



Office of the City Clerk

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Chicago, IL 60602
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Legislation Text

File #: O2022-2480, **Version:** 1

Committee on Housing and Real Estate City Council
Meeting July 20, 2022

ORDINANCE

WHEREAS, approximately 99% of vehicles on the road today in the United States are powered by internal combustion engines; and

WHEREAS, the transportation sector is the largest source of greenhouse gas emissions nationally, with vehicles producing approximately 28% of emissions nationwide and 24% in Chicago; and

WHEREAS, electric vehicles have lower maintenance costs and lower costs of charging compared with gasoline prices, which often offset their higher upfront price over time; and

WHEREAS, General Motors recently committed to phasing out sales of gas-powered cars and light trucks and sell only battery-powered vehicles that produce no emissions by 2035; and

WHEREAS, Tesla, Ford, and Volkswagen plan to introduce dozens of new electric models in the years ahead; and

WHEREAS, approximately 80% owners plug in their electric vehicles at home and charge overnight; and

WHEREAS, a majority of Chicago homes are located in multi-unit buildings; and

WHEREAS, Chicagoans who park their cars on the street or in larger apartment or condo buildings are frequently unable to charge at home; and

WHEREAS, existing charging infrastructure is not always accessible to all electric-vehicle owners, as it is sometimes specific to certain vehicles or located in expensive parking garages; and

WHEREAS, in April 2020, the Chicago City Council approved an ordinance that increased requirements for electricity vehicle-ready and electric vehicle-installed parking for certain residential and commercial buildings; and

WHEREAS, Chicago will need to procure a significantly larger amount of electricity to power electric vehicles as the shift toward emissions-free vehicles accelerates in the coming decades; and

WHEREAS, the City of Chicago is negotiating a new franchise agreement with Commonwealth Edison (ComEd). In September 2020, Mayor Lightfoot requested that ComEd develop a comprehensive electric-vehicle and electrification strategy that includes a citywide non-commercial electric-vehicle program that increases equity in the location of charging infrastructure, rebates for electric vehicles, load-shifting strategies for electric-vehicle charging, and diversity incentives and targets for the electric-vehicle workforce; and

WHEREAS, in April 2019, the Chicago City Council approved a resolution supporting a clean energy transition plan, including a commitment to fully electrify the Chicago Transit Authority bus fleet by 2040; and

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WHEREAS, on January 27, 2021, President Joseph R. Biden Jr. issued an executive order directing federal officials to devise a plan for converting all federal, state, local, and Tribal government fleets to "clean and zero-emission vehicles"

WHEREAS, President Biden has also publicly declared a goal of building 500,000 new electric vehicle-charging stations across the United States; and

WHEREAS, beginning July 1, 2022, Illinoisans can apply for a \$4,000 rebate within 90 days of purchasing a new or used electric vehicle; and

WHEREAS, building the requisite number of electric vehicle-charging stations, placing them in optimal locations, and ensuring that they are not used in ways that will overtax the electric grid will require close coordination among federal, state, and local officials; and

WHEREAS, congressional leaders in Illinois and states intend to pass a federal infrastructure bill that could allocate a historic amount of electric vehicle-infrastructure funding to the State of Illinois and the City of Chicago in the years ahead; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Title 5 of the Municipal Code of the City of Chicago is hereby amended by inserting a new Chapter 5-25, as follows:

CHAPTER 5-25 ELECTRIC VEHICLE RIGHT TO CHARGE ORDINANCE

5-25-010 Electric vehicle charging station policy for unit owners.

a) Any covenant, restriction, or condition contained in any deed, contract, security interest, or other instrument affecting the transfer or sale of any interest in a condominium or common interest community, and any provision of a governing document that effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station within a unit owner's unit or a designated parking space, including, but not limited to, a deeded parking space, a parking space in a unit owner's exclusive use common area, or a parking space that is specifically designated for use by a particular unit owner, or is in conflict with this Section, is void and unenforceable.

b) This Section does not apply to provisions that impose a reasonable restriction on an electric vehicle charging station. Any electric vehicle charging station installed by a unit owner pursuant to this Section is the property of that unit owner and in no case will be deemed a part of the common elements or common area.

