

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (*LPDD*). For background information on the project, see <https://lpdd.org>

MODEL STATE STATUTE PERMITTING INSTALLATION OF ELECTRIC VEHICLE CHARGING STATIONS AT COMMON INTEREST DEVELOPMENTS

1. PURPOSE AND INTENT:

- 1.1 The transportation sector is the largest [*a significant*] contributor of greenhouse gas emissions in this state; light duty vehicles account for most of the emissions from the sector, and deployment of electric vehicles can significantly reduce these greenhouse gas emissions.
- 1.2 Many citizens in the state own a home that is part of a common interest development that regulates their access to parking and appurtenant utilities.
- 1.3 The purpose of this statute is to speed the adoption of vehicles that are charged in whole or in part by electricity, by removing unnecessary barriers to the installation and use of electric vehicle charging stations (EVCS) in common interest developments.
- 1.4 For purposes of this statute, a "common interest development" means a community apartment project, a condominium project, a planned development and a stock cooperative; and, "association" means a nonprofit corporation, unincorporated association, or any other nongovernmental entity created for the purpose of managing a common interest development.

2. CIVIL CODE SECTION FOR EVCS INSTALLATION IN COMMON INTEREST DEVELOPMENTS:

Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, declaration, bylaw, restriction, lease, term, provision, condition, codicil, contract, or similar agreement, however worded, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a

parking space that is specifically designated for use by a particular owner, or is in conflict with the provisions of this section is void and unenforceable.

2.1

2.1.1 This section shall not be deemed to prohibit or restrict the imposition of reasonable conditions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the installation and use of electric vehicle charging stations.

2.1.2 For purposes of this section, “reasonable conditions” are conditions that do not increase the cost of the station by more than [15%] or significantly decrease its efficiency or specified performance by more than [15%].

2.2 An electric vehicle charging station shall meet the standards, criteria and requirements of applicable health and safety codes, and all other applicable building, zoning and land use laws and regulations imposed by state and local authorities.

2.3 For purposes of this section, “electric vehicle charging station” means a station that is designed and installed in compliance with applicable laws, codes and regulations and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

2.4 If association approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association of a common interest development in the same manner as an application for approval of an architectural modification to the property, and shall not be unduly avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable written request for additional information, received by the owner within 60 days from the date of the association’s receipt of the application. Thereafter, if an application is not denied in writing within [45] days from the date of association’s receipt of the additional information reasonably requested, the application shall be deemed approved.

2.5 If the electric vehicle charging station is to be placed in a common area or an exclusive use common area, as designated in the common interest development’s declaration, the following provisions apply:

2.5.1 The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the owner demonstrates that the charging station will

comply with the requirements set forth herein, and the owner seeking to install such charging station agrees in writing to do all of the following:

- (a) Comply with the association's reasonable architectural standards for the installation of the charging station.
- (b) Engage a licensed contractor to install the charging station.
- (c) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy.
- (d) Pay for both the costs associated with the installation of and the electricity usage associated with the charging station.

2.5.2 The owner and each successive owner of the charging station shall be responsible for all of the following:

- (a) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.
- (b) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.
- (c) The cost of electricity associated with the charging station.
- (d) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

2.5.3 A homeowner shall not be required to maintain a homeowner liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

2.6 Except as provided in subsection 2.8, installation of an electric vehicle charging station for the exclusive use of an owner in a non-exclusive common area shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a license agreement with the owner for no more than \$[100] per year for the use of the space in a common area.

2.7 The association or owners may install an electric vehicle charging station in the common area for the use of all members of the association and, in that case, the association shall develop appropriate terms of use for the charging station.

- 2.8 An association may create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.
- 2.9 An association that willfully violates this section shall be liable to the owner applicant for actual damages.
- 2.10 In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.