

CHAPTER 108

AN ACT concerning the installation of electric vehicle charging stations in common interest communities and supplementing P.L.1993, c.30 (C.45:22A-43 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:22A-48.4 Electric vehicle charging stations in common interest communities.

1. a. (1) An association formed for the management of common elements and facilities of a planned real estate development, regardless of whether organized pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43), shall not adopt or enforce a restriction, covenant, bylaw, rule, regulation, master deed provision, or provision of a governing document prohibiting or unreasonably restricting the installation or use of an electric vehicle charging station in a designated parking space.

(2) 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 planned real estate development, and any provision of a master deed, bylaw, or other governing document that either prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in a designated parking space, or is in conflict with the provisions of this section, is void and unenforceable.

(3) Notwithstanding any provisions of an association's governing documents concerning the grant of exclusive or limited use of any portion of a common element to a unit owner, the executive board of an association shall grant exclusive or limited use of any portion of a common element to a unit owner:

(a) to install and use an electric vehicle charging station in a unit owner's designated parking space that meets the requirements of this section, where the installation or use of the charging station requires reasonable access through, or across, the common elements for utility lines or meters; or

(b) to install and use an electric vehicle charging station through a license granted by an association pursuant to subsection e. of this section.

(4) Nothing in this section shall be construed to prohibit an association from imposing reasonable restrictions on electric vehicle charging stations.

b. An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by State and local authorities as well as all other applicable zoning, land use or other ordinances, or land use permits.

c. 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 in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully 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 request for additional information. If an association reasonably determines that the cumulative use of electricity on the premises attributable to the installation and use of electric vehicle charging stations requires the installation of additional infrastructure improvements to provide the premises with a sufficient supply of electricity, then the association may hold an application for approval in abeyance until the upgrades are completed.

d. The following provisions shall apply to installations of electric vehicle charging stations for the exclusive use of a unit owner:

(1) if required by the governing documents or the association's rules and regulations, the unit owner shall first obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the provisions of this section are met and the unit owner agrees in writing to:

(a) comply with the association's architectural standards for the installation of the electric vehicle charging station;

(b) engage a licensed electrician to install all necessary electric lines and electrical infrastructure in compliance with the association's architectural standards;

(c) within 14 days of approval and prior to installation, obtain and maintain at all times, while the electric vehicle charging station is in place, insurance protecting the association and the other unit owners from damage as a result of the existence and operation of the electric vehicle charging station, and provide evidence of insurance specifying that insurance covers the electric vehicle charging station in the amount required under this section. Nothing in this subparagraph shall be construed as impairing the right of an association to require a unit owner to maintain homeowner's insurance under the association's governing documents or rules and regulations;

(d) pay for the electricity usage associated with the electric vehicle charging station;

(e) pay for reasonable charges imposed by an association to recover the costs of the review and approval of an application for the installation or use of an electric vehicle charging station, including, without limitation, reasonable engineering and legal fees. An association may require that anticipated review charges be placed in escrow in advance of commencing review of an application for the installation or use of an electric vehicle charging station;

(2) an association may deny an application for the installation or use of an electric vehicle charging station if the association reasonably concludes that the electric vehicle charging station constitutes a life-safety risk;

(3) if an association reasonably determines that the cumulative use of electricity on the premises attributable to the installation and use of electric vehicle charging stations requires the installation of additional infrastructure improvements to provide the premises with a sufficient supply of electricity, then the association may specially assess the cost of those additional infrastructure improvements to the unit owners who have installed electric vehicle charging stations, and have applied to install electric vehicle charging stations, in equal shares per electric vehicle charging station. An association may require a unit owner to pay a special assessment before the unit owner may install an electric vehicle charging station;

(4) any monies that a unit owner owes an association under this section shall be deemed special assessments, and the association may collect those monies from the unit owner in the same manner as the association's governing documents and applicable law provides for the collection of delinquent common expenses, rent, or other delinquent amounts, and unless any of the following responsibilities are specifically abrogated as they relate to electric vehicle charging stations, in whole or in part, under the governing documents of the association, the unit owner and each successive unit owner of the electric vehicle charging station shall be responsible for the cost of the following items as if the items were an assessment applicable to the unit owner:

(a) any damage to the electric vehicle charging station, the parking space, a common element, a limited common element, the property of other unit owners, or separate interests, which damage results from the installation, maintenance, repair, removal, or replacement of the charging station;

(b) any maintenance, repair, and replacement of an electric vehicle charging station, and restoration of the area after removal of the electric vehicle charging station;

(c) the electricity usage associated with the electric vehicle charging station;

(d) all installation costs associated with electric vehicle charging stations; and

(e) any costs associated with an application for the installation or use of an electric vehicle charging station to satisfy applicable health and safety standards and requirements imposed by State and local authorities, including but not limited to applicable zoning, land use, and other ordinance requirements;

(5) the unit owner, and each successive unit owner, of an electric vehicle charging station shall be responsible for disclosing to prospective buyers the existence of the unit owner's electric vehicle charging station and the related responsibilities of the unit owner under this section; and

(6) except as otherwise provided in this paragraph, a unit owner, and each successive unit owner, of an electric vehicle charging station shall, at all times, maintain a homeowner's liability coverage policy in the amount of \$100,000 and shall name the association as a certificate holder with the right to receive a notice of cancellation. An association may require the unit owner of an electric vehicle charging station to carry a homeowner's liability coverage policy in excess of \$100,000 if the association's governing documents or rules and regulations require all unit owners to carry a greater amount. If a unit owner fails to procure or maintain insurance required under this section, the association may procure insurance on the unit owner's behalf and charge the unit owner the cost of the insurance. The unit owner shall hold the association and the other unit owners harmless from any and all claims, damages, liabilities, costs and expenses, including reasonable attorney's fees, arising out of or relating to any personal injuries, death, or damage to property that were caused by, or contributed to by, the installation, removal or use of the electric vehicle charging station.

e. The executive board of an association may license, for a defined period of time, as set forth in the license, a common area parking space for the exclusive use of a unit owner for the installation of an electric vehicle charging station. The grant of any such license shall be at the sole discretion of the board, but such grant shall not be fraudulent, unconscionable, or self-dealing.

f. An association may install electric vehicle charging stations in common element parking spaces for the use of all unit owners. An association may adopt appropriate rules and regulations for the use of common electric vehicle charging stations.

g. An association may create a parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station. If an association creates a parking space to accommodate an electric vehicle charging station for the exclusive use of a unit owner, the unit owner shall be responsible for all costs associated with creating the space including but not limited to land use approvals, permits, reviews, easements, and construction costs. If a new parking space to accommodate an electric vehicle charging station for the exclusive use of a unit owner is to be located in a common element or limited common element, the provisions of subsection d. of this section shall apply.

h. The Commissioner of Community Affairs shall enforce the provisions of this section in accordance with the authority granted under section 18 of P.L.1977, c.419 (C.45:22A-38).

i. As used in this section:

“Designated parking space” means a parking space that is specifically designated for use by a particular unit owner, including, but not limited to, a garage, a deeded parking space, and a parking space in a limited common element that is restricted for use by one or more unit owners;

“Electric vehicle charging station” means a station that is designed in compliance with the State Uniform Construction Code, adopted pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.), that delivers electricity from a source outside an electric vehicle into one or more electric vehicles, and that is capable of providing, at a minimum, Level 2 charging. 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;

“Reasonable restriction” means a restriction that does not significantly increase the cost of an electric vehicle charging station or significantly decrease its efficiency or specified performance; and

“Unit owner” means the record owner of a residential dwelling unit located within an association, or, in the case of a cooperative housing corporation, a shareholder of record owning the shares appurtenant to an individual dwelling unit. This act shall not apply to the owners of commercial units, space, or interest located within an association.

2. This act shall take effect immediately.

Approved October 19, 2020.