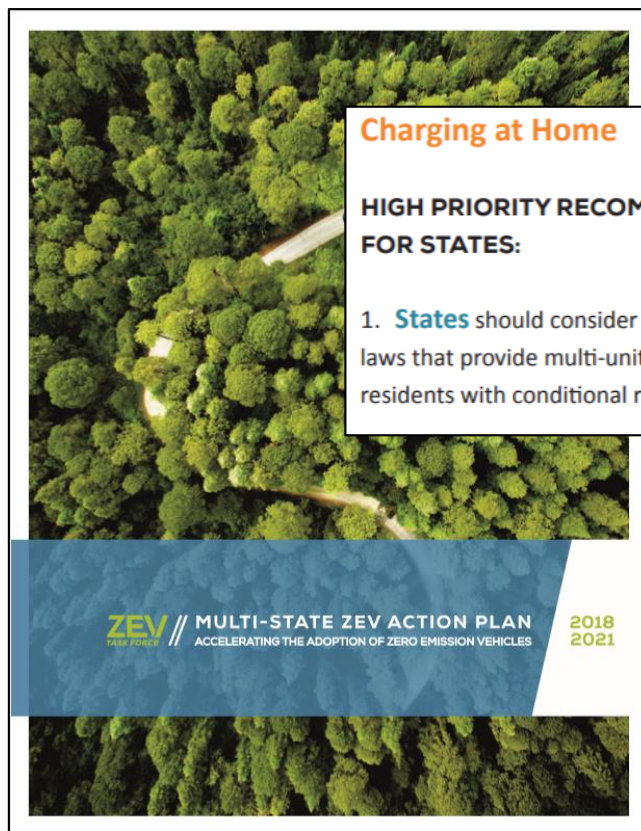




Right To Charge Laws

OCTOBER 2019

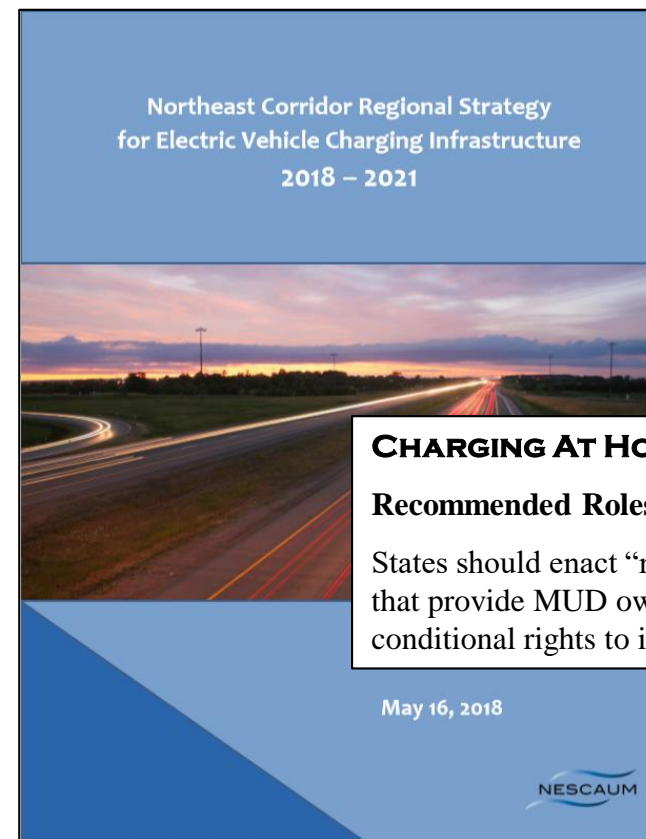
“Right To Charge” Laws: A Priority Action



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.



CHARGING AT HOME

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?

