

NEWINGTON COMMUNITY ASSOCIATION

POLICY RESOLUTION NO. 2023-01

(Policy Governing the Installation and Use of Electric Vehicle Charging Stations)

WHEREAS, Article VIII, Section 1(b) of the Restatement of Bylaws for Newington Community Association (“Association”) recorded among the land records of Fairfax County provides that the Board of Directors (“Board”) shall have the power to exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership;

WHEREAS, Article VIII, Section 1 of the Declaration of Covenants, Conditions, and Restrictions provides that no building, structure, alteration, addition or improvement of any character other than interior alterations not affecting the external appearance of a building or structure shall be constructed upon any portion of the Properties unless approved by the Architectural Control Committee (“ACC”) for the Association;

WHEREAS, Section 55.1-1823.1 of the Virginia Property Owners’ Association Act (“Act”) provides that:

A. Except to the extent that the declaration or other recorded governing document provides otherwise, no association shall prohibit any lot owner from installing an electric vehicle charging station for the lot owner's personal use on property owned by the lot owner. An association may establish reasonable restrictions concerning the number, size, place, and manner of placement or installation of such electric vehicle charging station on the exterior of property owned by the lot owner.

B. An association may prohibit or restrict the installation of electric vehicle charging stations on the common area within the development served by the association and may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of electric vehicle charging stations on the common area.

C. Any lot owner installing an electric vehicle charging station shall indemnify and hold the association harmless from all liability, including reasonable attorney fees incurred by the association resulting from a claim, arising out of the installation, maintenance, operation, or use of such electric charging station. An association may require the lot owner to obtain and maintain insurance covering claims and defenses of claims related to the installation, maintenance, operation, or use of the electric vehicle charging station and require the association to be included as a named insured on such policy.

WHEREAS, Section 55.1-1805 of the POA Act provides that except as expressly authorized in the POA Act, the declaration, or otherwise provided by law, no association shall make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area; and

WHEREAS, the Board has determined that it is in the best interest of the Association to adopt an equitable policy to establish the rules, regulations, terms, and conditions that will govern the process for applying for, receiving, and implementing the approval for the purpose of installing, operating, and maintaining electric vehicle charging stations.

NOW, THEREFORE, BE IT RESOLVED that the following policy and procedures shall define the process for applying for, receiving, and implementing the grant of approval to Owners for the purpose of installing, operating and maintaining electric vehicle charging stations (“Resolution”).

I. APPLICATION AND REVIEW PROCESS

A. Adherence to Policy. No person shall install an electric vehicle charging station except in strict accordance with the provisions of this Resolution.

B. Permitted Use. In general, electric vehicle charging stations should be installed on a Lot or connected to the Lot’s dwelling. Electric vehicle charging stations and any related components must be used in accordance with all state and local laws and regulations.

C. Common Area Prohibition. No electric vehicle charging stations, and any components thereof, shall be installed anywhere on the Common Area. In addition, no electric vehicle charging station cords, power sources, or other components shall run across or under the Common Area.

D. Application for Approval. Any person who wishes to install an electric vehicle charging station on their Lot must complete the Electric Vehicle Charging Station Application Form (“Application”) attached as Exhibit A to this Resolution and submit the Application to the Association’s Management Agent, along with the following documents:

1. Plans and Drawings. Detailed plans and drawings for installation of an electric vehicle charging station prepared by a licensed and registered electrical contractor or engineer familiar with the installation and core requirements of an electric vehicle charging station. The plans and drawings shall show the dimensions, placement and external appearance of the electric vehicle charging station, along with the make and model of the electric vehicle charging station and its electrical requirements. Such plans must also comply with all applicable building code and safety requirements imposed by Fairfax County and the Commonwealth of Virginia.
2. Contract. A copy of the proposed contract with the company that will install the electric vehicle charging station. The installation must be done by a licensed electrician or engineer familiar with the installation and core requirements of an electric vehicle charging station. The contract must include the following terms: (i) the contractor is required to restore and/or replace any property damaged or disturbed during installation to its original condition; (ii) the contractor is required to defend, indemnify and hold harmless the Association and its directors, officers, employees, agents, members and contractors from and against any claim, injury or damages, direct or indirect, including costs and

attorney's fees, incurred (whether or not a lawsuit is initiated) as a result of the Owner's installation, maintenance or use of the electric vehicle charging station; and (iii) the contractor is required to name the Association as an additional insured on its commercial liability and automobile insurance policies.

