

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE 8, AND CHAPTER 25, ARTICLE 1 AND ARTICLE 4, DIVISION 5, OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO PROVIDING, MAINTAINING, AND DEDICATING PARKING SPACES AND CHARGING STATIONS FOR ELECTRIC VEHICLES.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Purpose. Section 291-71, Hawai‘i Revised Statutes, requires all places of public accommodation with at least one hundred parking spaces for use by the general public to have at least one parking space equipped with an electric vehicle charging system. Section 291-73, Hawai‘i Revised Statutes, authorizes each county to adopt an ordinance to enforce the requirements of section 291-71. Further, section 291-72, Hawai‘i Revised Statutes, provides that it shall be a traffic infraction subject to fines to park non-electric vehicles in spaces reserved for electric vehicles or to park in a parking space equipped with an electric vehicle charging system while not actively charging an electric vehicle. The purpose of this ordinance is to enforce the requirements of sections 291-71 and 291-72, Hawai‘i Revised Statutes.

SECTION 2. Chapter 24, article 8, of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended by adding a new division 7 to read as follows:

“Division 7. Parking for electric vehicles.

Section 24-245.4. Definitions.

As used in this division:

““Electric vehicle” means:

- (1) A neighborhood electric vehicle as defined in this section;
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity; or
- (3) A fuel cell electric vehicle.”

““Electric vehicle charging system” means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards, including standard SAE J1772 of SAE International; and
- (3) Is designed and installed in compliance with chapter 5D of the Hawai‘i County Code; provided that the term shall not include facilities or systems for refueling the hydrogen storage tank of a fuel cell electric vehicle.”

““Fuel cell electric vehicle” means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.”

““Neighborhood electric vehicle” means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- (3) The vehicle has four wheels in contact with the ground;
- (4) The vehicle has a gross vehicle weight rating of less than three thousand pounds; and
- (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500).”

Section 24-245.5. Parking privileges.

- (a) Only electric vehicles may be parked in a parking space designated and marked as reserved for electric vehicles.
- (b) Only electric vehicles that are plugged in with the intent to charge may be parked in a parking space equipped with an electric vehicle charging system that is designated and marked as reserved for this purpose.

Section 24-245.6. Penalties.

Any person who uses a parking space in violation of section 24-245.5, shall be guilty of a traffic infraction and fined according to chapter 291D and section 291-72, Hawai‘i Revised Statutes.”

SECTION 3. Chapter 25, article 1, section 25-1-5 of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended by adding the following definitions to be appropriately inserted and to read as follows:

““Alternating current Level 2 charging station,” commonly referred to as “Level 2 charging station,” means an electric vehicle charging system that utilizes alternating current electricity providing at least six kilowatts per plug and means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards and protocols including, but not limited to, Society of Automotive Engineers (SAE) J1772™ of SAE International and Tesla protocol; and
- (3) Is designed and installed in compliance with chapter 5D of the Hawai‘i County Code.”

““Direct current fast charger” means an electric vehicle charger that:

- (1) Utilizes direct current electricity providing at least fifty kilowatts or greater;
- (2) Is network-capable;
- (3) Meets recognized standards and protocols, including but not limited to SAE Combined Charging System, Tesla protocol, and CHAdeMO protocol;
- (4) Is safety certified by a nationally recognized testing laboratory;
- (5) Is designed and installed in compliance with chapter 5D of the Hawai‘i County Code; and
- (6) Contains ports to support at least two industry standard charging protocols for more equitable distribution and access to charging.”

““Electric vehicle” means:

- (1) A neighborhood electric vehicle as defined in this section;
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity; or
- (3) A fuel cell electric vehicle.”

““Electric vehicle charging system” means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards, including standard SAE J1772 of SAE International; and
- (3) Is designed and installed in compliance with chapter 5D of the Hawai‘i County Code; provided that the term shall not include facilities or systems for refueling the hydrogen storage tank of a fuel cell electric vehicle.”

““Fuel cell electric vehicle” means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.”

““Neighborhood electric vehicle” means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- (3) The vehicle has four wheels in contact with the ground;
- (4) The vehicle has a gross vehicle weight rating of less than three thousand pounds; and
- (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500).”

““Networked” refers to electric vehicle charging systems that are able to connect to the internet.”

