

Warrant Article 17: Amend Article 6 of the Town’s Zoning By-Laws to increase the requirements for electric vehicle-ready parking spaces

Recommendation: Favorable Action, as amended by the Advisory Committee, by a vote of 22-0 with 1 abstention.

Executive Summary:	<p>The Petitioners’ motion would amend Zoning By-Law Section 6.00 and Section 6.04 as follows:</p> <ol style="list-style-type: none"> 1) In Section 6.00 adds Paragraph 7 (parking facilities). 2) In Section 6.04 deletes paragraph 15 (Electric Vehicles). 3) Adds a new Section 6.10 (Off-Street EV Readiness) 4) For Residential Parking Areas (all uses) with 1 (down from 15) parking space or more, increase the proportion of EV Ready Spaces from 15% to 100% (Multifamily/Three-Family only; does not apply to one/two family residential) 5) For Non-Residential Parking Spaces with 7 (down from 15) parking spaces still requiring that the proportion of EV-Ready Spaces be 15% 6) Adds the option of a Minimum Prescriptive Standard and a Minimum Performance Standard using an Automatic Load Management System (ALMS) (Multifamily/Three-Family only; does not apply to one/two family residential)
Voting Yes will...	<p>Instruct the Building Department to require new Construction Permits to provide in Residential Parking Areas 100% EV Ready Spaces using either the Prescriptive or Performance Standards provided in the Zoning By-Law and in Non-Residential Parking Areas with 7 or more spaces at least 15% EV Ready Spaces</p>
Voting No will...	<p>Leave Zoning By-Law Section 6.00, Section 6.04 and current EV Ready Space requirements unchanged.</p>
Financial impact	<p>Unlikely, as the Building Commissioner does not believe there would an increase in work load for the staff at the Building Department.</p>
Legal implications	<p>The Attorney General Office would need to evaluate if this Warrant Article is in conflict with the Massachusetts Electrical Code or the Massachusetts State Building Code.</p>

Introduction

Warrant Article 17 is the result of the vote of Fall Town Meeting 2021 on Article 25 to refer the then proposed by-law amendments to the Department of Planning and Community Development (DPCD) for further development. The Department of Planning and Community Development, in extensive consultation with the Building Department, proposes these new amendments to the Town’s Zoning By-Law in order to increase availability of Electric Vehicle Ready Spaces in both

residential and non-residential parking areas throughout town. As there is an increase in the adoption of electric vehicles, there is a clear need for a greater number parking spaces with electric chargers. The goal of the Town's departments is to provide adequate charging standards so that most of the charging can take place overnight at the owner's residence. Research also shows that the cost of EV Ready spaces is lower in new construction than when retrofitting existing spaces, so the departments believe it is reasonable to require that new parking spaces be EV Ready in anticipation of future adoption.

This Warrant Article is one more step towards combating climate change and reaching the Town's carbon reduction goals.

Evaluation Methodology/Research

- The Building and Planning and Community Development department worked together.
- Massachusetts Electrical Code, Massachusetts State Building Code, International Building Code and the International Residential Building Code.
- Brookline Zoning By-Law
- Explanation EV Charging memo March 9, 2022
- Making Parking "EV Ready": Requirements for New Construction & Incentives for Existing Buildings (Brendan McEwan/AES Engineering and Electric Mobility Canada February 2022) <https://emc-mec.ca/wp-content/uploads/EMC-Position-Paper-EV-Ready-Parking-2022.02.24-Formatted-EMC-Format.pdf>
- EV Ready" Requirements for New Buildings: A Best Practice Guide for BC Local Governments (Brendan McEwan/AES Engineering April 2021) <https://docs.communityenergy.ca/wpcontent/uploads/EV-Ready-Requirements-for-New-Buildings-Final.pdf>

Discussion

The Land Use, Zoning and Sustainability Subcommittee of the Advisory Committee held a (virtual) public hearing on Warrant Article 17 on Tuesday April 5, 2022 and a (virtual) public meeting on Thursday, April 14, 2022. The full Advisory Committee held a public meeting on April 26, 2022.

The Advisory Committee is very supportive of this Warrant Article and its goals towards combating the effects of climate change and reducing the carbon footprint of the Town. The Committee reviewed the differences between the current WA17 and its predecessor, WA 25, submitted for the Fall 2021 Town Meeting, to evaluate how the town departments have amended the original warrant article. In essence, the goals of both articles are the same, but the new version (WA17) allows compliance of the proposed Warrant Article to be achieved through three options: (1) Performance Standard, such as an Automatic Load Management System (ALMS) option, (2) Prescriptive Standard, which requires compliance with EV Ready as defined in the State Building Code, or (3) a combination of the two aforementioned standards.

