

^ARTICLE 27P

SOUTH BOSTON WATERFRONT
INTERIM PLANNING OVERLAY DISTRICT

(^Article inserted on July 22, 1999, and extended on June 20, 2002, May 7, 2003, July 22 and September 22, 2004, September 14, 2005, September 8, 2006, October 18, 2007, September 10, 2008, September 10, 2009 and September 15, 2010)

SECTION 27P-1. **Statement of Purpose.** The purposes of this article are to facilitate rezoning of the waterfronts of South Boston and the Fort Point Channel and, in particular, to:

- Establish interim use regulations that are appropriate to the character and resources of each subdistrict and compatible with adjacent residential areas;
- Ensure that neighborhood residents share in the benefits of the district's revitalization;
- Encourage the creation of market rate and affordable housing opportunities for the community;
- Establish interim height and FAR limits to ensure that new development is appropriate to the Boston skyline, the public realm, and the adjacent residential neighborhoods;
- Provide physical connections between Boston Harbor and its surrounding neighborhoods;
- Establish guidelines for the creation of streets, open spaces, and other elements of the public realm;
- Promote an appropriate density and mix of uses to create a 24-hour community and to protect residential areas from incompatible uses;
- Establish urban design and architectural guidelines within the South Boston Waterfront that reflect the character of each of its distinctive areas and promote visual and physical access to the waterfront, while allowing a contemporary mixed-use economy to flourish;
- Manage the traffic flow system to ensure that the new roadway and public transit projects, along with new economic growth, will not result in adverse impacts on the residential neighborhoods;

- Extend the Harborwalk along the water's edge to provide public access and serve as the principal public framework for organizing the district's open space;
- Protect and create significant view corridors to the Harbor and to important features of the district;
- Preserve and protect public open spaces within the Waterfront areas;
- Promote the development of public waterborne transportation; and
- Protect the working waterfront and preserve areas for water-dependent and water-related industrial and commercial uses.

SECTION 27P-2. Declaration of Need for Interim Zoning. Interim zoning in the South Boston Waterfront Interim Planning Overlay District is necessary to provide the proper balance between competing land uses and economic and environmental factors. Characteristics of existing zoning that render it inappropriate include its failure to: provide for opportunities for appropriately sited mixed-use development that is beneficial to the community; discourage the siting of industrial and entertainment uses where they may be incompatible with residential communities; regulate building location, height, and density so as to preserve and enhance view corridors to the water; provide a balance between new development and the need for open space and public access to the waterfront; provide guidelines for the development of the public realm; provide height and density controls and design guidelines that encourage the preservation of historic structures and maintain the character of the historic areas of the district.

SECTION 27P-3. Definitions. Words and phrases not otherwise defined in this Article have the meanings set forth in Article 2A (Definitions Applicable in Neighborhood Districts and in Article 80). For the purposes of this Article only, the following words and phrases shall have the meanings indicated:

1. "Convention Center" means the Boston Convention Center and Exhibition Center described in Chapter 152 of the Acts of 1997.
2. "Interim Planning Permit" means a permit granted pursuant to Section 27-3 for a Proposed Project subject to the provisions of this Article.
3. "South Boston Waterfront IPOD" means the regulations imposed by this Article.

4. "South Boston Waterfront IPOD Study Area" means the area defined in Section 27P-4 (Physical Boundaries).
5. "South Boston Waterfront Master Plan Interim Report" means the report issued by the Boston Redevelopment Authority under the title: "The South Boston Seaport: A Master Plan for the Fort Point and South Boston Waterfront – Interim Report," dated December 1997.
6. "South Boston Waterfront Committee" means the advisory committee appointed by the Mayor of Boston to advise the Boston Redevelopment Authority on planning and development matters pertaining to the South Boston waterfront.
7. "Water-Dependent Use" means any use listed as such in Appendix D (Water-Dependent Uses) to the Article.

SECTION 27P-4. **Physical Boundaries.** This Article shall be applicable only in the South Boston Waterfront IPOD Study Area, which consists of the area depicted on Appendix A to this Article. The South Boston Waterfront IPOD Study Area is divided into subdistricts, which may be divided further into study areas. These subdistricts also are depicted on Appendix A.

SECTION 27P-5. **Applicability.** Any Proposed Project within the South Boston Waterfront IPOD Study Area shall be subject to the provisions of this Article except as otherwise specified in this Section 27P-5.

