

^ARTICLE 42B

HARBORPARK DISTRICT

CHARLESTOWN WATERFRONT

(^Article inserted on June 14, 1990*)

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**As amended through March 15, 2006.

*Date of public notice: May 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 42B-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 Waterfront within the Harborpark District as required by the provisions of the Harborpark Interim Planning Overlay District, Article 27C of this Code. Together with Article 42A, 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 42B-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 Waterfront 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 Waterfront 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 42B-3. Physical Boundaries. The provisions of this Article are applicable only in the Charlestown Waterfront within the Harborpark District. The boundaries of the Charlestown Waterfront and its subdistricts are as shown on the maps "Map 2B Harborpark District: Charlestown Waterfront" and "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 42B-4. Applicability. This Article together with the rest of this Code constitutes the zoning regulation for the Charlestown Waterfront within 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. Application of the provisions of Article 27C to the Charlestown Waterfront within the Harborpark District is rescinded on the effective date of this Article, except as provided below. For the Charlestown Gateway Subdistrict,

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. For the entire Charlestown Waterfront within the Harborpark District 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, including Article 27C:

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 42B-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 42B-5. For the purposes of this Section 42B-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 Waterfront within 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 42B-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, 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 42B-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 the 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.
 - (e) Within any Maritime Economy Reserve Subdistrict, public access shall be required as set forth above, but only to the extent to which it does not significantly interfere with or obstruct the operation of a maritime-dependent industrial use or pose a safety hazard to workers or visitors on the site of such use.
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 Waterfront within 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 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.
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, the Applicant may fulfill the obligations of Subsections 3 and/or 4 of this Section by creating housing off site in the vicinity of the Project either within the Harborpark District or within the Charlestown neighborhood.

For the purposes of this Subsection 5 and the preceding Subsections 3 and 4, "housing" shall mean those uses otherwise allowed for the location and identified in Use Items nos. 1 through 8A of Table A of Section 8-7.

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 Gateway Subdistrict 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 Proposed 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 Gateway Subdistrict. Within the Charlestown Gateway Subdistrict, no portion of any Pier shall extend beyond the Pierhead Line.
9. Regulations Governing Piers and Other Structures Elsewhere in the Charlestown Waterfront. In the Charlestown Waterfront within the Harborpark District, except in the Charlestown Gateway Subdistrict, 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 WATERFRONT

SECTION 42B-6. Open Space Requirements. Any Proposed Project in the Charlestown Gateway Subdistrict involving new construction at grade, except a Proposed Project with a gross floor area of two thousand five hundred (2,500) square feet or less used exclusively for one or more Water Dependent Uses, shall devote to Open Space at least fifty percent (50%) of the Lot Area of such Proposed Project.

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 mean 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.

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 42B-14.4(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 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 service vehicles reasonably required to construct or maintain the structures 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 42B-7. Waterfront Yard Area Requirements. Except as otherwise expressly provided in this Article, each Lot in the Charlestown Waterfront within the Harborpark District adjacent to or including the High Tide Line shall include a Waterfront Yard Area adjacent to and landward of such High Tide Line, excluding portions of the High Tide Line occupied by Piers. A Waterfront Yard Area shall also 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 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 (Shoreline, excluding Piers)</u>	<u>Required Setback (Sides of Piers)</u>	<u>Required Setback (Ends of Piers)</u>
Charlestown Waterfront	35'	12'	35'

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 and 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 from the actual High Tide Line. 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, 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. No portion of any Waterfront Yard Area shall be located on any floating structure.

^SECTION 42B-8. **Urban Design Guidelines.** This Section 42B-8 establishes urban design guidelines for the portion of the Harborpark District governed by this Article.

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; and buildings near the water's edge shall not be massed so as to create a continuous wall along the water's edge.
4. Inland buildings shall reinforce the city 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. 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 on a site shall generally step down in height towards the water's edge.
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. New development shall be consistent with design guidelines established in the Harborpark District Plan.

(^As amended on May 9, 1996.)

