

**Baltimore, Maryland**

(9) Science centers.

(10) Trade centers.

*(City Code, 1976/83, art. 30, §6.5-1b.) (Ord. 99-547.)*

**§ 6-607. Accessory uses.**

In a B-5 District, accessory uses and structures are the same as those in a B-1 District, except that the gross floor area limitations of a B-1 District do not apply in a B-5 District.

*(City Code, 1976/83, art. 30, §6.5-1b(intro cl.)) (Ord. 99-547.)*

**§ 6-608. Conditional uses — Board approval required.**

In a B-5 District, conditional uses that require Board approval are as follows:

(1) As in a B-3 District (unless it is a permitted use under § 6-606).

(2) Dance halls.

(3) Marine terminals: passenger.

(4) Railroad freight terminals, piggy-back terminals, switching and classification yards, repair shops, and roundhouses.

*(City Code, 1976/83, art. 30, §6.5-1c.) (Ord. 99-547.)*

**§ 6-609. Conditional uses — Ordinance required.**

In a B-5 District, conditional uses that require approval by ordinance are as follows:

(1) As in a B-4 District (unless it is a permitted use under § 6-606).

(2) Adult-entertainment businesses — located at least 300 feet from any other adult-entertainment business.

(3) Book or video stores: adult — located at least 300 feet from any other book or video store: adult, any adult-entertainment business, and any peep show establishment.

(3a) General advertising signs erected or placed on publicly-owned stadiums and arenas.

(4) Peep show establishments — located at least 300 feet from any other peep show establishment, any adult-entertainment business, and any book or video store: adult.

(5) Racetracks, established on or after July 1, 1973.

(6) Restaurants: drive-in.

(7) Stadiums, established after July 1, 1973.

(8) Theaters: drive-in, established on after July 1, 1973.

*(City Code, 1976/83, art. 30, §6.5-1d.) (Ord. 99-547; Ord. 03-514.)*

**TITLE 14  
CONDITIONAL USES**

**SUBTITLE 1  
OVERVIEW; GENERAL REQUIREMENTS**

**§ 14-101. Purpose.**

**(a) Article based on district uniformity.**

This article is based on the division of the City into districts, in which the uses of land and structures and the bulk and location of structures in relation to the land are substantially uniform.

**(b) Special consideration for certain uses.**

Certain uses exist, however, that, because of their unique characteristics, cannot properly be classified in any particular district without consideration, in each case, of the impact of those uses on neighboring land and of the public need for the particular use at the particular location.

These uses, referred to as "conditional uses", may only be approved as specified in this title.

*(City Code, 1976/83, art. 30, §11.0-3c(1<sup>st</sup> par.)) (Ord. 99-547.)*

**§ 14-102. By whom approved.**

Subject to the provisions of this title:

(1) the Board may approve only those conditional uses that are specified in this article as requiring Board approval; and

(2) only the Mayor and City Council may approve those conditional uses that are specified in this article as requiring approval by ordinance.

*(City Code, 1976/83, art. 30, §11.0-3c(2<sup>nd</sup> par.), §11.0-6d(1<sup>st</sup> sen.)) (Ord. 99-547.)*

**§ 14-103. Imposition of conditions.**

**(a) In general.**

(1) Before the Board or City Council, as the case may be, approves any conditional use, it may impose on the establishment, location, construction, maintenance, and operation of the conditional use any conditions, restrictions, or limitations that the Board or City Council considers necessary or desirable to:

(i) reduce or minimize any effect of the use on other properties in the neighborhood;

(ii) secure compliance with the standards and requirements of this title; and

(iii) better carry out the intent and purposes of this article.

- (2) The Board must impose these conditions, restrictions, and limitations whenever it approves a conditional use relating to automotive repair or recycling collection stations.

(b) *Guarantees.*

When approving a conditional use, the Board or City Council, as the case may be, may require whatever evidence and guarantees it considers necessary to assure that the conditions, restrictions, and limitations imposed by the Board or City Council, as the case may be, will be met and complied with.

