

SUMMARY OF PROPOSED ZONING AMENDMENTS TO ARTICLE 42A
Prepared 7-19-19, Revised 8-5-19

The purpose of the proposed zoning amendments is to conform the provisions of Article 42A with the City's Downtown Waterfront District Municipal Harbor Plan.

The City prepared the Downtown Waterfront District Municipal Harbor Plan & Public Realm Activation Plan and submitted the document for approval to the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) in March 2017. In February 2018 the City submitted a Supplement to the Plan. The Plan was approved by EEA Secretary Mathew Beaton in a Decision issued on April 30, 2018, subject to certain conditions. Collectively, the 2017 Plan, the 2018 Supplement, and the EEA Decision are referred to as the "MHP." The EEA Decision requires, among other conditions, that the City must amend its zoning to be consistent with the MHP.

Section 42A-1. - Statement of Purpose, Goals, and Objectives.

The MHP refers to the City's resiliency planning to address the risks of climate change and sea level rise, as set forth in the *Climate Ready Boston* plan. The MHP states: "The Downtown Waterfront should also serve as the city's first Flood Resiliency District, with property owners collectively evaluating risks of future sea level rise, district wide measures that can be implemented to reduce the risk and potential future damage, as well as funding mechanisms for area-wide infrastructure enhancements."

Therefore, the Statement of Purpose, Goals and Objectives for Article 42A has been expanded to include the following:

". . .[to] protect persons and structures from the adverse impacts associated with climate change by promoting resilient planning and design."

Section 42A-2. - Recognition of the Harborpark District Plan.

A reference has been added to the "Downtown Waterfront District Municipal Harbor Plan & Public Realm Activation Plan" (the MHP), defining the MHP as the portion of the general plan for the City of Boston applicable to the Subdistrict.

Section 42A-3. - Physical Boundaries.

Zoning Map 1E / 1F, "Harborpark District: North End / Downtown Waterfront," will be modified by adding to the Downtown Waterfront Subdistrict the Hook Wharf site (this is currently part of an M-4 district).

Section 42A-5. - Chapter 91 Requirements.

Subsections 3, 4, and 5 of Section 42A-5 previously contained specific requirements for the inclusion of affordable housing units in Proposed Projects. These requirements have been superseded by current City policies. Further, these policies are anticipated to undergo an ongoing process of evolution, in response to changing conditions. Therefore, the specific requirements have been modified or deleted, and references have been inserted to “the City’s Inclusionary Development Policy then in effect.”

Subsection 7 of Section 42A-5 previously contained specific requirements for the inclusion of cultural uses in certain Proposed Projects located within the Downtown Waterfront Subdistrict. These requirements have been superseded by current City policies and the MHP, and therefore have been deleted.

Section 42A-6. - Open Space Requirements.

Because of the modification of Section 42A-5.7 noted above, the language in this section referring to cultural uses is no longer applicable, and therefore has been deleted. The definition of Open Space has been expanded to include any area deemed to constitute Open Space pursuant to M.G.L. chapter 91 or an applicable Municipal Harbor Plan.

Section 42A-8. - Urban Design Guidelines.

To implement the goals of the MHP, as discussed under Section 42A-1 above, subsection 14 has been modified, to ensure that reviews of Proposed Projects will be consistent with the MHP.

A new subsection 15 has been added, specifically relating to resiliency. It states that any resilient design feature of a Proposed Project shall be designed in a manner consistent with the other urban design guidelines of Section 42A-8.

Section 42A-12. - Downtown Waterfront Subdistrict.

Height Zone F

The MHP, as approved by EEA, contains development-specific guidelines for the Hook Wharf site. For this site, the MHP permits modifications of the regulations for Building Height, FAR, Open Space, and Waterfront Yard, relative to the current zoning and the Mass DEP Waterways Regulations. As described above under Section 42A-3, Zoning Map 1E / 1F will be modified to include this site within the Downtown Waterfront Subdistrict. Because the Hook Wharf site measures less than one acre, it does not qualify for development as a Planned Development Area, under the provisions described below in Sections 42A-16 through 42A-16G.

A new subsection (f) has been added, defining this site as Height Zone F within the Downtown Waterfront Subdistrict. The boundaries of Height Zone F will be shown on Map 1E / 1F. Within Height Zone F, the maximum allowable Building Height will be 175 feet. Subsection (f) states further that under certain conditions, the maximum allowable Building Height within Height Zone F will be 285 feet; the maximum allowable FAR will be 15 at least 30% of the Lot Area shall be Open Space; and the minimum Waterfront Yard setback shall be 12 feet. To qualify for

these modified regulations, the Proposed Project must comply with Large Project Review under Article 80, and the Certification of Compliance must confirm that the Proposed Project is consistent with the MHP.

Definition of Building Height

The MHP acknowledges that for purposes of resilient project planning and design, relative to the sea-level rise identified by *Climate Ready Boston*, projects should be encouraged to elevate their first occupiable floor by an additional height, or freeboard, above the predicted Base Flood Elevation. To allow this without penalizing a project's development potential, the MHP proposes that Building Height would be measured from the higher design flood elevation level, rather than from existing grade. The City is already using this elevation, known as the Sea Level Rise Design Flood Elevation (SLR-DFE), for purposes of project reviews under Article 37.

Therefore, the definition of Building Height has been modified, solely for a Proposed Project in the Downtown Waterfront Subdistrict. The Building Height of such a project shall be measured from the higher of (a) the SLR-DFE, or (b) the surrounding grade elevation, provided that in no case shall the base floor elevation be more than five (5) feet higher than the SLR-DFE.