1. (a) Applicability Within Saint Vincent Neighborhood District. A portion of the South Boston Waterfront IPOD Study Area covers a portion of the Saint Vincent Neighborhood District (Article 57). The provisions of Sections 27P-9 (Interim Height and FAR Controls), 27P-10 (Interim Use Controls), 27P-11 (Interim Waterfront Yard Area Requirements), 27P-12 (Interim Open Space Requirements), 27P-13 (Interim Parking Controls), 27P-14 (Development Review and Design Guidelines), and 27P-16 (Planned Development Area) shall not apply to any Proposed Project in the South Boston Waterfront IPOD Study Area that is located within the boundaries of the Saint Vincent Neighborhood District. All other provisions of this Article, including the requirements of Sections 27P-18 and 27P-19, concerning Interim Planning Permits, shall apply to any such Proposed Project.
- (b) Applicability Within the Fort Point Waterfront Subdistrict. The provisions of this Article shall not apply to any Proposed Project for the change of use of a basement, first, or second story of an

existing building within the Fort Point Waterfront Subdistrict of the South Boston Waterfront IPOD, provided that such new use is limited to the following use items listed in Section 8-7, Table A: Use Items, 18, 19 (Machine Shop only), 20, 29, 34, 36A, 37, 38, 39, 40, 41, 43, 44, 46 (photographer's studio and printing only), 68, as well as "Cultural Uses (limited to art gallery, art use, public art display space, arts studio and production studio)" and "Artists' Mixed-Use" as defined in Article 2A.

2. Exempt Projects. The following Proposed Projects are exempt from the provisions of this article:
 - (a) 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.
 - (b) 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 thereafter is granted by the Board of Appeal pursuant to such appeal.

(^As amended on June 29, 2006)

SECTION 27P-6. Zoning Regulations in Effect; Conflict Provisions.

The South Boston Waterfront IPOD and Underlying Zoning together constitute the zoning regulations for the South Boston Waterfront IPOD Study Area. Where conflicts exist between the provisions of the South Boston Waterfront IPOD and those of the Underlying Zoning, the provisions of this Section 27P-6 shall govern. Upon the expiration of this Article, the Underlying Zoning shall constitute the sole set of zoning regulations for the South Boston Waterfront IPOD Study Area.

1. Effect of South Boston Waterfront IPOD on Other IPODs.
 - (a) South Boston Seaport Buffer Zone IPOD. The South Boston Waterfront IPOD Study Area covers the South Boston Seaport Buffer Zone IPOD Study Area (Article 27N) in its entirety. Except as provided in Section 27P-5.2 (Exempt Projects), application of the provisions of Article 27N to the South Boston Waterfront IPOD Study Area is rescinded, and the South Boston Seaport Buffer Zone IPOD is extinguished on the effective date of this Article.

2. Conflicts: General Rule. Where conflicts exist between the provisions of the South Boston Waterfront IPOD and Underlying Zoning, the provisions of the South Boston Waterfront IPOD shall govern, except as provided in subsection 3 of this Section 27P-6.
3. Amendments to Underlying Zoning. Any duly enacted amendment to the Underlying Zoning pertaining to land use in the South Boston Waterfront IPOD Study Area shall govern, provided notice of a public hearing before the Zoning Commission is published after the effective date of this Article. Notwithstanding any other provision of this Article, any such amendment may occur prior to the expiration of this Article and may relate to any area for which a planning and rezoning study has been completed by the Boston Redevelopment Authority.

For purposes of this Section 27P-6 only, “Underlying Zoning” means all zoning regulations, with the exception of this Article, that are contained in this Code and accompanying zoning maps.

SECTION 27P-7. General Land Use Objectives for the Subdistricts.

The general land use objectives for the subdistricts of the South Boston Waterfront IPOD are as follows:

1. Industrial South Boston Subdistrict. This area is important as a location for industries that support the maritime activities of the industrial port, as well as general industrial uses, such as manufacturing, assembly, and warehousing. The area’s many activities provide a source of jobs for Boston residents that add to the diversity of the City’s economy. At the southern edge of this industrial area lies the Saint Vincent residential neighborhood. Planning and rezoning shall protect and buffer this residential area while providing for appropriate industrial and port-related uses.
2. Enhancement Zone Subdistrict. This subdistrict comprises the area bounded by the Convention Center Special Study Area along Cypher Street and D Street, the Saint Vincent Neighborhood District to the south, and the Industrial South Boston Subdistrict to the east and north. Planning and rezoning shall provide for appropriate buffering between the residential community and the adjacent future convention center.
3. South Boston Inner Harbor Subdistrict. The South Boston Inner Harbor has evolved through various stages since the marshes and bays were filled. Properties that were once thriving piers, wharves and railheads became abandoned and re-used for open parking lots. Some of these properties already are being redeveloped for new

economic uses in this subdistrict. Much of the impetus for development comes from the area's proximity to the financial district and downtown waterfront activities, from the improved access to the interstate highway system, airport and public transit created by new transportation infrastructure, and from its position between the future convention center and the waterfront.