(c) *Record of conditions.*

- (1) All conditions, restrictions, or limitations imposed by the Board must be set forth in the Board's written decision approving the conditional use.
- (2) All conditions, restrictions, or limitations imposed by the City Council must be set forth in the ordinance approving the conditional use.

(d) *Compliance required.*

Failure to comply with any condition, restriction, or limitation imposed the Board or City Council, as the case may be, under this title:

- (1) constitutes a violation of this article; and

- (2) in addition to any other civil or criminal remedy or enforcement procedure, is grounds for suspension, or revocation of the conditional use, as provided in Subtitle 5 {"Suspensions, Revocations, etc."} of this title.

(City Code, 1976/83, art. 30, §11.0-3c3, §11.0-6d(2<sup>nd</sup> par.)) (Ord. 99-547; Ord. 09-241; Ord. 09-245.)

**§ 14-104. Failure to exercise; abandonment.**

(a) *Lapse on failure to exercise.*

Unless extended under § 2-604 {"Extensions by Board"} of this article, if a conditional use approval is not exercised within the time specified in § 2-602 {"Exercise within 12 months required"} of this article, the approval automatically lapses and is void.

(b) *Lapse on abandonment.*

If any conditional use is discontinued for a continuous period of at least 2 years, the conditional use approval automatically lapses and is void. A new application and authorization is required before the use may be re-established.

(Ord. 09-245.)

**SUBTITLE 2**  
**PROCEDURES AND GENERAL CONSIDERATIONS**

**PART I. FOR BOARD APPROVAL**

**§ 14-201. Applications.**

**(a) *Who may apply.***

An application for a conditional use must be filed by the property owner or with the written consent of the property owner.

**(b) *Filing with Administrator.***

The application must be filed with the Zoning Administrator in the form that the Board requires.

**(c) *Contents.***

The application must:

- (1) be accompanied by the plans and information that the Board requires by general rule; and
- (2) include a written statement by the applicant, with adequate supporting evidence, showing how the proposed conditional use will conform to the standards set forth in this title.

**(d) *Traffic-impact study.***

Within 15 business days of receiving a completed application, the Zoning Administrator must refer the application and all accompanying documents to the Director of Transportation for review and, if required, a traffic-impact study, as provided in § 2-305 {"Traffic-impact study"} of this article, if:

- (1) the proposed conditional use involves 15,000 sq. ft. or more of gross floor area; and
- (2) a traffic-impact study for the proposed conditional use has not already been undertaken in accordance with this article or the Baltimore City Building, Fire, and Related Codes.

**(e) *Transmittal to Board.***

- (1) The Zoning Administrator must forward the application and all relevant information to the Board.
- (2) The Department of Transportation must forward the results of its traffic-impact study to the Board.

(f) *List of pending applications.*

(1) The Board must maintain a list of all pending applications for a conditional use.

(2) The list must be arranged by Council District and include, for each application:

(i) the property's address and zoning district;

(ii) the applicant's name and contact information;

(iii) the proposed use of the property;

(iv) the date the application was filed; and

(v) the date of the hearing before the board.

(3) At least monthly, the Board must submit a copy of the current list to the President and Members of the City Council.

(City Code, 1976/83, art. 30, §11.0-3c1, §11.0-3c2(1<sup>st</sup> - 3<sup>rd</sup> sens.)) (Ord. 99-547; Ord. 06-345; Ord. 09-241.)

**§ 14-202. Referral to Planning.**

When forwarding the application to the Board, the Zoning Administrator must refer copies to the Department of Planning for its report and recommendations.

(City Code, 1976/83, art. 30, §11.0-3c2(3<sup>rd</sup> sen.)) (Ord. 99-547.)

**§ 14-203. Planning report and recommendation.**

(a) *To be submitted within 15 days.*

Within 15 working days after the Department of Planning has received the application, it must forward its written report and recommendations to the Board.

