

;ARTICLE 42F

HARBORPARK DISTRICT

CHARLESTOWN NAVY YARD

(;Article inserted on December 21, 1990*)

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**As amended through March 15, 2006.

*Date of public notice: November 19, 1990 (see St. 1956, c. 665, s. 5)

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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 42F-1. Statement of Purpose, Goals, and Objectives. The purpose of this Article is to establish the zoning regulations for the comprehensive plan for the Charlestown Navy Yard within the Harborpark District as required by the provisions of the Harborpark Interim Planning Overlay District, Article 27C of this Code. Together with Articles 42A, 42B, and 42E, 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 42F-2. Recognition of the Harborpark District Plan. In accordance with Section 27C-16 of this Code, which required production of comprehensive planning policies, development controls, and design guidelines for the Harborpark District, the commission hereby recognizes the Harborpark District Plan as the general plan for the Charlestown Navy Yard 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 Charlestown Navy Yard 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 42F-3. Physical Boundaries. The provisions of this Article are applicable only in the Charlestown Navy Yard Subdistrict of the Harborpark District. The boundaries of the Charlestown Navy Yard and its subdistricts are as shown on the map entitled "Map 2C Harborpark District: Charlestown Waterfront (supplemental to 'Map 2 Charlestown')," of the series of maps entitled "Zoning Districts City of Boston," as amended.

SECTION 42F-4. Applicability. This Article together with the rest of this code constitutes the zoning regulation for the Charlestown Navy Yard Subdistrict of 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. 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. 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.

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 42F-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 42F-5. For the purposes of this Section 42F-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 Charlestown Navy Yard Subdistrict of 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 9 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 by 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 42F-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 twenty-four (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 of structures or essential services, 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 pedestrian 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 pedestrian 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 42F-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 this 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.

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 Charlestown Navy Yard Subdistrict of 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 (12) 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 (25%) 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 (12) 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.

Anything to the contrary herein contained notwithstanding, the provisions of this Subsection 4 and of Subsection 3 of this Section 42F-5 shall apply to any Proposed Project for residential uses located in the Charlestown Navy Yard Subdistrict.

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 Charlestown Navy Yard Subdistrict, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off site in the Charlestown Navy Yard Subdistrict or the Charlestown 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 Charlestown Navy Yard or Charlestown 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 within the Charlestown Navy Yard Subdistrict be Affordable.

For the purposes of this Subsection 5 and the preceding Subsections 3 and 4, "housing" shall mean those uses identified in Section 42F-14.4(d).

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 Charlestown Navy Yard 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, 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. 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 for such Project, subject to the provisions of Article 6; or (b) 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.

8. Regulations Governing Piers and Other Structures in the Charlestown Navy Yard. Within the Charlestown Navy Yard 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.)

REGULATIONS APPLICABLE IN THE CHARLESTOWN NAVY YARD

SECTION 42F-6. Open Space Requirements. At least fifty percent (50%) of the total Lot Area of all Lots included within the Charlestown Navy Yard Subdistrict, excluding the Historic Monument Area, shall be devoted to Open Space. The Department of Inspectional Services shall not issue a building permit with respect to a Proposed Project within the Charlestown Navy Yard Subdistrict, excluding the Historic Monument Area, involving new construction not wholly contained within the envelope of an existing building without first receiving a certification by the Boston Redevelopment Authority that such Proposed Project includes or provides for sufficient Open Space in the context of existing and planned development contemplated in the Charlestown Navy Yard Master Plan and this Article, so that the foregoing fifty percent (50%) Open Space requirement will be met in the context of such existing and planned development.

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, or otherwise enclosed; (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, but not the area of Piers over salt-water areas; (f) marina slips or floats or other floating structures; (g) swimming pools; and (h) tennis courts, but shall include the entire area within the National Historical Park.