Section 42A-16. - Prohibition of Planned Development Areas and Restriction of Urban Renewal Areas in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict.

Currently, Planned Development Areas (PDAs) are not permitted under Article 42A within the North End Waterfront Subdistrict or the Downtown Waterfront Subdistrict. This section has been modified, to permit the approval of PDAs, in accordance with the standards and procedures of review set forth in Article 80, solely within the Downtown Waterfront Subdistrict. The prohibition on PDAs within the North End Waterfront Subdistrict has not been modified. Further, in accordance with long-standing City policy, additional standards and procedures for PDA review have been incorporated into Article 42A, through the addition of Sections 42A-16A through 42A-16G, as described below.

Section 42A-16A. - Planned Development Areas within the Downtown Waterfront Subdistrict. [new section]

This new section makes the approval of a PDA within the Downtown Waterfront Subdistrict subject to the additional requirements of Article 42A.

Section 42A-16B. - General Standards for Planned Development Areas within the Downtown Waterfront Subdistrict. [new section]

This new section establishes general standards for PDAs within the Downtown Waterfront Subdistrict, for purposes that include insuring high-quality design; providing a secure economic base for the downtown services, industrial, and waterfront economy; and encouraging development that knits together the surrounding neighborhoods.

Section 42A-16C. - Planned Development Areas within the Downtown Waterfront Subdistrict: Use and Dimensional Regulations. [new section]

This new section establishes land use and dimensional regulations for PDAs within the Downtown Waterfront Subdistrict. PDAs must comply with the otherwise applicable provisions of Article 42A, unless there is an approved Development Plan that complies with the MHP and the dimensional restrictions that it contains.

Section 42A-16D. - Planned Development Areas within the Downtown Waterfront Subdistrict: Standards for Development Plan Approval. [new section]

This new section requires PDAs within the Downtown Waterfront Subdistrict to comply with the PDA approval standards set forth in Section 80C-4.

Section 42A-16E. - Planned Development Areas within the Downtown Waterfront Subdistrict: Public Benefit Criteria. [new section]

This new section requires that the Development Plan for a PDA within the Downtown Waterfront Subdistrict must contain a plan for public benefits that is consistent with the general plan for the Downtown Waterfront Subdistrict (including the MHP), and which includes, at a minimum, one of the following: (a) the creation of Affordable housing; (b) the provision of substantial street improvements; or (c) the provision of Open Space.

Section 42A-16F. - Planned Development Areas within the Downtown Waterfront Subdistrict: Recommendations from Community Groups and City Departments. [new section]

This new section requires PDAs within the Downtown Waterfront Subdistrict to comply with the procedures for public notice and comment in the review of a Development Plan set forth in Section 80C-5.3.

Section 42A-16G. - Planned Development Areas within the Downtown Waterfront Subdistrict: General Design and Environmental Impact Standards. [new section]

This new section requires PDAs within the Downtown Waterfront Subdistrict to comply with additional standards for general design and environmental impacts, to be determined through Large Project Review under Article 80. The purpose of these additional standards is to maintain and improve the quality of life in the Downtown Waterfront Subdistrict. The standards include: shadow criteria; wind; and Boston Civic Design Commission review.

Section 42A-17. - Rooftop Additions.

The MHP acknowledges that for purposes of resilient project planning and design, relative to the sea-level rise identified by *Climate Ready Boston*, the owners of existing buildings should be encouraged to relocate mechanical equipment above predicted flood levels. This may, in turn,

require the construction of rooftop additions that would otherwise not be allowable under current zoning.

This provision of the MHP, as modified by the EEA approval, has been incorporated into Section 42A-17. A Proposed Project that involves the renovation or expansion of an existing building within the Downtown Waterfront Subdistrict may erect a new or expanded rooftop structure, provided that the Building Height shall not increase by more than 30 feet, and shall not exceed 200 feet.

The Proposed Project shall also be subject to the following conditions:

- (a) the rooftop structure shall be occupied solely by mechanical equipment;
- (b) all mechanical equipment that is currently located at or below ground level shall be relocated to an upper floor, or flood-proofed;
- (c) all existing Open Space on the project site shall be publicly accessible; and
- (d) the entire ground floor of the building shall be occupied by a combination of Facilities of Public Accommodation, Water-Dependent Uses, and upper-level accessory uses.

Further, the rooftop structure shall be configured and set back to avoid or minimize net new shadow to the extent feasible. There must be no net new shadow on that portion of the Long Wharf that lies seaward of the eastern end of the existing Long Wharf Marriott Hotel.

To qualify for such increased Building Height, the Proposed Project must comply with Large Project Review under Article 80,

Section 42A-18. - Use Regulations Applicable in the North End Waterfront Subdistrict and Downtown Waterfront Subdistrict.

A technical correction has been proposed to Section 42A-18.2. A project may be consistent with the intent of the MHP and the DEP Waterways Regulations, if the entire ground floor is occupied by a combination of Water-Dependent Uses and Facilities of Public Accommodation (FPAs), even if the FPAs occupy less than 40% of the ground floor. Therefore, subsection 2 will no longer be applicable to Proposed Projects within the Downtown Waterfront Subdistrict.

In Section 42A-18.6(a)(i), the list of allowed Water-Dependent Uses has been expanded to include any use area deemed to constitute a Water-Dependent Use pursuant to M.G.L. chapter 91 or an applicable Municipal Harbor Plan. In Section 42A-18.6(i), the list of allowed Restaurant Uses has been expanded to include take-out restaurants less than 2,500 square feet.