;ARTICLE 42A

HARBORPARK DISTRICT

NORTH END/DOWNTOWN WATERFRONT AND DORCHESTER BAY/NEPONSET RIVER WATERFRONT

(;Article inserted on April 27, 1990*)

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**As amended through March 6, 2003.
*Date of public notice: March 17, 1990 (see St. 1956, c. 665. s. 5).

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SECTION 42A-1. **Statement of Purpose, Goals, and Objectives**. The purpose of this Article is to establish the zoning regulations for the comprehensive plan for the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District as required by the provisions of the Harborpark Interim Planning Overlay District, Article 27C of this Code. Together with Article 42B, this Article establishes the Harborpark District. The goals and objectives of this Article and the Harborpark District Plan are to protect the Harborpark District from inappropriate land and water uses; to promote balanced growth along Boston's shoreline; to allow the waterfront to be used as a public resource and thereby to extend its use and benefit to the greatest number of people; to preserve and protect public open space and beach area within the harbor area; to promote public access to the waterfront; to promote residential and mixed-use commercial activities compatible with adjacent areas; to promote the economic growth and development of water-dependent and water-related commercial activity; to protect the working waterfront and preserve areas for water-dependent uses; to promote public waterborne transportation; and to promote uses which integrate uses, activities, and physical connections between the harbor and its surrounding neighborhoods.

SECTION 42A-2. **Recognition of the Harborpark District Plan**. In accordance with Section 27C-16 of this Code, which requires production of comprehensive planning policies, development controls, and design guidelines for the Harborpark District, the Zoning Commission hereby recognizes the Harborpark District Plan as the general plan for the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront within the Harborpark District. The Harborpark District Plan shall also serve as the portion of the general plan for the City of Boston applicable to the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront within the Harborpark District. This Article is an integral part of and one of the means of implementing the Harborpark District Plan, the preparation of which is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 42A-3. **Physical Boundaries**. The provisions of this Article are applicable only in the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront of the Harborpark District. The boundaries of the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront and their respective subdistricts are as shown on the maps entitled "Map 1E Harborpark District: North End/Downtown Waterfront" and "Map 1F Harborpark District: North End/Downtown Waterfront" (supplemental to "Map 1 Boston Proper"); "Map 4A Harborpark District: Dorchester Bay/Neponset River Waterfront," "Map 4B Harborpark District: Dorchester Bay/Neponset River Waterfront," "Map 4C Harborpark District: Dorchester Bay/Neponset River Waterfront," and "Map 4D Harborpark District: Dorchester Bay/Neponset River Waterfront," (supplemental to "Map 4 South Boston"); "Map 5F Harborpark District: Dorchester Bay/Neponset River Waterfront" and "Map 5G

Harborpark District: Dorchester Bay/Neponset River Waterfront," and "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront," of the series of maps entitled "Zoning Districts City of Boston," as amended.

SECTION 42A-4. **Applicability**. This Article together with the rest of this Code constitutes the zoning regulation for the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District and applies to the use or occupancy of any structure or land (including submerged land and Tidelands) and the erection, reconstruction, extension, or alteration of any structure or part thereof as specified in Section 4-1 regarding the conformity of structures and land to this Code. Exceptions to the provisions of this Article, pursuant to Article 6A, shall not be available except to the extent expressly provided in this Article or Article 6A. Application of the provisions of Article 27C to the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District is rescinded on the effective date of this Article, except as provided below. For the Downtown Waterfront Subdistrict, and the North End Waterfront Subdistrict, except where specifically otherwise indicated in this Article, the provisions of this Article supersede Article 8 (except Section 8-6), Article 13 (except Section 13-3), and Articles 14 through 24, inclusive, of this Code. For the entire Harborpark District, where conflicts exist between the provisions of this Article and the remainder of the Code, the provisions of this Article shall govern. The following Proposed Projects, however, are exempt from the provisions of this Article, and are governed by the rest of this Code, including Article 27C:

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article and for which no Zoning Relief is required.

2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

TIDELANDS REGULATIONS

;SECTION 42A-5. **Chapter 91 Requirements**. In accordance with Chapter 91 of the General Laws of Massachusetts ("Chapter 91") and the regulations promulgated thereunder, certain Projects (as that term is defined below) located in Tidelands require a license ("Chapter 91 License") from the Commonwealth's Department of Environmental Protection ("DEP"). Section 18 of Chapter 91 requires that the planning board of a municipality in which a Project requiring a Chapter 91 license is located (i.e., the Boston Redevelopment Authority, in Boston) submit a written recommendation ("Section 18 Recommendation") stating whether the planning board believes the Project would serve a proper public purpose and would not be detrimental to the public's rights in Tidelands (the "Section 18 Standard"). Such a Section 18 Recommendation with respect to a Project requiring a Chapter 91 License and located in the Harborpark District shall be made by the Boston Redevelopment Authority in accordance with the provisions of Subsection 1 of this Section 42A-5. For the purposes of this Section 42A-5 only, the term "Project" shall mean a development, activity, or change of use requiring a Chapter 91 license.

1. Determination of Proper Public Purpose. The Boston Redevelopment Authority, in making a Section 18 Recommendation regarding a Project located in the North End/Downtown Waterfront and Dorchester Bay/ Neponset River Waterfront within the Harborpark District, shall determine whether such Project serves a proper public purpose and would not be detrimental to the public's rights in Tidelands. The Boston Redevelopment Authority shall base such determination on the conformity of the Project to the provisions of Subsections 2 through 11 of this Section and on the extent to which the Project reasonably and appropriately preserves and enhances the public's rights in Tidelands including, without limitation, the public's:

   (a) visual access to the water, whether such Project is for a Water-Dependent or non-Water-Dependent use on Private or Commonwealth Tidelands;

   (b) rights to fishing, fowling, and navigation and the natural derivatives thereof, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Private or Commonwealth Tidelands;

   (c) physical access to and along the water's edge for recreation, commerce, and other lawful purposes, and interest in public recreational opportunities at the water's edge and open space for public use and enjoyment, if such Project is for a Water-Dependent Use or non-Water-Dependent Use on Commonwealth Tidelands;

(d) interest in the preservation of the historic character of the Project's site;

(e) interest in industrial and commercial waterborne transportation of goods and persons;

(f) interest in repair and rehabilitation of dilapidated piers that blight the Harborpark District and limit public access; and

(g) interest in safe and convenient navigation in Boston Harbor, including without limitation:

(i) navigation by water transportation Vessels, such as ferries, water taxis, water shuttles, or commuter vessels, including, without limitation, appropriate and convenient navigation by such Vessels outside of the Main Shipping Channel and other established channels;

(ii) navigation by deep draft Vessels, including without limitation, appropriate navigation in the Main Shipping Channel and other established channels and the requirements of turning, anchorage, and approaches to deep water piers and berths;

(iii) navigation by Recreational Vessels and small Commercial Vessels outside of the Main Shipping Channel and other established channels as necessary or convenient for such vessels to avoid interference with water transportation Vessels and deep draft shipping and as otherwise required for the purposes of harbor traffic management; and

(iv) navigation, as appropriate to the site, by U.S. Coast Guard, U.S. Naval, police, fire, and other public safety Vessels.

2. Public Access to the Waterfront and Open Space. Public access to the waterfront and Open Space is a central policy of the Harborpark District Plan. Pursuant to this policy, the Boston Redevelopment Authority shall not make a positive Section 18 Recommendation with respect to a Project that the Boston Redevelopment Authority determines will significantly interfere with public rights to walk or otherwise pass freely on Commonwealth Tidelands for purposes of commerce, recreation, and all other lawful activities; or on Private Tidelands for purposes of fishing, fowling, navigation, and the natural derivatives thereof. The Boston Redevelopment Authority shall find that the Section 18 Standard is not met if the Project does not comply with the following public access conditions:

(a) To the extent that the Project site includes Flowed Private Tidelands, the Project shall allow continuous, on-foot, lateral passage by the public in the exercise of its rights therein, wherever feasible; any Pier, wharf, groin, jetty, or other structure on such Tidelands shall be designed to minimize interference with public passage, either by maintaining at least a five-foot clearance above the ground along the high water mark, by providing a stairway for the public to pass laterally over such structures or other means of lateral access substantially consistent with the foregoing; where obstruction of continuous access below the high water mark is unavoidable, the Project shall provide free lateral passage to the public above said mark in order to mitigate interference with the public's right to pass freely on Flowed Private Tidelands;

(b) To the extent that the Project site includes Flowed or Filled Commonwealth Tidelands, or Filled Private Tidelands, the Project shall include reasonable measures to provide on-foot passage on such lands for the public in the exercise of its rights therein, in accordance with the following provisions:

(i) if the Project is not a Water-Dependent Use Project, said Project shall provide a public Pedestrian Access Network;

(ii) if the Project is a Water-Dependent Use Project, the Project shall provide for public passage by such means as are consistent with the need to avoid undue interference with the Water-Dependent Use or Uses in question and to avoid any safety hazard to people working on or visiting the Project site; measures which may be appropriate in this regard include, but are not limited to, allowing the public to pass laterally along portions of the Project shoreline, or transversely across the site to a point on the Project shoreline;

(c) All Open Space areas established pursuant to Section 42A-6 located on Commonwealth Tidelands and all Public Access Facilities described in paragraphs (a) and (b) of this Subsection 2 shall be open and accessible to the public 24 hours a day. No gates, fences, or barriers may be placed on said Public Access Facilities or Open Space in a manner that would impede or discourage the free flow of pedestrian movement thereon. The foregoing shall not be deemed to prohibit the placing of temporary barriers as required in emergencies or in connection with construction, maintenance or the like, provided that interference with pedestrian access and passage is minimized to the

extent reasonably practicable and consistent with public safety and that such barriers are in place no longer than necessary. All such Public Access Facilities shall be Accessible to Physically Handicapped Persons as those terms are defined in Section 30-2. Active pedestrian use of such Open Space areas and Public Access Facilities shall be encouraged on a year-round basis, particularly for water-related activities, through such means as appropriate ground level uses of adjacent buildings and facilities and amenities designed to be attractive to pedestrians. Maintaining, cleaning, landscaping, and managing such Open Space areas and pedestrian access facilities shall at all times be the responsibility of the Chapter 91 licensee of the Project. The Applicant for any Project subject to or electing to comply with Large Project Review shall include in the urban design component of its Draft Project Impact Report, submitted pursuant to Large Project Review, an Open Space and Public Access Plan, including plans, drawings, specifications, descriptions of proposed uses, and descriptions of proposed management measures and access-related rules and regulations, if any, sufficient to permit the Boston Redevelopment Authority to determine the conformity of the Project to this Subsection 2 and Section 42A-6, and to make a Section 18 Recommendation.

