

^ARTICLE 40

SOUTH STATION ECONOMIC DEVELOPMENT AREA

(^Article inserted on September 13, 1989*)

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*Date of public notice: August 12, 1989 (see St. 1956, c. 665, s. 5).

**As amended through June 29, 2006.

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(Editor's Note: This table of contents is added for the convenience of the user. It has not been adopted as part of this article.)

SECTION 40-1. Statement of Purpose, Goals, and Objectives. The purpose of this article is to establish the zoning regulations for the comprehensive plan for the South Station Economic Development Area ("EDA") as required by the provisions of the Downtown Interim Planning Overlay District, Article 27D of this code. The goals and objectives of this article, which constitutes the South Station EDA Plan, are to direct downtown development in a way that promotes balanced growth for Boston; to channel growth away from congested areas and toward underutilized sites in the Bedford-Essex corridor and along the Fort Point Channel; to permit redevelopment which provides significant community benefits, in accordance with city land disposition policies; to create a mixed-use district which includes office, retail, hotel, research and development, and biomedical uses; to provide an area of the downtown to enhance the expansion of Boston's biomedical and research and development sectors; to create a complex of facilities and services which will foster economic growth in Boston and throughout the region; to increase the number of jobs in those sectors of the economy likely to employ Boston residents; to promote the creation and incubation of new research and development businesses and uses along with facilities supporting such uses; to create a transition of uses and character between the downtown and Chinatown and Leather Districts; to utilize existing transit centers; and to improve vehicular access to the city by establishing parking facilities near major commuter arteries.

SECTION 40-2. Recognition of the South Station Economic Development Area Plan. In accordance with Section 27D-18 of this code, which requires production of comprehensive planning policies, development controls, and design guidelines for Special Study Areas in the Downtown Interim Planning Overlay District, including the South Station area (Special Study Area No. 10), this article serves as the South Station EDA Plan. The Zoning Commission hereby recognizes this article (approved by the Boston Redevelopment Authority on June 29, 1989) as the South Station EDA Plan and also as the general plan for the South Station EDA and as the portion of the general plan for the City of Boston applicable to the South Station EDA. The preparation of the South Station EDA Plan by the Boston Redevelopment Authority 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 40-3. Physical Boundaries. The provisions of this article are applicable only in the South Station EDA. The boundaries of the South Station EDA and Leather District are as shown on a map entitled, "Map 1C South Station Economic Development Area (supplemental to 'Map 1 Boston Proper')" of the series of maps entitled "Zoning Districts City of Boston," as amended.

(^As amended on July 31, 1997.)

SECTION 40-4. Applicability. This article together with the rest of this code constitutes the zoning regulation for the South Station EDA and applies as

specified in Section 4-1 regarding the conformity of buildings and land to this code. Application of the provisions of Article 27D to the South Station EDA is rescinded, and the South Station EDA is deleted from the Downtown Interim Planning Overlay District on the effective date of this article. Where conflicts between this article and the rest of this code exist, the provisions of this article shall govern. Except where specifically indicated in this article, the provisions of this article supersede Sections 13-1, 13-2, and 13-4 and Articles 8 and 14 through 24 of this code for the South Station EDA. The provisions of this article, however, are not applicable to the following Proposed Projects, which are governed by the rest of this code.

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 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 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.

[^]SECTION 40-4A. **South Station/Central Artery Area.** Notwithstanding any contrary provision of this Article, the South Station/Central Artery Area shall be governed by the applicable use, dimensional, and other requirements of Article 49, Central Artery Special District. In particular, the provisions of Sections 40-5 and 40-12 through 40-14 shall not be applicable to the South Station/Central Artery Area. The Central Artery Special District Plan, as that term is defined in Article 49, shall be part of the general plan for the South Station EDA as it applies to the South Station/Central Artery Area.

([^]As inserted on June 7, 1991)

SECTION 40-5. **General Building Height and Floor Area Ratio.** Except in the Parcel-to-Parcel Linkage Development Area and the New Economy Development Area, as provided in following sections, a Proposed Project within the South Station EDA is allowed an as-of-right building height of three hundred (300) feet and an as-of-right FAR of twelve (12).

