

Enrolled
House Bill 2585

Sponsored by Representative BARNHART (Presession filed.)

CHAPTER

AN ACT

Relating to electric vehicle charging stations; creating new provisions; amending ORS 94.762 and 100.627; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 94.550 to 94.783.

SECTION 2. (1) The Legislative Assembly finds and declares that:

(a) The purpose of ORS 94.762 is to facilitate the installation of an electric vehicle charging station by an owner in a planned community for the owner's personal residential use.

(b) Oregon courts have identified the following factors in determining whether personal property is a fixture:

(A) Whether the personal property is physically annexed to the real property;

(B) Whether the personal property is specifically adapted to the property; and

(C) Whether the person attaching the personal property objectively intended the personal property to become part of the real property when attached.

(c) Oregon courts have identified the objective intent of the annexer, described in paragraph (b)(C) of this subsection, as the most important of the three factors.

(2) Unless an owner and the homeowners association, or the declarant in lieu of the association, have negotiated a different outcome, an electric vehicle charging station installed under ORS 94.762 on or before the effective date of this 2015 Act is deemed to be the personal property of the owner of the lot with which the charging station is associated.

SECTION 3. ORS 94.762 is amended to read:

94.762. (1) Notwithstanding contrary provisions of a declaration or bylaws of a planned community:

(a) An owner may submit an application to install an electric vehicle charging station for the personal, noncommercial use of the owner, in compliance with the requirements of this section, in a parking space, on a lot or in any other area subject to the exclusive use of the owner.

(b) A homeowners association may not prohibit installation or use of a charging station installed and used in compliance with the requirements of this section.

(2) When the owner complies or agrees to comply with the requirements of this section, a homeowners association, or a declarant in lieu of the association, shall approve a completed application within 60 days after the owner submits the application unless the delay in approving the application is based on a reasonable request for additional information.

(3) A homeowners association:

(a) May require an owner to submit an application before installing a charging station.
(b) May require the charging station to meet the architectural standards of the planned community.

(c) May impose reasonable charges to recover costs of the review and permitting of a charging station.

(d) May impose reasonable restrictions on the installation and use of the charging station that do not significantly increase the cost of the charging station or significantly decrease the efficiency or performance of the charging station.

(4) Notwithstanding ORS 479.540, the charging station must be installed by a person that holds a license, as defined in ORS 479.530, to act, **at a minimum**, as a journeyman electrician.

(5) The owner is responsible for:

(a) All costs associated with installation and use of the charging station, including:

(A) The cost of electricity associated with the charging station; and

(B) The cost of damage to common property and to areas subject to the exclusive use of other owners that results from the installation, use, maintenance, repair, removal or replacement of the charging station.

(b) Disclosure to a prospective buyer of the lot of the existence of the charging station and the related responsibilities of the owner under this section.

(6) If the homeowners association reasonably determines that the cumulative use of electricity in the planned community attributable to the installation and use of charging stations requires the installation of additional infrastructure improvements to provide the planned community *[with]* a sufficient supply of electricity, the association may assess the cost of the additional improvements against the lot of each owner that has **installed**, or will[,] install, a charging station.

(7) Unless the owner and the homeowners association, or the declarant in lieu of the association, negotiate a different outcome:

(a) A charging station installed under this section is deemed to be the personal property of the owner of the lot with which the charging station is associated; and

(b) The owner must remove the charging station and restore the premises to the condition before installation of the charging station before the owner may transfer ownership of the lot, unless the prospective buyer of the lot accepts ownership of the charging station and all rights and responsibilities that apply to the charging station under this section.

[(7)(a)] **(8)(a)** A pedestal, or similar, charging station that is hard-wired into the electrical system must be a certified electrical product, as defined in ORS 479.530.

(b) If a charging station, other than one described in paragraph (a) of this subsection, is not a certified electrical product, **and the owner of the lot owns the charging station**, the owner shall:

(A) Maintain a homeowner liability insurance policy in an amount not less than \$1 million that includes coverage of the charging station; and

(B) Name the homeowners association as a named additional insured under the policy with a right to notice of cancellation of the policy.

[(8)] **(9)** In any action between an owner and a homeowners association to enforce compliance with this section, the prevailing party is entitled to an award of attorney fees and costs.

SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS chapter 100.