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 four hundred (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 42F-14.5(a);
- (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 twenty-four (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 vehicles reasonably required to construct or maintain the structures or essential services on the Lot, or by vehicles required to service, load, or unload Commercial Vessels, 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, other than as set forth in the preceding sentence, is not consistent with the foregoing definition.

SECTION 42F-7. Waterfront Yard Area Requirements. Except as otherwise expressly provided in this Article, each Lot in the Charlestown Navy Yard Subdistrict of the Harborpark District adjacent to or including the High Tide Line or an edge of a Pier seaward of the High Tide Line shall include a Waterfront Yard Area adjacent to and landward of such High Tide Line or edge of Pier, as the case may be. The required Waterfront Yard Area shall be connected within each Lot and at the boundaries thereof 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

<u>Location</u>	<u>Required Setback at Shoreline, excluding Piers</u>	<u>Required Setback at Sides of Piers</u>	<u>Required Setback at Ends of Piers</u>
Charlestown Navy Yard generally	35'	12'	35'
Parcels 6 and 7	20'	20'	20'

Parcel 5: See also Subsection 42F-13.3.

The provisions of Article 6A 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, or from the Ends and Sides of Piers. In locating the Waterfront Yard Area in the case of bulkheads, rip rap, fill, or shoreline, 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 such Waterfront Yard Area be narrower than the required dimension measured from the actual High Tide Line or the seaward edge of the Pier, whichever is further seaward. 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, 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 42F-8. **Urban Design Guidelines.** If the Boston Redevelopment Authority determines that a Proposed Project is consistent with the Design Guidelines set forth in the Memorandum of Agreement amongst the Boston Redevelopment Authority, the General Services Administration, the Massachusetts Historic Commission, and the Advisory Council on Historic Preservation as amended from time to time, if applicable, then the Proposed Project shall be deemed to be consistent with the design guidelines established by this Section 42F-8. This Section 42F-8 establishes the following urban design guidelines for the Charlestown Navy Yard Subdistrict of the Harborpark District:

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 generally.
4. Inland buildings shall reinforce the vehicular 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 toward the open water and to preserve views from Public Access Facilities and Open Space areas at the Ends of Piers across the water. 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 within the Charlestown Navy Yard shall generally step down in height toward the water's edge, except along the Little Mystic Channel.

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 ornamental 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, signage, 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 special characteristics of the site and its location in the Harborpark District and shall provide opportunities for special amenities, such as panoramic views of the Harbor, and shall enhance and reinforce any historic qualities of existing

structures, taking into account the design guidelines established in the Harborpark District Plan.

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

;SECTION 42F-9. **Environmental Protection and Safety Standards for Proposed Projects.** Any Proposed Project involving new construction in the Charlestown Navy Yard Subdistrict of 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. Waste Handling. Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include a trash compactor or comparable facility for waste disposal management in an interior location and shall provide for the maintenance and cleanliness of such facility.
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 Tide Line 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 in which the ladder 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 42F-10. **Off-Street Parking.** Within the Charlestown Navy Yard Subdistrict, except in the Historic Monument Area, no off-street parking facilities shall be required for any Proposed Project with a gross floor area of less than ten thousand (10,000) square feet. For any Proposed Project with a gross floor area of ten thousand (10,000) or more square feet, the Applicant shall include in its Project Impact Report, prepared for Large Project Review, an analysis of the parking requirements of the Proposed Project.