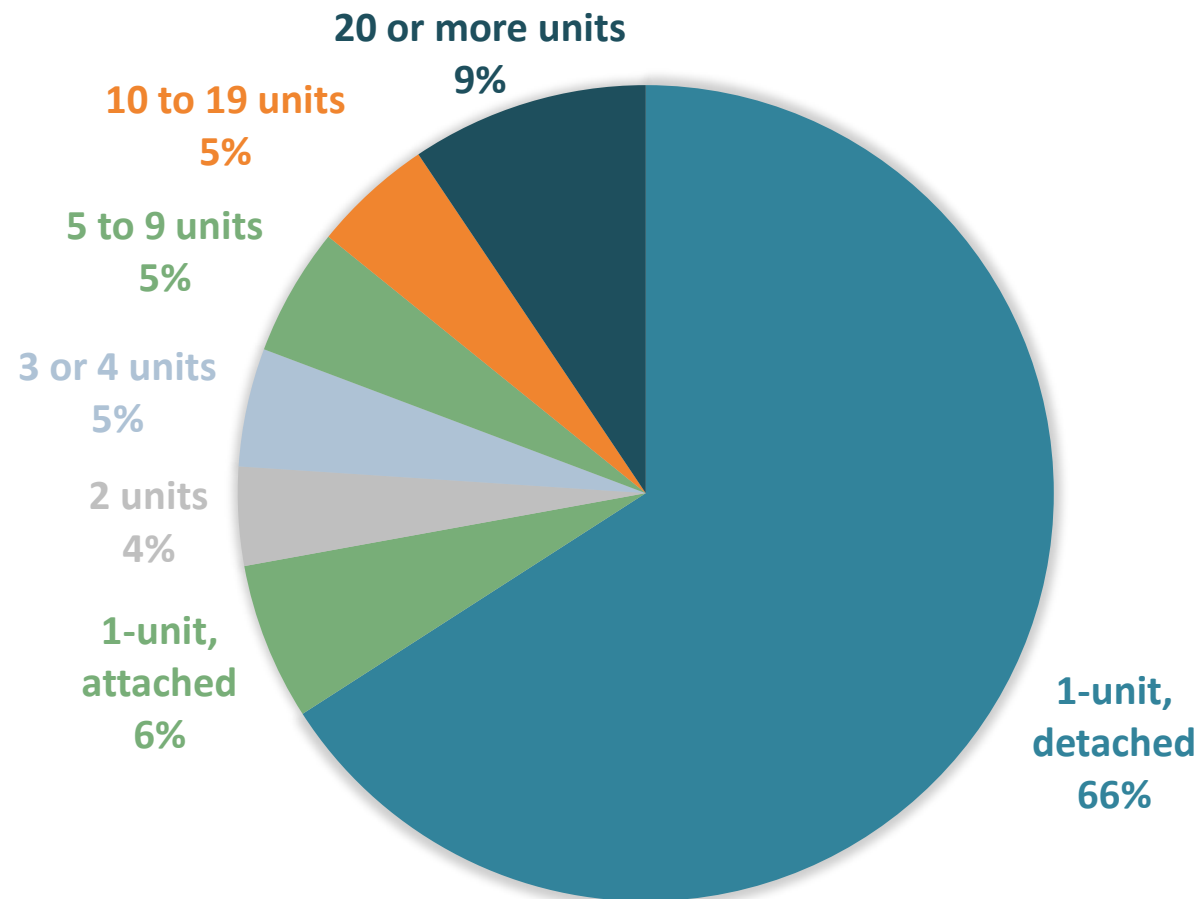
“Right to charge” laws provide residents at multi-unit dwellings (and other properties) with the right to install a charging station for the individual’s use provided that certain conditions are met (e.g., the individual assumes responsibility for all associated costs).

“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.

WHY ARE RIGHT TO CHARGE LAWS IMPORTANT?

Roughly 28% of the total housing units in the United States are in multi-family structures with two or more units.

UNITS IN HOUSING STRUCTURES

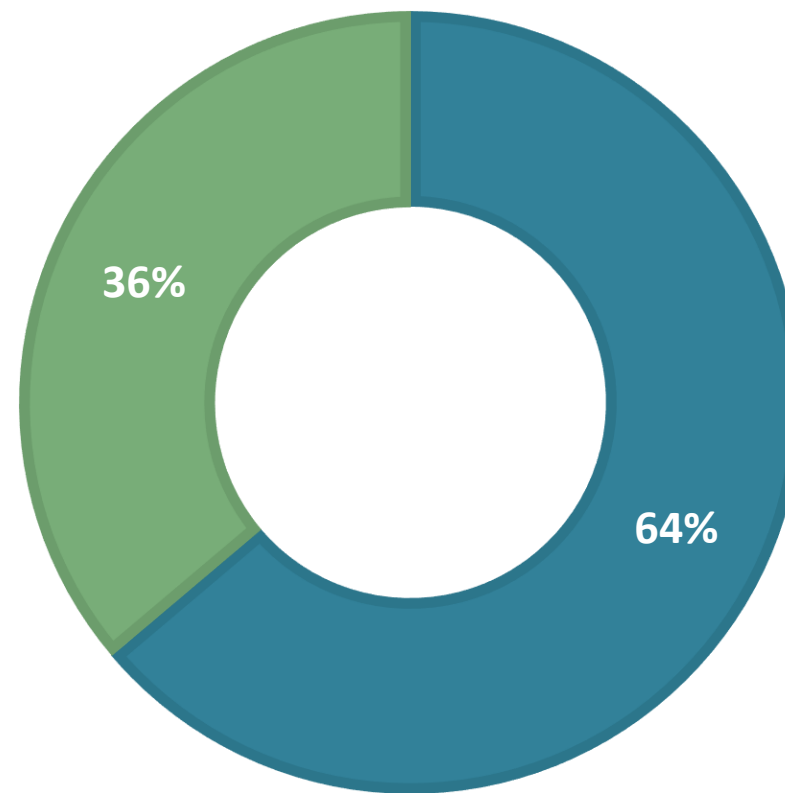


Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, available at: https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_DP04&src=pt

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.

