Right To Charge Laws
“Right To Charge” Laws: A Priority Action

Charging At Home

HIGH PRIORITY RECOMMENDATIONS FOR STATES:

1. States should consider enacting “right to charge” laws that provide multi-unit dwelling (MUD) owners and residents with conditional rights to install home charging.

Recommended Roles and Strategies:
States should enact “right to charge” laws that provide MUD owners and residents with conditional rights to install home charging.
What Are “Right To Charge” Laws?

“Right to charge” laws provide residents at multi-unit dwellings (and other properties) with the right to install a charging station for the individual’s use provided that certain conditions are met (e.g., the individual assumes responsibility for all associated costs).

“Right to charge” laws do not require homeowner associations or rental property building owners/managers to pay for charging for an individual’s use or to install charging as an amenity for multiple owners.
Roughly 28% of the total housing units in the United States are in multi-family structures with two or more units.

**WHY ARE RIGHT TO CHARGE LAWS IMPORTANT?**

UNITS IN HOUSING STRUCTURES

- 1-unit, detached: 66%
- 10 to 19 units: 9%
- 5 to 9 units: 5%
- 3 or 4 units: 5%
- 2 units: 4%
- 1-unit, attached: 6%
- 5 to 9 units: 5%
- 20 or more units: 9%
- 10 to 19 units: 5%
- 5 to 9 units: 5%
- 3 or 4 units: 5%
- 2 units: 4%

RENTERS ALSO NEED RIGHT TO CHARGE LAWS

In both single family and multi-family dwellings, renters need permission from the property owner or manager before installing charging equipment.

Benefits of Charging at Home

• Overnight charging offers unparalleled convenience.

• Charging at home is generally less expensive than paying for public charging.

• TOU rates, which incentivize charging overnight, can further reduce already low re-fueling costs.

• Overnight charging is ideal for the grid.

• People are more likely to purchase electric cars when they can charge at home.
Barriers To Installing EV Charging at Multi-Unit Dwellings

• There is no uniform solution; each installation will vary depending on parking layout, building design, and ownership model.

• High up-front costs (e.g., upgrades to electrical infrastructure, wiring, and trenching).

• Unclear who is responsible for costs of EVSE installation, operation and maintenance.

• Permission needed from homeowner association or property manager to install charging equipment.
RIGHT TO CHARGE
LAWS CAN ADDRESS
COMMON CONCERNS

These laws can address common concerns raised, such as:

• Who pays for the charging station?
• Who pays for the electricity?
• Where can it be installed?
• Will it impact the number of parking spaces available?
• Who is liable for damages?
“Right To Charge” Laws

- Statewide laws
- City-specific law
- No laws enacted
- Legislation pending
Scope of “Right To Charge” Laws
Right to charge laws usually apply to owner-occupied units. However, two states also have right to charge laws for units occupied by renters.

<table>
<thead>
<tr>
<th>STATE</th>
<th>OWNER-OCCUPIED UNITS</th>
<th>RENTER-OCCUPIED UNITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Colorado</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Florida</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>
WHERE DO RIGHT TO CHARGE LAWS APPLY?

While the scope varies from state to state, most often right to charge laws apply to residential buildings. Two states have right to charge laws that apply to commercial property.

<table>
<thead>
<tr>
<th>STATE</th>
<th>BUILDING TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residential</td>
</tr>
<tr>
<td></td>
<td>Commercial</td>
</tr>
<tr>
<td>California</td>
<td>Condos, co-ops, and planned communities</td>
</tr>
<tr>
<td>Colorado</td>
<td>Condos, co-ops, and planned communities</td>
</tr>
<tr>
<td>Florida</td>
<td>Condos</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Multi-family dwellings and townhouses</td>
</tr>
<tr>
<td>Oregon</td>
<td>Planned communities and condos</td>
</tr>
</tbody>
</table>
WHERE CAN CHARGING STATIONS BE INSTALLED?

Only Hawaii extends the right-to-charge to “common element” parking (first come, first serve parking).

Other states extend the right-to-charge to “limited common element” parking, which is designated for the exclusive use of one or more, but fewer than all, the units.