(b) *Failure to submit within 15 days.*

If the Department of Planning fails to submit its report and recommendations within the period specified in subsection (a) of this section, the Board may proceed without the report and recommendations.

(City Code, 1976/83, art. 30, §11.0-3c2(4<sup>th</sup> sen.)) (Ord. 99-547.)

**§ 14-204. Required findings.**

The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that:

(1) the establishment, location, construction, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, security, general welfare, or morals;

(2) the use is not in any way precluded by any other law, including an applicable Urban Renewal Plan;

(3) the authorization is not otherwise in any way contrary to the public interest; and

(4) the authorization is in harmony with the purpose and intent of this article.

(City Code, 1976/83, art. 30, §11.0-3c(2<sup>nd</sup> par.), §11.0-5a(1<sup>st</sup> cl.)) (Ord. 99-547; Ord. 01-165.)

**§ 14-205. Required considerations.**

**(a) In general.**

As a further guide to its decision on the facts of each case, the Board must consider the following, where appropriate:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for fire and police protection;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks;
- (9) the provisions of the City Master Plan;
- (10) the provisions of any applicable Urban Renewal Plan;
- (11) all applicable standards and requirements of this article;
- (12) the intent and purpose stated in § 1-401 {"Purposes of article"} of this article; and
- (13) any other matters considered to be in the interest of the general welfare.

(b) *Additional considerations and requirements.*

Additional considerations and requirements for certain uses are specified in Subtitle 3 {"Additional Considerations for Certain Uses"} of this title.  
(City Code, 1976/83, art. 30, §11.0-5a1 to 12.) (Ord. 99-547.)

§§ 14-206 to 14-207. *{Reserved}*

*PART II. FOR ORDINANCE*

**§ 14-208. In general.**

Bills proposing conditional uses are governed by the procedures in Title 16 {"Legislative Authorizations"} of this article.  
(City Code, 1976/83, art. 30, §11.0-6d(1<sup>st</sup> par.)(2<sup>nd</sup>, 3<sup>rd</sup> sens.).) (Ord. 99-547.)



**Bar Harbor, Maine**

**ARTICLE VIII Cruise Ship Committee (§ 31-41 — § 31-49)**

[Adopted 1-5-2010 by Ord. No. 2010-01]

**§ 31-41 Creation, mission and goals.**

[Amended 3-2-2010 by Ord. No. 2010-02]

There is hereby created a Cruise Ship Committee, with a mission to advise the Town Council on all matters related to cruise ships visiting Bar Harbor. To further this mission, the Committee shall:

**A.**

Conduct a yearly review of the cruise season to identify operational and environmental issues.

**B.**

Conduct a yearly review of passenger service fees, port development fees, and the use and allocation of these funds.

**C.**

Maintain and further industry relations and communications.

**D.**

Provide a yearly report to the Town Council and cruise industry on goals in Subsections A through C above.

**E.**

At the request of the Town Council or on its own initiative, make recommendations to the Town Council regarding cruise ship visitation.

**§ 31-42 Membership composition.**

The Committee shall be composed of nine members, including one member of the Town Council, the Harbor Master, the Planning Director, the Police Chief, one representative from the fishing industry, two representatives from downtown businesses and two residents at large.

**§ 31-43 Resource group composition.**

[Amended 3-2-2010 by Ord. No. 2010-02]

The Committee shall contain a resource group composed of six members, including one representative from the Bar Harbor Chamber of Commerce, one representative from CruiseMaine, one representative from a bus company serving the cruise ship industry, one representative from the taxi tours industry serving cruise ship passengers, one representative from an entity receiving cruise ship tenders and one representative of the scientific community. Resource group members will have all the rights and privileges of general membership with the exception of voting rights.

**§ 31-44 Appointment, resignation and terms of office.**

**A.**

Terms.

**(1)**

The terms of the Town officials (Councilor, Harbor Master, Planning Director and Police Chief) shall continue as long as they hold their respective office.

