2019 (the “FCC Ruling”).

Section 5. The FCC Ruling allows local agencies to charge wireless carriers objective reasonable fees for small wireless facilities; imposes time limits (a “shot clock”) on processing small cell applications; and limits non-fee regulations that could impede new small cell sites including aesthetic regulations.

Section 6. The FCC ruling requires that, in order to be considered and not preempted by federal law and regulations, any aesthetic regulations for processing of small wireless facilities be reasonable, non-discriminatory, and objective and published in advance.

Section 7. Given the rapid and substantial changes in applicable law and regulations, the City Council finds that aesthetic and design regulations adopted through a policy that supplements Chapter 5.12 of the Temecula Municipal Code is a necessary and appropriate means to protect the public health, safety, and welfare – including the aesthetic character of the City, its neighborhoods, and community – from the potential harms caused by unregulated small wireless facilities and other infrastructure deployments, while balancing the benefits that flow from technological advancements such as advanced wireless services.

Section 8. The Temecula City Council hereby adopts policies establishing design requirements for small wireless facilities in the public right-of-way (Attachment A).

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula this 14<sup>th</sup> day of May, 2019.

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Michael S. Naggar, Mayor

ATTEST:

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Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA     )  
COUNTY OF RIVERSIDE    ) ss  
CITY OF TEMECULA         )

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 19-     was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 14<sup>th</sup> day of May, 2019, by the following vote:

AYES:                   COUNCIL MEMBERS:

NOES:                   COUNCIL MEMBERS:

ABSTAIN:               COUNCIL MEMBERS:

ABSENT:                COUNCIL MEMBERS:

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Randi Johl, City Clerk