

ORDINANCE NO. 911

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING MUNICIPAL CODE AMENDMENT 22-03 MODIFYING CHAPTER 16.04 (BUILDING LAWS), WITHIN THE DUARTE MUNICIPAL CODE THEREBY ESTABLISHING DEFINITIONS AND REGULATIONS FOR ELECTRIC VEHICLE CHARGING STATIONS TO IMPLEMENT RECENTLY ENACTED STATE LAWS

WHEREAS, on October 8, 2015, the Governor signed into law Assembly Bill No. 1236 (AB-1236), which requires local agencies to adopt an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging systems; and

WHEREAS, on October 8, 2021, the Governor signed into law Assembly Bill No. 970 (AB-970), which expands AB-1236 to include charter cities, establishes timelines in which cities have a given number of days they must deem an application complete and approved, and requires a city to reduce the number of required parking spaces to accommodate electric vehicle charging stations; and

WHEREAS, creation of an expedited, streamlined permitting process for electric vehicle charging stations would facilitate convenient charging of electric vehicles and help reduce the City's reliance on environmentally damaging fossil fuels; and

WHEREAS, AB-1236 took effect on September 30, 2017 and AB-970 will take effect on January 1, 2023; therefore, it is necessary for the City to establish objective standards regarding expedited permitting of electric vehicle charging stations; and

WHEREAS, the Duarte City Council seeks and intends to protect the health, safety, and welfare of the residents of the City of Duarte by establishing regulations for electric vehicle charging stations; and

WHEREAS, in accordance with Section 19.142.020 of the Duarte Development Code, Municipal Code Amendment 22-03 modifies Chapter 16.04.100 (Electric Vehicle Charging Stations) of the Duarte Municipal Code establishing definitions, requirements, and regulations for the permitting of electric vehicle charging stations, all attached hereto and made part of this Resolution; and

WHEREAS, notice of a public hearing on the proposed amendment was given in accordance with applicable law; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The following shall be added to amend Chapter 16.04.100 (b) ("Electric vehicle charging stations") of the Duarte Municipal Code:

- (3) "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.

SECTION 3. The following shall be added to amend Chapter 16.04.100 (e) ("Electric vehicle charging stations") of the Duarte Municipal Code:

- (7) Consistent with Government Code Section 65850.7, the building official shall not condition the approval for any electric vehicle charging station permit on the approval of such a system by an association, as that term is defined by Civil Code Section 4080.
- (8) If an electric vehicle charging station and any associated equipment interfere with, reduce, eliminate, or in any way impact the required parking spaces for existing uses, the city shall reduce the number of required parking spaces for the existing uses by the amount necessary to accommodate the electric vehicle charging station and any associated equipment.
- (9) All construction or work for electric vehicle charging stations for which a permit is required shall be subject to inspection by the building official and such construction work shall remain accessible and exposed for inspection purposes until approved by the building official.

SECTION 4. The following shall be added to amend Chapter 16.04.100 ("Electric vehicle charging stations") of the Duarte Municipal Code:

- (f) **PERMIT APPLICATION TIMELINES FOR 1-25 STATIONS AT A SINGLE SITE**
 - (1) An application will be deemed complete if after 5 business days the city has not either:
 - (A) Found the application to be complete or;
 - (B) Issued 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.
 - (2) The application will be deemed approved 20 business days after it was deemed complete if:
 - (A) The city has not made a finding, based on substantial evidence, that the EVCS could have a specific adverse impact upon the public health or safety; and
 - (B) The city has not required the applicant to apply for a use permit as specified in Section 65850.7(b); and
 - (C) An appeal has not been made to the planning commission pursuant to Section 65850.7(d).
- (g) **PERMIT APPLICATION TIMELINES FOR 26 OR MORE STATIONS AT A SINGLE SITE**
 - (1) An application will be deemed complete if after 10 business days the city has not either:
 - (A) Found the application to be complete; or
 - (B) Issued 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.
 - (2) The application will be deemed approved 40 business days after it was deemed complete if:

- (A) The city has not made a finding, based on substantial evidence, that the EVCS could have a specific adverse impact upon the public health or safety; and
- (B) The city has not required the applicant to apply for a use permit as specified in Section 65850.7(b); and
- (C) An appeal has not been made to the planning commission pursuant to Section 65850.7(d).

SECTION 5. In adopting this Resolution, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) because proposed code amendments related to the implementation of Assembly Bill 1236 and Assembly Bill 970 are not considered a "project" for purposes of CEQA and therefore do not require any environmental review under CEQA.

SECTION 6. If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance 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 City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 7. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933(c) by publishing the following:

SUMMARY OF ADOPTED ORDINANCE NO. 911

NOTICE IS HEREBY GIVEN that on September 27, 2022, the City Council adopted Ordinance No. 911 modifying Duarte Municipal Code Chapter 16.04.100, to provide new building standards for electric vehicle charging stations that comply with State law.

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I, ANNETTE JUAREZ, City Clerk of the City of Duarte, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 911 was duly passed and adopted at a regular meeting of the City Council held on September 27, 2022, by the following vote, to wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