**(2)**

All non-Town official members shall serve terms of three years, except that with respect to their initial appointments, three members shall be appointed to one-year terms, three members shall be appointed to two-year terms and three members shall be appointed to three-year terms. The initial term of the representative from an entity receiving cruise ship tenders shall be two years and that of the representative from the scientific community shall be three years.

[Amended 3-2-2010 by Ord. No. 2010-02]

**(3)**

The terms of all members, other than Town officials, shall expire on June 30.

B.

Organizational representatives. Nominations for resource group membership representing the Bar Harbor Chamber of Commerce and CruiseMaine shall be solicited from those respective organizations.

(1)

Organizations shall forward the names of their nominees to the Town Clerk, who shall refer them to the Town Council for its review and consideration.

(2)

The Town Council may appoint a member from either the nominations received or such other individual as the Council feels would adequately represent the interest of that organization.

C.

Residency. With the exception of the Harbor Master, Planning Director and Police Chief, voting members shall be residents of the Town. Resource group members need not be residents.

D.

Resignations. Members wishing to resign from the Committee shall submit their resignation to the Town Clerk, who shall forward the resignation to the Town Council for acceptance. As a courtesy, the resigning member should also inform staff and the Committee Chair.

E.

Attendance. A person shall forfeit their membership on the Committee if they fail to attend 75% of all meetings in any twelve-month period. The Committee may vote to recommend to the Town Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Town Council rejects the recommendation. The attendance requirement shall not apply to resource group members.

F.

Vacancies.

(1)

When there is a vacancy among the non-Town official members of the Committee, the Town Council shall appoint a person to serve for the unexpired term.

(2)

A vacancy shall occur upon the resignation or death of any member or when any member fails to meet the attendance requirement above.

(3)

When a vacancy occurs, the Chair should immediately advise the Town Clerk in writing.

**§ 31-45 Organization.**

A.

Election of officers. At its first scheduled meeting, the Committee shall organize itself by electing a Chair, Vice Chair and Secretary. Thereafter, elections shall be held each July for all positions.

B.

Duties of the Chair.

(1)

When present, the Chair shall preside at all meetings of the Committee.

(2)

The role of the Chair is to facilitate discussion and seek consensus of the Committee in order to fulfill the Committee mission.

(3)

The Chair shall serve as the primary point of contact for staff for the coordination of follow-up, Committee and staff assignments and the assembly of agendas.

(4)

The Chair, or his/her designee, shall present progress reports to the Town Council as requested.

C.

Duties of the Vice Chair.

(1)

In the absence of the Chair, the Vice Chair shall perform all duties of the Chair.

D.

Duties of the Secretary.

(1)

The Secretary shall keep a faithful record of all meetings, including attendance and any action taken, and provide a signed, true copy of the minutes to the Planning Department, which shall forward copies to the Town Council.

(2)

In the absence of the Chair and the Vice Chair, the Secretary shall serve in the capacity of Chair and may appoint a Secretary Pro Tem.

**§ 31-46 Organization representatives.**

It shall be the duty of each member representing an organization to serve as its liaison, keep them informed of Committee progress and involve them in decisionmaking.

**§ 31-47 Transparency; notice; agendas.**

A.

Right to know. Discussion of Committee business by five or more members outside of a properly posted meeting is illegal under the Maine Freedom of Access Act

Editor's Note: See 1 M.R.S.A. § 401 et seq.  
and is forbidden.

B.

Public notice.

(1)

All meetings of the Committee shall be open to the public and notice thereof shall be given as provided below.

(2)

Notice of the meetings of the Committee shall be so given that all members shall have reasonable opportunity to make plans to attend.

C.

Agendas.

(1)

Regular meetings shall be conducted utilizing the following order of business:

(a)

Call to order.

(b)

Approval of minutes.

(c)

Adoption of agenda.

(d)

Regular business.

(e)

Matters for next meeting.