A portion of the South Boston Inner Harbor Subdistrict covers the area for which new zoning was adopted in 1991 as the Fort Point Waterfront of the Harborpark District (Article 42E). Because the planning and development context for this area has changed significantly since Article 42E was adopted, planning and rezoning is needed to ensure that the development of this area compliments the development of the South Boston Waterfront as a whole.

Planning and rezoning for the South Boston Inner Harbor Subdistrict shall provide for a mixed-use area, with uses that will encourage activity both day and evening. Because the subdistrict lies between the Fort Point Waterfront Subdistrict and the Harbor, planning and rezoning also shall provide for the development of the street grid to extend the street pattern of Fort Point's historic areas to the water's edge.

4. Fort Point Waterfront Subdistrict. The Fort Point Waterfront is an unusual urban enclave where small businesses, residences and artists' studios, light manufacturing concerns, and offices coexist in a now seldom-seen blend of urban activity. This subdistrict is characterized by its large, ornamental brick warehouses constructed in the late 19th and early 20th centuries, which have been refurbished over time and now house an eclectic mix of uses. Planning and rezoning shall promote the preservation of the scale and character of this subdistrict.
5. Industrial Fort Point Subdistrict. The Industrial Fort Point Subdistrict comprises the site of the manufacturing operations of the Gillette Company, employing some 5,000 workers and occupying more than a million square feet of space. It is well-served by the new South Boston Haul Road, a truck route that bypasses local streets. The subdistrict is fairly well built out at the present time. Planning and rezoning shall provide for building heights and related regulations to accommodate industrial uses while providing for public access to the Fort Point Channel and connections to adjacent subdistricts.
6. Fort Point Channel Subdistrict. The South Boston Waterfront enjoys direct access to Fort Point Channel. This water body presents many opportunities for the activation of the water sheet as part of a lively

and complex public realm. The Channel is divided into four basins defined by the bridges that cross this water body, each with its own distinctive character. *Basin A* includes the area between the inner harbor and the Evelyn Moakley Bridge. Because of its location at the mouth of the Channel, and its proximity to commuter destinations in downtown and the Waterfront, this basin should be devoted to public uses, such as commuter and excursion vessel docking and water taxis. *Basin B*, between the Evelyn Moakley Bridge and the Congress Street Bridge, has experienced the most significant water sheet development and is the location of major cultural and tourist uses, including the Tea Party Ship, the Children's Museum, and the Computer Museum. *Basin C* (between Congress and Summer Street) is small and constrained by a number of structures making navigation difficult. *Basin D* (between Summer Street and the Dorchester Avenue Bridge) is a calm and controlled water body, and future uses should be those that require a no-wake condition. Basins C and D are not well-suited to large marina development. Planning and zoning for the Fort Point Waterfront Subdistrict shall provide for uses appropriate to the conditions of each basin.

7. Commercial Fort Point Subdistrict. This subdistrict covers a long narrow strip along the edge of the Financial District running the length of the Fort Point Channel, from the Old Northern Avenue Bridge southward. It has an eclectic mix of uses and architectural elements that give this area a distinctive character. The Commercial Fort Point Subdistrict is connected to the rest of the South Boston Waterfront via several bridges that span Fort Point Channel. Planning and rezoning shall address this subdistrict's critical role in connecting the downtown to the Waterfront.
8. Industrial Port/Fish Pier Subdistrict. This subdistrict lies between industrial port and the Inner Harbor Subdistrict, facing both Northern Avenue and the water. Planning and rezoning for this subdistrict shall consider its important location at the center of the Waterfront where the operations of maritime business and service sector uses come together.

[^]SECTION 27P-8. **Convention Center Special Study Area.** This Section 27P-8 establishes the Convention Center Special Study Area, bounded generally by the Haul Road, Summer Street, D Street and Cypher Street and depicted on Appendix A to this Article. This Special Study Area shall not be subject to the interim use, dimensional, or parking controls, or interim planning permit requirements, of this Article, except as otherwise specified in this Section 27P-8. Land use and development decisions for this Special Study Area will be made in accordance with the Boston Convention & Exhibition Center Development Plan

adopted by the Boston city Council on March 11, 1998 and development review by the Boston Redevelopment Authority pursuant to Article 80, except as otherwise specified in this Section 27P-8.