(d) Any Project required to provide Public Access Facilities in accordance with paragraph (b), above, shall encourage public patronage of such facilities by placing and maintaining adequate signage at all entryways and at other appropriate locations on the site; said signage shall:

(i) conform to Article 11, Signs, of the code;

(ii) conform, as applicable, to design guidelines for Harborwalk signage to be issued as regulations by the Boston Redevelopment Authority; and

(iii) include at least one sign, conforming to such design guidelines and placed in a prominent location, which advises the public of its access rights and discloses whatever access-related rules and regulations are in effect, if any.

(f) Within any Maritime Economy Reserve Subdistrict public access shall be required as set forth above, but only to the extent to which it does not significantly interfere with or obstruct the operation of a maritime-dependent industrial use or pose a safety hazard to workers or visitors on the site of such use.

3. Creation of Housing on Land not Owned by a Public Agency. In a Project to construct ten (10) or more units of housing in the Harborpark District on a Lot not owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Large Project Review, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which Lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least ten percent (10%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority, to the extent that such ten percent requirement is not met, the Applicant shall create or cause the creation of Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.2, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective date of this Article, and multiplying that result by the ratio of the then Index to the Index in effect as of such effective date.

4. Creation of Housing on Land Owned by a Public Agency. In a Project to construct four (4) or more units of housing on a Lot that is owned by a Public Agency as of the date on which a Project Notification Form for the Project is filed, pursuant to Large Project Review, or if no Project Notification Form is required, as of the date on which a building permit application for the Project is filed, which Lot includes Commonwealth Tidelands, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless at least twenty-five percent (25%) of the dwelling units proposed on site shall be Affordable; or, subject to the approval of the Boston Redevelopment Authority, to the extent such twenty-five percent requirement is not met, the Applicant shall create or cause the creation of Affordable dwelling units off-site in accordance with Subsection 5 of this Section by making a dollar contribution to the Neighborhood Housing Trust or another entity designated by the Boston Redevelopment Authority, calculated by multiplying the total number of dwelling units in the Project by 0.5, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective date of this Article, and multiplying that result by the ratio of the then Index to the Index in effect as of such effective date.

5. Construction of Affordable Housing Off Site. The following provisions shall govern the construction of Affordable dwelling units off-site in satisfaction of the requirements of Subsections 3 and/or 4 of this Section:

   (a) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off-site in the North End Housing Priority Overlay Area or North End neighborhood. In determining whether to approve the construction of Affordable dwelling units off site, the Boston Redevelopment Authority shall take into account the number of Affordable dwelling units which have been created in the North End Housing Priority Area or the North End neighborhood since the effective date of this Article. The Boston Redevelopment Authority shall base its approval on the standard that a minimum of twenty-five percent (25%) of the total number of housing units to be constructed after the effective date of this Article within the North End Housing Priority Overlay Area are to be Affordable.

   (b) Subject to the approval of the Boston Redevelopment Authority, if a Project is located in the North End/Downtown Waterfront or Dorchester Bay/Neponset River Waterfront, other than in the North End Waterfront Subdistrict or the Downtown Waterfront Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off-site in the vicinity of the Project either within the Harborpark District or within the adjacent neighborhood.

6. Provision for Water Transportation Facilities. To promote an effective water transportation system and to ensure use of the waterfront and full access to recreational, commuting, and economic activities, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met with respect to a Project located in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict, unless the Project conforms to the requirements for water transportation facilities set forth below, as applicable:

   (a) Water Transportation Facility Requirement. In making a Section 18 Recommendation with respect to such a Project, the Boston Redevelopment Authority shall consider the extent to which provision is made on the Project site for waterborne passenger transportation facilities, including, without limitation, terminals and landings for water ferries, water shuttles, or water taxis, and free public landings, and in the Downtown Waterfront Subdistrict, such facilities shall also include main terminals and passenger facilities for commuter boats, cruise

boats, and ferries as appropriate to the scale, use, and location of the Project and in accordance with the water transportation guidelines of the Harborpark District Plan.

(b) Shoreline Construction. In order to provide appropriate docking areas for emergencies and other harbor activities, all portions of the shoreline of a Project consisting of seawalls or bulkheads, but not including Piers, which are restructured and which abut waters accessible by Vessels shall be constructed, to the extent reasonably practicable, in such a manner as can accommodate such Vessels alongside for dockage.

7. Provision for Cultural Uses in the Downtown Waterfront Subdistrict. With respect to a Project located in the Downtown Waterfront Subdistrict involving the construction, alteration requiring a building permit, or change of use of ten thousand (10,000) square feet or more of gross floor area on the first story of a building, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless either (i) not less than twenty-five percent (25%) of the gross floor area of that portion of the first story of such building affected by such construction, alteration, or change of use is reserved, designed, and finished for one or more Cultural Uses otherwise allowed for such Project or conditional for such Project and permitted pursuant to Article 6, or (ii) a commensurate level of public attraction is attained through the provision of one or more such Cultural Uses elsewhere on the Lot, as approved by the Boston Redevelopment Authority. Such Cultural Uses shall be located and designed with particular emphasis on providing public attraction to the water's edge. The use of the gross floor area thus reserved, designed, and finished shall be limited to Cultural Uses and shall not be included in the calculation of FAR for the Project.

Notwithstanding the foregoing, the gross floor area located on the first story of a building in existence as of the date of issuance of the first building permit for the Project (but not any gross floor area contained in an addition to or extension of the first story of such an existing building) shall be excluded from the Project for purposes of computing required Cultural Uses pursuant to (i) above, unless the Project involves a change of use, or a substantial change in the character of the use as determined by the Boston Redevelopment Authority, of 10,000 square feet or more of gross floor area located on the first story of such an existing building.

8. Uses Allowed in Tidelands Proposed to be Filled and on Floating Structures. No portion of a Project located on Tidelands which are filled after the date of the first notice of hearing before the Zoning Commission on this Article, shall

be erected, used, or arranged or designed to be used (a) except for a Water-Dependent Use otherwise allowed or conditionally permitted, subject to the provisions of Article 6 or (b) except as otherwise provided below. In making a Section 18 Recommendation with respect to a Project involving such new fill, the Boston Redevelopment Authority shall find that the Section 18 Standard is not met unless such new fill is limited to the extent reasonably practicable by measures such as substituting pile-supported or floating structures for new fill or relocating the use to a position above the High Tide Line. The foregoing shall not, however, prohibit or limit the use of new fill the purpose of which is to eliminate irregularities in or repair previously altered portions of the shoreline included in the Project, provided that such new fill replaces previously authorized fill elsewhere along such shoreline on a one-to-one square foot basis (new fill to removed fill). The foregoing shall also not prohibit or limit the use of new fill the purpose of which is to accommodate mechanical or structural elements of the Project that enter the seabed, such as, without limitation, elevator shafts, ventilation shafts, utility conduits, piles, or the like, provided that such fill is limited to that reasonably required under the circumstances and provided, further, that all such mechanical elements, structural elements, and fill are wholly contained within the edges of a Pier. Piles are not considered "fill" for the purposes of this Article. New fill, in any event, is prohibited in any area where Pier construction or extension is prohibited by this Code.

No floating structure, other than a Vessel, shall be used or arranged or designed to be used except for a Water-Dependent Use otherwise allowed for the location of such structure or conditionally permitted, subject to the provisions of Article 6.

9. Regulations Governing Piers and Other Structures in the North End Waterfront Subdistrict. The following provisions apply in the North End Waterfront Subdistrict:

(a) No portion of any building may extend beyond the 1880 Harbor Line;

(b) No Pier may be constructed and no Existing Pier may be extended, reconfigured, or reconstructed except in accordance with the following:

(i) The End of an Existing Pier may be extended, reconfigured, or reconstructed but not so as to cause any portion to extend more than twelve (12) feet beyond the 1880 Harbor Line. Any extension of an Existing Pier beyond the 1880 Harbor Line shall be used exclusively as publicly accessible Open Space or as part of a Pedestrian Access Network. In no event shall any such

extension beyond the 1880 Harbor Line be located seaward of that area declared to be non-navigable by the United States Congress in P.L. 90-312, and shown in magenta on that certain chart issued by the National Oceanic and Atmospheric Administration as chart number 13272, entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.

(ii) The Sides of an Existing Pier may be extended or reconfigured, but not so as to increase the width of the Existing Pier at any point by more than twenty-four (24) feet, which increased width shall be used exclusively to provide Public Access Facilities or publicly accessible Open Space in accordance with Subsection 2 of this Section 42A-5.

(c) No portion of any new Pier, Existing Pier, or structure located thereon or use thereof may significantly obstruct or interfere with the operations of any existing U.S. Coast Guard facilities in the North End Waterfront Subdistrict.

(d) The foregoing provisions of this Subsection 9 shall not limit the applicability to a Project of the provisions of Subsection 1 of this Section 42A-5, including without limitation subparagraph (g) thereof regarding non-interference with navigation.