The addition of the Performance Standard introduces the option of using an Automatic Load Management System (ALMS), which makes compliance of larger projects much more easy and at a reduced cost.

When an ALMS is used, multiple chargers can be connected to one circuit rated for one charger. When all chargers are charging simultaneously, they must share power the maximum allowed power distributed by the ALMS. The standard requires that the ALMS provide a minimum of 1.92 kW per hour, which is reasonable for an overnight charge. The concept of the minimum power-transfer standard has been widely adopted in various counties in Canada that mandate 100% EV readiness in residential parking areas. Article 17 also allows for an alternative to an ALMS through the use of a level 2 EVSE with dual ports that meet the requirements of the by-law.

The Advisory Committee introduced an amendment to the Warrant Article which requires verification that the ALMS actually be installed. This amendment will try to prevent any loopholes if an ALMS is specified but never installed. It should be noted that the actual installation of the EVSE (Electric Vehicle Supply Equipment) is not required by the Warrant Article.

Members of the Committee were concerned on how the Attorney General's Office (AGO) would rule on such a Warrant Article, especially after the AGO struck down recent Fossil Fuel Free Warrant Articles approved by Town Meeting, as being in conflict with the State Building Code and other Massachusetts regulations. The Committee learned that Town Counsel is skeptical of the AGO approving this Warrant Article for the same reasons, so there was extensive discussion of what would happen if the Article were struck down. The unintended consequence of this situation could be that the Town would either lose the existing requirement of 15% EV Ready, or perhaps have a requirement of 100% EV ready without a Performance Standard, such as an ALMS, which would be economically infeasible for owners and developers.

After further discussion with Town Counsel on the possibility of the AGO striking a portion of the Warrant Article, an additional amendment, a Null and Void clause, was introduced for inclusion in the Warrant Article. The Advisory Committee understands that if this clause goes into effect, the existing 15% EV Ready requirement would be eliminated, and the current Building Code requirements (1 EV Ready space) would go into effect. A new Warrant Article would have to be introduced and voted on in order to raise the minimum percentage back up to 15%.

Town staff informed the Committee that currently there is a lot of work being done at the State level to include these charging options in future Building Code editions or new Stretch Code options.

There was a lengthy discussion between the Building Commissioner and Committee members on how Town Officials would enforce the Warrant Article. The Building Commissioner is very

comfortable with this referred version of the original Warrant Article 25 and explained the difference between the two building codes, the International Building Code (IBC) and the Residential Building Code (IRC), and how to determine which code applies to which projects. The Warrant Article has clear definitions on which code applies to what: One- and Two-Family Dwellings (including Townhouses three stories and under) are all under the IRC. All other projects are under IBC. Mixed-use, multi-unit projects and all-residential multi-unit (more than 2) projects are all included under the IBC. For projects under the IRC, at least one parking space per dwelling unit would need to be EV Ready. Projects under the IBC would be required to have 100% of the spaces EV-Ready.

Town staff is hopeful that the three standards provided in the Warrant Article of EV Ready Spaces, will not only to assist multifamily property owners with a cost-effective solution for EV charging, but also to offer parameters around minimum charging rates in a way that the Building Code might not be nuanced enough to provide.

Recommendation

By a vote of 22-0 with 1 abstention, the Advisory Committee recommends Favorable Action on Article 17, as amended.

Advisory Committee Motion:

VOTED:

To amend **Article VI-Vehicular Service Uses Requirements** of the Brookline Zoning By-Law as follows:

1 - By amending Section 6.00 with following new Paragraph 7 after Paragraph 6:

7. Parking facilities shall be equipped with EV Ready Spaces C or EV Ready Spaces R as defined in Section 6.10 or with EV Ready Spaces as defined in the latest edition of the Massachusetts State Building Code to provide scalable, reliable, and accessible EV charging, to implement the Town's sustainability policy, and to minimize the challenges associated with retrofits.

