



Item No. 12 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

**THROUGH: MICHAEL KASHIWAGI
COMMUNITY SERVICES DIRECTOR**

FROM: MIKE GREENLEE, BUILDING OFFICIAL

DATE: SEPTEMBER 20, 2017

**SUBJECT: SECOND READING OF AN ORDINANCE ADDING CHAPTER
15.64 TO THE ATHERTON MUNICIPAL CODE RELATING TO
EXPEDITED, STREAMLINED PERMITTING PROCESS FOR
ELECTRICAL VEHICLE CHARGING STATIONS**

RECOMMENDATION

Waive further reading and adopt an Ordinance of the City Council of the Town of Atherton adding Chapter 15.64 to the Atherton Municipal Code relating to the expedited and streamlined permitting process for electrical vehicle charging stations in compliance with Assembly Bill AB1236.

BACKGROUND

On July 19, 2017 the City Council introduced the Ordinance, conducted a public hearing and scheduled the adoption of the attached proposed ordinance for the September 20 meeting.

Assembly Bill 1236, adopted in October 2015, added California Government Code Section 65850.7 that requires a City with a population of less than 200,000 residents to establish procedures that creates an expedited, streamlined permitting process for electric vehicle charging stations.

In furtherance of that objective, Section 65850.7 of the California Government Code requires that, on or before September 30, 2017, every city, county, or city and county must adopt an ordinance for the expedited, streamlined permitting process for electric vehicle charging stations.

The Town currently expedites the review of such applications by reviewing and issuing applications for electric vehicle charging stations within 3 business days.

The Town, however, is required to adopt the ordinance mandated by Section 65850.7 of the California Government Code must be adopted by September 30, 2017. The attached ordinance is intended to satisfy that requirement. The ordinance codifies the requirements of Section 65850.7, such as accepting and approving applications by mail and in person, directing the Town's Building Official to develop a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for the expedited, streamlined permitting process, and authorizes the Building Official to administratively approve such applications.

ANALYSIS

The Building Department currently provides the expedited review of applications for electrical vehicle charging stations. The ordinance merely codifies what the Building Department is already providing and complies with the requirements of the California State Law.

POLICY FOCUS

This ordinance supports the goal of promoting environmental concerns and support for emerging technologies to facilitate the use of electric vehicles and the environmental benefits derived.

FISCAL IMPACT

There will be no Fiscal Impact. The Building Department is already providing expedited review of applications for electrical vehicle charging stations within 3 business days.

The typical cost for an electrical vehicle charging station on a residential structure is \$150.58

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

ATTACHMENTS

- Ordinance
- Assembly Bill AB1236

ORDINANCE NO. XXX

ORDINANCE ADDING CHAPTER 15.64 TO THE ATHERTON MUNICIPAL CODE REGARDING EXPEDITED, STREAMLINED PERMITTING PROCEDURES FOR ELECTRIC VEHICLE CHARGING STATIONS

WHEREAS, Subsection (a) of Section 65850.7 of the California Government Code provides that it is the policy of the state to promote and encourage the installation and use of electric vehicle charging stations by limiting obstacles to their use and by minimizing the permitting costs of such systems; and

WHEREAS, Subdivision (g)(1) of Section 65850.7 of the California Government Code provides that, on or before September 30, 2017, every city, county, or city and county with a population of less than 200,000 residents shall adopt an ordinance, consistent with the goals and intent of subdivision (g)(1) of Section 65850.7, that creates an expedited, streamlined permitting process for electric vehicle charging stations. Subdivision (g)(1), shall adopt a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review.

NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 15.64 Added. Chapter 15.64 regarding Expedited, Streamlined Permitting Procedures for Electric Vehicle Charging Stations is added to the Atherton Municipal Code to read in full as follows:

“Chapter 15.64 Electric Vehicle Charging Stations Review Process.

15.64.010 Intent.

This chapter establishes a review process for electric vehicle charging stations in the Town, including expedited processing if certain standards are met.

