

# **BOROUGH OF HO-HO-KUS**

## **ORDINANCE NO. 2024-93**

### **AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING CHAPTER 85, "ZONING," OF THE CODE OF THE BOROUGH OF HO-HO-KUS, NEW JERSEY, TO COMPLY WITH P.L. 2021, C. 171, PERTAINING TO ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE) & MAKE-READY PARKING SPACES**

**WHEREAS**, P.L. 2021, c.171, which Governor Murphy signed into law on July 9, 2021, requires 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 in municipalities; and

**WHEREAS**, enactment of this law supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

**WHEREAS**, supporting the transition to electric vehicles contributes to the Borough of Ho-Ho-Kus's commitment to sustainability and is in the best interest of the public welfare; and

**WHEREAS**, the Borough of Ho-Ho-Kus encourages increased installation of EVSE and Make Ready parking spaces, and

**WHEREAS**, pursuant to P.L. 2021, c.171, the Model Statewide Municipal Electric Vehicle (EV) Ordinance published by the New Jersey Department of Community Affairs (DCA) on September 1, 2021 automatically supersedes all previously existing municipal EV ordinances; and

**WHEREAS**, the Borough of Ho-Ho-Kus is therefore amending its land use ordinances to bring its electric vehicle charging station regulations into compliance with P.L. 2021, c.171; and

**WHEREAS**, adoption of this ordinance will support the Master Plan of the Borough of Ho-Ho-Kus adopted in concurrence with P.L. 1975 c. 291, s. 1 eff. October 22, 2020, and is consistent with goals of the Master Plan.

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Committee of the Borough of Ho-Ho-Kus, County of Bergen, and State of New Jersey that Chapter 85, "Zoning," of the Code of the Borough of Ho-Ho-Kus is hereby amended and supplemented as follows:

**SECTION 1.** Section 85-7, "Terms Defined," is hereby amended to delete the following terms and definitions:

#### **CHARGING LEVEL**

The amount of voltage provided to charge an electric vehicle. This amount varies depending on the type of Electric Vehicle Supply/Service Equipment (EVSE) as follows:

- A. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
- B. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
- C. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

## **ELECTRIC VEHICLE CHARGING STATION**

An electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

## **ELECTRIC VEHICLE**

Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

## **ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (“EVSE”)**

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 PARKING SPACE**

The pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a “plug and play” basis. “Make-Ready” is synonymous with the term “charger ready,” as used in P.L.2019, c.362 (C.48:25-1 et al.).

## **PRIVATE EVSE**

EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

## **PUBLICLY-ACCESSIBLE EVSE**

EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

**SECTION 3.** Add a new Section 85-36.1, “Electric Vehicle Supply/Service Equipment,” to read as follows:

§85-36.1. Electric Vehicle Supply/Service Equipment.

- A. Purpose. The purpose of this section is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State’s transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:
- (1) Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
  - (2) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.

- (3) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
- (4) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

B. Approvals and permits.

- (1) An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
- (2) EVSE and Make-Ready Parking Spaces installed pursuant to Subsection C. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in Subsection B.(1) above.
- (3) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (4) The Zoning Official shall enforce all signage and installation requirements described in this section. Failure to meet the requirements in this section shall be subject to the same enforcement and penalty provisions as other violations of the Borough of Ho-Ho-Kus zoning regulations.
- (5) An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
  - (a) The proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
  - (b) All other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
  - (c) The proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (6) An application pursuant to Subsection B.(5) above shall be deemed complete if:
  - (a) The application, including the permit fee and all necessary documentation, is determined to be complete,
  - (b) A notice of incompleteness is not provided within twenty (20) days after the filing of the application, or
  - (c) A one-time written correction notice is not issued by the Zoning Official within twenty (20) days after filing of the application detailing all deficiencies in the

application and identifying any additional information explicitly necessary to complete a review of the permit application.

