

# NOVEMBER 2021

## *Community Associations Newsletter*

### **Electric Vehicle Charging Stations A New Challenge and Opportunity**

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It is becoming more common to find yourself next to a Chevy Volt, Nissan Leaf, or Tesla Model S in traffic. . . and perhaps in the parking lot of your condominium or homeowners association. In 2011, there were about 18,000 electric cars (including hybrids) sold in the U.S. This year, Bloomberg's New Energy Finance predicts there will be close to 2 million electric vehicles on U.S. roads, growing to 18 million in the next decade. Some of those cars, of course, will be driven by community association owners and residents, who will need some means of charging. This raises various questions for Boards of Directors and property managers who must respond to such requests.

How will Boards respond to this growing need? The answers vary from community to community because each has unique infrastructure and design. Below are five factors to consider when reviewing a request to install an electric car charging station within your association.

**1. Know the Law** –Virginia and Maryland have enacted legislation restricting community associations from prohibiting the installation of an electric vehicle charging station for personal use within the boundaries of a member's designated parking space, or, in the case of a property owners association, the boundaries of a lot owner's property. While community associations may require owners to maintain insurance coverage for such installations, with a policy that names the association as an additional insured, condominium associations and real estate cooperatives should confer with their own insurance agents to ensure that the association maintains adequate coverage for the installation and operation of charging stations. In addition, Virginia's new legislation offers protections for community associations by requiring owners to indemnify and hold community associations harmless from all liability, including reasonable attorneys' fees, resulting from

the installation and operation of charging stations.

In DC, there is no current statute or caselaw on the installation of electric car charging stations in condominiums, HOAs or cooperatives. However, for multifamily housing with five or more units, there is a requirement for a developer of a new building to include a certain number of electric car charging stations within the property. Buildings shall include a make-ready infrastructure for at least 20% of available parking spaces to accommodate for future installation of electric vehicle recharging equipment.

**2. Check governing documents, rules and regulations** – Electric vehicles were uncommon until the last decade. As a result, older communities are unlikely to have any guidance in their governing documents relating to the installation and operation of electric charging stations. Nevertheless, since charging stations can be considered exterior alterations and/or modifications that may be installed on common areas or lots, associations still retain significant power over the installation of electric charging stations.

The new electric vehicle charging laws in Virginia and Maryland state that an association may prohibit or restrict installation of charging stations on the common areas, or at least establish reasonable restrictions as to the manner of their placement. Reasonable restrictions include, but are not limited to, complying with relevant building codes, permits, safety standards, and the association's architectural standards for the installation of

EV charging equipment. Additionally, an association may require the owner to have the charging station installed by an electrical contractor or engineer and to remove and restore the designated parking space once the owner has no need for it. Accordingly, it is important for associations to confer with their legal counsel to review all aspects of any plans and/or specifications pertaining to the installation of electric vehicle charging stations.

**3. Determine your property's electric capacity** – Charging an electric vehicle requires more than an outlet. Building codes, weather conditions, and existing electrical capacity are just some of the issues that need to be reviewed. A licensed electrician can present viable options, but it is also possible that the infrastructure of an older building may not support the electrical demands of a charging station. The new legislation in Virginia and Maryland allows an Association to require the owner to pay for installation costs, costs of damage caused by the equipment, costs of maintenance, cost of removal and restoration if the owner decides to remove the equipment, and the cost of electricity.

**4. Discuss ownership and management dynamics** – Some community members might be concerned that electric charging stations will negatively impact electricity bills. One option is to install a charging station with software that tracks users, separates electricity costs, and bills users directly. Further, it may also be prudent to determine whether the electricity supplying the charging station can be sub-metered such that the

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costs thereof will be separate and apart from the costs of supplying electricity to common areas and/or the individual units. This will help ensure that any additional costs associated with the electric charging station are allocated to the owner(s) that are benefited by the charging station.

**5. Have a written policy in place** –In order to ensure that the board is handling these matters consistently, the association should have a written policy in place. As part of that policy, the board may require detailed installation plans created by a licensed and insured contractor and specifically provide

that owners are accountable for funding the project. Installation should not begin before the board has reviewed the project and granted approval.

Pioneering electric vehicle management at your community association may be a challenge, but it can also be an opportunity. Charging stations are an amenity that can enhance the desirability of your association while promoting a modern, environmentally conscious image. If your Association has questions regarding electric car charging stations, do not hesitate to contact our law firm for guidance.

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