15.64.020 Definitions.

The words and phrases used in this chapter shall have the same meanings as those used and defined in Government Code § 65850.7 and Article 625 of the California Electrical Code.

15.64.030 Adoption of Checklist.

The Building Official is hereby authorized and directed to develop a checklist setting forth all requirements to be met by applications for installation of an electronic vehicle charging station, and when compliance with the checklist is demonstrated, the application shall be entitled to expedite processing. The checklist shall be posted on the Town’s web site. The applicant may

submit the permit application and associated documentation to the Town's Building Department by personal, mailed, or electronic proposal with the completed checklist and any required permit processing and inspection fees. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications and other documentation may be used in lieu of an actual "wet" signature.

15.64.040 Approval Process.

A permit application that satisfies the information requirements in the Town's adopted checklist shall be deemed complete and be promptly processed. Upon confirmation by the Building Official that the permit application and supporting documents meets the requirements of the Town's adopted checklist, and is consistent with all applicable laws, the Building Official shall, consistent with Government Code Section 65850.7, approve the application and issue all necessary permits. Such approval does not authorize an applicant to energize or utilize the electric vehicle charging station until final approval is granted by the Building Official. If the Building Official determines that the permit application is incomplete, he or she shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. If the Building Official finds, based on substantial evidence, that the electric vehicle charging station could have a specific adverse impact upon the public health or safety, the matter shall be referred to the Planning Commission for determination of whether a Use Permit shall be required and issued. The Town may not deny an application for a Use Permit to install an electric vehicle charging station unless a written finding based upon substantial evidence in the record that the proposed installation would have a specific adverse impact upon the public health or safety, and that there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The findings shall include the bases for the rejection of potential feasible alternatives of preventing the adverse impact.

16.64.050 Appeal.

The decision of the Building Official may be appealed to the Planning Commission by any interested party. Any decision of the Planning Commission may be appealed to the City Council by any interested party."

SECTION 2. Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof separately irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after adoption.

SECTION 4. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

I HEREBY CERTIFY that this ordinance was introduced at a regular meeting of the City Council of the Town of Atherton, held on the ____ day of _____, 2017, and ADOPTED AND PASSED at a regular meeting of the City Council of the Town of Atherton, held on the ____ day of _____, 2017, by the following vote:

Michael Lempres, Mayor

ATTEST:

Theresa DellaSanta, City Clerk

APPROVED AS TO FORM:

William Conners, City Attorney

Assembly Bill No. 1236

CHAPTER 598

An act to add Section 65850.7 to the Government Code, relating to local ordinances.

[Approved by Governor October 8, 2015. Filed with
Secretary of State October 8, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, Chiu. Local ordinances: electric vehicle charging stations.

The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a general plan for the physical development of the county or city and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities. Existing law, the Electric Vehicle Charging Stations Open Access Act, prohibits the charging of a subscription fee on persons desiring to use an electric vehicle charging station, as defined, and prohibits a requirement for persons to obtain membership in any club, association, or organization as a condition of using the station, except as specified.

The bill would require a city, county, or city and county to approve an application for the installation of electric vehicle charging stations, as defined, through the issuance of specified permits unless the city or county makes specified written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The bill would provide for appeal of that decision to the planning commission, as specified. The bill would provide that the implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle charging stations is a matter of statewide concern. The bill would require electric vehicle charging stations to meet specified standards. The bill would require a city, county, or city and county with a population of 200,000 or more residents to adopt an ordinance, by September 30, 2016, that creates an expedited and streamlined permitting process for electric vehicle charging stations, as specified. The bill would require a city, county, or city and county with a population of less than 200,000 residents to adopt this ordinance by September 30, 2017. The bill would authorize the city, county, or city and county, in developing the ordinance, to refer to guidelines contained in a specified guidebook. The bill would also authorize the adoption of an ordinance that modifies the checklists and standards found in the guidebook due to unique conditions. By increasing the duties of local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65850.7 is added to the Government Code, to read: 65850.7. (a) The Legislature finds and declares all of the following:

(1) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of electric vehicle charging stations is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern.