^SECTION 42B-9. Environmental Protection and Safety Standards for Proposed Projects. Any Proposed Project involving new construction in the Charlestown Waterfront within 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. Trash Disposal Standards. Any such Proposed Project with a gross floor area of fifty thousand (50,000) or more square feet shall include a trash compactor in an interior location for garbage and trash disposal and shall provide for the maintenance and cleanliness of such compactor.
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 that 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 42B-10. **Off-Street Parking.** The provisions of Article 23, Off-Street Parking, shall govern any Proposed Project in the Charlestown Waterfront within the Harborpark District. The off-street parking requirements stated as applicable to a specific floor area ratio set forth in Table B of Section 13-1 shall also apply to the same floor area ratio set forth in this Article. Where a use provided for in this Article is not included in any use item number listed in Article 23, off-street parking facilities shall be provided in accordance with the requirements for the use item number listed in Article 23 which is most similar to such use.

1. Notwithstanding any contrary provision of Article 23, the following supplementary regulations shall be applicable in the Charlestown Waterfront:
 - (a) Off-street parking shall be provided for single family dwellings, two-family dwellings, and multifamily dwellings at a rate of not less than one (1) space per dwelling unit.
 - (b) Off-street parking shall be provided for a Recreational Marina at a rate of not less than one (1) off-street parking space for every eight (8) docking spaces.
 - (c) Off-street parking shall be provided for slips and docking spaces for Commercial Vessels as follows:
 - (i) For each slip or docking space for a Commercial Vessel which neither takes on nor discharges passengers at such slip or docking space, other than crew members, two (2) off-street parking spaces shall be provided.
 - (ii) For each slip or docking space for a Commercial Vessel which takes on or discharges passengers for sightseeing, exhibits, special events, dining, dancing, or other public assembly activity, off-street parking spaces shall be provided in accordance with Section 23-2.

- (d) All off-street parking areas shall be located, designed, and maintained in accordance with Sections 23-8, 23-9, and 23-10. Subject to the provisions of Article 6, the Board of Appeal may approve a decrease up to fifty percent (50%) of the number of off-street parking spaces required by this Section, provided that: (a) the Applicant reserves a site area sufficient to accommodate the unsatisfied requirement for the possible future expansion or peak seasonal usage of said off-street parking spaces; (b) any permit granted pursuant to this Subsection shall be for a period not to exceed five (5) years and shall be renewable in accordance with the provisions of Article 6; and (c) the Applicant provides for said area an environmentally suitable, permanent ground cover of pervious material. Such area shall not be used or built upon and shall be maintained as open space. However, such area may be developed for parking use in the future in accordance with the provisions of this section.
- (e) For any Proposed Project subject to Large Project Review and for which a Transportation Access Plan is required, the Boston Redevelopment Authority may determine that so-called "shared parking" arrangements, in which parking spaces may be counted for different uses whose peak parking use periods are not coincident, will adequately meet parking demand associated with such Proposed Project, in which event the number of parking spaces otherwise required shall be correspondingly reduced.
- (f) No Proposed Project shall be required to provide parking in excess of that permitted under any applicable state or federal parking freeze or similar law.
- (g) No parking shall be permitted in any Public Access Facility provided pursuant to the provisions of Section 42B-5.2.

(^As amended on May 9, 1996.)

^SECTION 42B-11. **Off-Street Loading.** Within the Charlestown Waterfront, 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 42B-12. **Charlestown Gateway Subdistrict.** This Section establishes the Charlestown Gateway Subdistrict, as depicted on Map 2C of this Code. The Charlestown Gateway Subdistrict includes the Tudor Wharf Area and the Hoosac Pier/Constitution Road Area, as depicted on said Map 2C. Within the Tudor Wharf Area, the maximum allowed FAR is three (3). The maximum allowed Building Height is seventy-five (75) feet landward of the High Tide Line and fifty-five (55) feet on Piers. Within the Hoosac Pier/Constitution Road Area the maximum allowed FAR is two (2) and the maximum allowed Building Height is fifty-five (55) feet. Review and analysis of a Proposed Project located in the Charlestown Gateway Subdistrict and subject to Large Project Review shall include review and analysis of the extent to which the building siting and massing of the Proposed Project take account of significant views of historic landmarks and topographic features as seen from the water and preserve and enhance such views to the extent reasonably practicable.

(^As amended on May 9, 1996.)