1. Use, Dimensional and other controls in the Convention Center Support Area. This Section 27P-8.1 establishes the Convention Center Support Area within the Convention Center Special Study Area, depicted on Appendix A to this Article. Within the Convention Center Support Area, the use, dimensional and other controls of this Section 27P-8 shall apply:

- (a) Allowed Uses

Hotel and Conference Center Uses

Retail Uses, not including Adult Entertainment Uses

Parking Garage

All uses customarily incident to Hotel and Conference Center Uses and Retail Uses, but not including liquor store or Adult Entertainment Uses.

- (b) Dimensionals

Maximum Building Height: 185 feet

Maximum Floor Area Ratio: 6.5

Minimum Yard Requirements: None

Parapet Setback: None

- (1) The land within the Convention Center Special Support Area shall constitute a single Lot for purposes of the measurement of FAR.

- (c) Off-Street Parking and Loading

The minimum number of off-street parking spaces and off-street loading spaces shall be determined pursuant to the Article 80 development review process.

(^As amended on July 13, 2000, and February 25, 2004.)

SECTION 27P-9. Interim Height and FAR Controls. Proposed Project within the South Boston Waterfront IPOD Study Area are governed by the interim height and FAR controls set forth in Appendix B to this Article.

SECTION 27P-10. **Interim Use Controls.** All uses forbidden by the Underlying Zoning are forbidden uses in the South Boston Waterfront IPOD Study Area. In addition, within the Enhancement Zone Subdistrict, any listed in Appendix C to this Article is a forbidden use within the study area specified.

SECTION 27P-11. **Interim Waterfront Yard Area Requirements.** Except as otherwise expressly provided in this Article, the Waterfront Yard Area requirements of this Section 27P-11 apply to any Lot in the South Boston Waterfront IPOD Study Area that: (a) is located on Tidelands subject to M.G.L. Chapter 91 (Waterways), or (b) is adjacent to, or includes, the High Tide Line.

Any Lot to which this Section 27P-11 applies shall include a Waterfront Yard Area adjacent to and landward of the High Tide Line, excluding portions of the High Tide Line occupied by Piers. A Waterfront Yard Area also shall be required along the edges of any Pier. The required Waterfront Yard Area landward of the High Tide Line and the required Waterfront Yard Area on Piers shall be connected so as to provide a continuous path along the waterfront, with a minimum width at the places of connection no less than twelve (12) feet. The dimensions of the required Waterfront Yard Areas shall be as set forth in Table 1, below, unless the Boston Redevelopment Authority determines, pursuant to the Urban Design Component of Large Project Review or, if Large Project Review does not apply, pursuant to the Design component of Small Project Review, that a setback of less than fifty feet is necessary to accommodate existing buildings or other conditions on the Lot and will provide adequately for a continuous path along the waterfront.

TABLE 1

Required Depth of Waterfront Yard Area

Required Setback (Shoreline, excluding Piers)	Required Setback (Sides of Piers)	Required Setback (Ends of Piers)
50'	12'	50'

The following additional provisions shall apply to the Waterfront Yard Area requirement:

1. Waterfront Yard Area Measurements. The depth of the Waterfront Yard Area shall be measured perpendicularly from the High Tide Line in the case of bulkheads, rip rap, fill, or shoreline and perpendicularly from the Ends and Sides of Piers. In locating the

Waterfront Yard Area, the actual High Tide Line may be smoothed with such curves and chords as may be necessary to achieve a reasonably regular landward boundary. However, in no instance shall the Waterfront Yard Area be narrower than the required dimension measured perpendicularly from the actual High Tide Line.

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 that do not materially interfere with pedestrian use of the Waterfront Yard Area or that are required for operational or safety reasons to be located at the water's edge, provided that any resulting interference with pedestrian use of the Waterfront Yard Area is minimized to the extent economically practicable.
3. Exception to Waterfront Yard Area Setback Requirement. Any building or structure used for a Water-Dependent Use, including, without limitation, drydocks, enclosed or covered wet dock sheds, davits, hoists, mast markers, and the structures listed in subsection 2 above, shall be permitted within the Waterfront Yard Area as necessary to avoid interference with any direct access to the water required for such Water-Dependent Use.
4. Floating Structures. No portion of any Waterfront Yard Area shall be located on any floating structure.

SECTION 27P-12. Interim Open Space Requirements. The Open Space requirements of this Section 27P-12 apply to any Proposed Project in the South Boston Waterfront IPOD Study Area involving new construction at grade, except a Proposed Project with a gross floor area of 2,500 square feet or less used exclusively for one or more Water-Dependent Uses.