10. Regulations Governing Piers and Other Structures in the Downtown Waterfront Subdistrict. The following provisions apply in the Downtown Waterfront Subdistrict:

(a) No portion of any building may extend beyond the 1880 Harbor Line, except that a building not exceeding fifteen (15) feet in height, not exceeding a gross floor area of 400 square feet, and used exclusively in connection with a waterborne passenger transportation facility (such as, by way of illustration only, a ticket office or passenger waiting area) is permitted beyond the 1880 Harbor Line as a conditional use only, subject to the provisions of Article 6;

(b) No Pier may be constructed and no Existing Pier may be extended, reconstructed, or reconfigured except in accordance with the following:

(i) The End of an Existing Pier may be extended, reconstructed, or reconfigured, but not so as to cause any portion to extend more than fifty (50) feet beyond the 1880 Harbor Line. Any such extension beyond the 1880 Harbor Line shall be used exclusively

as publicly accessible Open Space and/or Water Dependent Facilities of Public Accommodation, otherwise allowed or conditionally permitted, subject to the requirements of Article 6, for the location, pursuant to this Article. In no event shall any such extension beyond the 1880 Harbor Line be located outside of that area declared to be nonnavigable by the United States Congress, in P.L. 90-312, and shown in magenta on that certain chart issued by the National Oceanic and Atmospheric Administration as chart number 13272, entitled "Boston Inner Harbor", 39th Edition, dated November 24, 1984; and

(ii) The Sides of an Existing Pier may be extended, reconstructed, or reconfigured, but not so as to prevent the safe and convenient navigation and docking by Vessels that appropriately and reasonably use the water area between Piers affected by such extension or reconfiguration, as determined by the Boston Redevelopment Authority consistent with Harborpark District Plan. For any Project subject to or electing to comply with the development review requirements set forth in Section 42A-8, the Applicant shall submit such plans, drawings, specifications, and studies as are necessary to permit the Boston Redevelopment Authority to determine that the foregoing requirement is met. If the End of an Existing Pier is extended beyond the 1880 Harbor Line, as permitted in clause (i) above, then the use of any extension of the north Side of an Existing Pier shall be limited to publicly accessible Open Space, and/or such Water Dependent Facilities of Public Accommodation, as are otherwise allowed or conditionally allowed, subject to the requirements of Article 6, for the location pursuant to this Article.

(c) The foregoing provisions of this Subsection 10 shall not limit the applicability to a Project of the provisions of Subsection 1 of this Section 42A-5 including without limitation subparagraph (g) thereof regarding noninterference with navigation.

11. Regulations Governing Piers and Other Structures Elsewhere in the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront. Within the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront, except in the Downtown Waterfront Subdistrict, and the North End Waterfront Subdistrict, no portion of any Pier, other than an Existing Pier, shall be erected, used, or arranged or designed to be used except as publicly accessible Open Space or for a Water-

Dependent Use otherwise allowed or conditionally permitted, subject to the requirements of Article 6, for the location pursuant to this Article.

(;As amended on May 9, 1996.)

OTHER HARBORPARK REGULATIONS OF GENERAL APPLICATION

SECTION 42A-6. **Open Space Requirements**. Any Proposed Project in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict involving new construction at grade, except a Proposed Project with a gross floor area of 2,500 square feet or less used exclusively for one or more Water Dependent Uses, shall devote to Open Space at least fifty percent (50%) of the Lot Area of such Proposed Project.

For the purposes of this Article, the term "Open Space" shall mean land areas and areas on Piers excluding (a) any area occupied by a building or roofed structure; (b) any parking lot or parking area; (c) any street; (d) any private road or area devoted to motor vehicle use; (e) any salt-water area below the mean high tide line, other than areas on Piers; (f) any fresh water area more than ten (10) feet from the shoreline; (g) marina slips or floats or other floating structures; (h) swimming pools; and (i) tennis courts.

The foregoing notwithstanding, the following areas shall be deemed "Open Space":

(v) any area occupied by a building not exceeding a Building Height of fifteen (15) feet and a gross floor area of 400 square feet and reserved exclusively for use as a Water Dependent Use or a recreational use permitted as a conditional use pursuant to Subsection 42A-18.7(b);

(w) any area occupied by a street or private way open only to pedestrians and emergency vehicles;

(x) any area at grade, pedestrian-accessible to members of the public 24-hours per day, covered by a weather-protective enclosure or roof structure, provided that an exception allowing the designation of such area as Open Space is granted by the Board of Appeal, subject to the requirements of Article 6A. For the purposes of this clause (x), Open Space shall not include any such area covered by a portion of a building, which portion is used or designed to be used for human occupancy or which contains or supports mechanical equipment principally serving portions of the building other than the enclosed Open Space area;

(y) any area, at grade, otherwise meeting the definition of Open Space, as set forth in this Section, but covered by a pedestrian skywalk or skybridge, provided that an exception allowing the designation of such area as Open Space is granted by the Board of Appeal, subject to the requirements of Article 6A;

(z) any area beneath an archway, which archway is not less than forty (40) feet wide at grade and forty (40) feet high at its apex and open at both ends.

All Open Space areas shall be Accessible to Physically Handicapped Persons, as those terms are defined in Section 30-2. The foregoing shall not prohibit occasional access to or over Open Space by service vehicles reasonably required to construct or maintain the structures on the Lot or by emergency vehicles. However, routine access to or over Open Space areas by vehicles transporting, loading, or unloading passengers or supplies for the normal operation of buildings and uses is not consistent with the foregoing definition. An area otherwise qualifying as Open Space, but occupied by Cultural Uses in satisfaction of the requirements of Section 42A-5.7, shall not be included in the calculation of Open Space for a Proposed Project; provided that the Board of Appeal may grant an exception, subject to the provisions of Article 6A, allowing such area to be counted in satisfaction of the requirements of both this Subsection and Subsection 42A-5.7 if the proposed use and design of such area is consistent with the goals of promoting active public use of Open Space areas and of promoting cultural activities on the waterfront, as certified to the Board of Appeal by the Boston Redevelopment Authority.

SECTION 42A-7. **Waterfront Yard Area Requirements**. Except as otherwise expressly provided in this Article, each Lot in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront adjacent to or including the High Tide Line shall include a Waterfront Yard Area adjacent to and landward of such High Tide Line, excluding portions of the High Tide Line occupied by Piers. A Waterfront Yard Area shall also be required along the edges of any Pier. The required Waterfront Yard Area landward of the High Tide Line and the required Waterfront Yard Area on Piers shall be connected so as to provide a continuous path along the waterfront, with a minimum width at the places of connection of no less than twelve (12) feet. The dimensions of the required Waterfront Yard Area are set forth in Table A of this Article.

TABLE A

Required Depth of Waterfront Yard Area

Location	Required Setback (Shoreline, excluding Piers)	Required Setback (Sides of Piers)	Required Setback (Ends of Piers)
1. Downtown Waterfront Subdistrict	35'	12'	50'
2. North End Waterfront Subdistrict and Dorchester Bay/Neponset River Waterfront	35'	12'	35'

The provisions of Article 6A, Other Exceptions, shall be applicable to the Waterfront Yard Area requirement. The following additional provisions shall apply to the Waterfront Yard Area requirement:

1. Waterfront Yard Area Measurements. The depth of the Waterfront Yard Area shall be measured perpendicularly from the High Tide Line in the case of bulkheads, rip rap, fill, or shoreline and perpendicularly from the Ends and Sides of Piers. In locating the Waterfront Yard Area, the actual High Tide Line may be smoothed with such curves and chords as may be necessary to achieve a reasonably regular landward boundary. However, in no instance shall the Waterfront Yard Area be narrower than the required dimension measured perpendicularly from the actual High Tide Line. For the limited purpose of applying the Waterfront Yard Area requirements of this Article, a filled area or a structure consisting of both fill and Pier, projecting seaward of the prevailing shoreline, and having the form of a wharf or Pier, shall be treated as Pier.

2. Setback Requirements. No portion of any building or structure (including, without limitation, mechanical facilities associated with a building) shall be located in any Waterfront Yard Area, except walkways, landscape furniture, guardrails, cleats, bollards, pilings, boat ramps, and other structures (a) which do not materially interfere with pedestrian use of the Waterfront Yard Area or (b) which are required for operational or safety reasons to be located at the water's edge, provided that any resulting interference with pedestrian use of the Waterfront Yard Area is minimized to the extent economically practicable.

3. Exception to Waterfront Yard Area Setback Requirement. Any building or structure used for a Water Dependent Use, including without limitation, drydocks, enclosed or covered wet dock sheds, davits, hoists, mast markers, and the structures listed in Subsection 2 above, shall be permitted within the Waterfront Yard Area as necessary to avoid interference with any direct access to the water required for such Water Dependent Use.

4. No portion of any Waterfront Yard Area shall be located on any floating structure.

;SECTION 42A-8. **Urban Design Guidelines**. This Section 42A-8 establishes urban design guidelines for the portion of the Harborpark District governed by this Article.

1. New development and rehabilitation shall reinforce the traditional pattern, height, and massing of the urban waterfront.

2. Buildings and spaces shall direct views and pedestrian movements towards the water.

3. Buildings on Piers shall be sited so as to reinforce the geometry of the Pier; and buildings near the water's edge shall not be massed so as to create a continuous wall along the water's edge.

4. Inland buildings shall reinforce the city street pattern and avoid continuous walls parallel to the water's edge by maintaining view and access corridors, especially at cross-streets.

5. Buildings shall be sited to provide view and access corridors towards the open water and to preserve views from Public Access Facilities and Open Space areas at the Ends of Piers. Open archways spanning a view corridor, which archways are not less than forty (40) feet wide at grade and forty (40) feet high at the apex and are oriented and designed to preserve the view corridor, as determined through design review, shall not be deemed inconsistent with this design guideline.

6. Building elements on a site shall generally step down in height towards the water's edge.

7. Open areas and buildings at or near the Ends of Piers shall offer opportunities for public views of the water and public amenities that attract the public to the water's edge.

8. Building massing shall enhance the air flow channels created by sea breezes that are beneficial to air quality in the City.

9. Open spaces, building entrances, shopfronts, shop windows, shop entrances, terraces, gardens, arcades, and similar elements shall be designed to enhance pedestrian activity, access to, and enjoyment of the waterfront. Blank walls, without windows or entrances facing onto pedestrian areas, shall be avoided to the extent practicable in building designs.

10. Facade treatment, building materials, and design details shall complement the traditional character of Boston's historic waterfront development patterns.

