

**ASSOCIATION OF APARTMENT OWNERS OF FOSTER TOWER
BOARD OF DIRECTOR'S RESOLUTION ADOPTING A POLICY AND RULES
FOR PLACEMENT OF ELECTRIC VEHICLE CHARGING SYSTEMS**

WHEREAS, by State law, an owner of an apartment in a multi-family residential dwelling in Hawaii is allowed to install an electric vehicle charging system on or near the owner's parking stall, subject, however, to rules that may reasonably restrict the placement and use of such systems;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with Section 196-7.5, Hawaii Revised Statutes, the Board of Directors for the Association of Apartment Owners of Foster Tower hereby adopts the attached policy and rules for the installation of electric vehicle charging systems; and

FURTHER RESOLVED, that notice is hereby given that said policy and rules may be revised from time to time to comply with changes in applicable laws.

CERTIFICATE OF SECRETARY

THIS CERTIFIES that the undersigned is the Secretary of the above-named Association and that the foregoing is the full, true and correct resolution passed by the Board of Directors thereof at a meeting of said Board held on _____, 2019, legally called and held, at which a quorum was present and voting.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2019.

Secretary

Attachments

**ASSOCIATION OF APARTMENT OWNERS OF FOSTER TOWER
PLACEMENT OF ELECTRIC VEHICLE CHARGING SYSTEM POLICY**

(Hawaii Revised Statutes § 196-7.5, as applicable)

(a) Notwithstanding any law to the contrary, no person shall be prevented by any covenant, declaration, bylaw, restriction, deed, lease, term, provision, condition, codicil, contract, or similar agreement, however worded, from installing an electric vehicle charging system on or near the parking stall of any multi-family residential dwelling or townhouse that the person owns. Under Hawaii law, any provision in any lease, instrument, or contract contrary to the intent of this section shall be void and unenforceable.

(b) These rules shall facilitate the placement and use of electric vehicle charging systems for the purpose of charging electrical vehicles in the parking stalls of Foster Tower (the "Project") and shall not be unduly or unreasonably restrictive so as to prohibit the placement or use of electric vehicle charging systems altogether. No fees shall be assessed or charged to any homeowner for placement of any electric vehicle charging system. The Association of Apartment Owners of Foster Tower (the "Association") may require reimbursement for the cost of electricity used by such electric vehicle charging system.

(c) Any person may place an electric vehicle charging system on or near the parking stall of any apartment owned by that person; provided that:

(1) The system is in compliance with any rules and specifications adopted pursuant to this policy;

(2) The system is registered with the Association within thirty days of installation;

(A) The registration shall include a letter from the installer (who must be properly licensed by the State of Hawaii to install an electric vehicle charging system, and who must be insured) addressed to the Association (c/o its Managing Agent) and certifying the date and location of the installation and that it complies with Sections (b) and (c)(1); and

(B) The failure to provide such registration and within such time frame shall be a violation of the Association's administrative rules without further notice by the Association; and

(3) If the system is placed on a common element or limited common element as defined by the Association's governing documents, the homeowner shall first obtain the consent of the Association; provided further that such consent shall be given if the homeowner agrees in writing to:

(A) Comply with the Association's design specification for the installation of the system;

(B) Engage a duly licensed contractor to install the system; and

(C) Within fourteen days of approval of the system by the Association, provide a certificate of insurance naming the Association as an additional insured on the homeowner's insurance policy.

(4) The homeowner executes a Modification/Indemnification Agreement, which shall be duly filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

(d) If an electric vehicle charging system is placed on a common element or limited common element:

(1) The owner and each successive owner of the parking stall on which or near where the system is placed shall be responsible for any costs for damages to the system, common elements, limited common elements, and any adjacent units, arising or resulting from the installation, maintenance, repair, removal, or replacement of the system. The repair, maintenance, removal, and replacement responsibilities shall be assumed by each successive owner until the electric vehicle charging system has been permanently removed from the common elements or limited common elements. The owner and each successive owner shall at all times have and maintain a policy of insurance covering the obligations of the owner under this paragraph and shall name the Association as an additional insured under the policy; and

(2) The owner and any successive owner of the parking stall on which or near where the system is placed shall be responsible for removing the electric vehicle charging system if reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements.

(e) Before an electric vehicle charging system may be installed, the Association's Board of Directors (the "Board") must be presented with proposed general plans showing location, wiring, specifications, and a detailed description of the work to be undertaken. Changes may be requested by the Board, followed by re-application by the owner. Once the plan is preliminarily approved by the Board, all appropriate stamped electrical, engineering, and mechanical plans and surveys must be presented, along with all pertinent approved permits, and any other additional documentation requested by the Board, after which the Board will issue its final written approval.

(f) After receipt of the Board's final written approval, installation of the electric vehicle charging system may then commence. Installation must be coordinated with the Board and/or Managing Agent so as to not conflict with any other building, maintenance, or restoration activities.