(f)

Date/time/location for next meeting.

(g)

Adjournment.

(2)

The Chair, in consultation with the Planning Director, shall draft the agenda.

(3)

Copies of the agenda shall be e-mailed to the Committee, Town Clerk, Town Council and the local press at least five business days prior to each meeting.

(4)

The agenda shall be posted in the Municipal Offices at least five days prior to a meeting.

(5)

Items for the agenda shall be submitted to the Planning Director by 12:00 noon six days prior to the meeting.

(6)

Once the agenda is posted, no items may be added to the agenda, except that by a two-thirds vote of the Committee members present and voting, the Committee may add items where:

(a)

Significant inconvenience may result if the matter is postponed; or

(b)

The routine nature of the request is expected to be of little public interest.

**§ 31-48 Procedure.**

A.

Robert's Rules. Officers and members shall conduct all meetings as set forth in the latest edition of Robert's Rules of Order, unless otherwise provided by ordinance or in the committee bylaws.

B.

Quorum.

(1)

A quorum of the Committee shall consist of five members.

(2)

Once a quorum is established, passage of a motion shall require the affirmative vote of a majority of those members present and voting.

C.

Meeting schedule. Meetings shall be conducted quarterly at a minimum, with the schedule of meetings approved by the Committee. The Planning Director shall schedule the first meeting of the Committee at a time convenient for a majority of the members.

D.

Staff support. The Planning Department shall function as the primary professional and administrative support to the Committee.

**§ 31-49 Bylaws.**

A.

Bylaws may be adopted and amended only by the Town Council.

B.

The Committee may suggest bylaws to the Town Council for its consideration.

**§ 153-22 Fees.**

**A.**

No person shall tie up any watercraft to any municipal float, mooring or pier or utilize the boat launching ramp without registering with the Harbor Master and paying such fee as may be required in accordance with such schedule as may be in effect at that time, said schedule of fees to be fixed by the Town Council from time to time.

**B.**

Port fees. No person shall berth or anchor any cruise ship within the boundaries established by § 153-1 of this chapter or anchor any cruise ship outside such boundaries and transport its passengers by watercraft for disembarkation in the Town of Bar Harbor without registering with the Harbor Master and paying such fee as may be required in accordance with such schedule as may be in effect at that time; said schedule of fees to be fixed by the Town Council from time to time by order. For the purposes of this subsection, "cruise ship" means a watercraft carrying passengers for hire with a capacity of 101 passengers or greater and capable of providing overnight accommodations for passengers.

[Added 3-20-2001; amended 1-20-2004 by Ord. No. 2003-5; 3-16-2004 by Ord. No. 2004-1]

**Boston, Massachusetts**



## ARTICLE 8

### REGULATION OF USES

**SECTION 8-1. Uses Regulated by Districts.** In each district the use of land and structures is hereby regulated as provided in the following sections.

**SECTION 8-2. Allowed Uses.** No land or structure in any district shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except under the provisions of Section 8-3 and Article 6, unless such use is specified in the use item column of Table A of Section 8-7, and the letter "A" is set against such use in the column headed by the designation of such district. Any use so marked shall be allowed as a matter of right, subject only to the requirements set forth in the use item column.

↔**SECTION 8-3. Conditional Uses.** No land or structure in any district 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 the use item column of Table A of Section 8-7, and the letter "C" is set against such use in the column headed by the designation of such district. The granting of a permit for any use so marked may be authorized conditionally by the Board of Appeal acting under the provisions of Article 6, subject to the requirements set forth in the use item column. The continued right to a conditional use is dependent upon maintaining the character and extent of operations and structures.

(↔As amended on April 11, 1979)

**SECTION 8-4. Forbidden Uses.** No land or structure in any district shall be erected, used, or arranged or designed to be used, in whole or in part, for any use specified in the use item column of Table A of Section 8-7 if the letter "F" is set against such use in the column headed by the designation of such district, except for such nonconforming uses as may be allowed to be continued under the provisions of Article 9.