The provisions of the foregoing paragraph notwithstanding, within the New Development Area on Parcels 4, 6, and 7 and Pier 5, off-street parking facilities shall be provided as follows: (a) on Parcel 4, no less than 175 and no more than 250 parking spaces shall be provided, for uses permitted on Parcel 4 and up to an additional 50 parking spaces shall be provided for the adjacent affordable housing building such that a total of fifty spaces shall be available for the use of occupants of the adjacent affordable housing building, including both spaces on the adjacent affordable housing site and spaces within the hotel site; but if an aquarium is not developed as set forth in Table E, parking shall be provided as needed to satisfy parking needs for the Proposed Project on Parcel 4, as determined by the Boston Redevelopment Authority in its Adequacy Determination for the Proposed Project, issued pursuant to Large Project Review; (b) on Parcels 6 and 7 combined, no less than 0.5 parking spaces per 1,000 square feet of gross floor area (excluding off-street parking) shall be provided, but in no event shall more than 1,200 off-street parking spaces be provided; (c) on Parcel 5, if an aquarium is not developed as set forth in Table E, 0.9 parking spaces per 1,000 square feet of gross floor area (excluding off-street parking) shall be provided; and (d) on Pier 5, no more parking than is needed to satisfy parking needs for the Proposed Project on Pier 5, as determined by the Boston Redevelopment Authority in its Adequacy Determination for the Proposed Project, issued pursuant to Large Project Review.

(;As amended on May 9, 1996.)

SECTION 42F-11. Transportation Access. In order to ensure adequate access and egress to and from the New Development Area of the Charlestown Navy Yard, measures shall be taken such as widening Gate 5, adding a new Gate 6, or other measures of comparable effectiveness in providing such access and egress as may be permitted by law.

;SECTION 42F-12. **Off-Street Loading.** Within the Charlestown Navy Yard Subdistrict, except in the Historic Monument Area, no off-street loading facilities shall be required for any Proposed Project with a gross floor area of less than ten thousand (10,000) square feet. For any Proposed Project with a gross floor area of ten thousand (10,000) or more square feet, 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.)

SECTION 42F-13. Charlestown Navy Yard Dimensional Regulations.

The Charlestown Navy Yard Subdistrict includes: the New Development Area (including Parcel 4, Parcel 5, Parcel 6, and Parcel 7; and Pier 5, Pier 6, Pier 7, Pier 8, and Pier 9; and the Housing Priority Area); the Historic Monument Area; the National Historical Park; and Shipyard Park.

The following provisions shall be applicable within the Charlestown Navy Yard Subdistrict:

1. New Development Area: Density. Because of the absence of conventional parcels of land and the policy of guiding development in the New Development Area in accordance with the Charlestown Navy Yard Master Plan, building density in the New Development Area shall be regulated through limitations on gross floor area. The Department of Inspectional Services shall not issue a certificate of occupancy with respect to a Proposed Project or portion thereof in the New Development Area unless the Boston Redevelopment Authority has certified that such issuance shall not cause any of the following occupancy limitations to be exceeded. The total occupancy allowed for each location indicated in Table B of this Article shall be the gross floor area of buildings in such location in existence as of the effective date of this Article plus the additional gross floor area for such location indicated in the column headed "Maximum New Square Feet of Gross Floor Area." However, with respect to: (a) Parcels 6 and 7, no more than one-half of such Maximum New Square Feet of Gross Floor Area shall be occupied prior to January 1, 1994; and (b) Pier 5, none of such Maximum New Square Feet of Gross Floor Area shall be occupied prior to January 1, 1994.

TABLE B

Occupancy Limits* for New Development Area

<u>Location</u>	<u>Maximum New Square Feet of Gross Floor Area*</u>
(a) Parcel 4	440,000
(b) Parcel 5	325,000
(c) Parcels 6 and 7	1,625,000**
(d) Pier 5	245,000**
(e) Piers 6, 7, 8, and 9	28,000
(f) Housing Priority Area	144,000

* The Maximum New Square Feet of Gross Floor Area allowed before January 1, 1994, may also be constructed and occupied after January 1, 1994.

** Provided that no more than 550,000 square feet, not including off-street parking, shall be occupied prior to January 1, 1994. Parking uses shall be included in the computation of total square feet of floor area of occupancy on Parcels 6 and 7 whether such uses are located above or below grade. Of the 1,625,000 square feet of gross floor area of occupancy available within the stated limit, 450,000 square feet shall be reserved exclusively for parking and shall not be available for other uses.