11. Setbacks, corner treatments, and other design details shall be used to minimize the sense of bulk of structures and ornament and decorative elements appropriate to the urban and historical waterfront context are encouraged.

12. Roofs of buildings shall be designed to minimize the visibility of roof structures and penthouses normally built above the roof and not designed to be used for human occupancy.

13. A Proposed Project should promote and enhance the quality of the pedestrian environment, by means such as: (a) pedestrian pathways connecting to the waterfront and, where appropriate, linking the waterfront and mass transit stations; (b) spaces accommodating pedestrian activities and public art; (c) use of materials, landscaping, public art, lighting, and furniture that enhance the pedestrian and waterfront environment; (d) pedestrian systems that encourage more trips on foot to replace vehicular trips; (e) other attributes that improve the pedestrian environment and pedestrian access to the waterfront and Boston Harbor; and (f) appropriate management and maintenance of pedestrian access within the Proposed Project.

14. In addition to the foregoing, design features of a Proposed Project shall take into consideration the characteristics of the site and its location in the Harborpark District and provide opportunities for special amenities, such as panoramic views of the Harbor, and shall enhance and reinforce any historic qualities of existing structures. New development shall be consistent with design guidelines established in the Harborpark District Plan.

(;As amended on May 9, 1996.)

;SECTION 42A-9. **Environmental Protection and Safety Standards for Proposed Projects**. Any Proposed Project involving new construction in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District shall conform to the environmental protection and safety standards established in this Section, to the extent economically practicable, as determined in Large Project Review.

1. Trash Disposal Standards. Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include a trash compactor in an interior location for garbage and trash disposal, and shall provide for the maintenance and cleanliness of such compactor.

2. Area for Recyclable Materials. Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include an interior area for the separation, temporary storage, and collection of recyclable materials. Such area shall be located in the vicinity of any off-street loading facility.

3. Provision of Safety Ladders. Any such Proposed Project, if adjacent to the water, shall provide a safety ladder or ladders extending from the water to an accessible area above the high water mark such that there shall be one safety ladder located approximately every one hundred (100) feet along those portions of the waterfront occupied by seawalls, piers, wharves, or other structures otherwise inaccessible to a person in the water. The foregoing notwithstanding, a safety ladder shall not be required in a location that would unreasonably interfere with docking facilities or other Water Dependent Use, provided that safety ladders are placed at intervals most closely approximating one hundred (100) feet and not so interfering.

(;As amended on May 9, 1996.)

;SECTION 42A-10. **Off-Street Parking**. The provisions of Article 23, Off-Street Parking, shall govern any Proposed Project in the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront within the Harborpark District. The off-street parking requirements stated as applicable to a specific floor area ratio set forth in Table B of Section 13-1 shall also apply to the same floor area ratio set forth in this Article. Where a use provided for in this Article is not included in any use item number listed in Article 23, off-street parking facilities shall be provided in accordance with the requirements for the use item number listed in Article 23 which is most similar to such use.

1. Notwithstanding any contrary provision of Article 23, the following supplementary regulations shall be applicable in the North End/Downtown Waterfront and the Dorchester Bay/Neponset River Waterfront:

   (a) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for single family dwellings, two-family dwellings, and multi-family dwellings at a rate of not less than 1.0 space per dwelling unit.

   (b) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for a Recreational Marina at a rate of not less than one (1) off-street parking space for every eight (8) docking spaces.

   (c) Except in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict, off-street parking shall be provided for slips and docking spaces for Commercial Vessels as follows:

      (i) For each slip or docking space for a Commercial Vessel which neither takes on nor discharges passengers at such slip or docking space, other than crew members, two (2) off-street parking spaces shall be provided.

      (ii) For each slip or docking space for a Commercial Vessel which takes on or discharges passengers for sightseeing, exhibits, special events, dining, dancing, or other public assembly activity, off-street parking spaces shall be provided in accordance with Section 23-2.

   (d) All off-street parking areas shall be located, designed, and maintained in accordance with Sections 23-8, 23-9, and 23-10. Subject to the provisions of Article 6, the Board of Appeal may approve a decrease up to fifty percent (50%) of the number of off-street parking spaces required by this section, provided that: (a) the Applicant reserves a site area sufficient to accommodate the unsatisfied requirement for the possible future expansion or peak seasonal usage of said off-street parking spaces; (b) any permit granted pursuant to this subsection shall be for a period not to exceed five (5) years, and shall be renewable in accordance with the provisions of Article 6; and (c) the Applicant provides for said area an environmentally suitable, permanent ground cover of pervious material. Such area shall not be used or built upon and shall be maintained as open space. However,

such area may be developed for parking use in the future in accordance with the provisions of this section.

(e) For any Proposed Project subject to Large Project Review and for which a Transportation Access Plan is required, the Boston Redevelopment Authority may determine that so-called "shared parking" arrangements, in which parking spaces may be counted for different uses whose peak parking use periods are not coincident, will adequately meet parking demand associated with such Proposed Project, in which event the number of parking spaces otherwise required shall be correspondingly reduced.

(f) No Proposed Project shall be required to provide parking in excess of that permitted under any applicable state or federal parking freeze or similar law.

(g) No parking shall be permitted in any Public Access Facility provided pursuant to the provisions of Section 42A-5.2.

(;As amended on May 9, 1996.)

;SECTION 42A-11. **Off-Street Loading**. Within the North End/Downtown Waterfront and Dorchester Bay/Neponset River Waterfront, no off-street loading facilities shall be required for any Proposed Project with a gross floor area of less than 10,000 square feet. For any Proposed Project with a gross floor area of 10,000 square feet or more, the Applicant shall include in its Project Impact Report, prepared for Large Project Review, an analysis of the loading requirements of the Proposed Project, and of the impacts of projected loading activities, together with a description of any off-street loading facilities required to meet those requirements and to mitigate, to the extent economically practicable, projected impacts, and the Boston Redevelopment Authority shall determine the adequacy of such proposed loading facilities in accordance with Large Project Review.

(;As amended on May 9, 1996.)

REGULATIONS APPLICABLE IN THE NORTH END/DOWNTOWN WATERFRONT

SECTION 42A-12. **Downtown Waterfront Subdistrict**. This Section establishes the Downtown Waterfront Subdistrict, as depicted on "Map 1F Harborpark District North End/Downtown Waterfront (supplemental to `Map 1 Boston Proper')". The Downtown Waterfront Subdistrict contains the Downtown Water Transportation Overlay area, as depicted on said Map 1F, which overlay area is governed by the provisions of this Article and Code applicable generally to said Subdistrict and by the special provisions set forth in Section 42A-5.6(a). Within the Downtown Waterfront Subdistrict, the maximum allowed FAR is four (4) and the maximum allowed Building Heights are as follows:

(a) Within Height Zone A, as shown on Map 1F, no buildings are allowed, except buildings which are permitted in Open Space, as provided in Section 42A-6;

(b) Within Height Zone B, as shown on said Map 1F, the maximum allowed Building Height is fifty-five (55) feet.

(c) Within Height Zone C, as shown on said Map 1F, the maximum allowed Building Height is one hundred ten (110) feet;

(d) Within Height Zone D, as shown on said Map 1F, the maximum allowed Building Height is one hundred twenty-five (125) feet; and

(e) Within Height Zone E, as shown on said Map 1F, the maximum allowed Building Height is one hundred fifty-five (155) feet.

For the limited purposes of computing required Open Space, pursuant to Section 42A-6, and FAR, pursuant to this Section 42A-9, for a Proposed Project in the Downtown Waterfront Subdistrict, an existing building, not located on a Pier, together with the land occupied by such existing building may be excluded from such Proposed Project, provided that there is also excluded such additional land, if any, as was required for such excluded existing building to comply with any applicable zoning requirements, adopted pursuant to Chapter 488 of the Acts of 1924, as amended, or Chapter 665 of the Acts of 1956, as amended, in effect as of the issuance of the original building permit for such existing building, as affected by any zoning relief obtained for such existing building (such applicable zoning requirements to be determined by the Boston Redevelopment Authority. Notwithstanding the foregoing, however, (i) the area of the land occupied by any additional building footprint created by an addition to or extension of such existing building shall be included in such Proposed Project for purposes of computing required Open Space, and (ii) the gross floor area of any addition to or extension of such existing building shall be included in the gross floor area of the

Proposed Project for purposes of calculating the FAR of the Proposed Project. For the purposes of this Section, an "existing building" shall mean a building in existence as of the date of issuance of the first building permit for the Proposed Project.

;SECTION 42A-13. **North End Waterfront Subdistrict**. This Section establishes the North End Waterfront Subdistrict, as depicted on "Map 1E Harborpark District: North End/Downtown Waterfront (supplemental to `Map 1 Boston Proper')." Within the North End Waterfront Subdistrict, the maximum allowed FAR is two (2) and the maximum allowed Building Height is fifty-five (55) feet. The North End Waterfront Subdistrict includes the North End Housing Priority Overlay Area, as depicted on said Map 1E, which Overlay Area is governed by the requirements of this Article and Code applicable generally to said Subdistrict and by the special requirements of Subsection 42A-5.5.

Within the North End Waterfront Subdistrict, in order to achieve the maximum public benefit and use of the Waterfront Yard Area and the most desirable urban design plan and/or as may be required to permit compliance with Subsection 42A-5.9, the Applicant may propose to the Boston Redevelopment Authority a reconfiguration of the Waterfront Yard Area for a Proposed Project, provided that the Proposed Project is subject to or the Applicant has elected to comply with Large Project Review and provided that the net area of the required Waterfront Yard Area is not reduced and the minimum depth of the Waterfront Yard Area from the High Tide Line, or the Sides or Ends of Piers, as the case may be, is twelve (12) feet at all locations. The Applicant shall include in its Large Project Review submissions an analysis, and such plans, drawings, and specifications as are necessary for the Boston Redevelopment Authority to determine that such configuration conforms to the requirements of this Section, and with the Harborpark District Plan. If the Boston Redevelopment Authority so determines, the required Waterfront Yard Area requirements applicable to such Proposed Project shall be based on such reconfiguration.

(;As amended on May 9, 1996.)

