

**BOROUGH OF MONTVALE
ORDINANCE NO. 2024-1556**

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed on the first reading at the regular meeting of the Mayor and Council on May 28, 2024 and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on June 25, 2024 at 7:30pm or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Frances Scordo, Municipal Clerk
Borough of Montvale

AN ORDINANCE OF THE BOROUGH OF MONTVALE, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE CHAPTER 400 “ZONING”, ARTICLE VIII “OFF-STREET PARKING AND LOADING” TO AUTHORIZE ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE) AND MAKE-READY PARKING SPACES

WHEREAS, adoption of this ordinance is consistent with 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 New Jersey’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, P.L. 2021, c.171, which Governor Murphy signed into law on July 9, 2021, requires 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.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey as follows:

SECTION 1. The Borough Code, Chapter 400 “Zoning,” Article VIII “Off-Street Parking and Loading,” Section §400-61 “(Reserved),” shall be deleted in its entirety and replaced with the following text:

§400-61 Electric Vehicle Supply/Service Equipment.

A. Purpose.

The purpose of this ordinance 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. Definitions.

CERTIFICATE OF OCCUPANCY

The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act, and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (N.J.S.A. 52:27D-119 et seq.) and regulations adopted pursuant thereto.

CHARGING LEVEL

The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. 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.
3. 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

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 OR 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

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 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 (N.J.S.A. 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).

PUBLICALLY-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.).

C. Approvals and Permits.

- (1) A zoning permit application 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 N.J.S.A. 40:55D-70.
- (2) EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in (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 officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the Borough of Montvale’s land use regulations.
- (5) An application 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 N.J.S.A. 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 (N.J.S.A. 52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (6) An EVSE parking space application pursuant to Section (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 20 days after the filing of the application, or
- (7) a one-time written correction notice is not issued by the zoning officer within 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. 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.

D. 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 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 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - (b) within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - (c) within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
 - (d) Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent 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 (1) above shall:
 - (a) Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - (b) Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - (c) Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - (d) 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.
 - (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 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.

E. 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 the requirements of the zoning district in which they are located.
- (2) 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.
- (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 D. above may be encouraged, but shall not be required in development projects.

F. 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. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
 - (a) EVSE and Make-Ready parking spaces shall comply with the setback requirements applicable to off-street parking areas for the zoning district in which they are located.
 - (b) All EVSE and Make-Ready parking spaces within parking garages or enclosed parking structures shall be located within 50 feet of the vehicular entrance to the garage or structure. In addition, all such buildings shall have at least one (1) car fire blanket for use on electric vehicle fires located at the entrance to such garage or parking structure.
 - (c) Where practically feasible, EVSE and Make-Ready parking spaces shall be located a minimum of 75 feet from any wood-frame building or other structure made of combustible material.

(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) The EVSE and Make-Ready parking spaces required in Subsection E, above, shall be monitored and enforced by the Borough's Zoning Official.

(3) EVSE Parking:

- (a) Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE while parked in such spaces. Property owners shall propose a reasonable plan or technological solution to ensure compliance with this requirement.
- (b) 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.

- (c) Public Parking. Pursuant to N.J.S.A. 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality'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 this Code. Signage indicating the penalties for violations shall comply with Section (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.
- (d) Private Parking. The use of EVSE shall be monitored by the property owner or designee.
- (e) Overnight parking at EVSE spaces located on nonresidential properties (excluding Borough-owned property) shall not be allowed. The owner/operator of the EVSE shall implement restrictions that prohibit charging between the hours of 11:00 p.m. and 5:00 a.m.
- (f) All EVSE equipment shall clearly indicate upon a visual inspection whether the vehicle present is actually being charged. If the vehicle is not being actively charged, it must be readily-apparent upon a visual inspection when the vehicle's active charging concluded.

(4) Safety

- (a) Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by painted lines, a painted charging pictograph symbol, and appropriate signage pursuant to Section (5) below.
- (b) Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
- (c) EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in (d) 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.
- (d) 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.
- (e) 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.

- (f) 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 Montvale shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

(5) Signs

- (a) Publicly-accessible EVSE shall have posted regulatory signs, 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 as published by the Federal Highway Administration.
- (c) Wayfinding or directional signs shall not be permitted.
- (d) 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] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - [2] Usage fees and parking fees, if applicable; and
 - [3] Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- (e) Neon signs and exterior lighting of EVSEs shall not be allowed. Lighting for the EVSE and its user interface, including but not limited to buttons and touch screens, shall be no brighter than necessary to allow safe operation by the user. All signage must comply with Chapter 250 of the Borough Code, entitled "Lighting."

(6) Usage Fees

- (a) For publicly-accessible municipal EVSE: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be established by resolution for each hour or kWh that the electric vehicle is connected to the EVSE.
- (b) This fee may be amended by a resolution adopted by the governing body.

- (c) Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.