



TOWN OF FAIRFAX

STAFF REPORT

February 3, 2021

TO: Mayor and Council

FROM: Garrett Toy, Town Manager

SUBJECT: Introduce and read by title only an Ordinance of the Town Council of the Town of Fairfax Adding Section 15.04.065 "Electric Vehicle Charging Stations" to Chapter 15.04, Construction Codes, and Setting Forth Procedures for Expedited Permit Processing for Electric Vehicle Charging Stations; Class 3 CEQA Categorical Exemption

RECOMMENDATION

1. Conduct the public hearing.
2. Introduce, waive first reading and read by title only an Ordinance of the Town Council of the Town of Fairfax Adding Section 15.04.065 "Electric Vehicle Charging Stations" to Chapter 15.04, Construction Codes, and Setting Forth Procedures for Expedited Permit Processing for Electric Vehicle Charging Stations.

BACKGROUND

In 2017, the Council adopted Ordinance No. 811 pursuant to State law (Gov. Code Section 65850.7). The statute requires cities and counties to administratively approve an electric vehicle charging station (EVCS) installation application via issuance of a building permit or similar nondiscretionary permit, and to create a streamlined permitting process for EVCS application review. Unfortunately, Ordinance No. 811 was inadvertently repealed by Ordinance No. 841 (adopted December 4, 2019), which adopted the current California Building Codes.

DISCUSSION

The ordinance before the Council tonight (attached), is essentially the same as Ordinance No. 811, except for two minor revisions requested by the Climate Action Committee based on the State's Scorecard. According to state records, Ordinance No. 811 was deficient in two of the scoring criteria categories the state uses to measure compliance scoring areas: "Approval limited to health and safety review" and "EVCS not subject to association approval."

Two provisions have been added to the proposed Ordinance under Section C ("Permit") to meet the two criteria. The first, Paragraph 5, provides review of the permit is limited to whether it meets health and safety requirements. The second, Paragraph 6, provides that the approval of the permit shall not be subject to the approval of an association as defined in Cal. Civ. Code Section 4080 ("a nonprofit corporation or unincorporated

association created for the purpose of managing a common interest development.” Other than the stated revisions, the Ordinance is the same as the initial ordinance adopted in 2017.

If introduced tonight, the ordinance would be brought back to the Council at its March 3, 2021, regular meeting for the second reading and adoption.

CEQA

Exempt from review under the California Environmental Quality Act (“CEQA”) (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

FISCAL IMPACT

N/A

ATTACHMENT

Proposed Ordinance (with new provisions underlined)

ORDINANCE NO. ____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADDING SECTION 15.04.065 “ELECTRIC VEHICLE CHARGING STATIONS” TO
CHAPTER 15.04, CONSTRUCTION CODES, SETTING FORTH
PROCEDURES FOR EXPEDITED PERMIT PROCESSING FOR
ELECTRIC VEHICLE CHARGING STATIONS**

WHEREAS, State law mandates every city/town, county, or city and county with a population of less than 200,000 residents adopt, on or before September 30, 2017, an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging stations pursuant to Assembly Bill 1236 (2015); and

WHEREAS, on November 1, 2017, the Town Council adopted Ordinance No. 811 to add Section 15.04.065 to comply with AB 1236 and establish procedures regarding the approval of permits for electric vehicle charging stations; and

WHEREAS, Section 15.04.065 was inadvertently repealed by Ordinance No. 841, which was adopted by the Town Council on December 4, 2019; and

WHEREAS, the Town Council desires to readopt Section 15.04.065; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Fairfax Town Council has reviewed all written evidence and oral testimony presented to date on this matter.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS
FOLLOWS:**

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Section 15.04.065 entitled “Electric Vehicle Charging Stations” is hereby added to Chapter 15.04 “Construction Codes” of the Fairfax Municipal Code, which shall read as follows:

“§ 15.04.065: ELECTRIC VEHICLE CHARGING STATIONS

(A) Purpose.

The purpose of this section is to create an expedited and streamlined electric vehicle charging station permitting process that complies with Government Code Section 65850.7 to achieve the timely and cost-effective installation of electric vehicle charging stations. Pursuant to Government Code Section 65850.7 and notwithstanding any other provision of this Code pertaining to conditional or accessory uses, only an electrical permit shall be required for an electric vehicle charging station.

(B) Definitions.

(1) "Electronic submittal" means the submission of application materials via electronic mail.

(2) "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built-in compliance with the California Electric Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

(C) Permit.

(1) An electrical permit is required prior to installing an electric vehicle charging station. Installation shall also meet any applicable requirements of the California Building Standards Code (California Code of Regulations, Title 24) and state law, including but not limited to, Government Code section 65850.7, as may be amended from time to time.

(2) The building official shall adopt and maintain a standard electric vehicle charging station checklist that is consistent with the checklist 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. The checklist and application shall be made available on the Town's website.

(3) An application to install an electric vehicle charging station may be made by electronic submittal. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

(4) An application will be deemed complete if the building official determines that the application includes all of the information and documents required by the standard application form and the standard checklist. If an application is deemed incomplete, the building official will notify the applicant in writing of the additional information needed to complete the application. After an application is deemed complete, the building official will perform an expedited review of the application.

(5) Review of the permit application shall be limited to the building official's review of whether the application meets local, State and Federal health and safety requirements. The application shall be administratively reviewed by the building official as a ministerial permit.

(6) Approval of a permit shall not be conditioned on the approval of an association, as that term is defined in Cal. Civ. Code Section 4080.

(7) A permit will be issued following the building official's approval of an application for an electric vehicle charging station and after all required fees have been paid. If the application was submitted electronically, the permit may be issued electronically. The decision to approve or deny the permit shall be issued in accordance with the timeframes adopted by the town council and in no event later than three days after the application is deemed complete.

(8) As soon as practicable after the applicant notifies the building official that an electric vehicle charging station has been installed, the building official will inspect the system to verify compliance with the permit. No electric vehicle charging station may be operated unless the building official verifies in writing that it complies with the permit."

Section 3. CEQA. The Town Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The adoption of this Ordinance will result in a streamlined permitting process for the installation of electric vehicle charging equipment in residential or commercial garages, parking lots and other developed areas. The Town Council hereby directs the Town Manager or his/her designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 5. Effective Date and Posting. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this 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; and 3. Bulletin Board, Fairfax Women's Club.

The foregoing Ordinance was introduced at a meeting of the Town Council on the ____ day of _____ 2021, and duly adopted at the next regular meeting of the Town Council on the ____ day of _____, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

BRUCE ACKERMAN, Mayor

Attest: _____
Michele Gardner, Town Clerk