SECTION 5. (1) The Legislative Assembly finds and declares that:

(a) The purpose of ORS 100.627 is to facilitate the installation of an electric vehicle charging station by a unit owner in a condominium for the unit owner's personal residential use.

(b) Oregon courts have identified the following factors in determining whether personal property is a fixture:

(A) Whether the personal property is physically annexed to the real property;

(B) Whether the personal property is specifically adapted to the property; and

(C) Whether the person attaching the personal property objectively intended the personal property to become part of the real property when attached.

(c) **Oregon courts have identified the objective intent of the annexer, described in paragraph (b)(C) of this subsection, as the most important of the three factors.**

(2) Unless a unit owner and the association of unit owners, or the declarant in lieu of the association, have negotiated a different outcome, an electric vehicle charging station installed under ORS 100.627 on or before the effective date of this 2015 Act is deemed to be the personal property of the unit owner of the unit with which the charging station is associated.

SECTION 6. ORS 100.627 is amended to read:

100.627. (1) Notwithstanding contrary provisions of a declaration or bylaws of a condominium:

(a) A unit owner may submit an application to install an electric vehicle charging station for the personal, noncommercial use of the unit owner, in compliance with the requirements of this section:

(A) In a space assigned to the unit and used for the parking or storage of automobiles, trucks, boats, campers or other vehicles or equipment; or

(B) In a limited common element with the written approval of the unit owner of each unit to which use of the limited common element is reserved.

(b) An association of unit owners may not prohibit installation or use of a charging station installed and used in compliance with the requirements of this section.

(2) When the unit owner complies or agrees to comply with the requirements of this section, an association of unit owners, or a declarant in lieu of the association, shall approve a completed application within 60 days after the unit owner submits the application unless the delay in approving the application is based on a reasonable request for additional information.

(3) An association of unit owners:

(a) May require a unit owner to submit an application before installing a charging station.

(b) May require the charging station to meet the architectural standards of the condominium.

(c) May impose reasonable charges to recover costs of the review and permitting of a charging station.

(d) May impose reasonable restrictions on the installation and use of the charging station that do not significantly increase the cost of the charging station or significantly decrease the efficiency or performance of the charging station.

(4) Notwithstanding ORS 479.540, the charging station must be installed by a person that holds a license, as defined in ORS 479.530, to act, **at a minimum**, as a journeyman electrician.

(5) The unit owner is responsible for:

(a) All costs associated with installation and use of the charging station, including:

(A) The cost of electricity associated with the charging station; and

(B) The cost of damage to general common elements, limited common elements and areas subject to the exclusive use of other unit owners that results from the installation, use, maintenance, repair, removal or replacement of the charging station.

(b) Disclosure to a prospective buyer of the unit of the existence of the charging station and the related responsibilities of the unit owner under this section.

(6) If the association of unit owners reasonably determines that the cumulative use of electricity in the condominium attributable to the installation and use of charging stations requires the installation of additional infrastructure improvements to provide the condominium with a sufficient supply of electricity, the association may assess the cost of the additional improvements against the unit of each unit owner that has, or will, install a charging station.

(7) Unless the unit owner and the association of unit owners, or the declarant in lieu of the association, negotiate a different outcome:

(a) A charging station installed under this section is deemed to be the personal property of the unit owner of the unit with which the charging station is associated; and

(b) The unit owner must remove the charging station and restore the premises to the condition before installation of the charging station before the unit owner may transfer ownership of the unit, unless the prospective buyer of the unit accepts ownership and all rights and responsibilities that apply to the charging station under this section.

[(7)(a)] **(8)(a)** A pedestal, or similar, charging station that is hard-wired into the electrical system must be a certified electrical product, as defined in ORS 479.530.

(b) If a charging station, other than one described in paragraph (a) of this subsection, is not a certified electrical product, **and the unit owner owns the charging station**, the unit owner shall:

(A) Maintain a homeowner liability insurance policy in an amount not less than \$1 million that includes coverage of the charging station; and

(B) Name the association of unit owners as a named additional insured under the policy with a right to notice of cancellation of the policy.

[(8)] **(9)** In any action between a unit owner and an association of unit owners to enforce compliance with this section, the prevailing party is entitled to an award of attorney fees and costs.

SECTION 7. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House April 23, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 26, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State