




TOWN OF FAIRFAX

STAFF REPORT

November 6, 2019

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager 

SUBJECT: Introduction and read by title only an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 8.68 of the Town Municipal Code Regarding Smartmeters and Related Equipment to Extend the Prohibition on the Installation of Smartmeters until the Town Council determines that the privacy, safety, accuracy and health effects of SmartMeters have been adequately addressed; CEQA exempt pursuant to CEQA Guidelines Section 15061(b)(3), Sections 15307 and 15308

RECOMMENDATION

Introduce and waive first reading and read by title only: "An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 8.68 of the Town Municipal Code Regarding SmartMeters and Related Equipment to Extend the Prohibition on the Installation of SmartMeters."

BACKGROUND

On August 4, 2010, the Town Council adopted Ordinance No. 752, an urgency ordinance temporarily prohibiting the installation of any so-called "SmartMeter" in or on any home, apartment, condominium or business in the Town, as well as the installation of equipment related to SmartMeters in, on, under, or above any public street or public right of way in the Town.

On February 5, 2014 the Town Council adopted Ordinance No. 775 prohibiting the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for three years.

On February 1, 2017 the Town Council adopted Ordinance No. 806 extending Ordinance No. 775's prohibition of the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for an additional three years.

DISCUSSION

With Ordinance No.806 set to expire on February 1, 2020, Councilmembers have requested that the staff prepare an ordinance to extend the prohibition. The attached ordinance finds there remain significant questions about the financial, security, privacy, safety, accuracy and health effects of SmartMeters. The proposed ordinance extends the prohibition on the installation of SmartMeters and related equipment to allow further legal, regulatory and legislative activities to proceed until the Town Council determines that the issues of concern have been adequately addressed. If the Council introduces the ordinance this evening, the second reading would be added to the December 4th meeting agenda, for adoption prior to the expiration of Ordinance No. 806.

CEQA

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. The Town Council also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

FISCAL IMPACT

n/a

ATTACHMENT

Ordinance

ORDINANCE NO.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 8.68 OF THE TOWN MUNICIPAL CODE REGARDING
SMARTMETERS AND RELATED EQUIPMENT TO EXTEND THE PROHIBITION
ON THE INSTALLATION OF SMARTMETERS**

WHEREAS, the Town Council adopted, on February 5, 2014, Ordinance No. 775 an ordinance prohibiting the installation of SmartMeters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax for three years;

WHEREAS, the Town Council adopted, on February 1, 2017, Ordinance No. 806 which extended Ordinance No. 775 another three years; and

WHEREAS, Ordinance No. 775 will expire February 1, 2020; and

WHEREAS, the Town Council has determined that regulatory and legislative activities taken since 2017 have not adequately addressed the deficiencies and uncertainties associated with the installation of SmartMeters.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION I. Amend Statement of Intent. Subsection (I) is hereby added to Fairfax Town Code, Section 8.68.010, which shall read as follows:

(I) The Town Council has determined that the prohibition on the installation of Smart Meters and related equipment is necessary and proper to allow further regulatory and legislative activities to proceed until the Town Council determines that the privacy, safety, accuracy and health effects of SmartMeters have been adequately addressed at which time the Town Council will consider action to repeal this Ordinance.

SECTION II. Extension and Sunset. Ordinance No. 775 is hereby extended until otherwise repealed by the Town Council.

SECTION III. Compliance with CEQA. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. The Town Council also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION III Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION IV. Effective Date. This Ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

Copies of the foregoing Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building; which places are designated for that purpose.

The foregoing Ordinance was introduced at a meeting of the Town Council or the Town of Fairfax on the 6 day of November 2019, and duly adopted at the next regular meeting of the Town Council on the ___ day of _____, by the following vote, to wit:

AYES:

NOES:

ABSENT:

BARBARA COLER, MAYOR

Attest:

Hannah Politzer, Deputy Town Clerk