Any Proposed Project to which Open Space requirements of this Section 27P-12 apply shall devote to Open Space at least fifty percent (50%) of the Lot Area of such Proposed Project, unless the Boston Redevelopment Authority determines, pursuant to the Urban Design Component of Large Project Review or, if Large Project Review does not apply, pursuant to the Design Component of Small Project Review, that a smaller open space area, or the provisions of Open Space in a different location, would result in a design more compatible to the surrounding area.

For the purposes of this Article, the term "Open Space" shall mean land areas and areas on Piers excluding: (a) any area occupied by a building or

roofed structure; (b) any parking lot or parking area; (c) any street; (d) any private road or area devoted to motor vehicle use; (e) any salt-water area below the High Tide Line, other than areas on Piers; (f) any fresh water area more than ten (10) feet from the shoreline; (g) marina slips or floats or other floating structures; (h) swimming pools; and (i) tennis courts.

SECTION 27P-13. Interim Parking Controls. Within the South Boston Waterfront IPOD Study Area, the number of off-street parking spaces are required for dwelling units created after the effective date of this Article shall be determined through Large Project Review or, for Proposed Projects to which Large Project Review does not apply, through Small Project Review, pursuant to Article 80.

SECTION 27P-14. Development Review and Design Guidelines. The thresholds for Large Project Review within the Harborpark, as set forth in Section 80B-2.3, shall apply to Proposed Projects within the South Boston Waterfront IPOD Area.

The design guidelines set forth in the South Boston Waterfront Master Plan Interim Report, and any design guidelines prepared pursuant to such report, shall apply as design guidelines for the South Boston Waterfront IPOD Study Area.

SECTION 27P-15. Interim Chapter 91 Requirements. In accordance with Chapter 91 of the General Laws of Massachusetts (“Chapter 91”) and the regulations promulgated thereunder, certain projects located in Tidelands (as defined in Chapter 91) require a license (“Chapter 91 License”) from the Commonwealth’s Department of Environmental Protection. Section 18 of Chapter 91 requires that the planning board of a municipality in which a Project requiring a Chapter 91 License is located (in Boston, the Boston Redevelopment Authority) 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”).

The Boston Redevelopment Authority shall make any Section 18 Recommendation with respect to a Project located in the South Boston Waterfront IPOD Study Area in accordance with the provisions of Subsection 1 of this Section 27P-15. For the purposes of this Section 27P-15 only, the term “Project” shall mean any 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 South Boston Waterfront IPOD Study Area, 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 7 of this Section 27P-15 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 South Boston Waterfront IPOD Study Area 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 South Boston Waterfront IPOD and the South Boston Waterfront Master Plan Interim Report. 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 the 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) Pedestrian Access to Flowed Private Tidelands. 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 the high water mark in order to mitigate interference with the public's right to pass freely on Flowed Private Tidelands.
- (b) Pedestrian Access to Commonwealth Tidelands and Filled Private Tidelands. 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 and to avoid any safety hazard to people working on or visiting the Project site. Appropriate measures may 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) Accessibility, Maintenance, and Design of Open Space and Pedestrianways. All Open Space areas established pursuant to this Article located on Commonwealth Tidelands, and all public access facilities described in paragraphs (a) and (b) of this Subsection 2 (“Public Access Facilities”) shall be open and accessible to the public twenty-four (24) hours a day. No gates, fences, or barriers may be placed on Public Access Facilities or Open Space in a manner that would impede or discourage the free flow of pedestrian movement thereon.

The requirements of this paragraph (c) do not prohibit the placing of temporary barriers as required in emergencies or in connection with construction, maintenance, or the like, provided that interference with pedestrian access and passage is minimized to the extent reasonably practicable and consistent with public safety and that such barriers are in place no longer than necessary.

All Public Access Facilities shall be Accessible to Physically Handicapped Persons. Active pedestrian use of Open Space areas and Public Access Facilities shall be encouraged on a year-round basis, particularly for water-related activities, through such means as appropriate ground level uses of adjacent buildings and facilities and amenities designed to be attractive to pedestrians. Maintaining, cleaning, landscaping, and managing Open Space areas and Pedestrian Access

Facilities shall at all times be the responsibility of the Chapter 91 licensee of the Project.

(d) Signage for Public Access Facilities. Any Project required to provide Public Access Facilities in accordance with paragraph (b), above, shall encourage public patronage of such facilities by placing and maintain adequate signage at all entryways and at other appropriate locations on the site. Such signage shall be subject to design review by the Boston Redevelopment Authority, pursuant to Small Project Review, unless such signage is reviewed under Large Project Review. The Boston Redevelopment Authority shall determine whether such signage is consistent with:

- (i) the design guidelines for Harborwalk signage set forth in the South Boston Waterfront Master Plan Interim Report or in other guidelines issued pursuant to that report; and
- (ii) the requirements of Article 11 (Signs), provided that the BRA may allow such signage to conform to different requirements in order to achieve a design more appropriate to the Harborwalk or surrounding area.