[^]SECTION 40-6. **Building Height and FAR in the Parcel-to-Parcel Linkage Development Area.** Within that portion of the South Station EDA depicted on Map 1C of this code as the "Parcel-to-Parcel Linkage Development Area," a Proposed Project is allowed an as-of-right building height of four hundred sixty-five (465) feet and an as-of-right FAR of fourteen (14).

([^]As amended on July 31, 1997.)

^SECTION 40-7. Building Height and FAR in the New Economy Development Area. Within that portion of the South Station EDA depicted on Map 1C of this code as the "New Economy Development Area," a Proposed Project is allowed an as-of-right building height of three hundred (300) feet and an as-of-right FAR of twelve (12); provided that any Proposed Project in the South Station Air Rights Development Sub-Area depicted on Map 1C of this code within the New Economy Area shall have an as-of-right building height of six hundred seventy-eight (678) feet and FAR of ten (10) as determined under Section 40-8(2) if a Development Plan for such Proposed Project has been approved pursuant to Section 3-1A.a and Planned Development Area Review and any other Proposed Project shall have an as-of-right building height of four hundred (400) feet and FAR of fourteen (14) as determined under Section 40-8(2) if a Development Plan for such Proposed Project has been approved pursuant to Section 3-1A.a and Planned Development Area Review.

(^As amended on May 9, 1996, July 31, 1997, and June 29, 2006.)

^SECTION 40-8. Establishment of Areas Within Which Planned Development Areas May Be Permitted.

1. PDA Permitted Areas; Review and Approval Requirements. PDAs, as described in Section 3-1A.a, may be established in the Parcel-to-Parcel Linkage Development Area and the New Economy Development Area. The purposes for establishment of PDAs are to establish a more flexible zoning law and encourage large-scale private development on underutilized sites in the South Station EDA. No PDA is permitted within the South Station EDA except within the Parcel-to-Parcel Linkage Development Area and the New Economy Development Area. See Article 80 concerning the applicability of Planned Development Area Review.
2. Planned Development Areas: Use and Dimensional Regulations. A Proposed Project described in a Development Plan shall be in Substantial Accord with the dimensional standards set forth in Section 40-6 (for the Parcel-to-Parcel Linkage Development Area) or 40-7 (for the New Economy Development Area), as applicable. Except where specifically indicated in this article, Section 40-13 (Specific Design Requirements) shall not apply to a Proposed Project described in a Development Plan.

For applicable use regulations, see Section 40-12 (South Station Economic Development Area Use Regulations).

(^As amended on May 9, 1996 and July 31, 1997.)

SECTION 40-9. [Applicability of Future Amendments.] Deleted on May 9, 1996 by Text Amendment No. 228.

^SECTION 40-10. **Planned Development Areas: Standards for Development Plan Approval.** For approval standards for Planned Development Area Development Plans, see Section 80C-4 (Standards for Planned Development Area Review Approval).

(^As amended on May 9, 1996 and July 31, 1997.)

^SECTION 40-11. **Planned Development Areas: Planning and Development Criteria.** The Boston Redevelopment Authority may approve a Development Plan as meeting the requirement of Section 80C-4 (Standards for Planned Development Area Review Approval) for compliance with the applicable planning and development criteria of this article if the Development Plan proposes a plan for development consistent with the goals of the South Station EDA Plan, including one or more of the following: (a) the diversification and expansion of Boston's economy in new areas of economic activity, such as private investment in the research and development of pharmaceutical and biomedical products, in accordance with the provisions of paragraph 1, below, of this section; (b) the provision of public benefits in accordance with Parcel-to-Parcel Linkage program guidelines, in accordance with the provisions of paragraph 2, below, of this section; (c) the creation or retention of job opportunities, in accordance with the provisions of paragraph 3, below, of this section; or (d) the enhancement of intermodal transportation capabilities and transit oriented development, in accordance with the provisions of paragraph 4, below, of this section.

1. Development Plan Approval for Diversification and Expansion of Boston's Economy. The Boston Redevelopment Authority may approve a Development Plan proposing diversification and expansion of Boston's economy if at least fifty percent (50%) of the gross floor area of the Proposed Project is dedicated to or supportive of uses such as, but not limited to, the following: (a) research and development of pharmaceutical and biomedical products; (b) the design, development, fabricating, and testing of instruments for engineering, medical, dental, scientific, optical, or other similar professional use; or (c) other scientific research and development uses, including laboratories and facilities for theoretical, basic, and applied research, product development and testing, prototype fabrication, or production of experimental products prior to preclinical testing. Examples of uses which shall be considered "supportive of" the uses enumerated in subparagraphs (a), (b) and (c) above include, but are not limited to: office space occupied by private entities engaged in such uses, or occupied by governmental entities regulating such uses; hotel, conference, or convention facilities; and

educational facilities providing instruction in fields related to such uses.

