

CHAPTER 171
(CORRECTED COPY)

AN ACT concerning electric vehicle supply equipment and Make-Ready parking spaces and amending and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.40:55D-66.18 Variance not required for application.

1. An application for development submitted solely for the installation of electric vehicle supply equipment or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts of a municipality and shall not require a variance pursuant to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70).

C.40:55D-66.19 Applications at gasoline station, retail establishment.

2. a. An application for development for the installation of electric vehicle supply equipment or Make-Ready parking 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 P.L.1975, c.291 (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:

(1) 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;

(2) 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

(3) 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.

b. An application shall be deemed complete if:

(1) the application, including the permit fee and all necessary documentation, is determined to be complete;

(2) a notice of incompleteness is not provided within 20 days after the filing of the application; or

(3) a one-time written correction notice is not issued by the jurisdiction 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.

c. Electric vehicle supply equipment 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 Department of Community Affairs inspection requirements.

C.40:55D-66.20 Certain multiple dwellings, preliminary site plan approval.

3. a. (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 a building 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 electric vehicle supply equipment 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 electric vehicle supply equipment 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 electric vehicle supply equipment in the final one-third of the original 15 percent of Make-Ready parking spaces.

(2) Throughout the installation of electric vehicle supply equipment in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.

(3) 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 by this subsection.

b. (1) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in subsection a. of this section 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.

(2) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install electric vehicle supply equipment to satisfy the requirements of this subsection.

(3) 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 by this subsection.

(4) With respect to parking spaces for people with disabilities, the model land use ordinance published pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21) shall include standards that provide for the progression of accessible Make-Ready parking spaces to accessible electric vehicle supply equipment parking spaces, and shall conform to the requirements of the most recent “International Building Code” and “International Residential Code” published by the International Code Council except as the Commissioner of Community Affairs deems appropriate to deviate from those codes.

c. Notwithstanding the provisions of subsections a. and b. 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.

d. (1) The Site Improvement Advisory Board, established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3), shall, no later than 90 days following enactment of

P.L.2021, c.171 (C.40:55D-66.18 et al.), submit a recommendation to the Commissioner of Community Affairs to amend the Statewide site improvement standards for multifamily residential development to include the requirements set forth in sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20) and to include parking spaces with electric vehicle supply equipment in the calculation of minimum required parking spaces. The Commissioner of Community Affairs may review and promulgate the recommendation in accordance with the procedure set forth in subsection b. of section 4 of P.L.1993, c.32 (C.40:55D-40.4). The adopted criteria shall be consistent with the model land use ordinance published by the Commissioner of Community Affairs pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21).

(2) The "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.), shall incorporate the requirements set forth in sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20) no later than 90 days following enactment of P.L.2021, c.171 (C.40:55D-66.18 et al.). The adopted criteria shall be consistent with the model land use ordinance published by the Commissioner of Community Affairs pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21).

e. A parking space prepared with electric vehicle supply equipment or Make-Ready equipment pursuant to this section shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This subsection shall result in a reduction of no more than 10 percent of the total required parking.

f. All parking space calculations for electric vehicle supply equipment and Make-Ready equipment pursuant to this section shall be rounded up to the next full parking space.

g. 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.

h. A power company funding the installation of electric vehicle supply equipment or Make-Ready parking spaces shall collaborate with developers and owners, with consultation from the Board of Public Utilities, in implementing the provisions of P.L.2021, c.171 (C.40:55D-66.18 et al.).

C.40:55D-66.21 Model land use ordinance.

4. a. (1) Within 30 days of enactment of P.L.2021, c.171 (C.40:55D-66.18 et al.), the Commissioner of Community Affairs shall publish a model land use ordinance to address installation, sightline, and setback requirements and other health- and safety-related specifications for electric vehicle supply equipment and Make-Ready parking spaces and shall post the model land use ordinance on the department's Internet website. The model land use ordinance published by the commissioner shall not require the rulemaking process pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(2) The model land use ordinance shall include the requirements pursuant to sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20).