<table>
<thead>
<tr>
<th>STATE</th>
<th>PARKING SPACE TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>“within an owner’s unit or in a designated parking space” (e.g., a parking space that is deeded, in an owner’s exclusive use common area, or specifically designated for use by a particular owner)*&lt;br&gt;“at a parking space allocated for the lessee”</td>
</tr>
<tr>
<td>Colorado</td>
<td>“on or in unit” or “on a limited common element parking space, carport, or garage”&lt;br&gt;“on or in the leased premises” or “if the landlord consents . . . on property accessible to other tenants”</td>
</tr>
<tr>
<td>Florida</td>
<td>“within the boundaries of the unit owner’s limited common element parking area”</td>
</tr>
<tr>
<td>Hawaii</td>
<td>“on or near the parking stall” of any unit the person owns, including on common elements or limited common elements</td>
</tr>
<tr>
<td>Oregon</td>
<td>Planned communities: “in a parking space, on a lot or in any other area subject to the exclusive use of the owner”&lt;br&gt;Condos: “in a space assigned to the unit” or “in a limited common element with written approval of [each unit owner] to which the use of the limited common element is reserved”</td>
</tr>
</tbody>
</table>

*May place charging station in common area if installation in owner’s designated parking space is impossible or unreasonably expensive.
Elements of “Right To Charge” Laws
Elements of Right To Charge Laws

1. General Prohibition
2. Exceptions
3. Conditions
1. General Prohibition

Example (for owner-occupied units):

Any covenant, restriction, or condition contained in any deed, contract, security instrument, or similar agreement, and any provision of a governing document that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in compliance with the requirements of this section, or is in conflict with this section is void and unenforceable.

Example (for rental units):

Notwithstanding any provision in the lease to the contrary, a landlord shall approve a written request of the tenant to install a charging station that meets the requirements of this section and the landlord shall not charge the tenant any fees.
Right to charge laws typically contain some exceptions to the general prohibition.

Some laws also establish an approval process and timeline.

2. Exceptions

*Example* - Homeowner associations may require:
- Applications provided they do not result in unreasonable delay; and
- Reasonable restrictions (e.g., on dimensions, placement, etc.) that don’t significantly increase cost or decrease performance.

*Example for rental properties – Lessor may charge fees for:*
- Cost of electricity used by the charging station;
- Cost of any necessary electrical upgrades; and
- Reserving a specific parking spot if the landlord allows the tenant to place the charging station in a space accessible to other tenants.
Right to charge laws always include conditions that owners (and successive owners) must meet or that the HOA may require.

Examples:

- Complying with health and safety standards
- Complying architectural standards
- Engaging a licensed contractor
- Providing certification of insurance naming association as additional insured
- Paying for costs associated with:
  - Electricity usage
  - Installation, maintenance, repair, replacement, removal, restoration, and any resulting damages
  - Maintaining insurance coverage
- Disclosing responsibilities to prospective buyers

Examples:

- Definitions (CA, CO, HI, OR)
- Encourages HOAs to install charging as an amenity for residents and guests (CO)
- Provides implied easement across common elements to install charging station and furnish electrical power (FL)
- Establishes charging station is property of unit owner/tenant (CO)
- In actions to enforce compliance, prevailing party is entitled to attorney fees and costs (CA, OR)
- Willful violation subject to actual damages and civil penalty of up to $1,000 (CA)
Best Practices for Right To Charge Laws

- **Apply laws broadly** to owners and renters; to residential and commercial buildings; and to MUDs and planned communities.

- **Establish a deadline for completing any approval process** (e.g., approval process must be completed within 60 days).

- **Require conditions by statute** to ensure uniform provisions and streamline the process.

- **Encourage HOAs and property managers to install charging stations** as an amenity for residents and guests.

- **Couple with grant programs**, when possible, that help to pay for costs of electrical upgrades.
Other Actions Needed To Overcome Barriers To Charging at MUDs

- **Building codes** requiring new construction to be EV-ready;
- **Utility support and investment**, including assessing the need for and paying for electrical service upgrades;
- **Grant programs and incentives** for Level 2 EVSE at MUDs;
- **Education and outreach** to homeowner associations, rental property owners/managers, and developers about benefits of providing charging as an amenity to residents; and
- **Piloting innovative solutions** for MUDs, such as valet or mobile charging, preferential pricing at charging hubs, community-based electric car sharing, etc.
## EXAMPLES OF STATE RIGHT TO CHARGE LAWS