2. Development Plan Approval for the Provision of Public Benefits in Accordance with Parcel-to-Parcel Linkage Program Guidelines. The Boston Redevelopment Authority may approve a Development Plan proposing provision of public benefits in accordance with Parcel-to-Parcel Linkage program guidelines if: (a) the program guidelines have been approved by the Boston Redevelopment Authority for a site for which the Boston Redevelopment Authority has recommended the tentative designation of a developer, in accordance with the Boston Redevelopment Authority's administrative practice; (b) the program guidelines provide for the participation of community-based organizations in the development; (c) the Proposed Project or the Applicant contributes to a community development fund; and (d) the Applicant provides such other community benefits as may be detailed in the Parcel-to-Parcel Linkage program guidelines, as amended from time to time and as affected by agreements between the Boston Redevelopment Authority and the Applicant.

3. Development Plan Approval for the Creation or Retention of Job Opportunities. The Boston Redevelopment Authority may approve a Development Plan proposing creation or retention of job opportunities if it determines that: (a) employment positions in businesses occupying the Proposed Project are newly created in Boston, and are not relocated from other parts of the city; (b) the Development Plan provides for entrepreneurial assistance measures, such as (i) information, outreach, and education programs concerning new business development; (ii) general business planning and management counseling; (iii) technical assistance; and (iv) the establishment of general financing options; or (c) the use proposed will retain jobs in the city or will contribute otherwise to the economic health of the city, from the Development Plan's showing that at least thirty-three percent (33%) of the gross floor area of the Proposed Project will be leased or used by entities identified in the Development Plan.

4. Development Plan Approval for the Enhancement of Intermodal Transportation and Transit-Oriented Development. The Boston Redevelopment Authority may approve a development plan proposing expansion of Boston's economy through commercial or residential development if it determines that (a) intermodal transportation capabilities among rail, bus and subway modes will be enhanced incident to such development, and (b) such development is consistent with the goals of transit-oriented development."

(^As amended on May 9, 1996 and June 29, 2006.)

SECTION 40-12. South Station Economic Development Area Use Regulations. In the South Station EDA, the use of land and structures is hereby regulated as provided in this section. The provisions of Article 8 apply only as specified in this section, except that Section 8-6 applies. No land or structure shall be erected, used, or arranged or designed to be used, in whole or in part, except in conformity with the provisions of this Section 40-12, or in conformity with the provisions of an approved Development Plan with respect to land or structures located in a PDA.

1. Inclusion of Day Care Facilities. The provisions of this paragraph apply only to Proposed Projects which exceed one hundred thousand (100,000) square feet of gross floor area. Any Proposed Project having a gross floor area, not including the floor area devoted to Residential 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 the amount listed below in Table A of this section. An Applicant for a Proposed Project subject to the provisions of this paragraph may fulfill its obligations under this paragraph by (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created elsewhere in the City. Except for Proposed Projects in the Parcel-to-Parcel Linkage Development Area, any Proposed Project subject to the provisions of this section shall devote to on-site day care facilities, of the total amount required to be provided pursuant to Table A, an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this paragraph 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.

TABLE A

Provision of Day Care Facilities

<u>Size of Proposed Project (Gross Square Feet)</u>	<u>Minimum Day Care Facilities (Gross Square Feet)</u>
100,000 up to 200,000	2% of gross floor area
200,000 up to 500,000	4,000
500,000 up to 1,000,000	8,000
More than 1,000,000	12,000

