



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Nina P. Williams - City Attorney	May 2, 2023

ITEM

Resolution 2023-22, Amending the 2023 Fee Schedules to Adopt the Presumptively Valid Small Cell Facility Fee Schedule

BACKGROUND

This Resolution is associated with the City's approval of Ordinance 2023-05, which established procedures for the application, review, and siting of small cell facilities, which, in part, requires the payment of an application fee.

On September 26, 2018, the Federal Communications Commission (the "FCC") adopted a Declaratory Ruling and Order ("Small Cell Order") limiting the ability of local governments to regulate the siting and placement of small cell facilities. This Small Cell Order established a presumptively valid fee schedule.

Resolution 2023-22 adopts the FCC's presumptively valid fee schedule for small cell facilities.

STAFF RECOMMENDATION Staff and the City Attorney recommends approval of Resolution 2023-22, in order to collect presumptively valid fees related to costs associated with staff processing small cell facility applications.

SUGGESTED MOTION

A City Councilmember should state, "I move to approve Resolution 2023-22, amending the 2023 fee schedules to adopt the presumptively valid small cell facility fee schedule."

CITY OF SALIDA, COLORADO
RESOLUTION NO. 22
(Series 2023)

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING THE 2023 FEE SCHEDULES TO ADOPT THE
PRESUMPTIVELY VALID SMALL CELL FACILITY FEE SCHEDULE**

WHEREAS, the Salida Municipal Code (the “Code”) establishes rules and regulations for the operations of the City of Salida (the “City”) and provides for the establishment of fees for various City services throughout the Code;

WHEREAS, the City recently adopted an ordinance establishing procedures for the application, review, and siting of Small Cell Facilities, which, in part, requires the payment of an application fee;

WHEREAS, on September 26, 2018, the Federal Communications Commission (the “FCC”) adopted a Declaratory Ruling and Order (“Small Cell Order”) limiting the ability of local governments to regulate the siting and placement of Small Cell Facilities;

WHEREAS, the FCC Small Cell Order provided that local governments cannot “materially inhibit” the deployment of Small Cell Facilities and that local fees must be limited to recovery of the regulatory entity’s costs;

WHEREAS, the FCC Small Cell Order acknowledged that, in certain circumstances, local fees can have the effect of materially inhibiting the deployment of wireless communication facilities and, as such, established a presumptively valid fee schedule; and

WHEREAS, the City Council finds it desirable, prudent, and in the best interest of the residents of the City to adopt the FCC’s presumptively valid fee schedule for Small Cell Facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, determinations, facts, and findings of the City Council.

Section 2. The 2023 Fee Schedules are hereby amended by adding the following fees under “Fees and Charges for Development Services 2023:”

<u>Small Cell Facility—Eligible Facilities Request (i.e., collocated with an existing facility)</u>	<u>\$500.00 per application for up to five (5) facilities, plus \$100.00 for each additional facility beyond five (5)</u>
<u>Small Cell Facility—Stand Alone Facilities (i.e., not a collocation)</u>	<u>\$1,000.00 per facility</u>

Section 3. This resolution and the updated 2023 Fee Schedules are intended to supersede all previous fee schedules adopted by the City Council.

Section 4. Effective upon approval, the City hereby adopts the amended 2023 Fee Schedules.

RESOLVED, APPROVED, AND ADOPTED THIS 2nd OF May, 2023.

City of Salida

Dan Shore, Mayor

ATTEST:

City Clerk/Deputy City Clerk