SECTION 42A-14. **North End Local Business Subdistrict.** This Section establishes the North End Local Business Subdistrict as depicted on "Map 1E Harborpark District: North End/Downtown Waterfront (supplemental to `Map 1 Boston Proper')." The North End Local Business Subdistrict is established in order to provide for appropriate and compatible zoning on this privately held site adjacent to an open space subdistrict. The maximum allowed FAR is two (2) and the maximum allowed Building Height is fifty-five (55) feet and the regulations of this Code for an L-2-55 Subdistrict are applicable.

SECTION 42A-15. **Open Space Subdistricts**. This Section establishes the two open space subdistricts within the North End/Downtown Waterfront, which subdistricts

are identified in Table B and shown on Map 1E and Map 1F, both entitled "Harborpark District: North End/Downtown Waterfront (supplemental to `Map 1 Boston Proper')" of the Code. Any Lot within any such open space subdistrict is subject to Article 33, Open Space Subdistricts, and other provisions of this Code applicable to such subdistrict.

TABLE B

Open Space Subdistricts in the North End/Downtown Waterfront

Location	Subdistrict Designation
Waterfront Park	Parkland*
North End Playground	Recreation**

* Parkland open space subdistricts consist of land appropriate for and limited to passive recreational uses. See Section 33-9.

** Recreation open space subdistricts consist of land appropriate for and limited to active or passive recreational uses. See Section 33-10.

SECTION 42A-16. **Prohibition of Planned Development Areas and Restriction of Urban Renewal Areas in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict**. Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, no planned development area as that term is used in Section 3-1A.a shall be permitted. However, within said subdistricts, parcels may be combined to form a single Lot notwithstanding that said parcels are separated by a street. On the Sargents Wharf Site and the Pilot House Extension Site, as those sites are described in "Map 1E Harborpark District: North End/Downtown Waterfront (supplemental to `Map 1 Boston Proper')" of the Code, no urban renewal area shall be permitted, except in accordance with the requirements of Subsection 3-1A.b and the additional requirements of this Section 42A-16.

1. Sargents Wharf Site. A Proposed Project on the Sargents Wharf Site may be established as an urban renewal area if: (a) such Proposed Project is used exclusively for Residential Uses and uses accessory thereto, except for any area on the first story or second story devoted to Facilities of Public Accommodation and uses accessory thereto and office uses and uses accessory thereto; (b) not less than one hundred (100) of the dwelling units located on-site are Affordable; and (c) such Proposed Project is in substantial accord with the guidelines published by the Boston

Redevelopment Authority in its request for proposals for the Sargents Wharf Site dated March 23, 1989. An urban renewal area may be established in order to accomplish the planning objectives of achieving an appropriate density and site plan for the publicly-held Sargents Wharf Site. The Board of Appeal may grant an exception for FAR on this site pursuant to the provisions of Article 6A, but not exceeding a total FAR of three (3). The urban renewal area may provide for a maximum permitted Building Height of seventy-five (75) feet for any Proposed Project complying with the affordability requirement of clause (b) above; otherwise the maximum permitted Building Height shall be fifty-five (55) feet.

2. Pilot House Extension Site. A Proposed Project on the Pilot House Extension Site may be established as an urban renewal area if such Proposed Project provides for a structure adjacent to and landward of the historically significant Pilot House building and replaces the former Pilot House Extension building in a manner consistent with the height and massing of the Pilot House and in substantial accord with the guidelines published by the Boston Redevelopment Authority in its request for proposals for the Pilot House Extension, dated March 23, 1989. The Board of Appeal may grant an exception for FAR on this site pursuant to the provisions of Article 6A, provided that the increase in FAR is no greater than that necessary to achieve the foregoing stated objectives.

SECTION 42A-17. **Rooftop Additions**. No roof structure designed or used for human occupancy, access, or storage, and no roof structure, headhouse, or mechanical equipment normally built above the roof and not designed or used for human occupancy, shall be erected or enlarged on the roof of

(a) an existing building within the Downtown Waterfront Subdistrict classified as a Category One, Category Two, Category Three, or Category Four structure in the Boston Landmarks Commission survey of buildings in Boston, or

(b) any existing building in the North End Waterfront Subdistrict,

unless after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 the Board of Appeal grants permission therefor. In reaching its decision, said Board shall consider whether such roof structure is architecturally consistent with the distinctive historical and architectural character of the area. The Inspectional Services Department shall transmit a copy of the appeal for the conditional use to the Boston Landmarks Commission. The Boston Landmarks Commission may, within thirty days after the date of such transmittal, file with the Board of Appeal a recommendation, provided that if no

such recommendation is received within said thirty days, the Board of Appeal may render its decision without such recommendation.

↔SECTION 42A-18. **Use Regulations Applicable in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict**. No land (including Tidelands and submerged land) water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, within the North End Waterfront Subdistrict or the Downtown Waterfront Subdistrict, except in conformity with the provisions of this Section and Section 8-6.

1. Inclusion of Day Care Facilities. The provisions of this Subsection 1 apply only to Proposed Projects in the North End Waterfront Subdistrict or Downtown Waterfront Subdistrict that exceed a Building Height of fifty-five (55) feet, or an FAR of two (2), or both. Any such Proposed Project having a gross floor area, not including floor area devoted to Residential Uses, Hotel Uses, or Cultural Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to at least the amount listed below in Table C of this Section. An Applicant for a Proposed Project subject to the provisions of this Subsection 1 may fulfill its obligations under this paragraph by either (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created elsewhere in the City. The provision of day care facilities in accordance with this Subsection 1 shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours. Such day care facilities provided as part of a Proposed Project shall not be included in the calculation of FAR for the Proposed Project.

TABLE C

Provision of Day Care Facilities

Size of Proposed Project* (Gross Floor Area)	Minimum Day Care Facilities (Gross Floor Area)
100,000 up to 200,000 sq.ft.	2% of gross floor area
200,000 up to 500,000 sq.ft.	4,000 sq.ft
500,000 up to 1,000,000 sq.ft.	8,000 sq.ft.
More than 1,000,000 sq.ft.	12,000 sq.ft.

*Excluding floor area devoted to Residential, Hotel, or Cultural Uses.

2. Facilities of Public Accommodation. Within any Proposed Project in the Downtown Waterfront Subdistrict or North End Waterfront Subdistrict with a gross floor area of 10,000 square feet or greater, involving new construction or a change of use on the first story, the use of at least forty percent (40%) of the gross floor area of the first story of such Proposed Project shall be for indoor Facilities of Public Accommodation, otherwise allowed for such Proposed Project or conditional and permitted pursuant to Article 6.

3. Residential Use Restrictions on Piers in the Downtown Waterfront Subdistrict. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the Downtown Waterfront Subdistrict, residential uses are forbidden uses on the first story of any portion of a Proposed Project located on a Pier.

4. North End Housing Priority Overlay Area. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the North End Housing Priority Area, for any Proposed Project, a minimum of two (2) square feet of gross floor area shall be devoted to allowed residential uses for each square foot of gross floor area not devoted to such residential uses. An Applicant for any Proposed Project subject to the provisions of this Subsection 4 may construct or rehabilitate space for allowed residential uses within the North End Housing Priority Overlay Area, and aggregate the space for allowed residential uses and the space for other uses from different Proposed Projects of the Applicant's within the North End Housing Priority Overlay Area to meet the ratio required in this Subsection 4 so long as the different Proposed Projects are completed and certificates of occupancy issued within any consecutive period of twenty-four months.

5. Commercial Use Restrictions. Notwithstanding any other provision of this Section 42A-18 to the contrary, within the North End Waterfront Subdistrict, in any building fifty percent (50%) or more of the gross floor area of which is devoted to allowed and/or conditionally allowed Residential Uses, any uses other than such Residential Uses and uses accessory thereto shall be forbidden above the second floor.

6. Allowed Uses. Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, except as otherwise provided in this Section 42A-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except in accordance with the provisions of this Subsection 6 and Subsection 7 of this Section 42A-18. Any use specified in this Subsection 6 is allowed as a matter of right, subject only to the requirements set forth in the description of such use below:

(a) Water-Dependent and Water-Related Uses.

(i) Water-Dependent Uses.

Dock, slip, pier, wharf, anchorage, or moorage for Commercial Vessels and Recreational Vessels awaiting servicing, provisions, on or off loading of people or cargo at delivery;

Facilities for the use, hire, or charter of Commercial Vessels, Recreational sailing or boating school, Boat Rental Establishment;

Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;

Aquarium and other cultural, educational, research, or training facilities dedicated primarily to marine purposes;

Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis (except that a ferry or cruise boat terminal is forbidden in the North End Waterfront Subdistrict);

Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;

Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, wave deflectors, and the like.

(ii) Water-Related Uses.

Installation, repair, or servicing of boating accessories, marine equipment, marine instruments, or marine motors;
Chandlery, woodworking shop, electrical shop, or similar use for the repair and maintenance of Vessels;
Sale of marine hardware, or boating or diving supplies and equipment.

(b) Open Space Recreational Uses

Open space for active or passive recreational use or dedicated to the conservation of natural resources, including but not limited to the waterways areas, beaches, reservations, parks, and playgrounds.

(c) Community Uses and Cultural Uses

Library, museum, gallery, concert hall, legitimate theater, auditorium, performance space, aquarium, or historical exhibit, open to public generally;
Community center or community service facility;
Day care center.

(d) Residential Uses

Building or group of buildings for occupancy by three or more families in separate dwelling units.
Group residence, limited, as defined in clause (22B) of Section 2-1.

(e) Hotel Uses (except conditional in the North End Housing Priority Overlay Area).

Hotel, conference facilities.

(f) Office Uses (except conditional in North End Waterfront Subdistrict)

Office of professional persons, not accessory to a main use;
Real estate, insurance, financial service institution, or other agency or government office;
Office or display or sales space of a wholesale, jobbing, or distributing house, provided that the office or display or sales space of a wholesale, jobbing, or distributing house is associated with a Water-Dependent Use;

Office building, post office, bank (other than drive-in bank), or similar establishments.