- (7) EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- (8) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

C. Requirements for new installation of EVSE and Make-Ready parking spaces.

- (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five (5) or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
  - (a) Prepare as Make-Ready parking spaces at least fifteen percent (15%) of the required off-street parking spaces, and install EVSE in at least one-third (1/3) of the fifteen percent (15%) of Make-Ready parking spaces;
  - (b) Within three (3) years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third (1/3) of the original fifteen percent (15%) of Make-Ready parking spaces; and
  - (c) Within six (6) years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third (1/3) of the original fifteen percent (15%) of Make-Ready parking spaces.
  - (d) Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent (5%) of the electric vehicle supply equipment shall be accessible for people with disabilities.
  - (e) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in Subsection C.(1) above shall:
  - (a) Install at least one (1) Make-Ready parking space if there will be fifty (50) or fewer off-street parking spaces.
  - (b) Install at least two (2) Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
  - (c) Install at least three (3) Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
  - (d) Install at least four (4) Make-Ready parking spaces, at least one (1) 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 (4%) of the total parking spaces as Make-Ready parking spaces, at least five percent (5%) of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
  - (f) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.

- (g) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (h) Notwithstanding the provisions of this section, a retailer that provides twenty-five (25) or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

D. Minimum parking requirements

- (1) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to Article VII §85-36, Off-Street Parking and Loading.
- (2) A parking space prepared with EVSE or Make-Ready equipment shall count as at least two (2) parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than ten percent (10%) of the total required parking.
- (3) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (4) Additional installation of EVSE and Make-Ready parking spaces above what is required in Section C. above may be encouraged, but shall not be required in development projects.

E. Reasonable standards for all new EVSE and Make-Ready parking spaces.

- (1) Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. Some flexibility will be required to provide the most convenient and functional service to users. The reasonable standards and criteria provided herein should be considered guidelines and some deviations may be appropriate when alternatives can better achieve objectives for provision of this service on balance with the needs to protect the public health, safety and welfare.
- (2) Installation.
  - (a) Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
  - (b) Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
  - (c) To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
  - (d) 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, and other applicable accessibility standards.

(e) No publicly-accessible EVSE equipment shall be in the AE flood plain or the floodway limits as identified by Federal Emergency Management Agency criteria.

(3) EVSE parking.

(a) Publicly-accessible EVSE.

[1] Publicly accessible EVSE parking shall not be permitted in the R-1 Single Family, R-2 Single Family, R-2A Single Family, R-3 Single Family, R-4 Two Family Residential Districts and the R-5 Planned Residential Districts.

[2] Publicly accessible EVSE parking in all other zones than those listed in §85-36.1 E.(3)(a)[1] shall conform to the minimum setbacks for accessory structures in the respective zone districts except for the following minimum front yard setback in the following zone districts:

| <u>District</u>  | <u>Minimum Front Yard Setback</u> |
|--|-----------------------------------|
| GB General Business District   | 5 feet                            |
| Downtown Inclusionary<br>Overlay Residential/Mixed-Use<br>Zones 1 Through 4. | 5 feet                            |
| General Business/Inclusionary Residential                                    | 5 feet                            |
| IP Industrial Park District I, II and III                                    | 10 feet                           |

[3] Publicly-accessible EVSE shall be reserved for parking and charging of electric vehicles only. Electric vehicles shall be connected to the publicly-accessible EVSE when parked in spaces equipped with same.

[4] A time limit on the use of publicly-accessible EVSE may be established by the property owner or designee.

[5] Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

[6] Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the Borough's police department and enforced in the same manner as any other parking. It shall be a violation of this section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space, or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of the applicable Borough Code. Signage indicating the penalties for violations shall comply with Subsection E.(5) below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.

(b) Private EVSE. The use of private EVSE shall be monitored by the property owner or designee. No private EVSE equipment is permitted in the front yard in the R-1 Single Family, R-2 Single Family, R-2A Single Family, R-3 Single Family, R-4 Two Family Residential and the R-5 Planned Residential Districts. Private EVSE attached to a principal building are permitted up to 1 foot 6 inches into the required side or

rear yard. Private EVSE equipment mounted to an accessory structure shall comply with the minimum side or rear yard setback requirements for accessory structures.

