

Client Alert

St. Louis EV Charger Mandates Raise Questions for Landowners and Developers

In January 2022, both St. Louis City and St. Louis County implemented *EV Ready Ordinances* (“EVOs”) requiring certain new construction and major renovation projects to include Electric Vehicle charging infrastructure. Failure to comply could result in having your building permit denied or incurring daily fines until the infrastructure is installed.

NOTE: There is also currently [legislation pending the Missouri legislature](#) which would significantly impact these ordinances – and could result in their revocation. This legislation is discussed further below.

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WHAT IS AN EV READY ORDINANCE (“EVO”)?

Local governments across the nation have been enacting EVOs since at least 2017, with larger municipalities slower to implement EVOs until recently due to concerns that an EVO could hinder badly needed real estate development. Generally, an EVO is designed to lay the groundwork for future electric vehicle infrastructure by installing the electrical capacity at the most cost effective time: during initial build out or during major renovation.

Data suggests that it can be as much as 75% cheaper to run electricity to a parking space if it’s included in the initial design rather than trying to figure out how to route it later. In other words, it’s cheaper to run conduit and wire through dirt than it is under concrete.

While EVOs can vary somewhat by locality, an EVO generally requires commercial and/or residential builders and remodelers to install a certain minimum level of either [Electric Vehicle Ready](#) or [Electric Vehicle Supply Equipment spaces](#) to their parking infrastructure.

Electric Vehicle Ready (“EVR”) Spaces

An EVR space is not required to have the EV charging equipment pre-installed. The space only needs to have the conductors (a/k/a wires) run to the parking space so that a 50 ampere 208/240 volt charger (commonly referred to as a “Level 2 charger”) could be installed *in the future*.

Electric Vehicle Supply Equipment (“EVSE”) Spaces

In contrast, an EVSE space not only requires the conductors (wires) to be run to the parking space—it also requires the equipment necessary to charge an EV.

Because of the expense of the charging equipment, EVOs usually require more EVR spaces to be installed than EVSE spaces. But, by making parking spaces “EV ready” now, the intent is to both:

- minimize the costs of running the conductors now (i.e., while major construction is already being completed); and
- make it easier (and less expensive) to expand charging capacity in the future as electric vehicle adoption increases.

WHEN DOES THE EVO APPLY?

City of St. Louis EV Ready Ordinance

The City’s EVO (as set forth in Ordinances [71284](#), [71285](#), and [71292](#)) applies to **commercial** and **residential** development anywhere in the City of St. Louis.

Commercial Projects

Which Projects are Impacted?

The EVO applies to new commercial construction and “Level 3 Alterations” if the site has 10 or more parking spaces, and an exclusion doesn’t apply. A “Level 3 Alteration” is any renovation where more than 50% of the building area is being reconfigured (as indicated on the construction plans).

Which Businesses are Excluded?

The City’s EVO does not apply to certain businesses for which the city council has determined a visitor/customer wouldn’t typically stay long enough to warrant charging their vehicle. Exclusions include banquet halls, nightclubs, restaurants, taverns and bars, places of worship, daycare facilities, social service facilities, and storage facilities.

How Many EVR and EVSE Spaces are Required?

The amount of required EVR and EVSE spaces is determined based on the total parking required for the site:

10-30 PARKING SPACES	1 EVR space 0 EVSE spaces
31-49 PARKING SPACES	2 EVR spaces 1 EVSE space
50+ PARKING SPACES	At least 5% of total spaces must be EVR spaces At least 2% of total spaces must be EVSE spaces

It is also worth noting that, when an EVR or EVSE space is required AND an ADA space is required for the same property, at least one EVR or EVSE parking space must be next to an ADA accessible parking space.

Single Family Residential Projects

WHICH PROJECTS ARE IMPACTED?

Currently, the City's EVO only applies to new single family residential construction. *Commencing in January 2024, the EVO will also apply to any "Level 3 Alteration" of a single family residence if the residence has a garage, carport or other off-street parking which is within 50 feet of the dwelling*

HOW MANY EVR AND EVSE SPACES ARE REQUIRED?

Impacted single family residences will be required to have one EVR parking space.

Multi-Family Residential Projects

WHICH PROJECTS ARE IMPACTED?

The City's EVO applies to new multi-family projects and "Level 3 Alterations" if the site has 5 or more parking spots. A "Level 3 Alteration" is any renovation where more than 50% of the building area is being reconfigured (as indicated on the construction plans).

HOW MANY EVR AND EVSE SPACES ARE REQUIRED?

The amount of required EVR and EVSE spaces is determined based on the total parking required for the site:

5-20 PARKING SPACES	1 EVR space 0 EVSE spaces
21-49 PARKING SPACES	2 EVR spaces 1 EVSE space
50+ PARKING SPACES*	At least 5% of total spaces must be EVR spaces At least 2% of total spaces must be EVSE spaces

* Commencing in January 2025, these numbers increase to 10% for EVR spaces and 5% for EVSE spaces

As mentioned above, when an EVR or EVSE space is required AND an ADA space is required for the same property, at least one EVR or EVSE parking space must be adjacent to an ADA accessible parking space.