““Place of public accommodation” means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the general public as customers, clients, or visitors. By way of example, but not of limitation, place of public accommodation includes facilities of the following types:

- (1) A facility providing services relating to travel or transportation;
- (2) An inn, hotel, motel, or other establishment that provides lodging to transient guests;
- (3) A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises of a retail establishment;
- (4) A shopping center or any establishment that sells goods or services at retail;
- (5) An establishment licensed under chapter 281, Hawai‘i Revised Statutes, doing business under a class 4, 5, 7, 8, 9, 10, 11, or 12 license, as defined in section 281-31, Hawai‘i Revised Statutes;

- (6) A motion picture theater, other theater, auditorium, convention center, lecture hall, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
- (7) A barber shop, beauty shop, bathhouse, swimming pool, gymnasium, reducing or massage salon, or other establishment conducted to serve the health, appearance, or physical condition of persons;
- (8) A park, a campsite, or trailer facility, or other recreation facility;
- (9) A comfort station; or a dispensary, clinic, hospital, convalescent home, or other institution for the infirm;
- (10) A professional office of a health care provider, as defined in section 323D-2, Hawai'i Revised Statutes, or other similar service establishment;
- (11) A mortuary or undertaking establishment; and
- (12) An establishment that is physically located within the premises of an establishment otherwise covered by this definition, or within the premises of which is physically located a covered establishment, and which holds itself out as serving patrons of the covered establishment."

““Plug” means an accessory to an electric vehicle charging system capable of charging a single electric vehicle and compatible with alternating current Level 2 charging stations or direct current fast charger protocols.”

SECTION 4. Chapter 25, article 4, division 5, of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by adding two new sections to read as follows:

“Section 25-4-54.1. Parking for electric vehicles; electric vehicle charging systems.

- (a) All applications for plan approval for new places of public accommodation shall be subject to the following electric vehicle charger installation and dedicated, standard size, parking space requirements, for each increment of fifty parking stalls:
 - (1) Networked alternating current Level 2 charger(s) with a total of at least two plugs and two dedicated parking stalls for applications received by December 31, 2023;
 - (2) Networked alternating current Level 2 charger(s) with a total of at least four plugs and four dedicated parking stalls for applications received by December 31, 2025;
 - (3) Networked alternating current Level 2 charger(s) with a total of at least six plugs, and six dedicated parking stalls for applications received by December 31, 2027; and
 - (4) Networked alternating current Level 2 charger(s) with a total of at least eight plugs and eight dedicated parking stalls for applications received by December 31, 2029.
- (b) All applications for plan approval for existing places of public accommodation shall be subject to the following electric vehicle charger installation and dedicated, standard size, parking space requirements, for each increment of fifty parking stalls:
 - (1) Networked alternating current Level 2 charger(s) with a total of at least two plugs and two dedicated parking stalls for applications received by December 31, 2025;
 - (2) Networked alternating current Level 2 charger(s) with a total of at least four plugs and four dedicated parking stalls for applications received by December 31, 2027;
 - (3) Networked alternating current Level 2 charger(s) with a total of at least six plugs, and six dedicated parking stalls for applications received by December 31, 2029; and
 - (4) Networked alternating current Level 2 charger(s) with a total of at least eight plugs and eight dedicated parking stalls for applications received by December 31, 2031.

- (c) Existing places of public accommodation not subject to subsection (b) shall comply with section 291-71, Hawai'i Revised Statutes, by December 31, 2025 and are otherwise subject to the other provisions of this section.
- (d) All existing electric vehicle chargers must be actively maintained in good working order.
- (e) A dedicated parking space must be provided for each electric vehicle plug. Dedicated parking spaces for electric vehicle charging must be clearly marked and include signage that states that parking is only for electric vehicles that are actively charging.
- (f) At least one of the parking spaces designated for electric vehicles shall be an accessible stall as defined by the Americans with Disabilities Act. This space shall not displace or reduce other accessible stalls required by the Americans with Disabilities Act.
- (g) Electric vehicle charging stations shall only be required to be available for use by the public during such times as the place of public accommodation is also open for public use.
- (h) Site owners are not precluded from charging a fee for the use of the charging station or additional fees should a vehicle remain in the space after charging has been completed.

Section 25-4-54.2. Alternatives and exemptions; parking for electric vehicles; electric vehicle charging systems.

- (a) For each set of eight plugs required under the applicable subsection of section 25-4-54.1, the requirements may alternatively be met by one direct current fast charger, provided that there is at least one Level 2 compatible plug for each requirement of eight plugs.
- (b) Places of public accommodation shall be exempted from the applicable requirements of section 25-4-54.1 if:
 - (1) Documentation is provided by a qualified professional or the public electric utility verifying the lack of established electrical service or adequate electrical infrastructure to provide electrical service capable of supporting alternating current Level 2 charging stations.
 - (2) The location is identified as being in the highest flood risk zone as established by the Federal Emergency Management Agency's Digital Flood Insurance Rate Map.
- (c) Owner(s) of multiple parking facilities within the State of Hawai'i who intend to use the aggregation allowance in section 291-71, Hawai'i Revised Statutes, shall provide the director with documentation to demonstrate that the electric vehicle charging requirements have been met at the time of application for plan approval."

SECTION 5. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 6. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or

applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 7. This ordinance shall take effect upon its approval.