

^ARTICLE 32

GROUNDWATER CONSERVATION OVERLAY DISTRICT

(^Article inserted on February 15, 2006)

SECTION 32-1. **Statement of Purpose.** The purposes of this article are to (a) prevent the deterioration of and, where necessary, promote the restoration of, groundwater levels in the city of Boston; (b) protect and enhance the city's historic neighborhoods and structures, and otherwise conserve the value of its land and buildings; (c) reduce surface water runoff and water pollution; and (d) maintain public safety.

SECTION 32-2. **Definitions.** For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated:

1. "Applicant" shall mean any person or entity having a legal or equitable interest in a Proposed Project subject to the requirements of this article, or the authorized agent of any such person or entity.
2. "Groundwater-Retaining Paving" shall mean paving that (a) the Applicant demonstrates, by certification from a Massachusetts registered engineer, or other expert or authoritative body recognized by the Inspectional Services Department, will promote infiltration of rainwater into the ground by capturing within a suitably-designed system a volume of rainfall on the lot equivalent to no less than 1.0 inches across that portion of the surface area of the lot to be paved, or (b) is designed and constructed pursuant to pertinent specifications approved by the Commissioner of Inspectional Services.
3. "Proposed Institutional Project" shall mean a Proposed Project occupied or to be occupied for institutional uses upon issuance of a building, use, or occupancy permit.
4. "Proposed Project" shall mean the erection, extension, rehabilitation, alteration, or substantial demolition of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit.

5. "Substantially Rehabilitate" shall mean to cause alterations or repairs to be made to a structure or structures within any period of twelve (12) months, if such alterations or repairs cost more than fifty percent (50%) of the physical value of the structure or structures. Physical value shall be based on the assessed value, as recorded on the assessment rolls of the City as of the January 1 preceding the date of the filing of an application for a building permit with the Inspectional Services Department.
6. "Zoning Relief" shall mean any zoning variance, exception, conditional use permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

SECTION 32-3. General Requirements and Procedures. A Groundwater Conservation Overlay District (GCOD), a type of special purpose overlay district established pursuant to Section 3-1A, shall be potentially applicable in areas within certain downtown, harborpark, and neighborhood districts at risk for groundwater depletion. To designate an area as a GCOD, the following procedures shall be followed:

1. The Boston Redevelopment Authority shall make a recommendation to the Zoning Commission that a certain area within a district or neighborhood experiencing or subject to the potential of harmful groundwater depletion be designated as a GCOD in order to promote the purposes set forth in this article.
2. Upon a favorable recommendation by the Boston Redevelopment Authority, the Zoning Commission may designate an area as a GCOD.
3. In an area designated as a GCOD, an applicant for a building or use permit for any Proposed Project subject to the requirements of this article shall obtain a conditional use permit pursuant to the procedures set forth in Article 6 or carry out such Proposed Project in a manner consistent with the provisions of this article, as applicable.

SECTION 32-4. Applicability. Any Applicant seeking a building permit for a Proposed Project within a Groundwater Conservation Overlay District shall be subject to the requirements of this article where such Applicant seeks (a) the erection or extension of any structure, where such new structure or extension will occupy more than fifty (50) square feet of lot area; (b) the erection or extension of any structure designed or used for human occupancy or access, mechanical equipment, or laundry or storage facilities, including garage space, if such construction involves the excavation below grade to a depth equal to or below seven (7) feet above Boston City Base (other than where such excavation is necessary for, and to the extent limited to, compliance with the requirements of

this article); (c) to Substantially Rehabilitate any structure; or (d) any paving or other surfacing of lot area.

Notwithstanding the above provisions of this Section 32-4, in the GCOD mapped in the North End Waterfront Subdistrict, the North End Local Business Subdistrict and Fort Point Waterfront Subdistrict, all within the Harborpark District, and also in the North End Neighborhood District, Bulfinch Triangle District, Central Artery District, and South Boston, only subsections (a) and (b) of this Section 32-4 are applicable.