St. Louis County EV Ready Ordinance

The County's EVO has two major differences: (i) it applies only to **commercial** development (i.e., it does not currently apply to residential construction); and (ii) it only applies in **unincorporated St. Louis County**. That being said, some municipalities in St. Louis County are considering implementation of similar measures. The County's EVO was modified on March 29th to relax some of the requirements. The information below has been updated to include the modified requirements.

WHICH PROJECTS ARE IMPACTED?

Most commercial projects in unincorporated St. Louis County will be required to comply with the EVO if any of the following apply:

- **There is new construction (which includes a new shell building or a new shell building addition) and the required parking for the building exceeds 30 parking spaces;**
- **There is a "major remodel" and parking alterations for an existing building and the required parking for the building exceeds 30 parking spaces.** A "major remodel" is any construction or renovation (but not repair) to an existing structure, which includes a parking alteration that exceeds 50% of the existing parking serving the tenant.

- **There is a significant alteration to the parking area which impacts more than 30 parking spaces.** The ordinance applies only to “parking alterations” which includes any project that consists of (i) reconstruction, excavation, or re-grading of an existing parking lot. The ordinance specifically excludes any milling (i.e., partial surface removal), overlay, surface seal, crackseal, spot patching, or re-stripping resulting in additional or deleted spaces.

WHICH BUSINESSES ARE EXCLUDED?

The County’s modified EVO greatly expanded the businesses that are excluded from complying with the EVO. The County’s EVO now does not apply to certain businesses for which the city council has determined a visitor/customer wouldn’t typically stay long enough to warrant charging their vehicle.

Exclusions include banquet halls, nightclubs, restaurants, bars, certain amusement facilities (arcades, billiard halls, etc.), community halls, storage facilities, banks, barber/beauty shops, car washes, dry cleaners/laundry facilities, funeral parlors, animal hospitals/kennels, healthcare clinics, rehab facilities, public and private schools, educational uses attached to a place of worship, other training and skill development facilities, adult and child daycare facilities, and parking serving motor-fuel dispensing stations.

HOW MANY EVR AND EVSE SPACES ARE REQUIRED?

The County’s EVO requires at least 10% of total required parking spaces to be EVR spaces, and 2% of total parking spaces to be EVSE spaces. The ordinance further provides that the parking spaces required by the ordinance must be “in a location as desirable and convenient as possible.

What Incentives are Available to Assist with The Costs?

Ameren Missouri is offering significant [incentives](#) for business owners and landowners seeking to install EV charging stations at businesses, multi-family residential buildings, and in publicly accessible locations. These incentives are not currently available for single-family residences.

Ameren EV Charging Station Incentives

For businesses and multi-family residential buildings, Ameren will provide \$5,000 for each installed Level 2 charger with a cap of 10 chargers per property. The incentive is capped at an amount equal to 50% of the total project cost and there is a cap of \$500,000 in total incentives to any owner of affiliated businesses.

What is the Impact of the Pending State Legislation?

At the time of this writing, Missouri representative Jim Murphy has introduced legislation ([House Bill 1584](#)) that would require any local government passing an EVO to pay for all costs associated with the installation, maintenance, and operation of the EV infrastructure required by the EVOs. Because this would cause the implementation of such EVOs to be cost-prohibitive for the vast majority of municipalities, it is likely that any locality which has passed an EVO would need to quickly repeal such EVO or risk significant budgetary concerns. It is also possible that this showdown between local and state control will result in litigation which will need to be resolved before the public knows whether these EVOs will survive.

UPDATE AS OF APRIL 6, 2022: The Missouri House of Representatives passed House Bill 1584 on March 10, 2022, and the bill is currently pending in the Missouri senate.

What Are the Emerging Legal Issues with EVOs?

While the central purpose of the EVOs in St. Louis City and County are clear, there are ambiguities and gaps in the statute that raise significant questions for impacted developers/builders. There are also a multitude of emerging issues created by these new EVOs.

- **For example, in a commercial property that is being leased to a tenant, will it be the landlord or the tenant who is responsible for the cost of installing the EV infrastructure?**
Once the equipment is installed, is the same party responsible for servicing the equipment? And who should pay for the electricity used by the charging equipment?
- **Will all tenants be required to contribute to the foregoing costs through Common Area Maintenance charges (or, in the case of multi-family residential property, through homeowners/condo association fees)?**
- **Who is responsible for any injuries caused by the equipment?**
- **What about potential revenue that can be generated from a charging station?**
For example, the EVOs do not prohibit the installation of charging stations that require EV owners to pay a fee for the use of the charging station. Likewise, many charging stations now allow for the owner to sell advertising on the digital display located on the charger. Does any such revenue belong solely to the landlord? Or would this be used to offset the associated expenses, thus reducing the Common Area Maintenance charges (or homeowners/condo association fees) being passed through to the tenants?

While there are many open issues that will need to play out, one thing is clear: electric vehicles continue to grow in popularity and will inevitably require a significant infrastructure upgrade to support charging. Whether EVOs are the right mechanism to implement that infrastructure, only time will tell.