(g) Local Retail/Service Uses

Store primarily serving the local retail business or service needs of the neighborhood and harbor/waterfront users, including but not limited to chandlery, barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or drycleaner, tailor shop, hand laundry;

Store retailing one or more of the following but not limited to: food, baked goods, groceries, drugs, tobacco products, clothing, drygoods, books, film, video, art, flowers, paint, hardware, and minor household appliances.

(h) General Retail Uses (except conditional in the North End Waterfront Subdistrict)

Department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage; provided that any Proposed Project for a general retail use shall be conditional if it: (a) establishes an occupancy for a general retail use having a gross floor area of seventy-five thousand (75,000) or more square feet; or (b) changes to a general retail use the use of a gross floor area of seventy-five thousand (75,000) or more square feet; or (c) enlarges a general retail use so as to result in a total gross floor area of seventy-five thousand (75,000) or more square feet.

(i) Restaurant Uses (except conditional in the North End Waterfront Subdistrict for any Proposed Project not subject to or electing to comply with Large Project Review)

Lunchroom, restaurant, cafeteria, or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafe provided that at such cafe: food is served; hours of operation do not extend beyond 11:00 p.m.; no music or entertainment is provided; and such use does not significantly interfere with pedestrian access to or passage over Public Access Facilities or Open Space areas open to the public pursuant to Subsection 42A-5.2;

Place for sale and consumption of food and beverages (other than drive-in restaurants) providing dancing or entertainment or both;

Pushcart food vendors.

(j) Educational Uses

Marine research and/or training institute for educational institution provided that water access is required for the program or its operation.

(k) Amended to Conditional Use on October 20, 2000.

(l) Transportation Uses

Public transportation facility, rapid transit station.

(m) Public Assembly Uses

Cinema.

(n) Accessory and Ancillary Uses

Any of the following uses accessory or ancillary to an allowed use, subject to the limitations and restrictions of Article 10:

(i) any use accessory or ancillary to, and ordinarily incident to, a lawful main use; provided that such use is not specifically forbidden in such district; and provided further that any such use shall be subject to the same restrictions, conditions, limitations, provisos and safeguards as the use to which it is accessory.

(ii) a parking garage or parking lot for occupants, employees, students, and visitors provided that such use is accessory to a residential use under clause (d) of this Subsection or hotel use under clause (e) of this Subsection.

(iii) an office, within a main building, of an accountant, architect, attorney, dentist, physician, or other professional person who resides in such building.

(iv) an occupation for profit customarily carried on in a dwelling unit by a person residing therein provided that such occupation is carried on in a main building and requires only equipment ordinarily incident to a dwelling unit and that no nonresident help is employed and that there is not trading in merchandise.

(v) the keeping of marine life or laboratory animals incidental to a lawful education, community, or institutional use.

(vi) the storage of flammable liquids and gases incidental to lawful use.

(vii) permanent dwellings for personnel required to be resident on a Lot for the safe and proper operation of a lawful main use.

(viii) day care center.

(ix) health club facility.

7. Conditional Uses. Within the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict, except as otherwise provided in this Section 42A-18, no land (including Tidelands and submerged land), water area, or structure shall be erected, used, or arranged or designed to be used, in whole or in part, for any use subject the provisions of Article 6 unless such use is specified in this Subsection 7.

(a) Water-Dependent Uses

Recreational Marina, yacht club.

(b) Open Space Recreational Uses

Recreational structure on an Open Space area that is necessary and/or appropriate to the enhanced enjoyment of the particular Open Space area and is open to the public.

(c) Residential Uses

Convalescent, nursing or rest home.

(d) General Retail Uses (in the North End Waterfront Subdistrict)

Department store, furniture store, general merchandise mart, or other store serving the general retail business needs of a major part of the city, including accessory storage.

(e) Restaurant Uses (in the North End Waterfront Subdistrict for any Proposed Project not subject to or electing to comply with Large Project Review)

Lunchroom, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafe, provided that at such cafe: food is served; hours of operation do not extend beyond 11:00 p.m.; no music or entertainment is provided; and such use does not significantly interfere with pedestrian access to or passage over public access facilities or Open Space areas open to the public pursuant to Subsection 42A-5.2;

Place for sale and consumption of food and beverages (other than drive-in restaurants) providing dancing or entertainment or both;

Pushcart food vendors.

(f) Restaurant Uses (in the Downtown Waterfront Subdistrict)

Outdoor cafe not meeting all of the criteria set forth in clause (i) of Subsection 42A-18.6.

(g) Take-out Restaurant

In a structure, sale over the counter, not wholly incidental to a local retail business or restaurant use, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption; if, as so sold, such food or drink is ready for take-out.

(h) Office Uses (in the North End Waterfront Subdistrict)

Office of professional persons, not accessory to a main use;

Real estate, insurance, financial service institution, or other agency or government office;

Office building, post office, bank (other than drive-in bank) or similar establishment;

Office or display or sales space of a wholesale, jobbing, or distributing house, provided that the office or display or sales space of a wholesale, jobbing, or distributing house is associated with a Water-Dependent Use.

(i) Parking Uses

Parking garage or parking lot not provided for under clause (n) of Subsection 42A-18.6.

(j) Accessory and Ancillary Uses

The following use accessory or ancillary to an allowed or a conditional use, subject to the limitations and restrictions of Article 10: a swimming pool or tennis court.

(k) Public Service Uses

Flood, water level, or tidal control facility; cable conduit, pipeline crossing, stormwater outlet, or other similar utility structure, telecommunications data distribution center.

(j) Storage of dumpster not accessory or ancillary to a main use, nor used in conjunction with the ongoing operation of a permitted site with explicit legal use and occupancy as a dumpster repair facility, waste hauling contractor yard, or site assigned and licensed solid waste management facility.

(k) Pawnshops

(l) Body Art Establishment

8. Forbidden Uses. Any use not specified as an allowed or conditional use in this Section 42A-18, except for such non-conforming uses as may be allowed to continue under the provisions of Article 9, shall be forbidden uses in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. Without limitation, uses described in Use Items 34A and 38A of Table A of Section 8-7 shall be forbidden uses in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict. In addition, and notwithstanding any contrary provision hereof, any use of a floating structure, other than for a Water Dependent Use, shall be forbidden in the North End Waterfront Subdistrict and the Downtown Waterfront Subdistrict.

(;As amended on February 22, 1991, September 30, 1993, October 6 and December 19, 1994, May 9 and November 21, 1996 , July 31, 1997, May 30, 2000, September 18, and October 20, 2000, February 16, and April 9, 2001.)

REGULATIONS APPLICABLE IN THE
DORCHESTER BAY/NEPONSET RIVER WATERFRONT

;SECTION 42A-19. **Working Waterfront Subdistricts**. This Section establishes six (6) working waterfront subdistricts in the Dorchester Bay/Neponset River Waterfront. The working waterfront subdistricts are established in order to maintain, foster, and promote the maritime economy within the City of Boston; to provide for light manufacturing water-dependent uses; to preserve sites for maritime-dependent industrial uses along the waterfront consistent with applicable state policy and the needs of the maritime industry; to create opportunities for manufacturing and business on the waterfront; to promote land development that will protect the public health and general welfare; and to maintain a safe and healthy environment.

1. Dorchester Bay Waterfront Service Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 4C Harborpark District: Dorchester Bay/Neponset River Waterfront (supplemental to `Map 4 South Boston')" as the "Dorchester Bay Waterfront Service Subdistrict", a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WS-1-35 subdistricts are applicable.

2. Clam Point Waterfront Service Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5G Harborpark District: Dorchester Bay/Neponset River Waterfront" as the "Clam Point Waterfront Service Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WS-1-35 subdistricts and applicable.

3. Neponset River Waterfront Manufacturing Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront" as the "Neponset River Waterfront Manufacturing Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WM-1-35 subdistricts are applicable, except that (a) any residential uses allowed in an H subdistrict are allowed with a maximum Building Height of fifty-five (55) feet and a maximum FAR of one and one-half (1.5) provided that the Lot Area for a Proposed Project including such residential uses is thirty thousand (30,000) square feet or more and provided, further, that such Proposed Project is subject to, or elects to comply with, Large Project Review, (b) the Board of Appeal, pursuant to the provisions of Article 6A, may grant an exception for required depth of Waterfront Yard Area as set forth in Table A of Section 42A-7 for residential uses in compliance with Subsection 42A-19.3(a), provided that

the depth of a Waterfront Yard Area shall not be less than twelve (12) feet, and (c) notwithstanding any contrary provision of Section 42C-3.1(w), the allowed number of slips and/or spaces for any of the following uses shall not be limited by such Section 42C-3(w): Recreational Marina, rack, dry stack, or landside facility for seasonal dry storage of Recreational Vessels.

4. Cedar Grove Waterfront Manufacturing Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront" as "Cedar Grove Waterfront Manufacturing Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this Code for WM-1-35 subdistricts are applicable. Notwithstanding provisions of the Code to the contrary, within the Cedar Grove Waterfront Manufacturing Subdistrict any residential use allowed in an H-1-35 district shall be allowed, provided that the Lot Area for any Proposed Project including such residential uses is thirty thousand (30,000) square feet or more and provided, further, that such Proposed Project is subject to, or elects to comply with, Large Project Review. A roofed enclosure of an outdoor storage facility for recycled and recyclable materials shall not be included in the computation of the gross floor area of a Proposed Project, provided that any floor area within such enclosure occupied by any other use, such as, without limitation, office or manufacturing uses, shall be included in the computation of gross floor area. Any Proposed Project within the Cedar Grove Waterfront Manufacturing Subdistrict subject to Large Project Review shall include in its Large Project Review submissions an analysis of the manner in which the Proposed Project reinforces the physical and visual connections between the subdistrict and the Neponset River.

5. Neponset Circle Waterfront Manufacturing Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront" as the "Neponset Circle Waterfront Manufacturing Subdistrict," a maximum Building Height of thirty-five (35) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a maximum FAR of one (1) are allowed, and the regulations of this Code for WM-35 subdistricts are applicable, except that (a) office uses described in Subsection 42C-3.3(d) shall be allowed in any building existing as of the effective date of this Article.