(g) If standard design specifications have not been adopted by the Board at the time of an owner's proposed installation of an electric vehicle charging system, any such installation shall be in accordance with complete plans and specifications funded solely by the owner, prepared by a licensed electrical engineer, and approved in writing by the Board.

(h) Regardless of whether the Board has adopted standard design specifications, the means by which the electrical vehicle charging system is connected to the Project's electrical lines shall be in accordance with complete plans and specifications funded solely by the owner, prepared by a licensed electrical engineer, and approved in writing by the Board.

(i) The Association shall not be required to make any improvements to the electrical wiring or other components of the Project's existing electrical system in order to enable owners to install electric vehicle charging systems.

(j) The Association may deny permission to install electric vehicle charging systems if it is advised by a licensed electrical engineer that the Project's wiring or other components of the existing electrical system are inadequate to safely support such systems, or it may limit the number of systems that may be installed or that may be used at any one time to those that the system can safely support on a first-come, first-served basis; provided, however, that an owner may, after receiving writing approval from the Board, update the Project's existing electrical system or install a new power line at the owner's sole expense, and any such upgrade or installation shall be in accordance with complete plans and specifications funded solely by the owner, prepared by a licensed electrical engineer, and approved in writing by the Board.

(k) Electric vehicle charging systems that are connected to common element electrical lines shall be sub-metered so that the electricity being used by the system is either directly billed to the owner by the electric company or the owner shall pay the Association for all electricity used by the system at the then-current rate. The failure of an owner to promptly reimburse the Association upon demand for such electricity shall give the Association the right to disconnect the system.

(l) For the purpose of this policy:

"Electric vehicle charging system" means a system that is designed in compliance with Article 625 of the National Electrical Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging system may include several charge points simultaneously connecting several electric vehicles to the system.

ASSOCIATION OF APARTMENT OWNERS OF FOSTER TOWER
Rules for Installation of Electric Vehicle Charging Systems

1. Definitions. As used in these Rules:

“Common elements” include all portions of the Project other than the apartments (*see* Section B(3) of the Declaration of Horizontal Property Regime of Foster Tower (the “Declaration”) for more details).

“Limited common elements” include certain parts of the common elements that are set aside for the exclusive use of certain apartments (*see* Section C of the Declaration for more details).

“Apartment Owner” or “Owner” means the person who owns, or the persons owning jointly or in common, an apartment and its appurtenant common interest.

“Board of Directors” or “Board” means the Board of Directors of the Association of Apartment Owners of Foster Tower.

“Electric Vehicle Charging System” or “System” means a system that is designed in compliance with Article 625 of the National Electrical Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging system may include several charge points simultaneously connecting several electric vehicles to the system.

2. Conditions and Prohibitions.

a. No electric vehicle charging system shall be installed on or adjacent to any parking stall without first obtaining the prior written consent of the Board.

b. Only an Apartment Owner may install an electric vehicle charging system at the Project. No tenant or other resident may install an electric vehicle charging system at the Project except with the written permission of the Apartment Owner, and the Apartment Owner must: (i) submit the application form on behalf of the tenant; and (ii) on behalf of the tenant, assume all responsibilities imposed by these rules and the law on an Apartment Owner who installs an electric vehicle charging system.

c. No one may make any cuts into the structure of any building (floors, walls, or ceiling) in connection with the installation of an electric vehicle charging system without the prior written permission of the Board. If a cut is made into the structure of any building, it must be approved by the Board and restored to a condition acceptable to the Board. The Board may require that the Owner provide confirmation from an architect or structural engineer that any cuts in the structure of the building will not adversely affect the building.

d. An Apartment Owner installing an electric vehicle charging system (or authorizing the installation of such a system by the Owner’s tenant) at the Project shall be solely responsible for all the costs and expenses of the Work including: design, permitting, construction, and

installation. At the request of the Board, the Owner shall provide the Board with confirmation that the Owner has sufficient funds to complete the Work.

e. The Owner shall ensure that no mechanic's or materialmen's liens or other encumbrances attach to the Project as a result of the Owner's installation of the electric vehicle charging system.

f. The Owner shall indemnify and hold the Association, the Board, and the Association's members and agents harmless from any claims resulting from the installation and/or use of the electric vehicle charging system. Accordingly, the Owner must sign a Modification/Indemnification Agreement (the "Indemnification Agreement"), which shall be filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

3. Pre-Installation Procedure. Any Owner proposing to install an electric vehicle charging system must:

a. Submit a fully completed copy of the Application to Install Electric Vehicle Charging System form and obtain the written consent of the Board prior to beginning the installation.

b. Hire an electrical engineer licensed in the State of Hawaii to certify that the Project's transformer and electrical system has the capacity to handle the Owner's proposed electric vehicle charging system. Alternatively, the Board may hire an electrical engineer to review the Owner's plans and confirm that they comply with all legal requirements and to determine the capacity of the Association's electrical system and its ability to support the electric vehicle charging system. The cost of the review shall be charged to the Owner.

