

## **Right-of-Way Charging Model Ordinance**

*This sample intent language and bill text below can be modified for your jurisdiction according to your needs.*

### **Intent**

- The transportation sector is the largest generator of greenhouse gas emissions in Humboldt County, and deployment of electric vehicles can significantly reduce these greenhouse gas emissions.
- Traditional internal combustion engine vehicles produce harmful air pollutants that affect human health.
- Access to curbside charging is critical for EV drivers without a driveway or a garage. Curbside charging is an important part of equitable ZEV infrastructure deployment.
- This ordinance addresses two kinds of curbside charging infrastructure: chargers which draw electricity from an adjacent building and may be either private or publicly accessible; and publicly accessible chargers which are installed on utility poles and draw electricity directly from the grid.

### **Sample Ordinance Text**

#### **Terms and Definitions**

*The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

*Electric vehicle* means any motor vehicle, licensed for operation on public streets in the State of California, which receives fuel power from a battery or other storage device that receives and stores electricity from an external source such as a charger. This definition includes plug-in hybrid electric vehicles.

*Electric vehicle charger* means a device that permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle, and includes both "Level 1" (120V) and "Level 2" (240V) devices.

*Operating permit* means the city/county-issued authorization to install, operate, and maintain an approved electric vehicle charger occupying a portion of the right-of-way.

*Permittee* means the person or business entity issued an operating permit for the installation, operation, and maintenance of an approved electric vehicle charger occupying a portion of the right-of-way.

*Right-of-way* means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for use by pedestrians or as a landscaped buffer between pedestrian and vehicular traffic.

#### **Public electric vehicle charger policy**

It shall be the official policy of the City/County of XXXX to construct, and encourage private property owners to construct, publicly accessible electric vehicle chargers in the public right-of-way. Wherever feasible, and pursuant to negotiation with the relevant utility company or agency, chargers shall be installed on utility poles and draw electricity directly from the grid. Areas with a high density of multifamily residential buildings and/or limited off-street parking shall be prioritized for construction of chargers in the public right-of-way. All publicly accessible electric vehicle chargers shall conform to the operating permit requirements, standards and criteria found in this division.

#### **Operating permit required**

Use of any right-of-way for installation, operation, or maintenance of an electric vehicle charger shall be unlawful without an operating permit issued pursuant to this division.

#### **Operating permit requirements**

1. For purposes of enforcing this division, operating permits issued to the owner or occupants of a residential building shall be considered an extension of a residential building on publicly owned property and any violation of this division shall be attributable to the owner of such adjacent residential building. Operating permits issued to someone other than the owner or occupant of an adjacent residential building must show written consent by the owner or occupants of the adjacent residential building if the electricity for the charger is sourced from that building.

2. Operating permits can be issued as accessory and subordinate uses to dwellings or as open to the public.
3. All improvements associated with the installation, operation, and maintenance of electric vehicle chargers shall be compliant with the adopted construction codes of the City/County of XXXX, and certified as compliant by the director of safety and permits.
4. Cords shall be retractable or have a place to hang the connector and cord sufficiently outside of the pedestrian clear path when not in use. Any cords connecting the charger to a vehicle and crossing a driveway, sidewalk, or passenger unloading area shall be installed so that they do not interfere with sidewalk traffic. The Seattle Dept. of Transportation Client Assistance Memo 2119 can be used as a guide (see attachment).
5. Issuance of an operating permit for installation, operation, and maintenance of an electric vehicle charger on the right-of-way does not create a private or reserved parking space for the permittee on the right-of-way. A sign shall be affixed to any permanently installed electric vehicle charger indicating that the presence of the charger does not constitute a private or reserved parking space, the dimensions and text of which shall be determined by the director of XXX.
6. If a subsequent owner or renter of a property from which electricity is sourced is desirous of taking possession of the electric vehicle charger for usage purposes, the permit will be transferred to them.

#### **Authority to issue permit**

The representative of the department of XXX shall authorize operating permits only for uses that fully comply with the requirements of this division. Such permits shall be issued only after consultation with and the positive recommendation of a representative of the department of XXX. An operating permit is a privilege, not a right, and may be revoked, suspended, or not renewed based on non-compliance with the requirements of this division.

#### **Application, documents and requirements**

Any person seeking an operation permit for the installation, operation, and/or maintenance of a permanently installed electric vehicle charger in the right-of-way shall file a written application with the representative of XXX on a form to be provided for that purpose.

In addition to the application form, the following documents shall be submitted for review for an application to be considered complete:

1. A plan shall be submitted on 8½" × 11" paper or in digital format. This plan does not need to be to scale, but shall show exact length and width dimensions of entire right-of-way abutting the subject property. This plan shall include the location and size of the EV charger (including the stored cord), as well as all existing encumbrances on and underneath the public way including, but not limited to, driveways, parking meters, fire hydrants, bike racks, light poles, water, sewer, drain, and other utility lines, underground street light conduit and traffic signal conduit, and trees. A written narrative may accompany the plan.
2. Photographs depicting the proposed site where the electric vehicle charger will be installed and the relationship between the proposed electric vehicle charger and the surrounding public right-of-way.
3. If the applicant is not the owner of the adjacent real property or their designee, written authorization of the property owner shall be required as part of the application.
4. A permittee shall agree to indemnify and hold the city harmless from any claims arising from the installation, operation, and/or maintenance of the electric vehicle charger to the extent permitted by law.