*** Provided that none of such area on Pier 5 shall be occupied prior to January 1, 1994.

2. New Development Area; Building Height. The maximum allowed Building Heights for each portion of the New Development Area shall be as set forth in Table C of this Article.

TABLE C

**Maximum Allowed Building Heights
in the New Development Area***

<u>Location</u>	<u>Maximum Allowed Building Height</u>
(a) Parcel 4	90'/135' ***
(b) Parcel 5	110'
(c) Parcel 7	155'
(d) Parcel 6	125'
(e) Pier 5	55'/75' **
(f) Pier 6	35'
(g) Pier 7	35'
(h) Pier 8	35'
(i) Pier 9	35'
(j) Housing Priority Area (Buildings 40, 42, 103, 104, 197)	65'

* Building heights in the New Development Area are also subject to the Design Guidelines set forth in the Memorandum of Agreement for the New Development Area amongst the Boston Redevelopment Authority, the General Services Administration, the Massachusetts Historic Commission, and the Advisory Council on Historic Preservation as amended from time to time.

** 55' for 150' back from the end of the Pier, 75' for the remainder of the Pier.

*** 90' for 50' back from the Housing Priority Area, 135' for the remainder of Parcel 4.

3. New Development Area: Special Building Setback. Notwithstanding any contrary provision of Section 42F-7, the building setback from the seaward edge of the Pier along the northeastern side of Parcel 5 shall be not less than sixty-five (65) feet and shall average seventy-five (75) feet. Structures and facilities within said special setback area shall provide for and be compatible with docking along the majority of said edge by large Vessels, including naval and oceanographic research Vessels.
4. Historic Monument Area: Prohibition on Creation of Passageways through Building 58 (the Ropewalk). Any Proposed Project to create

passageways through Building 58 (the Ropewalk) is hereby prohibited.

5. Historic Monument Area and National Historical Park (Special Study Areas 1 and 2). In the Historic Monument Area and the National Historical Park (Special Study Areas 1 and 2, respectively, as shown on "Map 2C Harborpark District: Charlestown Waterfront," the zoning regulations in effect immediately prior to the effective date of this Article will continue to govern any Proposed Project in said Special Study Areas. Within Special Study Areas 1 and 2, all Proposed Projects must fully comply with all applicable provisions of Section 106 of the National Historic Preservation Act and must also comply with all relevant transfer documents relating to said Special Study Areas. No Proposed Project can proceed in Special Study Area 1 (Historic Monument Area) except in compliance with the Program of Preservation and Utilization, as amended, referenced in the deed dated July 7, 1978, from the General Services Administration to the Boston Redevelopment Authority conveying the Historic Monument Parcel of the Charlestown Navy Yard. In addition, in Special Study Area 2 (National Historical Park) all determinations regarding use and control of property will continue under the complete jurisdiction of the National Park Service. No change in the Charlestown Navy Yard Master Plan or the Zoning Code, as they govern the Historic Monument Area and the National Historical Park, shall be made until completion of required reviews under said Section 106, as applicable to said Master Plan and the Code; and any such change must be in compliance with all applicable provisions of said Section 106 and must also comply with all relevant transfer documents relating to said Special Study Areas.

↔SECTION 42F-14. **Use Regulations Applicable in the Charlestown Navy Yard.** 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 Charlestown Navy Yard except in conformity with the provisions of this Section and Section 8-6.

1. Inclusion of Daycare Facilities. The provisions of this Subsection 1 apply only to Proposed Projects in the Charlestown Navy Yard that exceed a Building Height of fifty-five (55) feet. Any such Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses, Hotel Uses, Water Dependent Facilities of Public Accommodation, 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 D of this Article; provided that any such Proposed Project with a Building Height of less than seventy-five (75) feet shall

not be required to devote to day care facilities an amount of floor area exceeding (a) one-half percent (0.5%) times (b) the excess of (i) the gross floor area of said Proposed Project, not including the floor area devoted to Residential Uses, Hotel Uses, Water Dependent Facilities of Public Accommodation, or Cultural Uses, over (ii) one hundred thousand (100,000) square feet. 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. For the purposes of this Section 42F-14.1, "on-site" shall mean within the Charlestown Navy Yard. 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 gross floor area for the purposes of Subsection 42F-13.1 for the Proposed Project. The Board of Appeal may grant an exception to the provisions of this paragraph, in accordance with the provisions of Article 6A, if it finds that day care facilities existing in the Charlestown Navy Yard at the time of its determination are adequate to serve the anticipated demand for day care facilities generated by the occupancy of the Proposed Project.