2. Allowed Uses. No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except under the provisions of an approved Development Plan for land or structures in a PDA, or Section 40-12.3 and Article 6, Conditional Uses, unless such use is specified in the Development Plan or in this Section 40-12.2. Any use so specified below shall be allowed as a matter of right, subject only to the provisions of this Section 40-12 or, in the case of a PDA, the approved Development Plan.
 - (a) New Economy Uses. Limited to: basic research; research and development; product development or prototype manufacturing; biomedical technology; pharmaceutical research and development; research and medical laboratories.
 - (b) Residential Uses. Limited to: multifamily dwelling, artists' live/work space, apartment house, lodging or boarding house, temporary housing shelters, group residence, limited, as defined in clause (22B) of Section 2-1, and any dwelling converted for more families, where structures after conversion will conform to this code. Residential uses include any affordable dwelling units, including but not limited to affordable dwelling units which are rental units, condominiums, or limited equity share cooperatives.
 - (c) Restaurant and Entertainment Uses. Limited to: the service or sale of food or drink for on-premises consumption, with or without dancing or entertainment; concert hall; theater, commercial or nonprofit (including motion picture or video theater, but not drive-in theater); art galleries, nonprofit or for profit; provided that uses described in Use Item 38A are forbidden.

- (d) Office Uses. Limited to: offices of community groups; business or professional offices; real estate, insurance, or other agency or government office; office building; post office; or bank (other than drive-in bank) or similar establishment. (See also paragraph 2(m) of this section.)
- (e) Hotel or motel.
- (f) Deleted on February 22, 1991.
- (g) Day care center, family care center, nursery school, kindergarten, elementary or secondary school, or community health center or clinic.
- (h) Recreational and Community Uses. Limited to: private grounds for games and sports; other social, recreational, or sports center conducted for profit; private club (including quarters of fraternal or sororal organizations) operated for members only; adult education center or community center building; settlement house; the maintenance and operation of any amusement game machine in a private club, dormitory, fraternity, or sorority house, or similar noncommercial establishment, or in any commercial establishment.
- (i) Amended to Conditional Use on October 20, 2000.
- (j) Wholesale Uses. Limited to: office or display or sales space of a wholesale, jobbing, or distributing house; provided that not more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.
- (k) Service Uses. Limited to: video or film production studio; barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; tailor shop; hand laundry; dry-cleaning shop; framer's studio; caterer's establishment; photographer's studio; printing plant; taxidermist's shop; upholsterer's shop; carpenter's shop; electrician's shop; plumber's shop; radio and television repair shop; funeral home; undertaker's establishment; mortuary; research laboratory; radio or television studio; animal hospital or clinic; or similar use; provided that in laundries and cleaning establishments, only nonflammable solvents are used for cleaning.

- (l) Retail Uses. Limited to: store primarily serving the local retail business needs of the neighborhood; artist supply store; grocery store; 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 uses described in Use Item 34A are forbidden.

- (m) Institutional Uses. Limited to: college or university granting degrees by authority of the Commonwealth; place of worship, monastery, convent, or parish house; nonprofit library or museum, not accessory to another institutional use; clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, provided that such use will occupy interior space being used by the same institution for another institutional use at the time such change is proposed; hospital, sanatorium, convalescent or nursing home, elderly care facility, orphanage, or similar institution not for correctional purposes, whether or not providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; research laboratory.

- (n) Accessory Uses subject to the limitations and restrictions of Article 10, limited to: conference facilities; auditoria; classrooms; a garage or parking space for occupants, employees, students, and visitors, provided that such use is accessory to a residential use under paragraph 2(b) of this section, a hotel or motel, or a group care residence under paragraph 2(g) of this section; a swimming pool or tennis court; the storage of flammable liquids and gases incidental to a lawful use; the manufacture, assembly, or packaging of products sold on the lot; the maintenance and operation of not more than four amusement game machines accessory to eating and drinking establishments; the keeping of animals, other than households pets, provided that every enclosure is sufficient to prevent a nuisance to any adjacent residences or eleemosynary institutions; the keeping of laboratory animals incidental to a conditional institutional use, provided that all resulting noise, dust, fumes, gases, odors, and refuse matter are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to public health or safety; in educational institutions with more than four hundred (400) full-time students, and in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for the

patients and staff or students and faculty, when conducted wholly within a building and entered solely from within the building where there is but one building on the lot or from an entrance not directly facing a street or lot line where there is more than one building on a lot, unless accessory to a hospital or sanatorium or clinic which is an allowed use; and any use ancillary to, and ordinarily incident to, a lawful main use, provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is accessory; the maintenance and operation of an indoor payphone, provided that such use shall be forbidden unless located within a building at least ten (10) feet from an entrance.