3. Creation of Housing. The South Boston Waterfront Master Plan Interim Report envisions the creation of an active, 24-hour neighborhood. To this end, the goals of the Interim Report and the South Boston Waterfront IPOD include the achievement of an appropriate mix of uses in the South Boston Waterfront IPOD Study Area and the provision of housing that meets the needs of the Waterfront and surrounding residential communities. Accordingly, in determining whether the Section 18 Standard is met, the Boston Redevelopment Authority shall consider the extent to which a Project: (a) contributes to an appropriate mix of residential and nonresidential uses in the South Boston Waterfront IPOD Study Area as a whole; and (b) creates, or causes the creation of, dwelling units in the South Boston Waterfront IPOD Study Area or surrounding residential communities that are affordable to residents of the area in which such dwelling units are created.

4. 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 unless the Project conforms to the applicable requirements for water transportation facilities set forth below:

- (a) Water Transportation Facility Requirement. In making a Section 18 Recommendation with respect to a Project, the Boston Redevelopment Authority shall consider the extent to which the 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 use, scale, and location of the Project, and in accordance with the water transportation guidelines set forth in, or issued pursuant to, the South Boston Waterfront Master Plan Interim Report.
 - (b) Provision of Dockage at Seawalls and Bulkheads. In order to provide adequate docking areas for both emergency use and routine harbor activities, any reconstruction of seawalls or bulkheads along those portions of the Project shoreline that abut waters accessible by Vessels shall, to the extent reasonably practicable, accommodate dockage of Vessels alongside such seawalls or bulkheads.
5. Additional Regulations Applicable to Tidelands Proposed to be Filled. This Subsection 5 governs Tidelands that are filled after the date of the first notice of hearing before the Zoning Commission on this Article (“new fill”). Piles are not considered “fill” for the purpose of this Article.

New fill is prohibited in any area where Pier construction or extension is prohibited by this Code.

No portion of a Project located on Tidelands that are subject to the provisions of this Subsection 5 shall be erected, used, or arranged or designed to be used except for a Water-Dependent Use that is not forbidden for such location in the South Boston Waterfront IPOD Study Area, except as otherwise provided in this Subsection 5.

In making a Section 18 Recommendation with respect to a Project involving 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.

This Subsection 5 does not 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). This Subsection 5 also does 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.

6. Uses Allowed on Floating Structures. No floating structure, other than a Vessel, shall be used or arranged or designed to be used except for a Water-Dependent Use not forbidden for such location in the South Boston Waterfront IPOD Study Area.
7. Regulations Governing Piers. No portion of any Pier to which this Article applies shall be erected, used, or arranged or designed to be used except as publicly accessible Open Space or for a Water-Dependent Use not forbidden for such location in the South Boston Waterfront IPOD Study Area.

SECTION 27P-16. Planned Development Areas. No Planned Development Area (PDA) shall be established within the South Boston Waterfront IPOD Study Area except in conformity with this Section 27P-16.

1. Location of Planned Development Areas. Within the South Boston Waterfront IPOD Study Area, Planned Development Areas may be established only within the South Boston Inner Harbor Subdistrict and within that area of the Industrial South Boston Subdistrict bounded by Summer Street, D Street, the extension of the Haul Road, and Pumphouse Road.
2. Planned Development Areas: Public Benefit Criteria. The Boston Redevelopment Authority may approve a PDA development plan as meeting the requirement of Section 80C-4 (Standards for PDA Review Approval) for compliance with the applicable planning and development criteria of this Article only if the development plan proposes a plan for public benefits, consistent with the goals of the South Boston Waterfront Master Plan Interim Report, including one or more of the following: (a) the expansion of the waterfront economy, including the creation of new permanent jobs or the retention of jobs that otherwise would be lost; (b) the creation of new community housing opportunities; (c) the enhancement or support of community facilities or programs; and (d) the enhancement of the public realm, including the provision or substantial improvement of waterfront public facilities and the Harborwalk, the provision of accessible public open space, or the activation of the water sheet.

3. Conformity with Plans for Area. The Boston Redevelopment Authority may approve a PDA development plan as meeting the requirement of Section 80C-4 (Standards for PDA Review Approval) that the development plan conform to the plan for the geographic area where the PDA is located only if the development plan conforms generally to the provisions of the Waterfront District in South Boston Master Plan and to any provisions of the City’s Municipal Harbor Plan that relate to land within the Waterfront District in South Boston IPOD Study Area. For purposes of this Section 27P-16, the term “Municipal Harbor Plan” refers to any plan approved by the Commonwealth before or after the effective date of this article under the provisions of 301 CMR 23.00 (Review and Approval of Municipal Harbor Plans).

