

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Residential Site Improvement Standards

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:21-3.1 and 4.14; and 5:23-1.4 and 3.14

Proposed New Rule: N.J.A.C. 5:23-2.36

Authorized By: Lieutenant Governor Sheila Y. Oliver, Commissioner, Department of
Community Affairs.

Authority: N.J.S.A. 40:55D-40.4 and 52:27D-119.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-123.

Submit written comments by November 18, 2022, to:

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The agency proposal follows:

Summary

The Department of Community Affairs (“Department” or “DCA”) seeks to amend
Subchapters 3 and 4 of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, as

well as Subchapters 2 and 3 of the Uniform Construction Code (UCC), N.J.A.C. 5:23, to incorporate the requirements at P.L. 2021, c. 171. The law requires that electric vehicle supply/service equipment (EVSE) and make-ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements related to EVSE throughout the State. In order to implement this, the law required DCA to publish a model Statewide ordinance. The Office of Local Planning Services maintains the ordinance on its website at <https://www.nj.gov/dca/dlps/home/modelEVordinance.shtml>. The model ordinance includes the installation and parking requirements detailed in the law.

The law also directs the Department to incorporate the provisions of the DCA Model Statewide Municipal EV Ordinance concerning EVSE for parking spaces into the RSIS and UCC. As such, the Department is proposing to amend these chapters, accordingly; this change conforms to the DCA Model Statewide Municipal EV Ordinance parking rules meeting the definition established pursuant to P.L. 2021, c. 171.

A section-by-section summary of the changes to these chapters follows:

RSIS

1. At N.J.A.C. 5:21-3.1, proposed amendments remove minimum parking spaces from the allowable *de minimis* exceptions to align with the requirements set forth at P.L. 2021, c. 171. This reflects the change to Table 4.4 to establish the parking standards as a maximum standard. In doing so, this allows for municipalities to go below the requirement of the table without notifying the Department. This encourages better, more efficient designs by allowing municipalities to make decisions based on the type and nature of housing. Many municipalities with large multi-family dwellings that have widespread access to public transportation do not

need to meet the number of spaces set forth in those requirements. The ability to go below this standard allows for better design and less wasted space in these areas.

2. At N.J.A.C. 5:21-4.14, proposed amendments incorporate the requirements at P.L. 2021, c. 171, and specify that the parking space requirements established pursuant to Table 4.4 are maximum standards. Further, the amendments provide the allowable process for exceeding the standards set forth in this section.

UCC

3. At N.J.A.C. 5:23-1.4, amendments incorporate the definitions of “electric vehicle service equipment (EVSE)” and “make-ready parking space” from P.L. 2021, c. 171.

4. New N.J.A.C. 5:23-2.36 is proposed to incorporate the requirements for EVSE or make-ready parking spaces for Residential (Groups R-2 and R-3) and other buildings based on the number of spaces provided.

5. At N.J.A.C. 5:23-3.14, the accessibility provisions of the building subcode are amended to include a reference to N.J.A.C. 5:23-2.36 and to delete an exception that currently states that EVSE provided to serve Groups R-2, R-3, and R-4 do not need to comply with accessibility requirements. This exception is proposed for deletion because it is in direct conflict with the provisions at P.L. 2021, c. 171.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

It is expected that the proposed rulemaking will have a positive social impact. This rulemaking codifies the requirements established pursuant to P.L. 2021, c. 171, and delineates

the requirements for constructing electric vehicle (EV) ready parking for residential site developments throughout the State. This aligns with the goals of the New Jersey Energy Master Plan and benefits residents of New Jersey by promoting clean energy throughout the State and increasing the availability of EVSE.

Economic Impact

These proposed amendments and new rule are not expected to have a direct economic impact. Construction to incorporate the EVSE-ready provisions will increase cost in the near term, but it is anticipated that future energy savings will neutralize the initial increase in cost over time. In addition, these provisions are already required pursuant to P.L. 2021, c. 171; the purpose of this rulemaking is to reflect the requirements of that law in the RSIS and the UCC. No new costs are added as a direct result of this rulemaking. There will be costs associated with the installation of this equipment, including wiring and potential service upgrades to accommodate the charger; however, these costs are necessary in order to implement the requirements at P.L. 2021, c. 171.