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

d) If approval is required for the installation or use of an electric vehicle charging station, the association shall process and approve the application in the same manner as an application for approval of an alteration, modification, or improvement to common elements or common areas or an architectural modification to the property, and the association shall not unreasonably delay the approval or denial of the application. 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 the receipt of the application, the application shall be deemed approved unless the delay is the result of a reasonable request for additional information.

(e) If the electric vehicle charging station is to be placed in a common area or exclusive use common area, as designated by the condominium or common interest community association, the following applies:

(i) The unit owner shall first obtain prior written approval from the association to install

the electric vehicle charging station and the association shall approve the installation if the unit owner agrees, in writing, to:

A) comply with the association's architectural standards or other reasonable conditions and restrictions for the installation of the electric vehicle charging station;

B) engage a licensed and insured electrical contractor to install the electric vehicle charging station. The electrical contractor shall name the association, its officers, directors, and agents as additional insured and shall provide a certificate of insurance to the association evidencing such additional insured status;

C) within 14 days after approval, provide a certificate of insurance that names the association, its officers, directors, and agents as an additional insured party under the unit owner's insurance policy as required under paragraph (iii);

D) pay for both the costs associated with the installation of and the electricity usage associated with the electric vehicle charging station; and

E) be responsible for damage to the common elements or common areas or other units resulting from the installation, use, and removal of the electric vehicle charging station.

ii) The unit owner, and each successive unit owner of the electric vehicle charging station, is responsible for:

A) costs for damage to the electric vehicle charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the electric vehicle charging station;

B) costs for the maintenance, repair, and replacement of the electric vehicle charging station until it has been removed, and for the restoration of the common area after removal;

C) costs of electricity associated with the charging station, which shall be based on:

1) a submetering device; or

2) a reasonable calculation of cost, based on the average miles driven, efficiency of the electric vehicle calculated by the United States Environmental Protection Agency, and the cost of electricity for the common area; and

D) disclosing to a prospective buyer the existence of any electric vehicle charging station of the unit owner and the related responsibilities of the unit owner under this Section.

iii) The purpose of the costs under paragraph (ii) is for the reasonable reimbursement of electricity usage and shall not be set to deliberately exceed the reasonable reimbursement.

iv) The unit owner of the electric vehicle charging station, whether the electric vehicle charging station is located within the common area or exclusive use common area, shall, at all times, maintain a liability coverage policy. The unit owner that submitted the application to install

the electric vehicle charging station shall provide the association with the corresponding certificate of insurance within 14 days after approval of the application. The unit owner, and each successive unit owner, shall provide the association with the certificate of insurance annually thereafter.

(v) A unit owner is not required to maintain a homeowner liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

f) Except as provided in subsection (g), the installation of an electric vehicle charging station for the exclusive use of a unit owner in a common area that is not an exclusive use common area may be authorized by the association, subject to applicable law, only if installation in the unit owner's designated parking space is impossible or unreasonably expensive. In such an event, the association shall enter into a license agreement with the unit owner for the use of the space in a common area, and the unit owner shall comply with all of the requirements in subsection (e).

g) An association may install an electric vehicle charging station in the common area for the use of all unit owners and members of the association. The association shall develop appropriate terms of use for the electric vehicle charging station.

h) An association that willfully violates this Section shall be liable to the unit owner for actual damages and shall pay a civil penalty to the unit owner not to exceed \$1,000.

(i) In any action by a unit owner requesting to have an electric vehicle charging station installed and seeking to enforce compliance with this Section, the court shall award reasonable attorney's fees to a prevailing plaintiff.

(j) Notwithstanding any provision of this Section, an association may pay, as an amenity, the cost of electricity usage associated with an installed common area or exclusive use common area electric vehicle charging station.

5-25-020 Electric vehicle charging system policy for renters.

(a) Notwithstanding any provision in the lease to the contrary and subject to subsection (b):

i) a tenant may install, at the tenant's expense for the tenant's own use, a level 1 or level 2 electric vehicle charging system on or in the leased premises;

ii) a landlord shall not assess or charge a tenant any fee for the placement or use of an electric vehicle charging system, except that:

A) the landlord may:

1) require reimbursement for the actual cost of electricity provided by the landlord that was used by the electric vehicle charging system; or

2) charge a reasonable fee for access. If the electric vehicle charging system is part of a network for which a network fee is charged, the landlord's reimbursement may include the amount of the network fee. Nothing in this subparagraph requires a landlord to impose upon a tenant a fee or charge other than the rental payments specified in the lease;