2 - By amending Section 6.04 deleting Paragraph 15 in its entirety (strike-through indicates deleted text):

~~15. ELECTRIC VEHICLES For Parking Areas, Non-residential and Residential, with 15 or more parking spaces, at least 15% of the total parking spaces, and not fewer than two parking spaces, shall be EV Ready Spaces. The definitions of EV Ready Space, Electric Vehicle, and Electric Vehicle Supply Equipment (EVSE) are as defined in the latest edition of the Massachusetts State~~

~~Building Code. For additions and renovations to existing buildings, exceptions to this paragraph shall be consistent with the latest edition of the Massachusetts State Building Code.~~

3 - By amending Article VI adding the following new Section 6.10 after Section 6.09:

Section 6.10 – OFF-STREET EV READINESS

1. Definitions

Terms used in Section 6.10 shall be defined as follows. Capitalized terms in Section 6.10 not defined below shall be as defined in Article II.

- a. Massachusetts State Building Code - International Residential Code Volume (“MSBC-IRC”): The residential volume of the latest edition of the Massachusetts State Building Code, which regulates buildings including but not limited to:
 - (1) One-Family Dwellings three stories and under
 - (2) Two-Family Dwellings three stories and under
 - (3) Townhouses three stories and under

- b. Massachusetts State Building Code - International Building Code Volume (“MSBC-IBC”): The volume of the latest edition of the Massachusetts State Building Code, which regulates buildings including but not limited to:
 - (1) Three-Family Dwellings of any number of stories
 - (2) Buildings four stories or more
 - (3) Buildings not covered by the International Residential Code

- c. Electric Vehicle (“EV”) and Electric Vehicle Supply Equipment (“EVSE”) are as defined in the latest edition of the Massachusetts State Building Code, as may be amended.

- d. Electric Vehicle Charging Space Commercial (“EV Ready Space C”): Pertains to buildings regulated by the MSBC-IBC. Each parking space shall be designed to accommodate Level 2 EVSE servicing EVs in one of the following standards:
 - (1) **Minimum Prescriptive Standard:** 100% of parking spaces are EV Ready Space as defined in the latest edition of the Massachusetts State Building Code.
 - (a) For Sec. 6.10.1.d.1: If the latest edition of the MSB-IBC allows the installation of a 20-amp branch circuit for EV Ready Spaces as an exception, such installation shall be as follows: one individual 20-amp

branch circuit at 240 volts per one parking space for a minimum of 100% of parking spaces.

Or

(2) **Minimum Performance Standard:** An Automatic Load Management System may be used to deliver a minimum of 1.92 kW of power each hour to each EV Ready Space C or EVSE controlled by the ALMS, assuming that 100% of parking spaces are occupied by a charging EV. The installation of the ALMS and energized outlet(s) adjacent to EV Ready Spaces C is required to demonstrate compliance. The installation of EVSE is not required to demonstrate compliance.

(a) Alternatively, instead of an ALMS, use of Level 2 EVSE with dual ports meets the requirements of this Section, as long as the minimum power transfer to each parking space charging an EV meets the minimum power transfer per hour specified in the Minimum Performance Standard. Use of Level 2 EVSE with dual ports shall be installed to demonstrate compliance.

Or

(3) A combination of (1) and (2) to serve 100% of parking spaces.

- e. Electric Vehicle Charging Space Residential (“EV Ready Space R”): Pertains to buildings regulated by the MSBC-IRC. At least one parking space per Dwelling Unit shall be equipped with one individual branch circuit rated for at least 50 amperes @ 208/240 volts for charging an EV, defined as Level 2 EV charging in the latest edition of the Massachusetts Electrical Code.
- f. EV Ready Space: When the term EV Ready Space is used, it shall be as defined in the MSBC-IBC.
- g. Automatic Load Management System (“ALMS”): An ALMS allows multiple EVSE to share a circuit or panel automatically reducing power at each EVSE when multiple EVs are charging concurrently as allowed by the latest edition of the Massachusetts Electrical Code. Where ALMS are used, EVSE shall:
 - (1) be fixed in place;
 - (2) have restricted access only by the means allowed in the latest edition of the Massachusetts Electrical Code;
 - 3) be sized and rated as required under the latest edition of Massachusetts Electrical Code; and

(4) In case of disruption of the ALMS, each EVSE served by the ALMS shall operate at a reduced level that allows all EVSE to operate concurrently without resulting in overcurrent conditions as specified in the latest edition of the Massachusetts Electrical Code.