OWNER VERSUS RENTER OCCUPIED HOUSING



■ Owner-occupied ■ Renter-occupied

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, available at: https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_DP04&src=pt



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?

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Cost can be prohibitive so it's buyer beware, says the executive director of the Condominium Home Owners Association

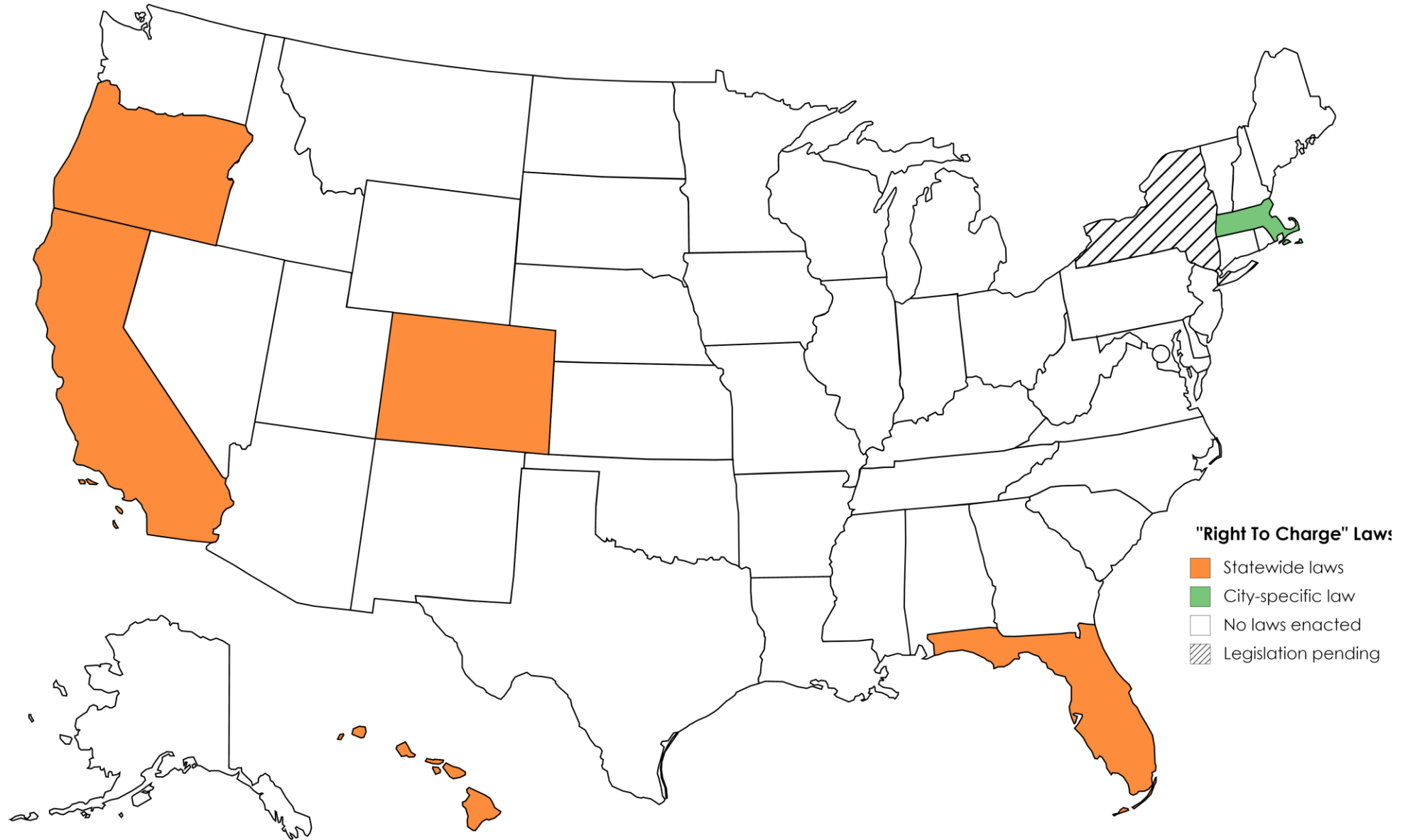
By Diane Strandberg, Tri-City News | July 8, 2019, 11:09am

ENERGY NEWS NETWORK Midwest Southeast

ELECTRIC VEHICLE CHARGING

Chicago apartment renters push for better access to electric vehicle charging

"Right To Charge" Laws



Scope of “Right To Charge” Laws



WHO DO RIGHT TO CHARGE LAWS APPLY TO?

Right to charge laws usually apply to owner-occupied units. However, two states also have right to charge laws for units occupied by renters.

