

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. 2942

3 AN ORDINANCE ADOPTED AS AN URGENCY MEASURE IMPOSING A TEMPORARY  
4 MORATORIUM ON THE INSTALLATION OF SMART METERS AND RELATED  
5 EQUIPMENT IN, ALONG, ACROSS, UPON, UNDER AND OVER THE PUBLIC STREETS  
6 AND OTHER PLACES WITHIN THE UNINCORPORATED AREA OF LAKE COUNTY

7 WHEREAS, the County of Lake (the "County") through its police powers granted by  
8 Article XI of the California Constitution, retains broad discretion to legislate for public purposes  
9 and for the general welfare, including but not limited to matters of public health, safety, and  
10 consumer protection; and

11 WHEREAS, the County has a franchise agreement with Pacific Gas and Electric  
12 ("PG&E") that has been in effect since the 1950s; and

13 WHEREAS, in addition, the County retains authority under Article XII, Section 8 of the  
14 Constitution to grant franchises for public utilities and, pursuant to California Public Utilities  
15 Code Section 6023, " . . . may in such a franchise impose such other and additional terms and  
16 conditions not in conflict with this chapter, whether governmental or contractual in character, as  
17 in the judgment of the legislative body are to the public interest"; and

18 WHEREAS, California Public Utilities Code Section 2902 reserves the County's right to  
19 supervise and regulate public utilities in matters affecting the health, convenience and safety of  
20 the general public, "including matters such as the use and repair of public streets by any public  
21 utility, the location of the poles, wires, mains, or conduits of any public utility, on,  
22 under, or above any public streets, and the speed of common carriers operating within the limits  
23 of the municipal corporation"; and

24 WHEREAS, PG&E is now installing Smart Meters in central and northern California and  
25 is installing these meters in the County of Lake; and

26 WHEREAS, concerns about the impact and accuracy of Smart Meters have been raised  
27 nationwide, leading the Maryland Public Service Commission to deny permission of June 21,

28 An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on  
the Installation of Smart Meters and Related Equipment In, Along, Across, Upon,  
Under and Over the Public Streets and Other Places Within the Unincorporated Area  
of Lake County

2010 for the deployment of Smart Meters in that state. The State of Hawaii Public Utility  
1 Commission also recently declined to adopt a smart grid system in that state. The California  
2 Public Utilities Commission (“CPUC”) recently had before it a petition from the City and County  
3 of San Francisco and other municipalities seeking to delay the implementation of Smart Meters  
4 until questions about their accuracy can be evaluated; and

5 WHEREAS, major problems and deficiencies with Smart Meters in California have been  
6 brought to the attention of the Board of Supervisors of the County of Lake, including the  
7 significant concerns of many County residents as to the potential negative impacts to health and  
8 privacy. Additionally, this Board is aware of PG&E’s confirmation that Smart Meters have  
9 provided incorrect readings costing taxpayers untold thousands of dollars in overcharges and that  
10 PG&E’s records outlined “risks” and “issues” including an ongoing ability to recover real-time  
11 data because of faulty hardware from PG&E vendors; and

12 WHEREAS, the ebb and flow of gas and electricity into homes discloses detailed  
13 information about the private details of daily life. Energy usage data, measured moment by  
14 moment, allows the reconstruction of a household’s activities: when people awake, when they  
15 come home, when they are on vacation, and even when they take a hot bath. Smart Meters  
16 represent a new form of technology that relays detailed hitherto confidential information  
17 reflecting the times and amounts of the use of electric power without adequately protecting that  
18 data from being accessed by unauthorized persons or entities and, as such, these meters pose an  
19 unreasonable intrusion of utility customers’ privacy rights and security interests. The fact the  
20 CPUC has not established safeguards for privacy in its regulatory approvals may violate the  
21 principles set forth by the United States Supreme Court in *Kyllo v. United States* (2001), 533  
22 U.S. 27; and

23 WHEREAS, there is now evidence showing that problems with Smart Meters could  
24 adversely impact the amateur radio communication network that operates throughout California  
25 and neighboring states, as well as other radio emergency communication systems that serve first  
26 responders, government agencies, and the public; and

27  
28 

---

An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on  
the Installation of Smart Meters and Related Equipment In, Along, Across, Upon,  
Under and Over the Public Streets and Other Places Within the Unincorporated Area  
of Lake County

WHEREAS, significant health questions have been raised concerning the increased  
1 electromagnetic frequency radiation (“EMF”) emitted by the wireless technology in Smart  
2 Meters, which will be in every house, apartment, and business, thereby adding more man-made  
3 EMF to our environment on a continuous basis; and

WHEREAS, Federal Communications Commission (“FCC”) safety standards do not  
4 exist for chronic long-term exposure to EMF or from multiple sources and reported adverse  
5 health effects from electromagnetic pollution include sleep disorders, irritability, short-term  
6 memory loss, headaches, anxiety, nausea, DNA breaks, abnormal cell growth, cancer, premature  
7 aging, etc. Because of untested technology, international scientists, environmental agencies,  
8 advocacy groups, and doctors are calling for the use of caution in wireless technologies; and

WHEREAS, the primary justification given for the Smart Meters program is the assertion  
10 that it will encourage customers to move some of their electricity usage from daytime to evening  
11 hours; however, PG&E has conducted no actual pilot projects to determine whether this  
12 assumption is in fact correct. Non-transmitting time-of-day meters are already available for  
13 customers who desire the, and enhanced customer education is a viable non-technological  
14 alternative to encourage electricity use timeshifting. Further, some engineers and energy  
15 conservation experts believe that the Smart Meter program could, in totality, actually increase  
16 total energy consumption and, therefore, the carbon footprint; and

