

# Electric Vehicle “Right to Charge” Backgrounder

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## **Overview**

British Columbia is leading the way with electric vehicle (EV) adoption and under the provincial CleanBC plan, the sale of fossil-fueled light duty vehicles is set to be phased out such that all new vehicles sales will be zero emission by 2040.

For many, the deciding factor for buying an EV is whether they will be able to charge on a daily basis. Given that personal vehicles are typically parked at the place of residence for the longest portion of the day, access to charging at home is critical for widespread adoption, making EVs both convenient and affordable.

Access to charging in multi-unit residential buildings (MURBs) like stratas and apartments can be very difficult due to the nature and processes of strata governance and the use of common property and, in the case of apartments, landlord restrictions on EV charger installations. As many as 60% of larger municipality households in British Columbia live in MURBs, where a significant number of residents find it difficult to get access to EV charging infrastructure. This lack of access works directly against the province’s 2040 sales target of 100% zero-emission vehicles.

## **The Importance of home charging**

Given that over 70% of EV charging occurs at home<sup>1</sup>, having access to charging at home is critical to EV adoption and countless studies (e.g. [Electrifying Vehicles: SFU’s Canadian PEV Study](#) and [A Review of Consumer Preferences of and Interactions with Electric Vehicle Charging Infrastructure](#)) have demonstrated the linkage between access to home charging and EV sales.

**The Province’s light duty vehicle zero emission sales targets of 10/30/100% by 2025/2030/2040 respectively, will not be met without addressing the issue of right of access to EV charging in multi-unit residential buildings**

## **Having some EV infrastructure in place does not guarantee access to charging**

Although many progressive B.C. local governments are adopting EV-ready zoning bylaws for new construction (Table 1), the vast majority of the MURBs in BC require either complete retrofitting or various degrees of retrofitting<sup>2</sup> for EV infrastructure. In the cases of retrofitting, residents are frequently

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<sup>1</sup> Charge the North Study <https://www.fleetcarma.com/charge-the-north-summary/>

<sup>2</sup> There are a reported 50,000 parking spaces in various stages of EV readiness in Vancouver alone.

denied the installation of EV infrastructure by the Strata or landlords. Currently, a supermajority vote of Strata owners is required even if the EV owners are prepared to fully-finance the acquisition, installation, and operation of the EV charging infrastructure. In the case of apartments, landlords are under no obligation to accommodate any requests for access to EV charging even if the tenant is prepared to pay 100% of the cost.

## **The challenges of deploying electric vehicle charging in multi-unit residential buildings (MURBs)**

### ***Approval from strata council and owners***

- Under current rules for common property in stratas, a  $\frac{3}{4}$  strata majority is needed to pass a bylaw to allow the installation and use of EV infrastructure. Strata Councils and owners can, and with few exceptions, vote without cause, against strata resolutions for EV charging infrastructure and access.
- Strata owners prefer not to call Special General Meetings (SGMs) to vote to install EV infrastructure, and the inconvenience could bias owners into voting against such a motion. As a result, the few resolutions that get to this stage are generally limited to Annual General Meetings (AGMs). This leads to long delays (years) for EV charging infrastructure project decisions.
- Currently, it is the strata council and its owners who ultimately determine if a strata owner can install a charging station, even if the EV owner(s) are willing to pay 100% of the cost.
- Through the “tragedy of the commons” it can be difficult to gain the necessary votes to install infrastructure, when other strata owners do not own, or lack interest in, or do not understand, electric vehicles.

### ***Approval from Landlords***

- There are currently no requirements in the BC Residential Tenancy Act or Regulations that either; prohibit landlords from including prohibitions of EV charging in standard leasing agreements, or require access if the lessee is prepared to pay the installation cost for the EV charging equipment.
- Although EV charging demand and associated market forces may eventually incentivize more landlords to provide EV infrastructure access, there is an immediate need to ensure that tenants who wish to purchase an electric vehicle can, at their option, and under reasonable conditions, gain access to EV charging infrastructure. Particularly if that all that is required is access to existing low-cost charging outlets<sup>3</sup>
- The California tenancy model<sup>4</sup> provides an example of the terms and conditions under which EV charging access can be structured to include the interests of both the landlord and the lessee.

## **Experience from provincial incentive programs**

- In the province's 2017 MURB incentive program, even with a rebate of 75% of costs (up to \$4,000) for the installation of EV chargers, the top reason for applicants to withdraw from the program was their inability to secure the necessary strata votes to proceed with projects.<sup>5</sup>
- The 2018 Charging Solutions and Incentives program application was updated to require project approval from the authorized body (e.g. strata or building owner) in advance of applying, to

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<sup>3</sup> Such as existing 120 Volt wall receptacles with dedicated circuit upgrades

<sup>4</sup> California Assembly Bill 2565 Chapter 529 (2014)

<sup>5</sup> Plugin BC MURB incentive program administrator

reduce the number of expected withdrawals. A number of would-be applicants had to withdraw from the program because they were unable to secure the necessary strata votes to proceed with their projects.<sup>6</sup>

