

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN
ADDING CHAPTER 163 TO THE AUBURN MUNICIPAL CODE ADOPTING
AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR ELECTRIC
VEHICLE CHARGING STATIONS

WHEREAS, The State of California adopted Assembly Bill (AB) 1236, which requires local governments to adopt an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging stations; and,

WHEREAS, the City seeks to adopt an ordinance that complies with AB 1236 (Chapter 598, Statutes 2015, Cal. Gov't Code § 65850.7) while protecting public health and safety.

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS:

Section One: Code Adoption. Chapter 163 of the Auburn Municipal Code entitled "Electric Vehicle Charging Station" is hereby added to the Auburn Municipal Code as set forth in the attached Exhibit "A".

Section Two: California Environmental Quality Act. The City Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the City Council, and hereby determines that that the adoption of this Ordinance will not have a significant effect on the environment. This Ordinance is therefore exempt from California Environmental

Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations. City Council further finds that in accordance with CEQA Guidelines section 15268, 15308, and 15378, the adoption of this amendment to the Municipal Code is exempt from CEQA provisions because such actions are administrative in nature.

Section Three: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Auburn hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section Four: Inconsistent Provisions. Any provision of the Auburn Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

Section Five: Publication and Effective Date. This ordinance shall take effect 30 days after final adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government

Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

DATED: _____, 2017

Matthew Spokely, Mayor

ATTEST:

Amy Lind, City Clerk

I, Amy Lind, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the _____ day of _____ 2017 by the following vote on roll call:

Ayes:

Noes:

Absent:

Abstain:

Amy Lind, City Clerk

EXHIBIT "A"

CHAPTER 163: ELECTRIC VEHICLE CHARGING STATION

Section

- 163.01 Definitions
- 163.02 Purpose
- 163.03 Applicability
- 163.04 Electric Vehicle Charging Station Requirements
- 163.05 Application Requirements
- 163.06 Permit Review Compliance
- 163.07 Fees

§ 163.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ELECTRIC VEHICLE CHARGING STATION(S) or **CHARGING STATION(S)** 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 chapter or as it may be amended and/or renumbered thereafter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

ELECTRONIC SUBMITTAL means the utilization of one or more of the following:

- (1) Email;
- (2) The internet; and/or
- (3) Facsimile.

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.

DIRECTOR means the Planning and Public Works Director or her or his designee.

§ 163.02 PURPOSE.

The purpose of this chapter is to adopt an ordinance in compliance with AB 1236 (Chapter 598, Statutes 2015, Cal. Gov't Code § 65850.7) while protecting public health and safety.

§ 163.03 APPLICABILITY.

- (A) This chapter applies to the permitting of all electric vehicle charging stations in the city.
- (B) All electric vehicle charging stations shall require a permit issued in accordance with this chapter. It shall be unlawful for any person to install, operate, or maintain an electric vehicle charging station without such a permit.
- (C) Electric vehicle charging stations legally established or permitted prior to the effective date of this chapter are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, capacity, or components of a charging station. Routine operation and maintenance or like-kind replacements shall not require a permit.

§ 163.04 ELECTRIC VEHICLE CHARGING STATION REQUIREMENTS.

- (A) All electric vehicle charging stations shall meet applicable federal, state, and city health and safety standards and requirements.
- (B) All electric vehicle charging stations 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.

§ 163.05 APPLICATION REQUIREMENTS.

- (A) The Director shall adopt a checklist of all requirements with which the electric vehicle charging stations shall comply to be eligible for expedited review.
- (B) Every application to the Director for the installation, alteration and replacement of an electric vehicle charging station shall be in the form provided by the Director, in writing, and contain the information set forth in the checklist and such other information as the Director may reasonably require to carry out the purpose of this chapter. The

permit application, checklist, and required permitting documentation shall be available on the city's website.

(C) The applicant may submit the permit application and associated documentation by personal, mailed, or electronic submittal. The Director shall adopt requirements for the submittal of the permit application, associated application documentation, and fees. Personal, mailed, or electronic submittal of the permit application, associated application documentation, and fees shall conform to the requirements adopted by the Director. 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 a wet signature. In connection with each permit application, an applicant shall:

- (1) Verify to the Director's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the electric vehicle charging station is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the ground; and
- (2) At the applicant's cost, verify to the Director's reasonable satisfaction using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new electrical loads.

(D) If the Director determines an application for an electric vehicle charging station satisfies the requirements of this chapter, the Director will deem the application complete. If the Director receives an incomplete application, the Director will 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. After the Director determines an application for an electric vehicle charging station is complete, the application will be processed in accordance with this chapter.

(E) An application for an electric vehicle charging station that is not accompanied by the applicable fees shall be considered incomplete.

§ 163.06 PERMIT REVIEW COMPLIANCE.

(A) The Director shall adopt an administrative, nondiscretionary review process to expedite approval of permit applications for electric vehicle charging stations.

(B) Where an application meets local, state, and federal health and safety requirements, the requirements of the checklist, and there are no specific, adverse impacts upon public health or safety — the Building Official shall complete the nondiscretionary permit approval process.

(B) The Building Official may require an applicant to apply for an electric vehicle charging station use permit if the Building Official finds, based on the initial application submittal, that the electric vehicle charging station could have a specific, adverse impact upon the public health or safety. The Building Official's decision may be appealed to the Planning Commission in accordance with chapter 162.

(C) If an electric vehicle charging station use permit is required, the Building Official may only deny an application for the electric vehicle charging station use permit if the Building Official makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact. The findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. The Building Official's decision may be appealed to the Planning Commission in accordance with chapter 162.

(D) If the Building Official issues an electric vehicle charging station use permit, the permit may include conditions designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost. 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 the city on another similarly situated application in a prior successful application for a permit.

§ 163.07 FEES.

The City Council shall establish by resolution the fees charged for applications and permits under this chapter.

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.

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