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Model Statewide Municipal Electric Vehicle Supply/Service Equipment (EVSE) Ordinance FAQs

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Governor Phil Murphy signed P.L. 2021, c. 171 (https://www.njleg.state.nj.us/Bills/2020/PL21/171_.PDF) into law on July 9, 2021. The law requires that 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 in New Jersey's municipalities. In order to implement this, the bill required that the New Jersey Department of Community Affairs (DCA) publish a mandatory, statewide EVSE ordinance on its website within 30 days of enactment of the bill. The EVSE ordinance is required to include the installation and parking requirements detailed in the bill, as well as address installation, sightline, and setback requirements and other health- and safety-related specifications ("Reasonable Standards") for EVSE and Make-Ready parking spaces.

Note: FAQs and responses will be used to inform future revisions to the model EVSE ordinance.

1. When are the requirements effective?

The requirements that all EVSE and Make-Ready spaces be considered a permitted accessory use in all zoning or use districts, and the associated installation and parking requirements, became effective when [P.L. 2021, c.171 \(C.40:55D-66.18-21\)](#) was signed into law on July 9, 2021. The remaining requirements ("Reasonable Standards") from the statewide model ordinance became effective in all municipalities on September 1, 2021.

2. Does the Municipal Land Use Law (MLUL) time of application (N.J.S.A. 40:55D-10.5) rule apply?

No, the time of application rule is not applicable here because it is not a municipal zoning change.

3. The applicant is coming in for site plan approval, but no new parking spaces are being added. Do they need to comply?

The requirements are based on the number of off-street parking spaces associated with new construction that are required as part of a site plan approval. Therefore, if there are no off-street parking spaces being constructed as part of the new construction, there is no requirement. In the case of an expansion to an existing development or an existing parking lot or garage, the requirement is based on the number of new, off-street parking spaces created as part of a site plan approval.

4. The applicant is coming in for amended preliminary site plan approval. Do they need to comply?

No, the law specifically says it applies only to applications receiving preliminary site plan approval, not amended approvals.

5. Do the numerical requirements apply to existing developments?

No, only new developments that receive preliminary site plan approval after July 9, 2021, are required to install EVSE or Make-Ready parking spaces. There is no requirement for existing developments to install them, but the legislation makes it easier for existing developments to install them by making them an accessory use. However, if there is an expansion of an existing development or an expansion to an existing parking lot/garage that increases the number of parking spaces and requires preliminary site plan approval, then the numerical requirement apply based on the new required parking spaces created as part of that site plan approval (based on the expansion).

6. What are the numerical requirements based on? What is required in the zoning ordinance or RSIS or what was approved by the land use board?

If a developer or owner has received a parking variance as part of the site plan approval, the requirements shall be based on the number of off-street parking spaces provided pursuant to the variance. Also, if the applicant is providing more parking spaces than what is required in the ordinance, additional charging stations may be encouraged by the municipality, but cannot be required.

7. Can municipalities require more than what is required in the ordinance or require the applicant to install the EVSE at a faster rate?

No, municipalities cannot require more EVSE/Make-Ready parking spaces, or faster installation of EVSE, than what is included in Section D of the statewide EVSE ordinance.

8. Does the ordinance need to be adopted by the governing body?

The municipality does not technically need to adopt the ordinance for it to be effective. The law says, “The model land use ordinance published by the Commissioner of Community Affairs shall be effective in each municipality.” However, adoption allows municipalities to address local concerns and to make it a simpler process for residents and developers to determine the appropriate rules for EVSE and Make-Ready parking space installation. The municipality may want to add an ordinance # so they can fit it into their existing ordinances, add cross-references, and those types of changes to clean it up. In addition, municipalities may want to establish their own usage fees and penalties for publicly accessible and municipally-owned EVSE parking spaces, and make changes to other items that are covered under the Reasonable Standards section of the ordinance

9. How can municipalities make changes to the Reasonable Standards section of the ordinance?

A municipality may deviate from the Reasonable Standards section of the statewide EVSE ordinance to address installation, sightline, and setback requirements or other health- and safety-related specifications for EVSE or Make-Ready parking spaces. To do so, municipalities should adopt a supplemental ordinance that modifies the Reasonable Standards provisions of the statewide EVSE ordinance (but does not change the required

sections of the statewide ordinance). Alternatively, they may adopt, with amendments, the statewide EVSE ordinance.

10. What happens to my municipality's existing electric vehicle ordinance?

The statewide EVSE ordinance supersedes existing EVSE ordinances.

11. How do the accessibility requirements work?

For multiple dwellings with five or more units, D.1 of the ordinance requires that throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the EVSE shall be accessible for people with disabilities; and D.2 requires that a certain number¹ of the EVSE and Make-Ready parking spaces be accessible for people with disabilities once the application involves 101 off-street parking spaces and up. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23 (UCC), and other applicable accessibility standards, but are not required to have handicapped-only signage. Accessible EVSE and Make-Ready parking spaces cannot not be used to address the general accessible parking requirements of the UCC, even if they have handicapped-only signage.