- In both programs, Plugin BC, the program’s administrator, collected data on applicants who were initially approved for funding but withdrew their application. The reasons cited for withdrawn applications include (see Appendix A for testimonials from BC EV owners):
  - Nearer-term financial priorities (e.g. building repairs).
  - An unwillingness to subsidize, or be perceived to be subsidizing, a project that benefits one, or just a few, strata members.
  - Lack of clarity on who pays, and how costs are recovered.
  - Tendency to be risk adverse; uncertainty or lack of understanding makes it easiest to say “no”.
  - Strata council not seeing EV charging as a priority, and postponing or not bringing the resolution to a vote at the AGM.
  - The disposition of individual strata residents.
- In cases where applicants were successful, applicants clearly laid out how they would cover expenses and responsibility for the infrastructure installation. This may suggest that stratas may be agreeable to the installation of EV infrastructure, as long as all the costs are borne by the EV owner(s) and/or the terms and conditions are properly defined. Properly drafted right-to-charge could achieve this condition.<sup>7</sup>

### **The Solution: Right-to-charge legislation**

- Other jurisdictions have dealt with this issue by passing what is known as “Right-to-charge” amendments to their respective Strata/Condo and Residential/Tenancy Acts.
- This legislation outlines the conditions under which an installation and management of EV charging can occur and sets the rights and responsibilities of EV owners for EV charging infrastructure.
- Right-to-charge legislation exists in:
  - Ontario, Canada—O. Reg. 114/18, s. 8
  - California—CA Assembly Bill AB2565
  - Colorado—CO Senate Bill SB13-126
  - Oregon—2015 ORS 94.762
  - Hawaii—HRS 196-7.5
  - Florida—HB 841
- Some common elements for legislation include:
  - A process and requirements for Condo/ Homeowners’ Association/Strata owner(s)/Landlords to make an installation application.
  - An agreement between EV owners and the Condo/HOA/Strata/Landlord
  - Timelines in which building owners must respond to the EV owners’ request and completion of agreements.

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<sup>6</sup> Plugin BC MURB incentive program administrator

<sup>7</sup> Plugin BC MURB incentive program administrator

- Responsibility for installation and operational costs covered by the EV owner(s) and/or strata/landlord.
- Clear and consistent definitions of what constitutes a reasonable denial.
- Responsibility for maintenance, insurance, and removal.
- Process for dispute resolution.
- Ability for the property owner (Strata/Condo/HOA/Landlord) to propose reasonable modifications (e.g. to support energy management)

British Columbia has the opportunity to join these leading jurisdictions by updating the Strata Property Act and the Residential and Tenancy Acts and Regulations to address the barriers identified above and enable a fairer and faster process for EV owners living in MURBs to access EV charging. Effective Right-to-charge legislation will clear the way to removing this obstruction to meeting the Province’s EV sales and GHG emission targets.

### **Stories from British Columbia EV Owners and Prospective Owners**

The following are excerpts of responses when current EV owners and prospective owners were asked what challenges they faced in trying to get access to EV charging in their MURB.

- “A strata council executive member dissuaded me from applying for a station at one of my three business parking spaces as there was no chance of it passing the council.”
- “Property management is our main customer base and I have heard on numerous occasions that a strata's demographic is a hurdle in getting car chargers approved “
- “I tried a little more than a year ago, went through several things to get as accurate info as I could, arranged for a rep from [*a supplier*] to talk to strata, a second resident got a new EV, and her son paid to have her own install. Since then I have been told I have to charge off site.”
- “Despite my offer to pay for electrical work and power consumption and a letter from [*a mayor of a municipality*] offering financial assistance as a pilot project for the city. They thought it was unfair to provide access to an outlet for one person, when they could not make that exception for everyone in the building They would rather say no, than discuss a solution.”
- “They were confused about costs, and unaware of level 1 vs level 2, quoting \$50,000 costs, despite me only asking for access to a 110V outlet.”
- “I had one property management company approve my use of an outlet, and then shut off power to the entire parkade, claiming their hydro bill went up by hundreds of dollars a month.”
- “One claimed that my using an existing 110V outlet (I offered to pay to run a dedicated line to it) was a significant change in use and would require an SGM to vote on it.”
- “...my Strata is against me plugging the car to any outlet, their main point is ‘who is going to pay for the electricity and how’”?
- “I cannot even get a meeting with the (Strata) Council.”

**Table 1: List of BC municipalities with EV-ready requirements for multi-unit residential buildings (MURBs)**

| <b>Municipality</b>      | <b>Residential Requirement</b>            | <b>Policy type</b>                 |
|--------------------------|---|------------------------------------|
| City of Burnaby          | 100% stalls energized                     | Zoning bylaw 13903, No 24          |
| City of Coquitlam        | 1 stall per dwelling unit                 | Zoning bylaw 4897                  |
| Township of Langley      | 100 % residential stalls                  | Zoning Bylaw 2500                  |
| City of New Westminister | 100% stalls energized                     | Zoning bylaw amendment 8040        |
| City of North Vancouver  | 20% stalls L2; capacity for remaining 80% | Sustainable Development Guidelines |
| City of Port Coquitlam   | 100% stalls “roughed in”                  | Zoning bylaw 3630, No. 4035        |
| City of Port Moody       | 100% residential stalls                   | Zoning Bylaw 2937                  |
| City of Richmond         | 100% stalls energized                     | Zoning bylaw 8500                  |
| City of Victoria         | 100% stalls energized (pending 07/20)     | Bylaw 20-001 and 20-075            |
| City of Vancouver        | 100% stalls energized                     | Building bylaw 10908               |
| District of Saanich      | 100% dwelling energized (pending 07/20)   | Zoning Bylaw 8200                  |
| District of Squamish     | 30% off-street parking                    | Zoning bylaw 2200, No. 2569        |
| City of Surrey           | 100% residential stalls                   | Zoning Bylaw 12000                 |
| City of Port Moody       | 100% stalls energized                     | Zoning Bylaw 2937                  |

Compiled by:  
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