Applicability of Right to Charge Laws: Owners Versus Renters

STATE	OWNER-OCCUPIED UNITS	RENTER-OCCUPIED UNITS
California	✓	✓
Colorado	✓	✓
Florida	✓	
Hawaii	✓	
Oregon	✓	

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.

STATE	BUILDING TYPE	
	Residential	Commercial
California	Condos, co-ops, and planned communities	Condos, co-ops, and planned communities
Colorado	Condos, co-ops, and planned communities	
Florida	Condos	Condos
Hawaii	Multi-family dwellings and townhouses	
Oregon	Planned communities and condos	

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.

STATE	PARKING SPACE TYPE
California	“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)*
	“at a parking space allocated for the lessee”
Colorado	“on or in unit” or “on a limited common element parking space, carport, or garage”
	“on or in the leased premises” or “if the landlord consents . . . on property accessible to other tenants”
Florida	“within the boundaries of the unit owner’s limited common element parking area”
Hawaii	“on or near the parking stall” of any unit the person owns, including on common elements or limited common elements
Oregon	Planned communities: “in a parking space, on a lot or in any other area subject to the exclusive use of the owner”
	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”

*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
4. Miscellaneous Provisions



ELEMENTS OF RIGHT TO CHARGE LAWS

Right to charge laws begin with a general prohibition against provisions in legal documents that prevent or unreasonably restrict the installation and use of charging stations.

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.

ELEMENTS OF RIGHT TO CHARGE LAWS

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.*

ELEMENTS OF RIGHT TO CHARGE LAWS

Right to charge laws always include conditions that owners (and successive owners) must meet or that the HOA may require.

3. Conditions

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

ELEMENTS OF RIGHT TO CHARGE LAWS

Right to charge laws contain a variety of other provisions.

4. Miscellaneous Provisions

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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.



Appendix



EXAMPLES OF STATE RIGHT TO CHARGE LAWS

CITATION	APPLICABILITY	URL
California Civil Code §4745	Residential common interest development homeowners	https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4745&lawCode=CIV
California Civil Code §6713	Commercial and industrial common interest development unit owners	https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6713&lawCode=CIV
California Civil Code §1947.6	Residential property lessor	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1947.6&lawCode=CIV
California Civil Code §1952.7	Commercial property lessor	http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1952.7.&lawCode=CIV
Colorado Revised Statutes §38-33.3-106.8	Common interest community homeowners	https://leg.colorado.gov/colorado-revised-statutes
Colorado Revised Statutes §38-12-601	Residential rental property tenants	https://leg.colorado.gov/colorado-revised-statutes
Florida Statutes, §718.113(8)	Condominium unit owners	http://www.flsenate.gov/Laws/Statutes/2019/0718.113
Hawaii Revised Statutes §167-7.5	Multi-family residential dwelling or townhouse homeowners	http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch012_1-0200D/HRS0196/HRS_0196-0007_0005.htm
Oregon Revised Statutes §94.762	Planned community homeowners	https://www.oregonlaws.org/ors/94.762
Oregon Revised Statutes §100.627	Condominium unit owners	https://www.oregonlaws.org/ors/100.627

OTHER EXAMPLES

Massachusetts Session Laws, Acts of 2018 Chapter 370, enacts “right to charge” law for the city of Boston (available at <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter370>).

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/>

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

- State of Hawaii, Act 164: Final Report for EV Charging Station Multi-Unit Dwelling Working Group (Dec. 2015), accessible at: http://energy.hawaii.gov/wp-content/uploads/2013/07/Act-164_EV-Working-Group-Report_FINAL.pdf;
- Enabling Electric Vehicle Charging in Condominiums (2017), accessible at: <http://www.plugndrive.ca/wp-content/uploads/2017/05/Enabling-EV-Charging-in-Condominiums.pdf>;
- City of Denver, Opportunities for Vehicle Electrification in the Denver Metro Area and Across Colorado (Dec. 2017), accessible at: <http://www.denvergov.org/content/dam/denvergov/Portals/771/documents/EQ/EV/EVFinalReport.pdf>

ADDITIONAL RESOURCES

A compilation of state right to charge laws: <https://pluginsites.org/legislation-reference-recharging-equipment-at-multi-unit-housing/>

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

Plug-In San Diego, Multi Unit Dwelling Electric Vehicle Charging:
https://www.sandag.org/uploads/projectid/projectid_511_25855.pdf

Lauren McDonald, Will Renters Charge Their EVs?, *Clean Technica* (March 2018), available at:
<https://cleantechnica.com/2018/03/26/will-renters-charge-evs/>

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%20Information%20for%20Multi-Unit%20Dwellings.pdf)

A website providing tools and resources on charging at MUDs: <http://www.multihousingcharging.com/>



For questions, please contact:

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