- h. New Building: A building not in existence on the date the application for a building permit is received by the Building Department.
- i. Significantly Rehabilitated Residential Buildings regulated by the MSBC-IBC: The reconfiguration of space and/or building systems in which the Work Area exceeds 50% of the existing Gross Floor Area as defined by the MSBC-IBC, as may be amended.
- j. Significantly Rehabilitated Residential Buildings regulated by the MSBC-IRC: The reconfiguration of space and/or building systems in which the Work Area exceeds 75% of the existing Gross Floor Area as defined by the MSBC-IRC, as may be amended.
- k. Work Area: The aggregate area of those portions of a building affected by alterations for the reconfiguration of space or building systems, including new floor area added as a result of the alteration, as indicated in the drawings associated with a building permit application. Excluded from the calculation of Work Area are those portions of a building where only repairs, or refinishing or incidental work occur or where work not initially intended by the Applicant is specifically required by an inspector from the Building pursuant to the applicable building code.
- l. Level 2 EVSE or Level 2 EV Charging: Shall be as defined in the latest edition of the Massachusetts Electrical Code.

2. Applicable Uses and Requirements

- a. In stand-alone Residential Parking Areas or Parking Garages and Parking Areas or Parking Garages of New or Significantly Rehabilitated Residential Buildings regulated by the MSBC-IBC, a minimum of 100% of the total number of parking spaces shall be EV Ready Space C.
- b. In stand-alone Non-Residential Parking Areas or Parking Garages and Parking Areas or Parking Garages of New or Significantly Rehabilitated Non-Residential Buildings regulated by the MSBC-IBC and with seven parking spaces or more, at least 15% of the total number of parking spaces and not less than one shall be EV Ready Space as defined in the latest edition of the MSBC-IBC.
- c. In Residential Parking Areas or Parking Garages for One- and Two-Family Dwellings meeting the definitions of New Building or Significantly Rehabilitated Residential

Buildings regulated by the MSBC-IRC at least one parking space shall be EV Ready Space R.

- d. If the total number of existing parking spaces for Applicable Uses subject to Section 6.10 is increased or expanded by 10 parking spaces or more, the Requirements of Section 6.10.2 (b) shall apply.
- e. EV Ready Spaces, EV Ready Spaces C, and EV Ready Spaces R shall be maintained and shall remain functional for charging EVs.

3. Exemptions

The requirements of Section 6.10 shall not apply to:

- a. Uses 25, 25A, 26, 27, 28, and 28A in Section 4.07, Table of Use Regulations
- b. Parking Areas or Parking Garages that are separated from the meter by a public right-of-way;
- c. Loading Bays and Loading Facilities as specified in Sections 6.06 and 6.07;
- d. Waldo-Durgin Overlay District: The requirements of Section 6.10 shall not apply to any building being constructed subject to the Waldo-Durgin Overlay District as described in Section 5.06.4.k;
- e. Fisher Hill Special Overlay District: The requirements of Section 6.10 shall not apply to any building being constructed subject to the Fisher Hill Special Overlay District as described in Section 5.06.4.1.

4. Exceptions

Reserved

5. Waivers

The Board of Appeals may grant by Special Permit a reduction in whole or in part of the minimum number of EV Ready Spaces C required under Section 6.10 if the Board of Appeals grants or has granted a Special Permit pursuant to (a) Section 6.03.1.b or (b) Table 4.07 Use 22.

6. Rounding

Fractional numbers one-half (0.5) and above shall be rounded up to the nearest whole number.

7. Ventilation

Parking Areas and Parking Garages used for charging EVs indoors shall meet ventilation requirements as specified in the Massachusetts Electrical Code, Massachusetts Mechanical Code, and MSBC-IRC, as applicable. EVSE shall be installed as required per specifications of the EV manufacturer.

8. Materials Required for Plan Reviews, Site Plan Review and/or Design Review, Special Permit and Building Permit Applications:

For EV Ready Spaces R, plans stamped by a licensed and qualified electrician shall meet the Building Department's requirements for plan submissions and shall include an electrical service load calculation.

For EV Ready Spaces C and EV Ready Spaces, plans stamped by an electrical engineer shall meet the Building Department's requirements for plan submissions and shall include an electrical service load calculation.

9. Null and Void

If Section 6.10 is modified by any order, decree, decision, ruling, or other directive from the Massachusetts Office of the Attorney General or a court having jurisdiction, and the modification would have the effect of altering the impacts, effects, or standards of the Section in any way, then such order, decree, decision, ruling, or other directive shall instead have the effect of rendering the Section null and void in its entirety.