(o) For land or structures in a PDA, uses specified in an approved Development Plan, including a parking lot or parking garage or other parking space, whether or not accessory, which would otherwise be a conditionally permitted use under Sections 40-12.3(d) and 40-12.3(m).

(p) Pawnshops

3. Conditional Uses. No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use under the provisions of Article 6 unless such use is specified in this Section 40-12.3. The granting of a permit for any use so specified may be authorized conditionally by the Board of Appeal acting under the provisions of Article 6, subject to the regulations set forth in this Section 40-12, or may be allowed by the Zoning Commission in its approval of a Development Plan for a PDA. The continued right to a conditional use granted under Article 6 is dependent upon maintaining the character and extent of operations and structures.

(a) Residential Uses. Limited to: temporary dwelling structure, orphanage, and any dwelling converted for more families, provided that, after conversion, any nonconformity as to floor area ratio is no greater than prior to conversion.

(b) Group Care Residence, unless otherwise allowed pursuant to paragraph 2(b) of this section.

(c) Light Manufacturing Uses, except as allowed in Section 40-12.2(a); kennel or pound.

- (d) Parking lot or parking garage.
- (e) Wholesale Uses. Limited to: accessory storage (other than of flammable liquids, gases, and explosives) in roofed structures or office or display or sales space of a wholesale, jobbing, or distributing house where more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.
- (f) Fast Food Restaurant Uses. Limited to: sale over the counter, not wholly incidental to a use listed under paragraph 2(a), 2(c), or 2(l) of this section, of food or drink prepared on premises for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.
- (g) Rental motor vehicle and trailer agency accessory to a hotel or motel, provided that no rental vehicles or trailers are parked on the street and that exterior lighting is arranged to shine downward and away from residences.
- (h) The change of use of any residence to another use.
- (i) Transportation Uses. Limited to: bus terminal, bus station, subway station or railroad passenger station, airline shuttle service.
- (j) Ancillary Uses. Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and for which it would be a lawful accessory use if it were on the same lot; provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is ancillary.
- (k) Institutional Uses. Limited to: fraternity or sorority house or dormitory; trade, professional, or other school; penal or correctional institution; detention home; machine shop or other noisy activity accessory to a school, college, or university, adequately sound-insulated to protect the neighborhood from unnecessary noise; library or museum not conducted for profit and accessory to another institutional use not allowed pursuant to paragraph 2(m) of this section; clinic not accessory to a main use.
- (l) Service Uses. Check cashing business.

- (m) Accessory Uses. Limited to: a garage or parking space for occupants, employees, customers, students, and visitors, such use not accessory to a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house.
 - (n) Public Service Uses. Limited to: public service pumping station, sub-station, automatic telephone exchange, telecommunications data distribution center, or outdoor payphone subject to St. 1956, c. 665, s. 2.
 - (o) Storage of dumpsters 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.
 - (p) Body Art Establishment
4. Forbidden Uses. No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use specified in the Use Item column of Table A of Section 8-7 if such use is not specified in Sections 40-12.2 or 40-12.3 as an allowed or conditional use, except for such uses as may be allowed to be continued as nonconforming uses under the provisions of Article 9.

(^As amended on February 22, 1991, September 30, 1993, October 6, 1994, September 20 and November 21, 1996, May 30, 2000, September 18 and October 20, 2000, February 16 and April 9, 2001, and March 15, 2006.)

^SECTION 40-13. **Specific Design Requirements.** Proposed Projects within the South Station EDA shall comply with the specific design requirements established in this section. Except as provided in Article 6A, no Zoning Relief shall be granted from the provisions of this section. See Section 80C-9 (Planned Development Area Review: Effect on Applicability of Other Zoning Requirements) and Section 40-8.2 (PDAs: Use and Dimensional Regulations) concerning the applicability of the provisions of this section to Proposed Projects in Planned Development Areas.

- 1. Street Wall Continuity. The Street Wall of any Proposed Project shall be built:
 - (a) to be coextensive with at least eighty percent (80%) of the "Existing Building Alignment" of the block on which the Proposed Project fronts, established pursuant to Section 18-2 of this code; or

- (b) to a depth from the street line equal to that of at least eighty percent (80%) of the Existing Building Alignment of either block adjacent to the block on which the Proposed Project is located, if there is no Existing Building Alignment of such block.