3. License. A copy of the license under which the company that is proposed to install the electric vehicle charging station is authorized to perform such installation.
4. Plat/Survey. A copy of the Lot plat/survey showing the proposed location of the electric vehicle charging station and the location of its components.
5. Tenants. If the request is not from the Owner of the Lot but from another occupant or tenant, the Owner must sign the Application.

E. Additional Information. Following receipt of an Application, the Board or ACC will review the Application for completeness. If additional information is needed, the applicant will be contacted and provided a specified period to supplement their Application. If the requested information is not received during the specified timeframe, the Application shall automatically be deemed rejected and disapproved. A new application still may be submitted.

F. Review. If the Application is deemed complete, the Board or ACC shall review the Application, and, in its sole and absolute discretion, shall decide whether to approve, deny, or conditionally approve the Application. Once a decision is made regarding the Application, notice will be provided to the applicant. If approved, the applicant shall be required to install the electric vehicle charging station in strict conformance with the terms of the decision, including fulfilling all additional conditions for approval, if any. Any changes or deviations from the approved Application must be submitted for further review and approval.

II. RULES GOVERNING THE INSTALLATION, OPERATION, AND REMOVAL OF ELECTRIC VEHICLE CHARGING STATIONS

A. Installation. If an Application is approved, the Owner must have the contractor complete the installation of electric vehicle charging station within ninety (90) days of the date of the notice of approval of the Application. If the installation is not completed within this timeframe, the Application will be considered withdrawn and a new Application must be submitted for review and approval.

B. Insurance. Any Owner who installs an electric vehicle charging station must secure and maintain adequate insurance coverage against property damage, claims, and defenses of claims arising from the installation, maintenance, operation, or use of the electric vehicle charging station and its components in an amount that is equal to or exceeds One Million Dollars (\$1,000,000.00). The Association must be named as an additional insured on the Owner's insurance policy and the Owner must submit a copy of its certificate of insurance to the Board or ACC within fourteen (14) days after receiving approval to install such electric vehicle charging station. The Owner has a continuing obligation to provide updated certificates of insurance upon renewal of coverage or change in carrier.

C. Use. The Owner shall install, operate, and maintain the electric vehicle charging station pursuant to the manufacturer instructions and any laws governing the installation, operation, maintenance, use and removal of the electric vehicle charging station and its components.

D. Utility Costs. The Owner shall be responsible for all utility costs associated with the operation of the approved electric vehicle charging station.

E. Additional Costs. The Owner shall be responsible for all costs associated with the installation, maintenance, repair, replacement, and removal of the electric vehicle charging station and any components. Additionally, the Owner shall be responsible for all damages to the Common Area caused by the installation, maintenance, repair, replacement, or removal of the electric vehicle charging station and any components thereof.

F. Reimbursement. In the event the electric vehicle charging station, or any component thereof, results in an increase in the Association's common expenses, the Owner shall be responsible for reimbursing the Association for such costs within thirty (30) days of receipt of written notice from the Association. Failure to reimburse the Association within thirty (30) days of the date of such notice may result in the charge being assessed against the Owner's Lot and collection action. In the event collection action is initiated, the Association will seek recovery of its incurred legal fees and costs.