6. South Boston Maritime Economy Reserve Subdistrict. Within that portion of the South Boston Waterfront depicted on "Map 4A Harborpark District: Dorchester Bay/Neponset River Waterfront (supplemental to `Map 4 South Boston')" and "Map 4B Harborpark District: Dorchester Bay/Neponset River

Waterfront (supplemental to `Map 4 South Boston')" as the "South Boston Maritime Economy Reserve Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes, silos, storage facilities, or other mechanical devices or facilities used for the transfer of goods from land to waterborne vessels or for the processing of such goods) and a maximum FAR of two (2) are allowed, and the regulations of this Code for MER-2-55 subdistricts are applicable.

(;As amended on May 9, 1996.)

SECTION 42A-20. **Cedar Grove General Business Subdistrict**. This Section establishes the Cedar Grove General Business Subdistrict as depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront." Within the Cedar Grove General Business Subdistrict a maximum FAR of one (1) and a maximum Building Height of thirty-five (35) feet are allowed and the regulations of this Code for a B-1-35 subdistrict are applicable.

SECTION 42A-21. **Residential Subdistricts**. This Section establishes two (2) residential subdistricts within the Dorchester Bay/Neponset River Waterfront.

1. Neponset River Residential Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront" as the "Neponset River Residential Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) is allowed and the regulations of this Code for H-1-35 subdistricts are applicable.

2. Cedar Grove Residential Subdistrict. Within that portion of the Dorchester Bay/Neponset River Waterfront depicted on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront" as the "Cedar Grove Residential Subdistrict," a maximum Building Height of thirty-five (35) feet and a maximum FAR of one (1) are allowed and the regulations of this code for R-.5-35 subdistricts are applicable.

SECTION 42A-22. **Columbia Point Special Study Overlay Area**. This Section establishes the Columbia Point Special Study Overlay Area as depicted on "Map 5F Harborpark District: Dorchester Bay/Neponset River Waterfront." A comprehensive plan for the Columbia Point Special Study Overlay Area shall be developed, and shall address at a minimum, the following: (a) an appropriate traffic plan; (b) an appropriate land use plan and zoning for the controlled development of back office and new economy uses; (c) an appropriate land use plan and zoning to preserve and enhance open space in the Columbia Point Special Study Overlay Area; (d) an appropriate land use plan and zoning that addresses institutional uses and expansion; and (e) the

promotion and enhancement of mixed-income housing. Within the Columbia Point Special Study Overlay Area there are established the following eight (8) subdistricts as depicted on said Map 5A and regulated by the provisions of this Code applicable to subdistricts thus designated:

(a) H-1-55
(b) H-2-65
(c) H-2-D-65
(d) B-1-55
(e) B-2-55
(f) M-1-55
(g) I-2-65
(h) I-2-D-65

SECTION 42A-23. **Open Space Subdistricts**. This Section establishes five (5) open space subdistricts in the Dorchester Bay/Neponset River Waterfront indicated on Table D and shown on "Map 4C Harborpark District: Dorchester Bay/Neponset River Waterfront" and "Map 4D Harborpark District: Dorchester Bay/Neponset River Waterfront" (supplemental to "Map 4 South Boston") and on "Map 5F Harborpark District: Dorchester Bay/Neponset River Waterfront" and "Map 5G Harborpark District: Dorchester Bay/Neponset River Waterfront" and on "Map 5H Harborpark District: Dorchester Bay/Neponset River Waterfront." Any Lot within any such open space subdistrict is subject to the provisions of this Code applicable to such subdistrict, including without limitation, Article 33, Open Space Subdistricts.

TABLE D

Open Space Subdistricts in the Dorchester Bay/Neponset River Waterfront

Location	Subdistrict Designation
Savin Hill	Shoreland*
Victory Park	Shoreland*
Neponset Shoreland	Shoreland*
Lower Mills Shoreland	Shoreland*
Castle Island/Columbus Park	Shoreland*

* Shoreland open space subdistricts consist of land bordering on tidewater or the ocean, including land over which the tide ebbs and flows, or any bank, marsh, beach, dune, swamp, salt meadow, tidal floor, or other low land subject to tidal action or coastal storm flowage. See Section 33-11.

MISCELLANEOUS PROVISIONS

SECTION 42A-24. **Regulations**. The Boston Redevelopment Authority may promulgate regulations to administer this article.

SECTION 42A-25. **Rights to Navigation**. No provision of this code shall be construed as a limitation upon the navigational rights of vessels or upon the regulation thereof by the United States.

SECTION 42A-26. **Severability**. The provisions and requirements of this Article are severable, and if any such requirements or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision or requirement of this Article.

SECTION 42A-27. **Definitions**. Words and phrases defined in Appendix A to this Article, when capitalized in this Article, shall have the meanings set forth in said Appendix A.

SECTION 42A-28. **Appendices**. The following appendices are attached to and are hereby made part of this article:

1. Appendix A - Definitions

2. Appendix B - Water-Dependent Uses and Facilities of Public Accommodation

APPENDIX A to ARTICLE 42A

Definitions

For the purposes of Articles 42A, 42B, 42C, and 42D only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Adjusted Income" is defined as it is in 24 CFR 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, or 42A-5.5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.

2. "Affordable" means, in the case of an owner-occupied dwelling unit, requiring the expenditure by a Low-Income, Moderate-Income, or Upper Moderate-Income Household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty percent (30%) of its Adjusted Income to occupy the unit, and, in the case of a renter-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household or Upper-Moderate Income Household for rent payments of not more than thirty percent (30%) of its Adjusted Income to occupy the unit.

3. "Annual Income" is defined as it is in 24 CFR 813.106, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, or 42A-5.5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.

4. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 42A-4, 42B-4, 42C-2, or 42D-2, as the case may be, or the authorized agent of any such person or entity.

5. "Boat Rental Establishment" means any use or establishment that involves the renting, hiring, or instruction in the use of any sailboat, rowboat, or other Recreational Vessel that does not require an operator's license by the United States Coast Guard or the conferring of seasonal use privileges in a fleet of such Recreational Vessels.

6. "Building Height," notwithstanding the provisions of clause (23) of Section 2-1, means (a) for a flat roof, the vertical distance from the grade to the top of the highest point of the roof beams excluding mechanical roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, and (b) for a pitched roof, the vertical distance from grade to the lower (i) of the mean level of the highest gable or of the slope of a hip roof or (ii) of the top of the structure of the highest occupied floor. A mansard roof shall be considered a flat roof. For Piers, grade shall be measured from the top

of the deck of the Pier. The foregoing notwithstanding, except within the Downtown Waterfront Subdistrict, the North End Waterfront Subdistrict, the Charlestown Gateway Subdistrict, and the Charlestown Navy Yard Subdistrict, mechanical roof structures and penthouses normally built above the roof and not used or designed for human occupancy shall not be excluded in calculating Building Heights if such structures and penthouses, in the aggregate, occupy more than thirty-three and one-third (33-1/3%) of the roof area.

7. "Bulkhead" means a vertical structure used to create an edge between the land and the water against which Vessels can be placed to unload or engage in other activities.

8. "Chapter 91" means M.G.L. Chapter 91 and implementing regulations, codified as of the effective date of this article at 310 C.M.R. 9.00, as said statute and regulations may, from time to time, be amended.

9. "Charlestown Navy Yard Master Plan" means that certain master plan of the Charlestown Navy Yard adopted by the Boston Redevelopment Authority on _____, 1990.

;10. "Charlestown Waterfront" means the Charlestown Gateway Subdistrict, Charlestown Maritime Economy Reserve Subdistrict, Charlestown Navy Yard Subdistrict, Mystic River Waterfront Manufacturing Subdistrict, Terminal Street Waterfront Manufacturing Subdistrict, Little Mystic Waterfront Service Subdistrict, Charlestown General Industrial Subdistrict, Little Mystic Waterfront Residential Subdistrict, Paul Revere Landing Open Space Subdistrict, Little Mystic Waterfront Access Open Space Subdistrict, William J. Barry Playground Open Space Subdistrict, and J.J. Ryan Playground Open Space Subdistrict, as such Subdistricts are shown on the maps entitled "Map 2B Harborpark District: Charlestown Waterfront" and "Map 2C Harborpark District: Charlestown Waterfront" (supplemental to "Map 2 Charlestown"), of the series of maps entitled "Zoning Districts City of Boston," as amended.

(;As amended on June 14, 1990 and January 28, 1991)

11. "Commonwealth Tidelands" has the meaning ascribed in Chapter 91.

12. "Cultural Uses" means use for legitimate theater, concert hall, auditorium, museum, gallery, performance space, aquarium, or historical exhibit.

13. "Dorchester Bay/Neponset River Waterfront" means the Dorchester Bay Waterfront Service Subdistrict, the Clam Point Waterfront Service Subdistrict, the Neponset River Waterfront Manufacturing Subdistrict, the Cedar Grove Waterfront Manufacturing Subdistrict, the Neponset Circle Waterfront Manufacturing Subdistrict, the South Boston Maritime Economy Reserve Subdistrict, the Cedar Grove General Business Subdistrict, the Neponset River Residential Subdistrict, the Cedar Grove Residential Subdistrict, the Savin Hill Shoreland Open Space Subdistrict, the Victory Park Shoreland Open Space Subdistrict, the Neponset Shoreland Open Space Subdistrict, the Lower Mills Shoreland Open Space Subdistrict, the Castle Island/Columbus Park Shoreland Open Space Subdistrict, and the subdistricts included within the Columbia Point Special Study Overlay Area.

;14. "1880 Harbor Line" means that line so designated on the maps entitled "Map 1E Harborpark District: North End/Downtown Waterfront" and "Map 1F Harborpark District: North End/Downtown Waterfront" (supplemental to "Map 1 Boston Proper"); and "Map 2B Harborpark District: Charlestown Waterfront" and "Map 2C Harborpark District: Charlestown Waterfront" (supplemental to "Map 2 Charlestown"), of the series of maps entitled "Zoning Districts City of Boston," as amended.