TABLE D

Provision of Day Care Facilities

<u>Size of Proposed Project* (Gross Floor Area)</u>	<u>Minimum Day Care Facilities (Gross Floor Area)</u>
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.
More than 500,000 sq.ft.	8,000 sq.ft.

* Excluding floor area devoted to Residential, Hotel, Cultural Uses, or Water Dependent Facilities of Public Accommodation.

2. Charlestown Navy Yard Housing Priority Area. Notwithstanding any other provision of this Section 42F-14 to the contrary, within that area depicted on "Map 2C"; as Housing Priority Area within the Charlestown Navy Yard, 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 42F-14.2 may construct or rehabilitate space for allowed Residential Uses within the Charlestown Navy Yard Housing Priority 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 Charlestown Navy Yard Housing Priority Area to meet the ratio provided in this paragraph so long as the different Proposed Projects are completed within any consecutive period of twenty-four months.

3. Special Use Restrictions on Parcels 4, 5, 6, and 7, and Piers 5, 6, 7, 8, and 9. Notwithstanding any contrary provision of Subsection 4 of this Section 42F-14, within each portion of the New Development Area identified in Table E of this Article, allowed uses are limited to (a) those uses specified in Table E (and further described in Subsection 4 of this Section 42F-14) for such portion, and (b) Accessory and Ancillary Uses (as further described in said Subsection 4), except that:
 - (x) Open Space Recreational Uses, Parking Uses, Local Retail/Service Uses, General Retail Uses, Restaurant Uses, and Community Uses and Cultural Facilities, as those uses are further described in Subsection 4 of this Section 42F-14, are also allowed uses. On Parcel 6, facing Parcel 5 and the Historic Monument Area, the first floor of the building closest to Parcel 5 and to the Historic Monument Area to a depth of thirty (30) feet from such closest exterior building wall shall only be used for Local/Service Uses, General Retail Uses, Restaurant Uses, Community Uses, and Cultural Facilities, exclusive of lobby, mechanical, and circulation areas. For Piers 5, 6, 7, 8, and 9, all uses described in Subsections 4 and 5 of this Section 42F-14, but not identified as allowed uses in this Subsection 3 and Table E, shall be conditional uses for such Piers, subject to the provisions of Article 6. For the purposes of this Subsection 3 and Table E, "Marina Amenity Uses" means Open Space Recreational Uses, water-related uses, Water-Dependent recreational facilities, recreational marinas, Boat Rental Establishments, yacht clubs, navigation aids, marine police and fire stations, other marine, public safety and law enforcement facilities, Local Retail/Service Uses, General Retail Uses, Restaurant Uses, and Community Uses and Cultural Facilities, as those uses are further described in Subsection 4 of this Section 42F-14; and