<table>
<thead>
<tr>
<th>CITATION</th>
<th>APPLICABILITY</th>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Civil Code §4745</td>
<td>Residential common interest development homeowners</td>
<td><a href="https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4745&amp;lawCode=CIV">https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4745&amp;lawCode=CIV</a></td>
</tr>
<tr>
<td>California Civil Code §6713</td>
<td>Commercial and industrial common interest development unit owners</td>
<td><a href="https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6713&amp;lawCode=CIV">https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6713&amp;lawCode=CIV</a></td>
</tr>
<tr>
<td>California Civil Code §1947.6</td>
<td>Residential property lessor</td>
<td><a href="http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1947.6&amp;lawCode=CIV">http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1947.6&amp;lawCode=CIV</a></td>
</tr>
<tr>
<td>California Civil Code §1952.7</td>
<td>Commercial property lessor</td>
<td><a href="http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1952.7&amp;lawCode=CIV">http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1952.7&amp;lawCode=CIV</a></td>
</tr>
<tr>
<td>Colorado Revised Statutes §38-33.3-106.8</td>
<td>Common interest community homeowners</td>
<td><a href="https://leg.colorado.gov/colorado-revised-statutes">https://leg.colorado.gov/colorado-revised-statutes</a></td>
</tr>
<tr>
<td>Colorado Revised Statutes §38-12-601</td>
<td>Residential rental property tenants</td>
<td><a href="https://leg.colorado.gov/colorado-revised-statutes">https://leg.colorado.gov/colorado-revised-statutes</a></td>
</tr>
<tr>
<td>Florida Statutes, §718.113(8)</td>
<td>Condominium unit owners</td>
<td><a href="http://www.flsenate.gov/Laws/Statutes/2019/0718.113">http://www.flsenate.gov/Laws/Statutes/2019/0718.113</a></td>
</tr>
<tr>
<td>Hawaii Revised Statutes §167-7.5</td>
<td>Multi-family residential dwelling or townhouse homeowners</td>
<td><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0196/HRS_0196-0007_0005.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0196/HRS_0196-0007_0005.htm</a></td>
</tr>
<tr>
<td>Oregon Revised Statutes §94.762</td>
<td>Planned community homeowners</td>
<td><a href="https://www.oregonlaws.org/ors/94.762">https://www.oregonlaws.org/ors/94.762</a></td>
</tr>
<tr>
<td>Oregon Revised Statutes §100.627</td>
<td>Condominium unit owners</td>
<td><a href="https://www.oregonlaws.org/ors/100.627">https://www.oregonlaws.org/ors/100.627</a></td>
</tr>
</tbody>
</table>

New York (S. 5175A) proposed to provide right to charge laws for condominium unit owners (available at https://legislation.nysenate.gov/pdf/bills/2019/s5157a). The bill passed the New York State Senate and Assembly in June 2019 but has not yet been signed into law; expected to be delivered to Governor by the end of the year.

Maryland (H.B. 826) proposed to provide right to charge laws for condominium unit owners and lot owners governed by a homeowners association (available at http://mgaleg.maryland.gov/2019RS/bills/hb/hb0826T.pdf). Passed the House; died in Senate.
RESOURCES

For a compilation of resources on EV charging at MUDs, including guidelines, case studies, and tools for advocating for EV charging at MUDs, see: [https://www.veloz.org/pevc-resources/](https://www.veloz.org/pevc-resources/)

A number of workgroups have explored the barriers and potential solutions to EV charging at MUDs:


Alternative Fuels Data Center resources on charging at MUDs: [https://afdc.energy.gov/fuels/electricity_charging_multi.html](https://afdc.energy.gov/fuels/electricity_charging_multi.html)


Transportation and Climate Initiative fact sheet on charging at MUDs: [http://www.transportationandclimate.org/sites/default/files/EV_Information_for_Multi-Unit_Dwellings.pdf](http://www.transportationandclimate.org/sites/default/files/EV_Information_for_Multi-Unit_Dwellings.pdf)

A website providing tools and resources on charging at MUDs: [http://www.multihousingcharging.com/](http://www.multihousingcharging.com/)
For questions, please contact:
Elaine O’Grady // eogrady@nescaum.org