**SECTION 8-5. Uses Subject to Other Regulations.** Allowed and conditional uses shall be subject, in addition to use regulations of height, area, yard, setback, lot size and area, lot width, and building bulk, to such provisions for off-street parking and loading, and to such other provisions as are specified in other sections of this code.

↔**SECTION 8-6. Pre-Existing Conditional Uses.** Any use existing on the effective date of this code which this code classifies as a conditional use in the district in which the land occupied by the use is located, and also any use existing on the effective date of any amendment of this code which such amendment so classifies, shall be deemed to have been authorized as a conditional use subject to maintaining the character and extent of operations and structures existing on the effective date of this code or of such amendment, as the case may be. Any application for a change in use or an increase in the area

devoted to such use shall be subject to the provisions of Article 6, but no conditional use permit shall be required for the replacement of gross floor area lost by fire or other casualty.

(↔As amended on January 8, 1982)

↔SECTION 8-7. **Use Regulations.** No land or structure shall be erected, used, or arranged or designed to be used, in whole or in part, except in conformity with the following table or as otherwise provided in regulations pertaining to a special purpose overlay district, neighborhood district, downtown district, waterfront service district, waterfront manufacturing district, light manufacturing district, or the Harborpark District:

TABLE A: USE REGULATIONS

Key:				
Residential	Business	Industrial	Open Space	Status
S = Single	L = Local	M = Restricted	OS* = Open	A = Allowed
R = General	B = General	I = General	Space	C = Conditional
H = Apartment		MER = Maritime		F = Forbidden
		Economy		
		Reserve		
		W = Waterfront		

See Section 3-1 for further explanation of the above districts.

For a district or subdistrict with the letter "N" added to its designation, see the article of this code pertaining to the neighborhood district within which such district or subdistrict lies.

For a downtown district, as established under Section 3-1C, see the article of this code pertaining to such downtown district.

For the Harborpark District, see Articles 42A, 42B, 42E, and 42F and other provisions of this code expressly referenced therein.

ID = Institutional District. See Section 3-1A for specific regulations.

\*OS districts are not included in the table below. All uses except Use Items No. 27 and 27A are forbidden in OS districts. Use Item No. 27 is allowed and Use Item No. 27A is

## ARTICLE 8 – REGULATION OF USES

conditional in OS districts, subject to the provisions of Article 33 of this code and of St. 1956, c. 665, s. 2, as amended.

(↔As amended on April 11, 1979, on January 4, July 15, and August 30, 1988, on February 1 and March 20, 1989, on April 27 and June 14, 1990, and on January 28, 1991)

NO.	USE ITEM	District								
		S	R	H	L	B	M	I	W	MER
SINGLE FAMILY DWELLINGS										
1	Detached dwelling, occupied by not more than one family .....	A	A	A	A	A	F	F	F	F
↔1A	Mobile home on a permanent foundation and occupied by not more than one family .....	C*	C*	C*	C*	C*	F	F	F	F
*Except F in a flood hazard district.										
(↔As inserted on June 29, 1984)										
2	Semi-detached dwelling occupied by not more than one family on each side of a party wall.....	F	A	A	A	A	F	F	F	F
3	Attached or row house occupied by not more than one family in each structure between fire walls .....	F	A	A	A	A	F	F	F	F
TWO-FAMILY DWELLINGS										
4	Detached dwelling occupied by not more than two families .....	F	A	A	A	A	F	F	F	F
5	Semi-detached dwelling occupied by not more than two families on each side of a party wall.....	F	A	A	A	A	F	F	F	F
6	Attached or row house occupied by not more than two families in each structure between fire walls .....	F	A	A	A	A	F	F	F	F