SECTION 42B-13. **Rooftop Additions.** No roof structure designed or used for human occupancy, access, or storage, and no roof structure, headhouse, or mechanical equipment normally built above the roof and not designed or used for human occupancy, shall be erected or enlarged on the roof of an existing building within the Charlestown Gateway Subdistrict unless after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 the Board of Appeal grants permission therefor. In reaching its decision, said Board shall consider whether such roof structure is architecturally consistent with the distinctive historical and architectural character of the area. The Inspectional Services Department shall transmit a copy of the appeal for the conditional use to the Boston Landmarks Commission. The Boston Landmarks Commission may, within thirty days after the date of such transmittal, file with the Board of Appeal a recommendation, provided that if no such recommendation is received within said thirty days, the Board of Appeal may render its decision without such recommendation.

^SECTION 42B-14. **Use Regulations Applicable in the Charlestown Gateway Subdistrict.** 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 Gateway Subdistrict, except in conformity with the provisions of this Section and Section 8-6.

1. Inclusion of Day Care Facilities. The provisions of this Subsection 1 apply only to Proposed Projects in the Charlestown Gateway

Subdistrict that exceed a building height of fifty-five (55) feet, an FAR of two (2), or both. Any such Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses, Hotel Uses, 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 B of this Section; provided that any Proposed Project within a Building Height of less than seventy-five (75) feet or an FAR of less than three (3) 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 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. 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 FAR.

TABLE B

Provision of Day Care Facilities

<u>Size of Proposed Project*</u> <u>(Gross Floor Area)</u>	<u>Minimum Day Care Facilities</u> <u>(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.
500,000 up to 1,000,000 sq.ft.	8,000 sq.ft.
More than 1,000,000 sq.ft.	12,000 sq.ft.

* Excluding floor area devoted to Residential, Hotel, or Cultural Uses.

2. Facilities of Public Accommodation. Within any Proposed Project in the Charlestown Gateway Subdistrict with a gross floor area of ten thousand (10,000) or more square feet, involving new construction or a change of use on the first story, the use of at least forty percent (40%) of the gross floor area of the first story of such Proposed

Project shall be for indoor Facilities of Public Accommodation otherwise allowed for such Proposed Project or conditional and permitted pursuant to Article 6.

3. Allowed Uses. Within the Charlestown Gateway Subdistrict, except as otherwise provided in this Section 42B-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 3 and Subsection 4 of this Section 42B-14. Any use specified in this Subsection 3 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 reasonably 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,

(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.

(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 distributing house, provided that the office or display or sales space of the wholesale, jobbing, or distributing house is associated with a Water-Dependent Use;
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 floor 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.

(k) Educational Uses

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

(a) Amended on October 20, 2000.

(b) 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 non resident 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 indoor payphone, provided that such use shall be forbidden unless located within a building at least ten (10) feet from an entrance

4. Conditional Uses. Within the Charlestown Gateway Subdistrict, except as otherwise provided in this Section 42B-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 4.

(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

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, fire station, police station; Flood, water level, or tidal control facility; Cable conduit, pipeline crossing, stormwater outlet, or other similar utility structure, telecommunications data distribution center and 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

5. Forbidden Uses. Any use not specified as an allowed or conditional use in this Section 42B-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 Gateway Subdistrict. 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 Charlestown Gateway 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 Charlestown Gateway Subdistrict.

(^As amended on February 22, 1991, September 30, 1993, October 6 and December 19, 1994, November 21, 1996, _____, 1997, May 30, 2000, September 18, and October 20, 2000, February 16, and April 9, 2001, March 15, 2006.)

SECTION 42B-15. Working Waterfront Subdistricts. This Section establishes five (5) working waterfront subdistricts within the Charlestown Waterfront. The working waterfront subdistricts are established in order to maintain, foster, and promote the maritime economy within the city of Boston; to provide for light manufacturing Water-Dependent Uses; to preserve sites for maritime-dependent industrial uses along the waterfront consistent with applicable state policy and the needs of the maritime industry; to create opportunities for manufacturing and business on the waterfront; to promote land development that will protect the public health and general welfare; and to maintain a safe and healthy environment.