(4) Safety.

- (a) Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Subsection E.(5) below.
- (b) Where EVSE is installed, adequate site lighting and landscaping/screening shall be provided in accordance with Ho-Ho-Kus Borough's ordinances and design standards in 32B-10 B.(3). EVSE equipment shall comply with the prohibited sign and sign features as they pertain to lighting contained in 85-37 D..
- (c) Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is set back a minimum of twenty-four (24) inches from the face of the curb. Any stand-alone EVSE bollards should be three (3) to four (4) feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
- (d) EVSE outlets and connector devices shall be no less than thirty-six (36) inches and no higher than forty-eight (48) inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in Subsection (e) below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- (e) Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- (f) Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (g) Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Borough of Ho-Ho-Kus shall require the owners/designee of publicly-accessible EVSE to provide network interfaces to the applicable municipal systems including information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.
- (h) All EVSE shall comply with proper sight triangle requirements as required by the Borough Engineer and/or Zoning Official and/or Borough Police Department.

(5) Signs.

- (a) Publicly-accessible EVSE shall have regulatory signs posted, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- (b) All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices (MUTCD) as published by the Federal Highway Administration.
- (c) All signs pertaining to publicly-accessible EVSE shall comply with the applicable sections of the regulations pertaining to signs as contained in §85-37 in addition to the regulations of this section.
- (d) Directional signs, if necessary and permitted in accordance in the respective zone where proposed, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with Subsection (b) above.
- (e) In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
  - [1] Voltage and amperage levels;
  - [2] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
  - [3] Usage fees and parking fees, if applicable; and
  - [4] Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- (f) A logo advertising the manufacturer of the EVSE shall be permitted on the EVSE, provided that said logo does not exceed one (1) square foot and is not illuminated. Advertising other than the manufacturer's logo (as permitted herein), shall not be permitted on EVSE equipment or related elements.

**SECTION 4.** The opening paragraph of Section 85-15.1, "Accessory buildings and structures," is hereby amended to include Electric Vehicle Supply/Service Equipment in the list of accessory structures exempted therefrom. Add a new Section 85-15.1 section "G", to read as follows:

- G. See §85-36.1. Electric Vehicle Supply/Service Equipment for regulations pertaining to electric vehicle supply/service equipment (EVSE).

**SECTION 5.** Section 85-36, "Off-Street Parking and Loading" shall be amended to include a new Section "F" shall read as follows:



- F. A parking space prepared with EVSE or Make-Ready equipment shall count as at least two (2) parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than ten percent (10%) of the total required parking based upon the Borough's regulations.

**SECTION 7.** All ordinances, or parts of ordinances, of the Borough of Ho-Ho-Kus which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 8.** If any section, subsection, sentence, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, subsection, sentence, paragraph, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**SECTION 9.** This ordinance may be renumbered for purposes of codification.

**SECTION 10.** This ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

NOTICE OF PENDING ORDINANCE

This Ordinance published herewith was introduced and pass upon first reading at a meeting of the Municipal Council of the Borough of Ho-Ho-Kus, in the County of Bergen, New Jersey, held on January 23, 2024. It will be further considered for final passage after the public hearing thereon, at a meeting of said Municipal Council to be held in the Municipal Building, 333 Warren Avenue, Ho-Ho-Kus, NJ 07423-1547, in said Borough at the Public Meeting on February 27, 2024, at 7:00 p.m. at which time and place all interested member of the public who desire will be given an opportunity to be heard in connection with said Ordinance, and during the week prior to and up to and including the date of such meeting, copies of said has been posted on the bulletin board upon which public notices are customarily posted in the Borough Hall and copies are available at no charge in the Office of the Borough Clerk for members of the general public who may request them.