SECTION 27P-17. South Boston Waterfront Master Plan. During the interim planning period, a South Boston Waterfront Master Plan shall be developed by the Boston Redevelopment Authority to guide future development. The provisions of the South Boston Waterfront Master Plan shall include, but need not be limited to, standards addressing uses, including uses of the water sheet; heights and other building dimensions; open space and Harborwalk setbacks; parking; and design guidelines.

SECTION 27P-18. Standards for Issuance of Interim Planning Permit. The Board of Appeal shall grant an Interim Planning Permit for a Proposed Project only if it finds that: (a) the benefits to the community outweigh the burdens imposed; and (b) the Proposed Project is in substantial accord with the applicable provisions of this Article. If the Boston Redevelopment Authority has made a recommendation to the Board of Appeal on the issuance of an interim planning permit, the Board of Appeal shall follow such recommendation unless specific, written reasons for not doing so are incorporated in the Board of Appeal’s decision.

SECTION 27P-19. Enforcement. The Commissioner of Inspectional Services shall not issue a building, demolition, or use permit for any Proposed Project subject to the provisions of this Article unless the Board of Appeal has approved an Interim Planning Permit for the Proposed Project in accordance with Section 27-3 (Interim Planning Procedure) and Section 27P-18 (Standards for Issuance of Interim Planning Permit).

SECTION 27P-20. Sunset Provision; Subsequent Amendments. This article shall be in effect for twelve (12) months. While in effect, this Article or portions of this Article may be repealed or superseded by subsequent amendments to this Article, or by amendments to the Underlying Zoning as to which notice of a public hearing before the Zoning Commission is published after the effective date of this Article.

SECTION 27P-21. **Timetable for Rezoning.** Submission of proposed zoning changes by the Boston Redevelopment Authority to the Zoning Commission shall be completed within eleven (11) months from the enactment of the South Boston Waterfront IPOD, and the Zoning Commission hearing on any petition to adopt proposed zoning changes shall be completed within twelve (12) months of the enactment of the South Boston Waterfront IPOD; provided that failure of the Boston Redevelopment Authority to submit proposed zoning changes to the Zoning Commission within eleven months, or failure of the Zoning Commission to conduct a hearing on such zoning within twelve months, shall not invalidate any provision of the South Boston Waterfront IPOD or Underlying Zoning.

SECTION 27P-22. **Regulations.** The Boston Redevelopment Authority may promulgate regulations to administer this Article; provided that such regulations shall become effective only upon adoption by the Zoning Commission.

SECTION 27P-23. **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 27P
(continued)

**South Boston Waterfront
Interim Planning Overlay District**

Interim Heights and Floor Area Ratios

<u>Area*</u>	<u>Building Height**/FAR**</u>
Area A	35'/2
Area B	125'/2
Area C	55'/2
Area D***	100'/5
Area E***	75'/5
Area F	150'/4
Area G	75'/2
Area H	55'/4
Area I	100'/3
Area J	65'/2
Area K	125'/2
Area L	35'/2
Area M	80'/4
Area N	****

(*) Boundaries of the height and FAR areas listed in this table are depicted on the accompanying map in this Appendix B.

(**) Subject to the requirements of Section 27P-11 (Interim Waterfront Yard Area Requirements).

APPENDIX B to ARTICLE 27P
(continued)

- (***) In Areas D and E, in order to ensure that new development is compatible with the historic character of these areas, a Proposed Project to extend a building existing on the effective date of this Article may exceed the height and FAR specified in the Article, provided that the Board of Appeal grants permission for such height and FAR, pursuant to Article 6A. The Board of Appeal may grant permission only if: (1) the height and FAR of the Proposed Project are in substantial accord with the height and FAR of the existing building; and (2) the Boston Redevelopment Authority finds, through Large Project Review, that the additional height and FAR will result in a design that is architecturally compatible with the existing building and surrounding subdistrict, and that the Proposed Project is consistent with the planning goals of Sections 27P-1 and 27P-7. For the purpose of this provision only, “substantial accord” means, in the case of height, that the height of the Proposed Project shall not exceed the height of the existing building by more than one story, which story shall not exceed eighteen (18) feet in height.
- (****) Area N comprises the Convention Center Special Study Area. See Section 27P-8.