Federal Standards Statement

No Federal standards analysis is required because these amendments and new rule are not being proposed pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law or any State statute that incorporates or refers to any Federal law, standard, or requirements.

Jobs Impact

It is not anticipated that the proposed amendments and new rule, which incorporate the requirements at P.L. 2021, c. 171, will have an impact on the creation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments and new rule, which are related to the installation of electrical vehicle parking spaces, would impact the agriculture industry.

Regulatory Flexibility Analysis

Developers and installers of EVSE may be considered small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, because this is a Statewide requirement that provides for the use of EVSE, it is not anticipated that compliance with the reporting, recordkeeping, and/or compliance requirements, as discussed in the Summary above, will pose an undue burden on small businesses. In addition, it is not anticipated that small businesses would be required to undertake additional recordkeeping, reporting, or other services in compliance with the proposed amendments and new rule.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments and new rule, which incorporate P.L. 2021, c. 171, will have any direct impact on the affordability of housing and it is unlikely to evoke a change in the average cost associated with housing in the State. Providing for EVSE and make-ready parking spaces is a requirement at P.L. 2021, c. 171. This rulemaking does not establish any requirements not already necessitated by law.

Smart Growth Development Impact Analysis

It is not expected that the proposed amendments and new rule will have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. Providing for EVSE and make-ready parking spaces is a requirement at P.L. 2021, c. 171. This rulemaking does not establish any requirements not already necessitated by law. Accordingly, no further analysis is required.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 21

RESIDENTIAL SITE IMPROVEMENT STANDARDS

SUBCHAPTER 3. EXCEPTIONS, WAIVERS, AND SPECIAL AREA STANDARDS

5:21-3.1 Exceptions

(a)-(e) (No change.)

(f) Examples of [de minimis] *de minimis* exceptions include, but are not limited to, the following:

1. Reducing [the minimum number of parking spaces and] the minimum size of parking stalls;

2.-4. (No change.)

(g) (No change.)

SUBCHAPTER 4. STREETS AND PARKING

5:21-4.14 Parking: number of spaces

(a) – (b) (No change.)

[(c) Alternative parking standards to those shown in Table 4.4 shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources.]

(c) Table 4.4 specifies the maximum number of parking spaces planning boards and other local reviewers shall require. The number of parking spaces is based on the number, size, and type of dwelling.

1. Reviewers may allow fewer parking spaces, when warranted. Factors that may affect parking include the following:

- i. Household characteristics;**
- ii. Access to mass transit;**
- iii. Geographic location; and**
- iv. Offsite parking resources.**

2. Approvals with fewer parking spaces shall be exempt from the *de minimis* exception process at N.J.A.C. 5:14-3. The notice requirement shall not apply for approvals with fewer parking spaces.

3. When both the designer and reviewer agree that more parking spaces than the amount specified within Table 4.4 below are needed, the developer shall send notice of the agreement to exceed the standard to the Department, pursuant to N.J.A.C. 5:21-3.6. The notice shall state how many more parking spaces are needed and the reason they are needed.

(d)-(f) (No change.)

(g) Municipalities shall comply with the Statewide standard for electric vehicle (EV) charging stations required at P.L. 2021, c. 171. These standards are further defined by the Office of Local Planning Services, Department of Community Affairs, in its Model Statewide Municipal EV Ordinance.

1. Fifteen percent of the spaces approved by municipalities shall be make-ready or installed with EV equipment. Municipalities shall not adopt ordinances exceeding this requirement.

2. Municipalities may encourage, and developers and reviewers may agree to exceed the 15 percent standard in accordance with N.J.A.C. 5:21-3.6.

i. In the event the developer and reviewer agree to exceed the standard, the developer shall send notice to the Department. A copy of the planning board resolution shall be sufficient notice if it describes the excess percentage and reason for it.

ii. Municipalities shall not reject a project solely because an agreement to exceed the 15 percent standard was not reached.

3. Municipalities shall be responsible for enforcement and administration of the EV standards and the model ordinance. This shall include all review and approvals, as well as, ordinances dealing with administration and enforcement, including use, timing, maintenance, and the sharing of EV spaces.

i. Maintenance and enforcement may be delegated to a homeowner's association, subject to approval by local reviewers.