WHEREAS, Assembly Member Jared Huffman has requested the California Council on  
18 Science and Technology to advise him on whether the FCC’s standards for Smart Meters are  
19 sufficiently protective and to assess whether additional technology-specific standards are needed  
20 for Smart Meters; and

WHEREAS, a response to Assembly Member Huffman from the Council on Science and  
22 Technology is expected in the near future; and

WHEREAS, Assembly Member Huffman has also recently introduced legislation  
24 (Assembly Bill 37) which would add a section to the Public Utilities Code to require the CPUC  
25 to identify alternative options for customers who do not wish to have a wireless Smart Meter  
26

27  
28 An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on  
the Installation of Smart Meters and Related Equipment In, Along, Across, Upon,  
Under and Over the Public Streets and Other Places Within the Unincorporated Area  
of Lake County

installed and to allow customers to opt out of wireless Smart Meter installation, including  
1 removal of existing Smart Meters when requested by the customer. Most importantly, the  
2 legislation would suspend deployment of Smart Meters until the CPUC meets the above  
3 requirements; and

4 WHEREAS, because the potential risks to the health, safety, and welfare of County  
5 residents are so great, the Board of Supervisors wishes to adopt a moratorium on the installation  
6 of Smart Meters and related equipment within the unincorporated area of the County of Lake.  
7 The moratorium period will allow the Council on Science and Technology and the legislative  
8 process referenced above to be completed and for additional information to be collected and  
9 analyzed regarding potential problems with Smart Meters; and

10 WHEREAS, there is a current and immediate threat to public health, safety, and welfare  
11 because, without this urgency ordinance, Smart Meters or supporting equipment will be installed  
12 or constructed or modified in the County without PG&E's compliance with the CPUC process  
13 for consultation with the local jurisdiction, the County's Code requirements, and will subject  
14 residents of Lake County to the privacy, security, health, accuracy, and consumer fraud risks of  
15 this unproven Smart Meter technology; and

16 WHEREAS, the Board of Supervisors hereby finds that it can seen with certainty that  
17 there is no possibility that the adoption and implementation of this Ordinance may have a  
18 significant effect on the environment. This Ordinance does not authorize the construction or  
19 installation of any facilities and, in fact, imposes greater restrictions on such construction and  
20 installation in order to protect the public health, safety, and general welfare. This Ordinance is,  
21 therefore, exempt from the environmental review requirements of the California Environmental  
22 Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of  
23 Regulations; and

24 WHEREAS, there is no feasible alternative to satisfactorily study the potential impact  
25 identified above as well or better with a less burdensome or restrictive effect than the adoption of  
26 this interim urgency moratorium ordinance; and

27  
28 

---

An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on  
the Installation of Smart Meters and Related Equipment In, Along, Across, Upon,  
Under and Over the Public Streets and Other Places Within the Unincorporated Area  
of Lake County

WHEREAS, based on the foregoing, it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the Smart Meter technology and it is, therefore, appropriate to adopt a temporary moratorium which would remain in effect from the date of adoption until December 31, 2011, unless your Board acts to repeal it prior to that date.

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1: Moratorium. From and after the effective date of this Ordinance, no Smart Meter may be installed in or on any home, apartment, condominium or business of any type within the unincorporated area of the County of Lake and no equipment related to Smart Meters may be installed in, on, under, or above any public street or public right-of-way within the unincorporated area of the County of Lake.

Section 2: Violations of the Moratorium may be charged as infractions or misdemeanors as set forth in Section 1.04.160 of the Lake County Code. In addition, violations shall be deemed public nuisances, with enforcement by injunction or any other remedy authorized by law.

Section 3: This Board of Supervisors finds and determines that: (a) there is a current and immediate threat to the public peace, health, or safety; (b) the moratorium must be imposed in order to protect and preserve the public interest, health, safety, comfort, and convenience and to preserve the public welfare; and (c) It is necessary to preserve the public health and safety of all residents or landowners adjacent to such uses as are affected by this interim ordinance as well as to protect all citizens of Lake County by preserving and improving the aesthetic and economic conditions of the County.

Section 4: All ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 5: This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) in that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c)(3) in

---

An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on the Installation of Smart Meters and Related Equipment In, Along, Across, Upon, Under and Over the Public Streets and Other Places Within the Unincorporated Area of Lake County

that the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

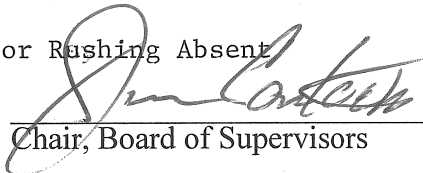
Section 6 This ordinance shall take effect immediately based on the findings by the Board of Supervisors that this ordinance is necessary for the protection of the public health, safety, and general welfare. This ordinance shall be in full force and effect from the date of its adoption by the Board of Supervisors until December 31, 2011 and which time its terms and provisions shall expire and no longer remain in effect.

The foregoing ordinance was passed and adopted by the Lake County Board of Supervisors on March 8, 2011.

AYES: Supervisors Smith, Farrington, Brown and Comstock


NOES: None

ABSENT OR NOT VOTING: Supervisor Rushing Absent

  
Chair, Board of Supervisors

ATTEST: KELLY F. COX  
Clerk of the Board  
of Supervisors

APPROVED AS TO FORM:  
ANITA L. GRANT  
County Counsel

By: 

By: 



An Ordinance Adopted as an Urgency Measure Imposing a Temporary Moratorium on the Installation of Smart Meters and Related Equipment In, Along, Across, Upon, Under and Over the Public Streets and Other Places Within the Unincorporated Area of Lake County