c. Hire an electrician licensed in the State of Hawaii and with the required insurance (and other licensed and insured contractors, if necessary) to install the electric vehicle charging system and inform the electrician/contractor that the installation must comply with these rules.

d. Confirm that the installation includes a sub-meter to determine the electricity used by the electric vehicle charging system.

e. Obtain a building permit for the installation of the electric vehicle charging system and provide a copy of the building permit to the Board and/or Managing Agent prior to beginning the installation.

f. Comply with all the requirements of the National Electrical Code and all laws and regulations applicable to the electric vehicle charging system and have the Owner's electrician confirm that the electrical system of the Project has sufficient capacity to supply power to the electric vehicle charging system that is to be installed.

g. Confirm in writing that the electric vehicle charging system will fully comply with these rules and all rules and policies of the Association relating to: construction, use of parking by

contractors and vendors of Owners, use of elevators, work hours, disposal of trash, daily cleanup, etc.

4. Installation Requirements. After receiving the Board's written approval to proceed, an Owner installing an electric vehicle charging system at the Project must:

a. Install the electric vehicle charging system, including a sub-meter, on the Apartment Owner's limited common element parking stall or on a common element that is as close as possible to the parking stall in a location designated by the Board.

b. Integrate the electric vehicle charging system installation into the architecture and design of the building and make the electric vehicle charging system as visually unobtrusive as possible.

c. Paint all exposed surfaces to match the surface on which the electric vehicle charging system is mounted. Thereafter, the Owner shall be responsible for ensuring that the painted surfaces are properly maintained to prevent peeling and cracking of the paint.

d. Ensure that the exterior interconnecting components are minimized and that any parts of the electric vehicle charging system that must be installed on the exterior of walls, floors or ceilings are enclosed with material that is similar in color and texture to the building.

e. Obtain all necessary permits and inspections and comply with all procedures and requirements of Hawaiian Electric Company.

f. Provide the Board and/or Managing Agent with a schedule of installation from start to completion. No duration shall extend longer than sixty (60) days.

5. Post-Installation Procedures.

a. Within fourteen (14) days of obtaining the Board's written approval of the installation of the electric vehicle charging system, the Owner must provide the Board with a certificate of insurance from a company admitted to do business in the State of Hawaii, naming the Association as an additional insured on the Apartment Owner's insurance policy. The certificate of insurance must show that the policy covers the electric vehicle charging system and their liability insurance limit shall be at least \$300,000.00 per claim.

b. An Owner must: (1) register the completed electric vehicle charging system installation with the Association within thirty (30) days of its installation, and (2) provide a written confirmation by the Owner's electrician that the Work has been completed in accordance with these rules, the National Electrical Code, and all applicable laws and regulations.

c. The Owner or tenant who uses the electric vehicle charging system shall be solely responsible for the cost of electricity used by the system and for ensuring that the sub-meter is functioning correctly at all times. If the electric charges are not paid by such Owner or tenant, these charges may be assessed against the Apartment and collected in the same manner as unpaid

assessments for common expenses. Alternatively, the Association may terminate the supply of electrical power to the charging station until all electric charges have been paid in full.

6. Maintenance, Repair, Replacement and Removal.

a. If an electric vehicle charging system is placed on a common element or limited common element, the Apartment Owner who installed the electric vehicle charging system and each successive owner of the Unit shall be responsible for:

- i. Any costs for damages to: (1) the electric vehicle charging system; (2) the common elements, including the common element electrical system; (3) the limited common elements; and/or (4) any adjacent parking stalls, arising or resulting from the installation, operation, maintenance, repair, removal or replacement of the electric vehicle charging system.
- ii. Any repair, maintenance, removal or replacement of the electric vehicle charging system (including the sub-meter installed to monitor the cost of electricity for the charging system), until the electric vehicle charging system has been permanently removed from the common elements or the limited common elements.
- iii. Removing the electric vehicle charging system if reasonably necessary or convenient for the repair, maintenance, or replacement of the common elements or limited common elements.

b. The Board may also require the removal of an electric vehicle charging system that threatens the health or safety of Project residents.

c. The Owner and each successive Owner shall at all times have and maintain a policy of insurance covering the obligations of the Owner under these rules. The policy shall name the Association as an additional insured under the policy, and the Owner shall not less than annually provide the Board with a current certificate of insurance confirming that the policy is in effect. The certificate shall provide that the Association must be notified at least thirty (30) days prior to cancellation of the insurance.

d. The Board may require the removal of the electric vehicle charging system and related wiring when the Owner or tenant who installed the system moves out of the Project, unless a new Owner or tenant requests the retention of the system and assumes all responsibilities for the system under these rules.