APPENDIX C to ARTICLE 27P

**South Boston Waterfront Interim Planning Overlay District
Enhancement Zone Subdistrict**

Forbidden Uses

1. Cypher Street Study Area

Auditorium
Cinema
Concert hall
Theatre

Dormitory not accessory to a use
Fraternity

College or University

Adult Entertainment
Amusement game machines in commercial establishment
Amusement game machines in non-commercial establishment
Bar
Bar with live entertainment
Dance hall
Drive in theatre
Private club not serving alcohol
Private club serving alcohol
Restaurant with live entertainment not operating after 10:30 PM
Restaurant with live entertainment operating after 10:30 PM

Cemetery
Columbarium
Crematory

Hospital

Bed and breakfast
Conference center
Executive suites
Hotel
Motel

APPENDIX C to ARTICLE 27P (continued)

1. Cypher Street Study Area – (continued)

Cleaning plant
Restricted industrial use

Golf driving range
Stadium

Penal institution
Recycling facility (excluding facilities handling toxic waste)
Solid waste transfer station

Residential uses

Drive-in restaurant

Adult bookstore
General retail business occupying a gross floor area of 75,000 square feet
Liquor store

Check cashing business
Container redemption center
Outdoor storage of solid fuel or minerals
Outdoor storage of damaged or disabled vehicles
Outdoor storage of junk and scrap
Storage of flammable liquids and gases – Large*
 (*storage of thirty thousand (30,000) gallons or more of flammable
 liquids or ten thousand(10,000) cubic feet or more of gases)
Storage or transfer of toxic waste
Wrecking yard

Airport
Bus terminal
Garage with dispatch
Helicopter landing facility
Motor freight terminal
Rail freight terminal
Railroad passenger station
Water terminal

APPENDIX C to ARTICLE 27P (continued)

1. Cypher Street Study Area – (continued)

Airport-related parking facility
Bus servicing and storage
Parking garage
Parking lot
Rental agency for cars
Rental agency for trucks

Accessory bus servicing and storage
Accessory dormitory
Accessory drive-through retail
Accessory family day care home
Accessory home occupation
Accessory keeping of animals other than laboratory animals
Accessory professional office in a dwelling
Accessory services for apartment and hotel residents

2. D Street Study Area

Auditorium
Cinema
Concert hall
Theatre

Dormitory not accessory to a use
Fraternity

College or University

Adult Entertainment
Amusement game machines in commercial establishment
Amusement game machines in non-commercial establishment
Bar
Bar with live entertainment
Dance hall
Drive in theatre
Private club not serving alcohol
Private club serving alcohol
Restaurant with live entertainment not operating after 10:30 PM
Restaurant with live entertainment operating after 10:30 PM

APPENDIX C to ARTICLE 27P (continued)

2. D Street Study Area – (continued)

Cemetery
Columbarium
Crematory

Hospital
Bed and breakfast
Conference center
Executive suites
Hotel
Motel

Cleaning plant
Restricted industrial use

Golf driving range
Stadium

Penal institution
Recycling facility (excluding facilities handling toxic waste)
Solid waste transfer station

Mobile home
Mobile home park
One family detached dwelling
Temporary dwelling structure

Drive-in restaurant

Adult bookstore
Liquor store

Check cashing business
Container redemption center

Enclosed storage of solid fuel or minerals
Outdoor storage of solid fuel or minerals
Outdoor storage of new materials if within 250 feet of a residential use
Outdoor storage of damaged or disabled vehicles
Outdoor storage of junk and scrap

APPENDIX C to ARTICLE 27P (continued)

2. D Street Study Area – (continued)

Storage of flammable liquids– Large*
(*storage of thirty thousand (30,000) gallons or more of flammable liquids or ten thousand(10,000) cubic feet or more of gases)

Storage or transfer of toxic waste

Wrecking yard

Airport

Bus terminal

Garage with dispatch

Helicopter landing facility

Motor freight terminal

Rail freight terminal

Railroad passenger station

Water terminal

Airport-related remote parking facility

Bus servicing or storage

Outdoor sale of new or used vehicles

Parking garage

Parking lot

Rental agency for cars

Rental agency for trucks

Truck servicing or storage

Accessory bus servicing or storage

Accessory dormitory

Accessory drive-through restaurant

Accessory drive-through retail

Accessory family day care home

Accessory home occupation

Accessory keeping of animals other than laboratory animals

Accessory professional office in a dwelling

Accessory railroad storage yard

Accessory services for apartment and hotel residents

APPENDIX D to ARTICLE 27P

**South Boston Waterfront
Interim Planning Overlay District**

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 or water-oriented exhibits.

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 transposition 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 and recreational boating.