- (y) No more than 500,000 gross square feet of the total 1,100,000 gross square feet allowed on Parcels 6 and 7 (excluding Marine Amenity Uses as described in Subsection 42F-14.3(x)) shall be designed and constructed for Office Uses and uses accessory thereto. Any space designed and constructed for Office Uses additional to such 500,000 gross square feet shall be conditionally permitted only, subject to the provisions of Article 6. Except for such conditionally permitted uses, the remaining 600,000 gross square feet of the total 1,100,000 gross square feet allowed on Parcels 6 and 7 (excluding Marina Amenity Uses), to the extent developed, shall be designed and constructed for Research Center Uses and uses accessory thereto. The Building Commissioner shall not issue any building permit with respect to any new building on Parcels 6 and 7 unless the Director of the Boston Redevelopment Authority has certified on the application therefor and on each and every plan filed with the Building Commissioner in connection therewith that the same is consistent with the provisions of this paragraph regarding the design and construction of buildings on such Parcels. Each Proposed Project in the New Development Area for more than fifty thousand (50,000) gross square feet shall comply with the transportation access planning requirements of Large Project Review; provided that any one or more of such Proposed Projects may coordinate the submission of any required transportation access plan. Any Proposed Project for a use which is not allowed in the New Development Area as set forth in Table E or is allowed in this subsection or Section 42F-14.4, and which is permitted conditionally in Section 42F-14.5, shall require a conditional use permit, as set forth in Section 42F-14.5 and Article 6, or an amendment to this Article. Prior to its recommendation of approval of any such amendment, the Boston Redevelopment Authority shall transmit copies of the proposed amendment to the Charlestown Neighborhood Council and the Harborpark Advisory Council, or any successor neighborhood organization, and to appropriate public agencies. The Boston Redevelopment Authority shall review comments and recommendations from the general public, neighborhood and community organizations, and public agencies before it renders a recommendation on a proposed amendment to this Article.

TABLE E

**Special Use Restrictions Applicable in the
New Development Area**

<u>Location</u>	<u>Primary Allowed Uses</u>
(a) Pier 5	Residential Uses, Marina Amenity Uses
(b) Pier 6	Marina Amenity Uses
(c) Pier 7	Residential Uses, Marina Amenity Uses
(d) Pier 8	Marina Amenity Uses
(e) Pier 9	Marina Amenity Uses
(f) Parcel 4	Hotel Uses*, Marina Amenity Uses, Restaurant Uses
(g) Parcel 5	Aquarium Use*, Marina Amenity Uses
(h) Parcels 6 and 7	Research Center Uses, Office Uses
(i) Housing Priority Area (Buildings 40, 42, 103, 104, 197)	Residential Uses

* If an aquarium is not constructed on Parcel 5, in accordance with the agreements governing Parcels 4, 5, 6, and 7 entered into with the Boston Redevelopment Authority establishing use and dimensional controls as specified in the Charlestown Urban Renewal Plan, as amended from time to time, then the uses described in Subsection 4 of this Section are allowed on Parcels 4 and 5. The affordability standard set forth in Sections 42F-5.3 and 42F-5.4 will continue to apply.

4. Allowed Uses. Within the Charlestown Navy Yard except as otherwise provided in this Section 42F-14, 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 4 and Subsection 5 of this Section 42F-14. Any use specified in this Subsection 4 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;

Water-dependent recreational facility, Recreational Marina, facilities for the use, hire or charter of Commercial vessels, Boat Rental Establishment, recreational sailing or boating school, yacht club;

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, including uses appurtenant thereto such as gift shop, laboratory space, classrooms, restaurant, and floor service uses, office space, conference facilities, meeting rooms;

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;

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; nonprofit sailing center or other public recreational facility operated by a nonprofit organization.

(c) Community Uses and Cultural Facilities

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 (3) or more families in separate dwelling units;
Group residence, limited, as defined in clause (22B) of Section 2-1;
Convalescent, nursing, or rest home;
Lodging or boarding house.

(e) Hotel Uses

Hotel, conference and meeting facilities, restaurant, lounge, bar, store primarily serving the retail needs of hotel, conference, and meeting guests, health club, swimming pool, parking garage, storage and office use accessory to hotel use.

(f) Office Uses

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

(g) Research Center Uses

Laboratories and facilities for teaching and for theoretical, basic,
and applied research, product development and testing,
prototype fabrication, or production of experimental
products; the keeping of marine life or laboratory animals
incidental to a research or development use; storage and
office use accessory to a research or development Use;
parking garage, day care center.