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

1. Any Proposed Project for which a building permit has been issued prior to the first notice of hearing before the Zoning Commission for adoption of this article, provided that construction work under such permit is commenced within six months after its issue, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances;
2. Any Proposed Project located within an area designated as a GCOD after January 1, 2007 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 such GCOD map or text amendment;
3. Any Proposed Project for which the Board of Appeal has granted Zoning Relief prior to the first notice of hearing before the Zoning Commission for adoption of this article, provided that such Proposed Project is not thereafter modified or amended subject to further Zoning Relief; and
4. Any Proposed Project that the Boston Redevelopment Authority has approved pursuant to Article 80B (Large Project Review), any Proposed Project for which the Boston Redevelopment Authority has approved a planned development area development plan, or any Proposed Institutional Project for which the Boston Redevelopment Authority has approved an institutional master plan, prior to the first notice of hearing before the Zoning Commission for adoption of this article, provided that such Proposed Project, planned development area development plan, or institutional master plan is not thereafter modified or amended subject to further Boston Redevelopment Authority approval.

(^Amended on April 25, 2007)

SECTION 32-5. Specific Requirements. The specific requirements of this Section 32-5 shall apply to any Proposed Project subject to these Groundwater Conservation Overlay District regulations pursuant to Section 32-4.

1. Any of the improvements specified in Sections 32-4(a)-(c) shall require a conditional use permit.
2. Any paving or other surfacing of lot area subject to Section 32-4(d) must employ Groundwater-Retaining Paving, as defined in Section 32-2.

SECTION 32-6. Standards. To obtain a conditional use permit from the Board of Appeal, the Applicant shall show that the Proposed Project complies with the following requirements, in addition to the standards set forth in Article 6: (a) provision that any Proposed Project promote infiltration of rainwater into the ground by capturing within a suitably-designed system a volume of rainfall on the lot equivalent to no less than 1.0 inches across that portion of the surface area of the lot to be occupied by the Proposed Project (or, in the case of a Proposed Project for a Substantial Rehabilitation, the lot area occupied by the structure to be Substantially Rehabilitated), which requirement may be reduced by the Board of Appeal only if, and to the extent that, the Applicant demonstrates this ratio cannot feasibly be achieved using techniques and materials appropriate to the Proposed Project and the lot upon which it is located, and additionally provides appropriate alternate mitigation; and (b) provision that any Proposed Project result in no negative impact on groundwater levels within the lot in question or adjacent lots, subject to the terms of any (i) dewatering permit or (ii) cooperation agreement entered into by the Proponent and the Boston Redevelopment Authority, to the extent that such agreement provides standards for groundwater protection during construction.

The Applicant shall demonstrate that the Proposed Project meets the requirements of this section by certification from a Massachusetts registered engineer or other expert or authoritative body recognized by the Board of Appeal. With respect to a Proposed Project for a one, two, or three-family residence, the Applicant may demonstrate to the Board of Appeal presumptive compliance with the rainwater capture requirements of Subsection (a) of this Section 32-6 by designing and constructing such system pursuant to pertinent specifications approved by the Commissioner of Inspectional Services.

Notwithstanding the above provisions of this Section 32-6, in the GCOD mapped in the North End Waterfront Subdistrict, the North End Local Business Subdistrict and Fort Point Waterfront Subdistrict, all within the Harborpark District, and also in the North End Neighborhood District, Bulfinch Triangle District, Central Artery District, and South Boston, the Applicant shall demonstrate that the Proposed Project complies only with Subsection (b) of this Section 32-6.

(^Amended on April 25, 2007)

SECTION 32-7. **Designation of Groundwater Conservation Overlay Districts.** The geographic areas and zoning districts shown on Appendix A hereto are subject to the provisions of this article.

SECTION 32-8. **Regulations.** The Boston Redevelopment Authority may promulgate regulations to administer this article.

SECTION 32-9. **Enforcement.** The Commissioner of Inspectional Services shall not issue any building or use permit for a Proposed Project that is subject to but fails to comply with the provisions of this article.

SECTION 32-10. **Severability.** If any provision or section of this article shall be held invalid by any court of competent jurisdiction, such provision or section shall be deemed separate and apart from the remaining provisions of this article, and such remaining provisions and sections shall continue in full force and effect.