1. Charlestown Maritime Economy Reserve Subdistrict. Within that portion of the Charlestown Waterfront depicted on Maps 2B and 2C of this Code as the "Charlestown Maritime Economy Reserve Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes, silos, storage facilities or other mechanical devices or facilities used for transfer of goods from land to waterborne vessels or for processing of such goods) and a maximum FAR of two (2) are allowed, and the regulations of this Code for MER-2-55 subdistricts are applicable.
2. Mystic River Waterfront Manufacturing Subdistrict. Within that portion of the Charlestown Waterfront depicted on Map 2B of this Code as the "Mystic River Waterfront Manufacturing Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a

maximum FAR of two (2) are allowed, and the regulations of this Code for WM-2-55 subdistricts are applicable.

3. Terminal Street Waterfront Manufacturing Subdistrict. Within that portion of the Charlestown Waterfront depicted on Maps 2B and 2C of this Code as the "Terminal Street Waterfront Manufacturing Subdistrict," a maximum Building Height of fifty-five (55) feet (except for cranes or other mechanical devices required for operation of the allowed use) and a maximum FAR of two (2) are allowed, and the regulations of this Code for WM-2-55 subdistricts are applicable, except that notwithstanding any contrary provision of Subsection 42D-3.2(d), office uses described in said Subsection shall be allowed uses above the first floor, without a percentage limit on gross floor area, within any building existing as of the effective date of this Article.
4. Charlestown General Industrial Subdistrict. Within that portion of the Charlestown Waterfront depicted on Map 2B of this Code as the "Charlestown General Industrial Subdistrict," a maximum Building Height of sixty-five (65) feet and a maximum FAR of two (2) is allowed and the regulations of this Code for I-2-65 subdistricts are applicable.
5. Little Mystic Waterfront Service Subdistrict. Within that portion of the Charlestown Waterfront depicted on Maps 2B and 2C of this Code as the "Little Mystic Waterfront Service Subdistrict," a maximum Building Height of forty-five (45) feet and a maximum FAR of one (1) are allowed, and the regulations of this Code for WS-1-45 subdistricts are applicable. Notwithstanding any contrary provision of Article 42C, Waterfront Service Districts, within the Little Mystic Waterfront Service Subdistrict parking is allowed provided that it is located a minimum of twenty (20) feet from the High Tide Line, with a minimum of twelve (12) feet adjacent to and landward of the High Tide Line devoted to Public Access Facilities and a minimum of eight (8) feet devoted to vegetative buffering.

SECTION 42B-16. Waterfront Residential Subdistrict. This Section establishes one waterfront residential subdistrict. The waterfront residential subdistrict is established in order to provide for residential uses on the waterfront.

1. Little Mystic Waterfront Residential Subdistrict. Within that portion of the Charlestown Waterfront depicted on Maps 2B and 2C of this Code as the "Little Mystic Waterfront Residential Subdistrict," a maximum Building Height of forty-five (45) feet and a maximum FAR of one (1) are allowed, and the regulations of this Code for H-1-45 subdistricts are applicable.

SECTION 42B-17. **Open Space Subdistricts.** This section establishes five open space subdistricts within the Charlestown Waterfront, which subdistricts are identified in Table C of this Article and shown on Maps 2B and 2C of this Code. Any Lot within any such open space subdistrict is subject to Article 33, Open Space Subdistricts, and other provisions of this Code applicable to such subdistrict.

TABLE C

Open Space Subdistricts in the Charlestown Waterfront

<u>Name</u>	<u>Designation</u>
J.J. Ryan Playground	Recreation (OS-RC)*
Little Mystic Waterfront Access	Waterfront Access (OS-WA) **
William J. Barry Playground	Recreation (OS-RC)*
Paul Revere Landing	Parkland (OS-P)***

* Recreation Open Space Subdistricts consist of land appropriate for and limited to active or passive recreational uses. See Section 33-10.

** Waterfront Access Open Space Subdistricts consist of land which abuts or lies under waters of the Commonwealth within the jurisdiction of the City. See Section 33-13.

*** Parkland Open Space Subdistricts consist of land appropriate for and limited to passive recreational uses. See Section 33-9.

MISCELLANEOUS PROVISIONS

SECTION 42B-18. **Regulations.** The Boston Redevelopment Authority may promulgate regulations to administer this Article.

SECTION 42B-19. **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 42B-20. **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 42B-21. **Definitions.** Words and phrases defined in Appendix A to Article 42A, when capitalized in this Article, have the meanings set forth in said Appendix A.