Design, development, manufacture, compounding, packaging,
processing, fabrication, altering, assembly, repair,
servicing, renting, testing, handling, or transfer of products
as would be included in Research and Development Uses,
consistent with the provisions of Subsection 36-4.1;
parking garage, day care center, storage and office use,
accessory to a Research Center Use.

(h) 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 small household appliances.

(i) General Retail Uses

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 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.

(j) Restaurant Uses

Lunchroom, restaurant, cafeteria, or other place for the service or sale of food or drink for on-premises consumption, including outdoor cafes;

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

Pushcart food vendors;

In a structure, sale over the counter, not wholly incidental to a local retail business or restaurant use, 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 (New Development Area only).

(k) Educational Uses

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

(l) As amended on October 20, 2000.

(m) Transportation Uses

Public transportation facility, bus station, trolley station.

(n) Parking Uses

Parking garage or parking lot.

(o) 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 the 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) an office, within a main building, of an accountant, architect, attorney, dentist, physician, or other professional person who resides in such building.
- (iii) 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 no trading in merchandise.
- (iv) the keeping of laboratory animals incidental to a lawful educational, research center, aquarium, or institutional use.
- (v) as accessory uses to hotel uses, restaurants, conference facilities, retail and service establishments serving guests and visitors and other uses incidental to the operation of a hotel.
- (vi) as accessory uses to research center uses, restaurant, office, and other uses incidental to the operation of such research center uses.
- (vii) the storage of flammable liquids and gases incidental to a lawful use.
- (viii) permanent dwellings for personnel required to be resident on a Lot for the safe and proper operation of a lawful main use.
- (ix) day care center.
- (x) health club facility, tennis court, swimming pool.
- (xi) 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.

5. Conditional Uses. Within the Charlestown Navy Yard except as otherwise provided in this Section 42F-14, 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 under the provisions of Article 6, unless such use is specified in this Subsection 5.

(a) Open Space Recreational Uses

Recreational building (other than a nonprofit sailing center or other public recreational facility operated by a nonprofit organization) 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.

(b) Take-out Restaurant (within the Historic Monument Area and National Historical Park)

In a structure, sale over the counter, not wholly incidental to a local retail business or restaurant use, 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.

(c) Public Service Uses (subject to St. 1956, Chapter 665, Section 2)

Public service pumping station, public service substation, automatic telephone exchange, telecommunications data distribution center, fire station, police station;
Flood, water level, or tidal control facility;
Cable conduit, pipeline crossing, storm water outlet, or other similar utility structure, outdoor payphone.

(d) 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.

(e) Pawnshops

(f) Body Art Establishment

6. Forbidden Uses. Any use not specified as an allowed or conditional use in this Section 42F-14, except for such nonconforming uses as may be allowed to continue under the provisions of Article 9, shall be forbidden uses in the Charlestown Navy Yard. Without limitation,

uses described in Use Items No. 34A and No. 38A of Table A of Section 8-7 shall be forbidden uses in the said Subdistrict. In addition, and notwithstanding any contrary provision hereof, any use of a floating structure, other than for a Water-Dependent Use, is forbidden in the said 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, March 15, 2006.)

SECTION 42F-15. Shipyard Park Open Space Subdistrict. This section establishes the Shipyard Park Open Space Subdistrict within the Charlestown Navy Yard shown on Map 2C of this Code. Any Lot within an open space subdistrict is subject to Article 33, Open Space Subdistricts, and other provisions of this Code applicable to such subdistrict.

MISCELLANEOUS PROVISIONS

SECTION 42F-16. **Regulations.** The Boston Redevelopment Authority may promulgate regulations to administer this Article.

SECTION 42F-17. **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 42F-18. **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 42F-19. **Definitions.** Words and phrases defined in Appendix A to this Article, when capitalized in this Article, have the meanings set forth in said Appendix A.