4. Installation of electrical vehicle charging stations and equipment shall comply with the Uniform Construction Code, N.J.A.C. 5:23.

TABLE 4.4 [PARKING REQUIREMENTS FOR RESIDENTIAL LAND USES]
MAXIMUM NUMBER OF PARKING SPACES BASED ON NUMBER, TYPE, AND
SIZE OF DWELLINGS

(No change to table.)

CHAPTER 23

UNIFORM CONSTRUCTION CODE

SUBCHAPTER 1. GENERAL PROVISIONS

5:23-1.4 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

...

“Electric vehicle service equipment (EVSE)” or “electrical vehicle supply equipment” means the equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point-of-sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. “EVSE” may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. “EVSE” is synonymous with “electric vehicle charging station.”

...

“Make-ready” means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of EVSE

including, but not limited to, Level Two EVSE and direct current fast chargers (DCFC). Make-ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate EVSE on a “plug and play” basis. For the purpose of this definition, Level 2 EVSE operates on a 40 to 100 amp breaker on a 208 or 240 volt AC circuit. DCFC operates on a 60 amp or higher breaker on a 480 volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations.

...

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.36 Electric vehicle supply equipment and make-ready parking spaces

(a) Buildings containing five or more dwelling units of Groups R-2 or R-3 shall provide electrical vehicle supply equipment or make-ready parking spaces, as follows:

1. A minimum of 15 percent of the off-street parking required by a municipal ordinance shall be electrical vehicle make-ready parking spaces. One-third of the required electrical vehicle make-ready spaces shall be provided with electrical vehicle supply equipment;

2. Non-accessible make-ready parking spaces or non-accessible parking spaces provided with electrical vehicle supply equipment shall be a minimum of 108 inches in width and 18 feet in length;

3. Accessible make-ready parking spaces or accessible spaces provided with electrical vehicle supply equipment shall comply with the requirements for a van accessible parking space that is 132 inches minimum in width with an adjoining access aisle that is 60 inches minimum in width and 18 feet in length; and

4. At least five percent of vehicle spaces served by electrical vehicle supply equipment, but not fewer than one for each type of electric vehicle charging system, shall be accessible. The types of electrical vehicle charging systems are defined within the Office of Local Planning Services, Department of Community Affairs, in its Model Statewide Municipal EV Ordinance.

(b) Buildings of other than Group R-2, R-3, and R-5 provided with off-street parking shall provide electric service vehicle supply equipment or make-ready parking spaces, as follows:

1. A minimum of one make-ready parking space shall be provided where more than 25 parking spaces and 50 or fewer parking spaces are provided;

2. A minimum of two make-ready parking spaces shall be provided where more than 50 parking spaces and 75 or fewer parking spaces are provided;

3. A minimum of three make-ready parking spaces shall be provided where more than 75 parking spaces and 100 or fewer parking spaces are provided;

4. A minimum of four make-ready parking spaces shall be provided where more than 100 parking spaces and 150 or fewer parking spaces are provided.

i. One of the required make-ready spaces shall be accessible;

5. A minimum of four percent make-ready parking spaces shall be provided where more than 150 parking spaces are provided.

i. Five percent of the required make-ready spaces shall be accessible;

6. Electrical vehicle supply equipment is permitted to be installed in a required make-ready parking space;

7. Non-accessible make-ready parking spaces or non-accessible spaces provided with electrical vehicle supply equipment shall be a minimum of nine feet in width and 18 feet in length; and

8. Accessible make-ready parking spaces or accessible spaces provided with electrical vehicle supply equipment shall comply with the requirements for a van accessible parking space that is 132 inches minimum in width with an adjoining access aisle that is 60 inches minimum in width and 18 feet in length.

SUBCHAPTER 3. SUBCODES

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode are modified, as follows:

1.-9. (No change.)

10. Chapter 11, Accessibility, shall be amended, as follows:

i.-xiii. (No change.)

xiv. In Section 1107.2, Electrical vehicle charging stations, “N.J.A.C. 5:23-3.36 and” shall be inserted before “Sections.” In addition, the exception shall be deleted.

Recodify existing xiv. – lviii. as xv. – lix. (No change in text.)