#### **Standards and criteria for application review**

The following standards and criteria shall be used in reviewing the application and design drawings to determine if the proposed location is suitable and will not obstruct free and proper use of the public right-of-way:

1. The right-of-way shall be of sufficient width to accommodate the proposed electric vehicle charger while maintaining a clear path of pedestrian travel that is at least six feet in width. In areas of congested pedestrian activity, the reviewing agencies are authorized to require a wider pedestrian path to ensure the free and proper use of the right-of-way by pedestrians.
2. Electric vehicle chargers shall not be installed in any area where parking is otherwise prohibited, such as within no-parking zones around a fire hydrant or fire department sprinkler/standpipe connection, a driveway or other curb cut, or a bus stop
3. Locations of electric vehicle chargers which draw electricity from a residential building are restricted to the area immediately adjacent to the building being served and may not project in front of neighboring properties or vacant lots.
4. The location shall avoid interference with pedestrian, bicycle, or vehicular sight lines at street corners or driveways and minimize the removal of vegetation.
5. The electric vehicle charger shall not block use of the street.
6. Verification that a property from which a charger shall draw electricity has no outstanding taxes or property liens.

### **Permit issuance**

Upon satisfactory submission of the required documentation and completion of review by all necessary agencies, the director of the department of safety and permits may issue an operating permit. Said permit shall contain:

1. The address of the adjacent property, if any, from which the charger shall draw electricity;
2. The name of the permittee;
3. The permit number and any additional usage limitations which may be imposed as a condition of approval;
4. Dates the permit is valid, if not permanent.
5. In addition to the permit placard, the director of safety and permits shall issue an approved site plan, which graphically describes the placement of approved electric vehicle charger.

### **Permit renewal**

The operating permit shall be valid from the date of issuance. If required, renewal permits shall be issued in the same manner as initial permits, and requires:

1. Providing the department an updated copy of any of the documents required
2. Providing a revised or updated site plan, if changes to an approved plan are requested; and
3. Proof of payment of all applicable taxes and fees as required by law.

### **Conditions and restrictions.**

1. Operating permits are subject to modification, suspension or revocation by the City of XXX at any time during the period of validity if the city requires the subject right-of-way area cleared for street, sidewalk, or utility repair or other public purposes.
2. The permittee accepts the prevailing site conditions including, but not limited to, loading and passenger zones, loading zones, obstructions within the right-of-way, active residential permit parking zone restrictions and permitting requirements, street cleaning parking restrictions, and traffic.
3. Operating permits shall be automatically suspended for periods two hours before and two hours after a parade for locations on parade routes.
4. The director of XXX may suspend operating permits without prior notice in the event of permitted special events where crowd control is likely to be necessary.
5. The departments of police and fire and any other emergency response agency may require immediate removal, deactivation, or relocation of the electric vehicle charger in emergency situations.
6. The City of XXX, its officers, agents, or any private utility company operating pursuant to a franchise granted by the city council, their officers, agents, or employees shall not be responsible for electric vehicle charger components relocated during emergencies.
7. Issuance of an operating permit does not grant, convey, or infer any vested right to the use of the right-of-way by the permittee nor does it constitute a deed, grant of easement, or servitude

by the city. The city retains the right to deny the issuance or renewal of an operating permit for noncompliance with the provisions of this division, the City Code, or the comprehensive zoning ordinance.

8. No area of the right-of-way shall be painted, modified, or altered in any way without prior written approval of the director of the department of public works. No part of the right-of-way shall be obstructed, blocked, or otherwise reserved for a permittee's use of the approved electric vehicle charger. The public right-of-way shall remain available for parking of the general public at all times when the location is not legally occupied by the permittee's vehicle.
9. The city and/or its agents may schedule general cleaning and maintenance operations. If such work is scheduled, the city and/or its agents shall give notification of its scheduled cleaning times in advance of such operations to permittees if the city expects such cleaning or maintenance will affect the permitted electric vehicle charger. Each permittee in the affected area shall remove, or cause to be removed, electric vehicle chargers which might otherwise inhibit the scheduled cleaning, repair, and/or maintenance operations.

### **Fees**

1. Upon initial submission of an application for an operating permit, a non-refundable application fee of \$10.00 shall be remitted to the department of XXX.
2. Fees for issuance of an operating permit, a non-refundable permit fee of \$10.00 shall be remitted to the department of XXX, which shall be sufficient to administer and enforce the regulations of this division and to compensate the city for use of public property:
3. Operating permit fees shall be payable at the time of permit issuance and are non-refundable in the event of suspension, revocation, or surrender of the sidewalk use permit during the term of validity.

### **Penalties**

Any violation of this division may subject a violator to any remedy, legal or equitable, available to the City/County. Remedies include, but are not limited to: revocation or suspension of the operating permit.

### **Denial, revocation, or suspension of permits**

1. The representative of the department of XXX may deny an application for an operational permit if, in the investigation of the application it is determined:
  - a) That the proposed installation cannot meet the standards of this division; or,
  - b) Upon recommendation of denial from the representative of the department of XXX that the location is unsuitable for installation, operation, and/or maintenance of an electric vehicle charger on the public right-of-way due to pedestrian congestion, traffic, existing obstructions on the sidewalk, or any other reason that would result in an unsafe or substandard condition.
2. Penalties for non-compliance with the provisions of this division may result in suspension of the sidewalk use permit for a period not to exceed 180-days, or revocation of the sidewalk use permit.