SECTION 42F-20. **Appendices.** The following appendices 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 42F

Definitions

For the purposes of Articles 42F only, the following words and phrases, when capitalized, shall have the meanings indicated. Words and phrases not herein defined shall have the meanings indicated in Article 2.

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 42F-5.
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 42F-5.
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 42F-4 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. In the Charlestown Navy Yard, mechanical roof structures, penthouses, masts, spires, roof structures, and other structures

APPENDIX A to ARTICLE 42F (continued)

normally built above the roof and not used or designed for human occupancy shall be excluded in calculating Building Heights.

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.
- 8.1 "Charlestown Waterfront" is as defined in clause 10 of Appendix A to Article 42A.

(;As inserted on January 28, 1991.)
9. "Commonwealth Tidelands" has the meaning ascribed in Chapter 91.
10. "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.
11. "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.
12. "Facility of Public Accommodation" means a use so described in Appendix B.
13. "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.
14. "Filled Tidelands" means former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill, including drydocks used for Water Dependent Uses.
15. "Flowed Tidelands" means present submerged lands and tidal flats which are subject to tidal action at the time of license application under Chapter 91, excluding drydocks used for Water Dependent Uses.
16. "Harborpark District" means the Charlestown Waterfront, the Charlestown Navy Yard, Fort Point Waterfront, the North End/Downtown Waterfront, and the Dorchester Bay/Neponset River Waterfront.

APPENDIX A to ARTICLE 42F (continued)

17. "Harborpark District Plan" means the plan of the same name adopted or to be adopted by the Boston Redevelopment Authority.
18. "High/Low Tide Line" means the present arithmetic mean of the water heights observed at high tide and at low tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch and at low tide) and shall be determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce.
19. "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.
20. "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, and (b) in common control and combined for a single Proposed Project or in single ownership.
21. "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.
22. "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.
23. "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.

APPENDIX A to ARTICLE 42F (continued)

24. "Marina Amenity Uses" means those uses identified as such in Subsection 42F-14.3(x).
25. "Maritime Economy Reserve Subdistrict" means a subdistrict subject to the provisions of this Code applicable within an MER district.
26. "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 Subsection 42F-5.
27. "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.
28. "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.
29. "Open Space" has the meaning set forth in Section 42F-6.
30. "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.
31. "Pier" means any structure that extends seaward of the High Tide Line, but excluding any floating structure.
32. "Private Tidelands" has the meaning ascribed in Chapter 91.
33. "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.

APPENDIX A to ARTICLE 42F (continued)

34. "Public Access Facility" means a facility for pedestrian access to and/or along the waterfront, as provided in clauses (a) and (b) of Subsection 42F-5.
35. "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.
36. "Public Boat Ramp" means any ramp structure that provides public access to or egress from the water for Vessels.
37. "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.
38. "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.
39. "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.
40. "Tidelands" means present and former submerged lands and tidal flats lying between the Natural High Tide Line and the seaward limit of state jurisdiction.
41. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.
42. "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.
43. "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.
44. "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.

APPENDIX A to ARTICLE 42F (continued)

45. "Vessel, Recreational" means any Vessel used principally for recreational purposes.
46. "Water-Dependent Commercial Use" means a use described in Subsection 42D-3.1.
47. "Water-Dependent Use" means those uses described as such in Appendix B to this Article 42F and in Section 42F-14.4(a)(i).
48. "Water-Dependent Facility of Public Accommodation" means a Facility of Public Accommodation that is also a Water-Dependent Use.
49. "Waterfront Yard Area" has the meaning ascribed in Section 42F-7.
50. "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.
51. "1880 Harbor Line" means that line established by Chapter 170 of the Massachusetts Acts of 1880 as the then applicable seaward limit of Pier and wharf construction.
52. "Pierhead Line" means the seaward limit of Pier construction as established in applicable law of the Commonwealth of Massachusetts.

APPENDIX B to ARTICLE 42F

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 deflectors, 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;

APPENDIX B to ARTICLE 42F

- 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.