G. Obligations. Any Owner who installs and operates an electric vehicle charging station agrees to the following terms:

1. Owners agree to indemnify and hold harmless the Association and its Board, officers, employees, agents, Members, residents and contractors from and against any liability, claim, injury, or damages, direct or indirect, including costs and attorney's fees, incurred (whether or not a lawsuit is initiated) arising out of the installation, maintenance, operation, or use of such electric vehicle charging station.
2. Owners shall be responsible for any actual and incidental damage to the Common Area arising from the installation, maintenance, operation or use of the electric vehicle charging station and any damage to the Common Areas shall be restored as the expense of the Owner to the satisfaction of the Board.
3. Owners shall install, maintain, operate, and use the electric vehicle charging station at their own risk. Accordingly, the Association shall not be liable or responsible for any damage to a vehicle or any other property or person that may arise from the installation, maintenance, operation, or use of the electric vehicle charging station nor shall the Association be liable for any damage to the electric vehicle charging station or its components under any circumstances, including, but not limited to, any damage that may arise from performance of services on the Association's property.
4. The Association, its Board, officers, employees, committee members and agents shall not be considered a bailee of any personal property, including the

electric vehicle charging stations and components thereof. Neither the Association, its Board, officers, employees, committee members, agents nor any other owner is responsible for the security or physical condition of the electric vehicle charging station or any vehicle parked in the vicinity of the electric vehicle charging station or for any loss or damage thereto.

5. When not in use, all plugs, cords, cables, etc., shall be neatly stored so they do not create any hazards.

H. Removal. In the event that any portion of an electric vehicle charging station is installed on the Common Area, the Association reserves the right to have such portion removed from the Common Area at the Owner's sole cost and expense.

I. New Owners. If an Owner has an approved electric vehicle charging station and sells their home, the Owner must remove the electric vehicle charging station. Alternatively, the purchaser may apply for permission to keep the electric vehicle charging station, subject to all of Association terms and conditions. If the purchaser does not apply for the electric vehicle charging station, the station shall be removed at the purchaser's expense. IT IS THE OBLIGATION OF THE OWNER SELLING THE LOT TO DISCLOSE THE EXISTENCE OF THE CHARGING STATION TO PURCHASERS.

III. MISCELLANEOUS

A. Enforcement. Any violation of this Resolution is subject to the Association's enforcement remedies set forth in the Association's governing documents. In the event legal action is necessary, the Association will seek recovery of its incurred legal fees and costs.

B. Removal. Failure to remove an electric vehicle charging station from the Common Area when so required by the Association may result in the removal of the same by the Association and all costs and expenses related to the same shall be assessed to the Owner's account, subject to collection in the same manner as assessments.

C. Liability. The Association, Board, and Management Agent disclaim responsibility for any damage, injury or other liability resulting from the use of any electric vehicle charging station, including but not limited to any components located on or running across the Common Area in violation of this policy.

D. Recordkeeping. A copy of the Application shall be maintained in the Lot Owner's file.

E. Severability. If any provision of this Resolution is deemed unlawful, invalid, or otherwise incapable of being enforced, such provision shall be excluded, and all other terms shall remain in full force and effect. To the extent permitted and possible, the unlawful, invalid or unenforceable provision shall be deemed replaced by a provision that comes closest to express the intention of such provision.

I certify that this Resolution was duly adopted by the Board at a duly held meeting on
____ March 1 _____, 2023 ____.

NEWINGTON COMMUNITY ASSOCIATION

By: *JKylis*
JKylis (Mar 7, 2023 12:10 EST)

President

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RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Directors held on March 1, 2023

Motion by: John Kylis

Seconded by: John Woods

VOTE:	YES	NO	ABSTAIN	ABSENT
<u>JKylis</u> John Kylis, President	<u>X</u>	_____	_____	_____
<u>John Woods</u> John Woods, Vice President	<u>X</u>	_____	_____	_____
<u>Philip B. Space</u> Phil Space, Treasurer	<u>X</u>	_____	_____	_____
<u>Daniel Bojanini</u> Daniel Bojanini, Director	<u>X</u>	_____	_____	_____
<u>Catherine Reich</u> Catherine Reich, Secretary	<u>X</u>	_____	_____	_____

ATTEST:

Catherine Reich
Catherine Reich (Mar 14, 2023 13:03 EDT)
Secretary

Mar 14, 2023
Date

Resolution Effective: March 1, 2023