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NO.	USE ITEM	District								
		S	R	H	L	B	M	I	W	MER
TRANSPORTATION USES										
62	Bus terminal; bus station .....	F	F	F	A	A	A	A	C	F
63	Railroad passenger station .....	F	F	F	A	A	A	A	C	F
64	Motor freight terminal; yard for storing or servicing trucks or buses; rail freight terminal; storage yard accessory to rail-road operation .....	F	F	F	F	F	C*	A*	C*	F

\*Provided that the terminal or yard is at least one hundred and fifty feet from every S, R and H district; and provided further, that the roadway of every street upon which a truck entrance or exit thereof abuts is at least forty feet wide and that every loading platform facing such an entrance or exit is at least eighty feet from the centerline of the street and at least fifty feet from the nearest sideline of the street.

65	Water freight or passenger terminal facility, including docks, piers, wharves, storage sheds for waterborne commodities, and rail and truck facilities accessory to a waterborne freight terminal .....	F	F	F	F	F	C*	A*	A*	+
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\*Provided that the facility is at least one hundred and fifty feet from every S, R and H district; and provided further, that the roadway of every street upon which a truck entrance or exit thereof abuts is at least forty feet wide and that every loading

## ARTICLE 8 – REGULATION OF USES

## ^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 19<sup>th</sup> and early 20<sup>th</sup> 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**

<u>Required Setback (Shoreline, excluding Piers)</u>	<u>Required Setback (Sides of Piers)</u>	<u>Required Setback (Ends of Piers)</u>
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.

**Cape Canaveral, Florida**



**Cape Canaveral, Florida, Code of Ordinances >> Subpart A - GENERAL ORDINANCES >>  
Chapter 78 - UTILITIES >> ARTICLE II. - SANITARY SEWER SYSTEM >> DIVISION 3. - IMPACT  
FEES >>**

**DIVISION 3. - IMPACT FEES\***

Cross reference—Finance, § 2-206 et seq.; impact fees, § 2-231 et seq.; buildings and building regulations, ch. 82.

Sec. 78-121. - Established.

Sec. 78-122. - Payment.

Sec. 78-123. - Excessive quantity of wastewater.

Sec. 78-124. - Reserved.

Sec. 78-125. - Full payment required prior to issuance of certificate or license.

Sec. 78-126. - Reserved.

Sec. 78-127. - Use of funds.

Sec. 78-128. - Change of use.

Sec. 78-129. - Cost of living increase.

Sec. 78-130. - Port Canaveral customers.

Sec. 78-131. - Offsite sewage pumping.

Secs. 78-132—78-150. - Reserved.

**Sec. 78-121. - Established.**

There shall be paid an assessment to defray the cost and expense of collection, transmission, treatment and disposal of sewage and for necessary equipment, repairs, replacement and additions and for any new sewer plant expansion for the city. Such assessment shall be for the sewer system on all new construction and all structures initially connecting to the city sewer system. The assessment schedule shall be as set forth in appendix B to this Code.

(Code 1981, § 535.01; Ord. No. 5-92, § 1, 5-5-92)

**Sec. 78-122. - Payment.**

The assessments as set forth in this division shall be paid by certified funds at the time of issuance of a certificate of occupancy for such new construction, except as provided in section 78-123. Except as provided in section 78-34, a building permit shall not be issued unless a sewer permit has been first obtained. The amount of the assessment shall be determined in accordance with the rates established in section 78-121 in effect at the time a sewer permit is issued by the city. A sewer permit shall not be issued until a city sewer main line is placed within 150 feet of the applicant's property. If the assessment is not paid by the 30th day following that for which a billing has been rendered, then an amount equal to five percent of such assessment due shall be added thereto as a late charge. Upon failure of any user to pay for the assessment within 60 days from being billed, the city shall shut off or cause to be shut off the connection of such user and shall not furnish him or permit him to receive from the system further service until all obligations owed by him to the city on account of the services shall have been paid in full. If such sewer service is shut off pursuant to this section, then before such service shall be restored, the user thereof shall pay a reinstatement fee in the amount as set forth in Appendix B to this Code in addition to any other assessments and charges due. In addition [to], and as an alternative means of, collecting such assessment, last charges and penalties, the city shall have a lien on such lot or parcel of land for which the sewer connection has been made, for which such lien shall be of equal dignity with the lien of state and county and municipal taxes. Such lien may be foreclosed by the city in the same manner provided by the laws of the state for the foreclosure of mortgages upon real estate.