(;As amended on June 14, 1990)

15. "End" of a Pier means the edge of the Pier that is most nearly opposite the edge connecting the Pier with dry land and most nearly parallel to the 1880 Harbor Line or, if the 1880 Harbor Line is not applicable, the general direction of the shoreline.

16. "Existing Pier" means a Pier existing as of the date of the first notice of hearing for the adoption of this Article before the Zoning Commission. However, within the Downtown Waterfront Subdistrict and the North End Waterfront Subdistrict an "Existing Pier" means a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existed as of the effective date of this Article. Within the Downtown Waterfront Subdistrict, an Existing Pier shall also mean a Pier or filled area seaward of the North End/Downtown Prevailing Shoreline, which Pier or filled area existed in 1938 as depicted in the Atlas of the City of Boston: Boston Proper and Back Bay, (Philadelphia: G. W. Bromley and Co., 1939).

17. "Facility of Public Accommodation" means a use so described in Appendix B.

18. "FAR" means floor area ratio, as defined in Section 2-1, subject to the provisions of Section 15-1 regarding calculation of the area of the Lot.

19. "Filled Tidelands" means former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill.

20. "Flowed Tidelands" means present submerged lands and tidal flats which are subject to tidal action at the time of license application under Chapter 91.

21. "Harborpark District" means the Charlestown Waterfront, the North End/Downtown Waterfront, and the Dorchester Bay/Neponset River Waterfront.

22. "Harborpark District Plan" means the plan of the same name adopted or to be adopted by the Boston Redevelopment Authority.

;23. "High/Low Tide Line" means the present arithmetic mean of the water heights observed at high or low tide, as applicable, over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) and shall be determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce.

(;As amended on June 14, 1990)

24. "Index" means Consumer Price Index for all Urban Consumers, Boston, MA, all items - Series A (1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor or, in the event such Consumer Price Index ceases to be published by the United States Department of Labor, a similar published index measuring consumer price levels in the Boston Metropolitan Area, as designated by the Boston Redevelopment Authority.

25. "Lot", notwithstanding the provisions of clause (26) of Section 2-1, means a parcel of land, including land under water (a) whether or not platted, (b) in common control and combined for a single Proposed Project or in single ownership, and (c) except as otherwise provided in Section 42A-16, not divided by a street.

26. "Lot Area", notwithstanding the provisions of clause (27) of Section 2-1, means the horizontal area of the Lot exclusive (a) of any area in a street, (b) of any area in a private way devoted to public use by motor vehicles, (c) of any fresh water area more than ten (10) feet from the shoreline, and (d) of any salt water area below the High Tide Line. The foregoing notwithstanding, (x) the horizontal area of any Pier located in the Lot and (y) a private way open to vehicles for the purpose of accessing the Lot only and a street or private way open only to

pedestrians and emergency vehicles shall be included in the Lot Area. Further, if a Proposed Project shall result in a net reduction in the horizontal area of Piers on the Lot, then Lot Area shall be computed on the basis of the horizontal area of said Piers as of the commencement of the Proposed Project.

27. "Low-Income Household" means any household whose Annual Income does not exceed 50% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.

28. "Main Shipping Channel" means the shipping channel for deep draft vessels in the Boston Inner Harbor as depicted by dashed lines on that certain chart issued by National Oceanic and Atmospheric Administration as chart number 13272 and entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.

29. "Marina Amenity Uses" means those uses identified as such in Subsection 42B-18.5.

30. "Maritime Economy Reserve Subdistrict" means a subdistrict subject to the provisions of this Code applicable within an MER district.

31. "Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR Section 813.102, as amended, or as set forth in regulations adopted in accordance with Subsections 42A-5.3, 42A-5.4, and 42A-5-5, or 42B-5.3, 42B-5.4, or 42B-5.5, as the case may be.

32. "Moderate-Income Household" means any household whose Annual Income does not exceed 80% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.

33. "Natural High/Low Tide Line" means the historic high/low tide line that would be observed except for alteration of the shoreline by filling, dredging, or impounding.

34. "North End/Downtown Waterfront" means the Downtown Waterfront Subdistrict, North End Waterfront Subdistrict, North End Local Business Subdistrict, Waterfront Park Parkland Open Space Subdistrict, and North End Playground Recreation Open Space Subdistrict.

35. "North End/Downtown Prevailing Shoreline" means the line, so entitled, shown on Map 1E Harborpark District (supplemental to Map 1 Boston Proper).

36. "Open Space" has the meaning set forth in Section 42A-6 or Section 42B-6, as the case may be.

37. "Pedestrian Access Network" means a pedestrian network of a kind and to a degree that is appropriate for the site and consisting of, at a minimum:

    (i) walkways and related facilities along the entire length of the shoreline, and along the edges of any Piers or filled areas, which walkways shall be no less than twelve (12) feet in width; and

    (ii) appropriate connecting walkways that allow pedestrians access to shoreline and Pier walkways from public ways or other Public Access Facilities to which any Commonwealth Tidelands or Private Tidelands on the site are adjacent.

38. "Pier" means any structure that extends seaward of the High Tide Line, but excluding any floating structure.

39. "Pierhead Line" means the seaward limit of Pier construction as established in applicable law of the Commonwealth of Massachusetts.

40. "Private Tidelands" has the meaning ascribed in Chapter 91.

41. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change or extension of use of any structure or land (including submerged land and Tidelands), for which the Applicant is required to obtain a building or use permit. A Proposed Project may be built in phases and may include separate or connected building elements on the same Lot.

42. "Public Access Facility" means a facility for pedestrian access to and/or along the waterfront, as provided in clauses (a) and (b) of Subsection 42A-5.2 or of Subsection 42B-5.2, as the case may be.

43. "Public Agency" means a department, agency, board, commission, authority, or other instrumentality of the Commonwealth of Massachusetts, or one or more political subdivisions of the Commonwealth, or of the United States. For the purposes of this article, the Commonwealth's proprietary interest in Tidelands shall not constitute "ownership" by a Public Agency.

44. "Public Boat Ramp" means any ramp structure that provides public access to or egress from the water for Vessels.

45. "Recreational Marina" means any arrangement of docks, slips, Piers, pilings, moorings, or other facilities in or adjacent to the water, for use primarily by Recreational Vessels, including, but not limited to, any such facility associated with a yacht club or boat club.

46. "Seasonal Dry Storage" means the storage of Recreational Vessels on land for periodic use in the water during the active boating season, generally from April through October.

47. "Sides" of a Pier means the edges of the Pier other than the edge connecting the Pier with dry land and other than the End of the Pier.

48. "Tidelands" means present and former submerged lands and tidal flats lying between the Natural High Tide Line and the seaward limit of state jurisdiction.

49. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.

50. "Upper-Moderate Income Household" means any household whose Annual Income does not exceed 110% of the Median Gross Income of Households in the Boston Standard Metropolitan Statistical Area.

51. "Vessel" means any watercraft, including, but not limited to, a Commercial Vessel or Recreational Vessel, but not including any floating structure permanently moored or attached to land or a Pier.

52. "Vessel, Commercial" means any Vessel used for the principal purpose of engaging in a water-related commercial activity, including, but not limited to, charter boat, fishing boat, tug boat, cruise boat, freighter, or barge.

53. "Vessel, Recreational" means any Vessel used principally for recreational purposes.

54. "Water-Dependent Commercial Use" means a use described in Subsection 42D-3.1.

55. "Water-Dependent Use" means those uses described as such in Appendix B to this Article 42A.

56. "Water-Dependent Facility of Public Accommodation" means a Facility of Public Accommodation that is also a Water-Dependent Use.

57. "Waterfront Yard Area" has the meaning ascribed in Section 42A-7 or 42B-7 as the case may be.

58. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

APPENDIX B to ARTICLE 42A

Water-Dependent Uses and Facilities of Public Accommodation

Water-Dependent Uses

Water-Dependent industrial uses;
Facilities for fishing, swimming, diving, and other water-based recreational activities;
Parks, esplanades, boardwalks, and other pedestrian facilities that promote public use and enjoyment of the water and are located at or near the water's edge;
Aquariums and other cultural, educational, research, or training facilities dedicated primarily to marine purposes;
Aquaculture facilities;
Navigation aids, marine police and fire stations, and other waterways public safety and law enforcement facilities;
Shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, rip rap, water defectors, and the like;
Waterborne passenger transportation facilities, such as those serving ferries, cruise ships, commuter and excursion boats, and water shuttles and taxis;
Marinas, boat basins, Boat Rental Establishments, boating or sailing school, channels, storage areas, and other facilities and establishments for commercial or recreational boating.

Facilities of Public Accommodation

A "Facility of Public Accommodation" means a facility, including a commercial facility, at which goods or services are made available directly to the general public. Facilities of Public Accommodation include, but are not limited to:

Lunch room, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption, provided that there is no dancing nor entertainment other than phonograph, radio, and television;
Place for sale and consumption of food and beverages (other than drive-in restaurant) providing dancing or entertainment or both, provided that such establishment is customarily open to the public at large and does not exclude any minor by reason of age as a prevailing practice;
Theater;
Lobbies and public areas of a hotel or motel;
Library, museum, aquarium, educational, historical, or cultural institution open to the public;

Adult education center, community center, or other interior space dedicated to the programming of community meetings, informational displays, special recreational events, or other public activities;

Store primarily serving the local retail business needs of the residents of the neighborhood, including, but not limited to, store retailing one or more of the following: food, baked goods, groceries, drugs, tobacco products, clothing, dry goods, books, flowers, paint, hardware, and minor household appliances, but not including packaged alcoholic beverages;

Department store, furniture store, general merchandise mart, or other store serving general retail business needs of a major part of the city, including accessory storage;

Barber shop, beauty shop, shoe repair shop, self-service laundry, pick-up and delivery station of laundry or dry-cleaner, or similar use;

Tailor shop or hand laundry;

Caterer's establishment, photographer's studio, upholsterer's shop, carpenter's shop, or electrician's shop;

Day care facility; and

Sports or physical fitness facility open to the public;

Interior facility for waterborne public transportation facilities, recreational marina, boat rental establishment, recreational sailing or boating school, or other recreational boating facility or establishment.