ARTICLE 17 ADVISORY COMMITTEE VOTES

Article Description	EV-ready Parking, as amended
AC recommendation (Favorable Action unless indicated)	22-0-1
Scott Ananian	Y
Carla Benka	Y
Ben Birnbaum	Y
Harry Bohrs	A
Cliff Brown	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	Y
David-Marc Goldstein	Y
Neil Gordon	
Susan Granoff	Y
Kelly Hardebeck	Y
Anita Johnson	Y
Georgia Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Carol Levin	Y
Pam Lodish	Y
Linda Olson Pehlke	Y
Donelle O’Neal, Sr.	Y
David Pollak	Y
Stephen Reeders	
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

APPENDIX

Warrant Article showing Advisory Committee amendments.
Additions Underlined. Deletions *Strikethrough Italics*

To see if the Town will amend **Article VI-Vehicular Service Uses Requirements** of the Brookline Zoning By-Law as follows:

1 - By amending Section 6.00 with following new Paragraph 7 after Paragraph 6:

7. Parking facilities shall be equipped with EV Ready Spaces C or EV Ready Spaces R as defined in Section 6.10 or with EV Ready Spaces as defined in the latest edition of the Massachusetts State Building Code to provide scalable, reliable, and accessible EV charging, to implement the Town’s sustainability policy, and to minimize the challenges associated with retrofits.

2 - By amending Section 6.04 deleting Paragraph 15 in its entirety (strike-through indicates deleted text):

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 - (b) For Sec. 6.10.1.d.1: If the latest edition of the MSB-IBC allows the installation of a 20-amp branch circuit for EV Ready Spaces as an exception, such installation shall be as follows: one individual 20-amp branch circuit at 240 volts per one parking space for a minimum of 100% of parking spaces.
- Or
- (5) **Minimum Performance Standard:** An Automatic Load Management System may be used to deliver a minimum of 1.92 kW of power each hour to each EV Ready Space C or EVSE controlled by the ALMS, assuming that 100% of parking spaces are occupied by a charging EV. The installation of the ALMS and energized outlet(s) adjacent to EV Ready Spaces C is required to demonstrate compliance. The installation of EVSE is not required to demonstrate compliance.
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- (6) A combination of (1) and (2) to serve 100% of parking spaces.

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 - (2) be fixed in place;
 - (2) have restricted access only by the means allowed in the latest edition of the Massachusetts Electrical Code;
 - 3) be sized and rated as required under the latest edition of Massachusetts Electrical Code; and
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- i. Significantly Rehabilitated Residential Buildings regulated by the MSBC-IBC: The reconfiguration of space and/or building systems in which the Work Area exceeds 50% of the existing Gross Floor Area as defined by the MSBC-IBC, as may be amended.
- j. Significantly Rehabilitated Residential Buildings regulated by the MSBC-IRC: The reconfiguration of space and/or building systems in which the Work Area exceeds 75% of the existing Gross Floor Area as defined by the MSBC-IRC, as may be amended.
- k. Work Area: The aggregate area of those portions of a building affected by alterations for the reconfiguration of space or building systems, including new floor area added as a result of the alteration, as indicated in the drawings associated with a building permit application. Excluded from the calculation of Work Area are those portions of a building where only repairs, or refinishing or incidental work occur or where work not initially

intended by the Applicant is specifically required by an inspector from the Building pursuant to the applicable building code.

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- h. In Residential Parking Areas or Parking Garages for One- and Two-Family Dwellings meeting the definitions of New Building or Significantly Rehabilitated Residential Buildings regulated by the MSBC-IRC at least one parking space shall be EV Ready Space R.
- i. If the total number of existing parking spaces for Applicable Uses subject to Section 6.10 is increased or expanded by 10 parking spaces or more, the Requirements of Section 6.10.2 (b) shall apply.
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- f. Uses 25, 25A, 26, 27, 28, and 28A in Section 4.07, Table of Use Regulations
- g. Parking Areas or Parking Garages that are separated from the meter by a public right-of-way;
- h. Loading Bays and Loading Facilities as specified in Sections 6.06 and 6.07;

- i. Waldo-Durgin Overlay District: The requirements of Section 6.10 shall not apply to any building being constructed subject to the Waldo-Durgin Overlay District as described in Section 5.06.4.k;
- j. Fisher Hill Special Overlay District: The requirements of Section 6.10 shall not apply to any building being constructed subject to the Fisher Hill Special Overlay District as described in Section 5.06.4.l.

4. Exceptions

Reserved

5. Waivers

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9. Null and Void

If Section 6.10 is modified by any order, decree, decision, ruling, or other directive from the Massachusetts Office of the Attorney General or a court having jurisdiction, and the modification would have the effect of altering the impacts, effects, or standards of the Section in any way, then such order, decree, decision, ruling, or other directive shall instead have the effect of rendering the Section null and void in its entirety.

APPENDIX