(3) The Commissioner of Community Affairs may periodically update the electric vehicle supply equipment and Make-Ready parking space requirements established pursuant to subsections a. and b. of section 3 of P.L.2021, c.171 (C.40:55D-66.20) to reflect increased electric vehicle adoption levels and technological advances in the State. Any update to such parking requirements shall be adopted by the commissioner pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and promulgated as amendments to the model land use ordinance published pursuant to this subsection. Amendments to the model ordinance to address installation, sightline, or setback requirements or other health- and

safety-related specifications shall not require the rulemaking process pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) The model land use ordinance published by the Commissioner of Community Affairs pursuant to this section shall be effective in each municipality, except that a municipality may deviate from the reasonable standards set forth in the model land use ordinance by adoption of an ordinance pursuant to paragraph (2) of this subsection.

(2) A municipality may, by ordinance, adopt reasonable standards to address installation, sightline, and setback requirements or other health- and safety-related specifications for electric vehicle supply equipment and Make-Ready parking spaces. Nothing in this subsection shall be deemed to authorize a municipality to require site plan review by a municipal agency solely for the installation of electric vehicle supply equipment or Make-Ready parking spaces.

(3) A municipality may encourage additional installation of electric vehicle supply equipment and Make-Ready parking spaces in development projects, but shall not require more than the requirements in the model land use ordinance published by the Commissioner of Community Affairs. The requirements adopted by the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the requirements adopted through the "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.) shall be consistent with the requirements set forth in the model ordinance and shall be updated if the model ordinance is updated pursuant to paragraph (3) of subsection a. of this section.

5. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

C.40:55D-4 Definitions; D to L.

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land that is the subject of an application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance or on the date of the adoption of the ordinance authorizing noncontiguous cluster, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development restriction" means an agricultural restriction, a conservation restriction, or a historic preservation restriction.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Electric vehicle supply equipment" or "electric vehicle service equipment" or "EVSE" means the equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, and 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."

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of land that is the subject of an application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic preservation restriction" means a "historic preservation restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general

welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use, acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et seq.), or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under P.L.1975, c.291 (C.40:55D-1 et seq.).

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

6. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read as follows:

C.40:55D-5 Definitions; M to O.

3.2. "Maintenance guarantee" means any security which may be accepted by a municipality for the maintenance of any improvements required by this act, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Major subdivision" means any subdivision not classified as a minor subdivision.

"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 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.).

"Master plan" means a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

"Mayor" means the chief executive of the municipality, whatever his official designation may be, except that in the case of municipalities governed by municipal council and municipal manager the term "mayor" shall not mean the "municipal manager" but shall mean the mayor of such municipality.

"Military facility" means any facility located within the State which is owned or operated by the federal government, and which is used for the purposes of providing logistical,

technical, material, training, and any other support to any branch of the United States military.

"Military facility commander" means the chief official, base commander or person in charge at a military facility.

"Minor site plan" means a development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

"Minor subdivision" means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision; provided that such subdivision does not involve (1) a planned development, (2) any new street or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42).

"Municipality" means any city, borough, town, township or village.

"Municipal agency" means a municipal planning board or board of adjustment, or a governing body of a municipality when acting pursuant to this act and any agency which is created by or responsible to one or more municipalities when such agency is acting pursuant to this act.

"Municipal resident" means a person who is domiciled in the municipality.

"Nonconforming lot" means a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Noncontiguous cluster" means noncontiguous areas to be developed as a single entity according to a plan containing an area, or a section or sections thereof, to be developed for residential purposes, nonresidential purposes, or a combination thereof, at a greater concentration of density or intensity of land use than authorized within the area, section, or sections, under conventional development, in exchange for the permanent preservation of another area, or a section or sections thereof, as common or public open space, or for historic or agricultural purposes, or a combination thereof.

"Office of Planning Advocacy" or "Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201) and transferred to the Department of State pursuant to Governor Christie's Reorganization Plan No. 002-2011, effective August 28, 2011.

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R.S.40:27-5.

"Official map" means a map adopted by ordinance pursuant to article 5 of P.L.1975, c.291.

"Offsite" means located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is a part.

"Off-tract" means not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

"Onsite" means located on the lot in question and excluding any abutting street or right-of-way.

"On-tract" means located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

"Open-space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land or support its use for recreation and conservation purposes.

7. This act shall take effect immediately.

Approved July 9, 2021.