

# MERCETRIGIANI

## *Electric Vehicle Charging Stations*

### OVERVIEW

Alternative energy continues to be of growing interest to Virginians. Amendments to the Virginia Property Owners' Association Act and Virginia Condominium Act adopted by the Virginia General Assembly in 2020 pave the way for owners to install electric vehicle charging stations – with certain conditions. These statutory changes necessitate a careful review of association authority as well as architectural policies adopted in accordance with established authority.

### VIRGINIA PROPERTY OWNERS' ASSOCIATION ACT

***Installation on Individual Lots*** – Section 55.1-1823.1 of the Property Owners' Association Act provides that associations may not prohibit any owner from installing electric vehicle charging stations on individually-owned property. An association may, however, establish ***reasonable restrictions*** concerning the number, size, place and manner of installation of electric vehicle charging stations.

***Installation on Common Area*** – Section 55.1-1823.1 of the Property Owners' Association Act confirms association authority to prohibit or restrict the installation of electric vehicle charging stations on common area. If allowed on common area, associations may establish restrictions concerning the number, size, place and manner of installation of electric vehicle charging stations.

### VIRGINIA CONDOMINIUM ACT

***Installation in Units & Limited Common Element Parking Spaces*** – Section 55.1-1962.1 of the Condominium Act establishes association authority to restrict installation of electric car charging stations in units and limited common element parking spaces. An association may not prohibit the installation of electric vehicle charging stations in units or limited common element parking spaces ***unless*** (1) expressly prohibited in the condominium instruments or (2) installation is not technically feasible or reasonably practicable due to safety risks, structural issues or engineering conditions.

Even if the condominium instruments do not expressly prohibit electric vehicle charging stations, an association may condition approval of installation on any of the following:

- Design and installation by a licensed electrician or engineer familiar with installation and core requirements of an electric vehicle charging station.
- Preparation and submission of detailed plans and drawings for the electric vehicle charging station by a licensed and registered electrical contractor or engineer familiar with installation and core requirements of an electric vehicle charging station.
- Compliance with applicable buildings codes or recognized safety standards.
- Compliance with reasonable architectural standards adopted by the association addressing the dimensions, placement or external appearance of the charging station.

- Payment of all costs of installation, maintenance, operation and use.
- Indemnification of association, holding association harmless from any contractor or supplier claims.
- Payment of all costs of removal and restoration of the area.
- Submetering utilities associated with the charging station, at unit owner's expense.
- Procurement and maintenance of insurance covering claims related to the charging station.
- Reimbursement to the association for any increase in common expenses specifically attributable to installation of the charging station.

***Installation on Common Elements*** – Section 55.1-1962.1 of the Condominium Act confirms association authority to restrict or prohibit electric vehicle charging stations on common elements. Installation of electric vehicle charging stations on common elements remains governed by the condominium instruments regarding Board authority to make additions, alterations or improvements.

### **OTHER CONSIDERATIONS**

***Indemnification*** – An owner who installs an electric vehicle charging station must agree to indemnify and hold the association harmless from any and all liabilities resulting from installation, maintenance, operation and use of the electric car charging station.

***Insurance*** – An association may require an owner to obtain and maintain insurance coverage for the electric vehicle charging station and require the association be named as an additional-insured on the policy.

***Guidelines*** – Associations should adopt architectural guidelines in accordance with authority established in the recorded documents and the governing statutes. When drafting guidelines, associations may consider any of the following:

- Whether the recorded documents establish a prohibition or other limitations on installation of electric vehicle charging stations?
- Is the restriction consistent with established goals for adoption and implementation of architectural standards?
- Is the rule the least restrictive way to achieve the goals of architectural standards?
- Is the electric vehicle charging station for primary or exclusive use of the property?

Community associations should ensure rules regarding electric vehicle charging stations are drafted with clarity and in accordance with member input and feedback. Community associations should also ensure rules are implemented with consistency, taking into account property differences. Application forms for architectural changes should be reviewed and revised to reflect legislation governing electric vehicle charging stations – rationales for approval or denial of applications should be carefully drafted and thoroughly documented in the file.