12. If there is an application that is completely commercial and parking is being constructed, when does the EVSE need to be installed in this case?

EVSE, or the actual charging stations, are not required to be installed for applications that are required to comply with D.2. These developments are only required to install Make-Ready parking spaces.

13. How do you calculate the requirement for a mixed-use site?

For a mixed-use site, the requirement should be divided between the uses. Therefore, for the residential component, if the application includes a multiple dwelling with five or more units of dwelling space, then that portion of the mixed-use site must comply with D.1. The non-residential component (if not exempt pursuant to D.2.h.) must comply with D.2. For shared parking arrangements where it is difficult to divide the requirement, it should be based on D.1.

14. The law/ordinance exempts a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home from being required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces. What is meant by the term "retailer"?

A retailer is a person or business that sells goods and services to the public in relatively small quantities for use or consumption rather than for resale. Retailer includes restaurants. In the future, the model ordinance will be amended to clarify this.

- d. ¹ Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
- e. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.

15. Can the land use board provide variance relief from the ordinance?

Because it is not a municipal zoning ordinance and it is a mandatory legislative requirement, land use boards cannot grant variance relief from the numerical requirements of the law/ordinance. They can grant a variance to the parking space requirement as discussed in Question 6 above. However, if land use boards wish to provide relief from the Reasonable Standards section of the ordinance, that would be appropriate because municipalities can deviate from that section of the ordinance.

16. Can you verify that minor site plans are not subject to the numerical requirements?

Yes, the threshold is preliminary site plan approval.

17. Are all dwellings under five units exempt from complying?

Yes, all dwellings that have under five units are exempt. This includes one (1), two (2), three (3), and four (4) family dwellings. In the future, the ordinance may be amended to clarify this. In mixed-use developments, the residential portion of the development would be exempt if less than five units will be constructed.

18. Are townhomes exempt from complying?

Townhomes can be considered multiple dwellings under DCA's Bureau of Housing Inspections. Therefore, to be exempt, the applicant must demonstrate to the land use board that the development will not be considered a multiple dwelling unit pursuant to the New Jersey Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1 et seq.). See <https://www.nj.gov/dca/codes/offices/housinginspection.shtml> for more information on Fee Simple Ownership.

19. Can you give an example of how the two for one credit applies?

Section E.2 of the ordinance states: A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking. Section E of the ordinance only applies to EVSE and Make-Ready parking spaces being installed pursuant to Section D.

- Example: 100 total required parking spaces (multiple dwelling unit development)
 - Reduction of no more than 10% of required parking 100: 10 spaces
 - 15% EVSE/Make-Ready Parking spaces required = 15
 - New required total parking spaces: 90 total spaces, including 15 EVSE/Make-Ready Parking Spaces (1 must be accessible).
 - Note: Five (5) must be EVSE installed at construction; the next five (5) EVSE must be installed at three years post issuance of certificate of occupancy, and the last five (5) must be installed at six years post issuance of certificate of occupancy.

20. How is the requirement calculated and where can EVSE spaces go in planned communities?

The numerical requirement is based on all required, off-street parking spaces in multiple dwellings with five or more units of dwelling space, regardless of the type of development. The law/ordinance does not dictate where the EVSE and Make-Ready parking spaces must go (common areas, assigned parking). The arrangement is best worked out at the local land use board level during application review. During the site plan application review, the local land use board shall review the locations where the Make-Ready equipment or EVSE will be installed. Best practices for EV adoption would suggest that the EVSE should not go in assigned parking spaces.

21. Do schools and other public entities need to comply?

Only developments that are required to receive preliminary site plan approval must comply.

22. Can the information required in 5.d be provided on the charging company's app in lieu of the EVSE display or on an actual sign?

Yes, if the information is available on the charging company's app that would be sufficient.

23. Is green painted pavement and/or curb markings and a green painted charging pictograph symbol necessary? Our charging company doesn't use them because they are difficult to maintain.

This should be an administrative decision that is best left to the zoning officer or other administrative officer. The applicant should not be required to apply for a variance, and it should be handled administratively. In the future, the model ordinance will be amended to clarify this.

24. With regard to Section 4.d. (Safety), where should the connection height be measured from?

The connector height should be measured from the bottom of the EVSE, for cases where the EVSE is raised above the pavement surface, to the operable part of the connector (the center of the handle).

25. Can a resident install a charger on their own property and promote it as a public charger, earning income from the users?

While the EVSE ordinance allows a resident, living in a residential zone, to install a charger for their own use as a permitted accessory use, the resident must also comply with all other requirements of that zone. A charger that earns income for the owner may be considered a commercial enterprise by the zoning officer and a variance may be required.