

;ARTICLE 30

BARRIER-FREE ACCESS

(;Article inserted on March 8, 1988)

SECTION 30-1. **Statement of Purpose.** The purposes of this article are to ensure that physically handicapped persons have full access to buildings open to the public; to afford such persons the educational, employment, and recreational opportunities necessary to all citizens; and to preserve and increase the supply of living space accessible to physically handicapped persons.

SECTION 30-2. **Definitions.** For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Accessible" or "Accessible to Physically Handicapped Persons" shall be as defined in Chapter 521 of the Code of Massachusetts Regulations, as amended.
2. "Applicant" shall mean any person or entity having a legal or equitable interest in a Proposed Project subject, in accordance with Section 30-3, to the provisions of this article, or the authorized agent of any such person or entity.
3. "Hotel Use" shall mean Use Item Number 15, as defined in Table A, Section 8-7.
4. "Physically Handicapped Person" shall be as defined in Chapter 521 of the Code of Massachusetts Regulations, as amended.
5. "Proposed Project" shall mean the erection or extension of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit.
6. "Residential Use" shall mean Use Item Numbers 7, 7A, 7B, 8, 8A, 10, 11, 12, 13, 13A, or 14, as defined in Table A, Section 8-7.
7. "Zoning Relief" shall mean any zoning variance, exception, conditional use permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

SECTION 30-3. **Applicability.** Any Proposed Project which does not include a Residential Use or Hotel Use, or any Proposed Project for any Residential Use or Hotel Use of twelve (12) or more dwelling units, shall be

subject to the provisions of this article. The following Proposed Projects, however, shall be exempt from the provisions of this article:

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 is thereafter granted by the Board of Appeal pursuant to such appeal.
3. Any Proposed Project or site for which application for approval of a development impact project plan, planned development area development plan, or planned development area master plan has been submitted to the Boston Redevelopment Authority prior to the first notice of hearing before the Zoning Commission for adoption of this article, provided that such development impact project plan, planned development area development plan, or planned development area master plan has been or is thereafter approved by the Boston Redevelopment Authority pursuant to such application, whether or not such application or such development impact project plan, planned development area development plan, or planned development area master plan is thereafter modified or amended.

SECTION 30-4. Barrier-Free Access Requirements. Except as otherwise provided in Article 6A, the public areas of any Proposed Project subject, in accordance with Section 30-3, to the provisions of this article shall be Accessible to Physically Handicapped Persons. Any Proposed Project containing a Residential Use or a Hotel Use and subject, in accordance with Section 30-3, to the provisions of this article shall be constructed so that all public areas are Accessible and a minimum of five percent (5%) of the dwelling units in such Proposed Project are Accessible and are comparable, with respect to construction quality and exterior appearance, to other dwelling units in the Proposed Project.

SECTION 30-5. Regulations. The Boston Redevelopment Authority may promulgate regulations to administer this article; provided, such regulations shall become effective only upon adoption by the Zoning Commission. Such regulations may incorporate by reference regulations promulgated pursuant to the Massachusetts Architectural Access Act, Massachusetts General Laws, Chapter 22, Section 13A, as amended.

SECTION 30-6. **Severability.** The provisions of this article are severable, and if any such provision 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 of this article.