(2) It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of electric vehicle charging stations and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install electric vehicle charging stations.

(3) It is the policy of the state to promote and encourage the use of electric vehicle charging stations and to limit obstacles to their use.

(4) It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of electric vehicle charging stations by removing obstacles to, and minimizing costs of, permitting for charging stations so long as the action does not supersede the building official's authority to identify and address higher priority life-safety situations.

(b) A city, county, or city and county shall administratively approve an application to install electric vehicle charging stations through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install an electric vehicle charging station shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the electric vehicle charging station will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city, county, or city and county makes a finding, based on substantial evidence, that the electric vehicle charging station could have a specific, adverse impact upon the public health or safety, the city, county, or city and county may require the applicant to apply for a use permit.

(c) A city, county, or city and county may not deny an application for a use permit to install an electric vehicle charging station unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis

for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city, county, or city and county.

(e) Any conditions imposed on an application to install an electric vehicle charging station shall be designed to mitigate the specific, adverse impact upon the public health or safety at the lowest cost possible.

(f) (1) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) An electric vehicle charging station shall meet all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(g) (1) On or before September 30, 2016, every city, county, or city and county with a population of 200,000 or more residents, and, on or before September 30, 2017, every city, county, or city and county with a population of less than 200,000 residents, shall, in consultation with the local fire department or district and the utility director, if the city, county, or city and county operates a utility, adopt an ordinance, consistent with the goals and intent of this section, that creates an expedited, streamlined permitting process for electric vehicle charging stations. In developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which electric vehicle charging stations shall comply to be eligible for expedited review. An application that satisfies the information requirements in the checklist, as determined by the city, county, or city and county, shall be deemed complete. Upon confirmation by the city, county, or city and county of the application and supporting documents being complete and meeting the requirements of the checklist, and consistent with the ordinance, a city, county, or city and county shall, consistent with subdivision (b), approve the application and issue all required permits or authorizations. However, the city, county, or city and county may establish a process to prioritize competing applications for expedited permits. Upon receipt of an incomplete application, a city, county, or city and county shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance. An application submitted to a city, county, or city and county that owns and operates an electric utility shall demonstrate compliance with the utility's interconnection policies prior to approval.

(2) The checklist and required permitting documentation shall be published on a publicly accessible Internet Web site, if the city, county, or city and county has an Internet Web site, and the city, county, or city and county shall allow for electronic submittal of a permit application and associated documentation, and shall authorize the electronic signature on

all forms, applications, and other documentation in lieu of a wet signature by an applicant. In developing the ordinance, the city, county, or city and county may refer to the recommendations contained in the most current version of the “Plug-In Electric Vehicle Infrastructure Permitting Checklist” of the “Zero-Emission Vehicles in California: Community Readiness Guidebook” published by the Office of Planning and Research. A city, county, or city and county may adopt an ordinance that modifies the checklists and standards found in the guidebook due to unique climactic, geological, seismological, or topographical conditions. If a city, county, or city and county determines that it is unable to authorize the acceptance of an electronic signature on all forms, applications, and other documents in lieu of a wet signature by an applicant, the city, county, or city and county shall state, in the ordinance required under this subdivision, the reasons for its inability to accept electronic signatures and acceptance of an electronic signature shall not be required.

(h) A city, county, or city and county shall not condition approval for any electric vehicle charging station permit on the approval of an electric vehicle charging station by an association, as that term is defined in Section 4080 of the Civil Code.

(i) The following definitions shall apply to this section:

(1) “A feasible method to satisfactorily mitigate or avoid the specific, adverse impact” includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by a city, county, or city and county on another similarly situated application in a prior successful application for a permit.

(2) “Electronic submittal” means the utilization of one or more of the following:

(A) Email.

(B) The Internet.

(C) Facsimile.

(3) “Electric vehicle charging station” or “charging station” means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this section, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

(4) “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.