B) the landlord may require reimbursement for the cost of the installation of the electric vehicle charging system, including any additions or upgrades to existing wiring directly

attributable to the requirements of the electric vehicle charging system, if the landlord places or causes the electric vehicle charging system to be placed at the request of the tenant; and

(C) if the tenant desires to place an electric vehicle charging system in an area accessible to other tenants, the landlord may assess or charge the tenant a reasonable fee to reserve a specific parking space in which to install the electric vehicle charging system.

b) A landlord may require a tenant to comply with:

i) bona fide safety requirements consistent with an applicable building code or recognized safety standard for the protection of persons and property;

ii) a requirement that the electric vehicle charging system be registered with the landlord within 30 days after installation; or

(iii) reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an electric vehicle charging system.

c) A tenant may place an electric vehicle charging system in an area accessible to other tenants if:

i) the electric vehicle charging system is in compliance with all applicable requirements adopted by a landlord under subsection (b); and

ii) the tenant agrees, in writing, to:

A) comply with the landlord's design specifications for the installation of an electric vehicle charging system;

B) engage the services of a duly licensed and registered electrical contractor familiar with the installation and code requirements of an electric vehicle charging system; and

C) provide, within 14 days after receiving the landlord's consent for the installation, a certificate of insurance naming the landlord as an additional insured party on the tenant's renter's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging system or, at the landlord's option, reimbursement to the landlord for the actual cost of any increased insurance premium amount attributable to the electric vehicle charging system, notwithstanding any provision to the contrary in the lease. The tenant shall provide reimbursement for an increased insurance premium amount within 14 days after the tenant receives the landlord's invoice for the amount attributable to the electric vehicle charging system.

d) If the landlord consents to a tenant's installation of an electric vehicle charging system on property accessible to other tenants, including a parking space, carport, or garage stall, then, unless otherwise specified in a written agreement with the landlord:

(i) The tenant, and each successive tenant with exclusive rights to the area where the electric vehicle charging system is installed, is responsible for costs for damages to the electric vehicle charging system and to any other property of the landlord or another tenant resulting from the installation, maintenance, repair, removal, or replacement of the electric vehicle charging system.

(A) Costs under this paragraph shall be based on:

1) an inexpensive submetering device; or

2) a reasonable calculation of cost, based on the average miles driven, efficiency of the electric vehicle calculated by the United States Environmental Protection Agency, and the cost of electricity for the common area.

(B) The purpose of the costs under this paragraph is for reasonable reimbursement of electricity usage and shall not be set to deliberately exceed that reasonable reimbursement.

ii) Each successive tenant with exclusive rights to the area where the electric vehicle charging system is installed shall assume responsibility for the repair, maintenance, removal, and replacement of the electric vehicle charging system until the electric vehicle charging system is removed.

iii) The tenant, and each successive tenant with exclusive rights to the area where the electric vehicle charging system is installed, shall, at all times, have and maintain an insurance policy covering the obligations of the tenant under this subsection and shall name the landlord as an additional insured party under the policy.

iv) The tenant, and each successive tenant with exclusive rights to the area where the electric vehicle charging system is installed, is responsible for removing the system if reasonably necessary or convenient for the repair, maintenance, or replacement of any property of the landlord, whether or not leased to another tenant.

e) An electric vehicle charging system installed at the tenant's cost is the property of the tenant. Upon termination of the lease, if the electric vehicle charging system is removable, the tenant may either remove it or sell it to the landlord or another tenant for an agreed price. Nothing in this subsection requires the landlord or another tenant to purchase the electric vehicle charging system.

f) A landlord that willfully violates this Section shall be liable to the tenant for actual damages, and shall pay a civil penalty to the tenant in an amount not to exceed \$1,000.

g) In any action by a tenant requesting to have an electric vehicle charging system installed and seeking to enforce compliance with this Section, the court shall award reasonable attorney's fees to a prevailing plaintiff.

h) A tenant whose landlord is an owner in an association and who desires to install an electric vehicle charging station must obtain approval to do so through the tenant's landlord or owner and in accordance with those provisions of this Act applicable to associations.

SECTION 2. This ordinance shall take effect 10 days after passage and publication.

MATTHEW J. MARTIN Alderman, 47th Ward