Recesses Above Second Story*

<u>Maximum Depth</u>	<u>Maximum Aggregate Surface Area</u>
Fifteen (15) feet	Twenty percent (20%)

*Recesses do not include windows, which must be indented.

2. Street Wall Height. The "Street Wall Height" of Proposed Projects within the South Station Economic Development Area shall not exceed one hundred twenty-five (125) feet, except as limited further: (a) along Essex and Lincoln Streets, the Street Wall Height shall not exceed seventy (70) feet; and (b) along Bedford and Kingston Streets, the Street Wall Height shall not exceed one hundred (100) feet. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 40-13.

3. Setback Requirements.
 - (a) Sky Plane Setbacks. Other than decorative cornices and other surface ornamentation, every portion of a Proposed Project (including, but not limited to, mechanical equipment) above the Street Wall Height of such Proposed Project shall be set back by not less than the amount of the "Sky Plane Setbacks" established in Table C for the Street Wall Heights and building heights of one hundred fifty-five (155) feet and two hundred ninety-five (295) feet. Portions of a Proposed Project more than one hundred fifty-five (155) feet high should be treated in a manner to create a visually distinctive roof or other termination of the facade of the Proposed Project.

The amount of the Sky Plane Setback at various heights for each wall of a building depends on whether the particular wall faces on a street, as identified below in Table B, or on a side lot line. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 40-13.

TABLE B

Streets on Which Setbacks are Required

Atlantic Avenue	Kingston Street
Bedford Street	Lincoln Street
Essex Street	

TABLE C

Sky Plane Setbacks
Minimum Depth of Setback from Street Wall

<u>Street</u>	<u>Above Street Wall Height</u>	<u>Above 155' (Total Setback from Street Wall)</u>	<u>Above 295' (Total Setback from Street Wall)</u>
Atlantic Avenue	10'	20'	20'
Bedford Street	25'	50'	100'
Essex Street	5'	5'	15'
Kingston Street	35'	75'	125'
Lincoln Street	5'	5'	15'

The Sky Plane Setback provisions established in this paragraph shall not be applicable to the extent that, as a consequence of such provisions, the maximum possible gross floor area for any floor of a Proposed Project would be less than nine thousand (9,000) square feet.

- (b) The facade of a building may violate the setback requirements above the two hundred ninety-five (295) foot level, up to a maximum of sixty percent (60%) of total horizontal length of the facade.

(^As amended on July 31, 1997.)

^SECTION 40-14. **Off-Street Loading.** Article 24 governs the provision and design of off-street loading facilities for the use of any structure or land not subject to the provisions of Large Project Review. The provision and design of off-street loading facilities for the use of any structure or land that is subject to Large Project Review shall be determined through such review.

(^As amended on May 9, 1996.)

SECTION 40-15. **Regulations.** The Boston Redevelopment Authority may promulgate and from time to time amend regulations to administer this article.

SECTION 40-16. **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.

APPENDIX B to ARTICLE 40

Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "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 40-4, or the authorized agent of any such person or entity.
2. ["Development Plan"]. Deleted on May 9, 1996 by Text Amendment No. 228.
3. "Proposed Project" means the substantial demolition, 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. A Proposed Project may proceed in phases, and may include more than one building, structure, or use.
4. "South Station Economic Development Area Plan" means the comprehensive plan, adopted by the Boston Redevelopment Authority pursuant to Chapter 652 of the Acts of 1960, Section 3 of Chapter 4 of the Ordinances of 1952, and Section 27D-18 of this code, which sets forth the planning policies, development controls, and design guidelines for the South Station Economic Development Area.
- ^5. "South Station Economic Development Area means the area depicted on Map 1C of this code.

(^As amended on July 31, 1997.)
6. "Street Wall" means the exterior wall or portion of the exterior wall of a Proposed Project that faces a street on which such Proposed Project is located, and is below the Street Wall Height, determined pursuant to Section 40-13.
7. "Substantial Accord" means, with respect to building height, that the vertical distance from grade to the top of the structure of the last occupied floor of a Proposed Project shall not exceed the specified height limit for the applicable district or subdistrict by more than fifteen (15) feet.
8. "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.