(Code 1981, § 535.02; Ord. No. 31-93, § 1, 9-21-93; Ord. No. 23-96, § 3, 12-3-96; Ord. No. 08-2002, § 1, 4-16-02)

**Sec. 78-123. - Excessive quantity of wastewater.**

For those establishments which the city determines generate more than 10,000 gallons per day of wastewater into the system, the city shall calculate the impact fee based on the quantity of discharge actually introduced into the sewer collection system. At the city's option, a flow meter to monitor the quantity of discharge shall be installed at the user's expense. The following method shall be used to determine the impact fee:

- (1) An impact fee deposit of \$12,700.00 shall be paid by the user;
- (2) The total volume of effluent in gallons shall be recorded for the initial period of six consecutive months following installation of the aforesaid sewer line;
- (3) The six months' total volume shall be divided by the number of days in the six-month period to compute a daily average discharge through the sewer line;
- (4) The daily average discharge in gallons shall be divided by 400 to establish the number of units to be assessed at the costs of \$2,032.00 per unit (example: if the average daily discharge is 800 gallons, the sewer impact assessment shall be \$4,064.00);
- (5) If the sewer impact assessment for the first six months as calculated above exceeds the \$12,700.00 initial deposit made, the user shall pay the difference within 15 days after written notification to user of the required adjustment. However, if the assessment as calculated above does not exceed the initial deposit, the city agrees to reimburse the difference to the user no later than 30 days after the first six-month monitoring period;
- (6) For each succeeding six-month period the volume of effluent outflow shall be measured. To the extent that average daily effluent outflow in any subsequent six-month period exceeds that of the initial six-month period, an additional impact fee for the excess shall be levied as calculated and as provided for in subsections (3) and (4) of this section. Any additional fee so calculated shall be paid to the city within 15 days of written notification to user;
- (7) For the initial six-month period only, if the average daily effluent outflow is less than initially projected, the city shall refund the unused portion of the impact fee as set forth above. For subsequent six-month monitoring periods, there shall be no refunds of impact fees, regardless of effluent outflow volumes.

(Code 1981, § 535.02(A); Ord. No. 31-93, § 1, 9-21-93)

#### **Sec. 78-124. - Reserved.**

Editor's note—

Ordinance No. 23-96, § 1, adopted December 3, 1996, deleted § 78-124 in its entirety. Formerly, such section pertained to collection over certain time; promissory note and derived from § 535.02(B) of the 1981 Code; Ord. No. 31-93, § 1, 9-21-93.

#### **Sec. 78-125. - Full payment required prior to issuance of certificate or license.**

No certificate of occupancy or city license shall be issued until the impact fee as set forth in this division has been paid in full.

(Code 1981, § 535.03; Ord. No. 21-92, § 1, 11-5-92; Ord. No. 23-96, § 4, 12-3-96)

#### **Sec. 78-126. - Reserved.**

Editor's note—

Ordinance No. 23-96, § 2, adopted December 3, 1996, deleted § 78-126 in its entirety. Formerly, such section pertained to issuance of certificate of occupancy upon full payment and derived from § 535.02(B) of the 1981 Code.

#### **Sec. 78-127. - Use of funds.**

All funds generated by sewer connection impact fees shall be used for projects related to sewer plant expansion and sewer plant collection and transmission line expansion and shall not be used as operating revenue for the sewer plant. These funds shall be kept in accounts which are segregated from the general

sewer plant fund.

(Code 1981, § 535.04)

#### **Sec. 78-128. - Change of use.**

Any structure or use of structure which is modified such that the sewer impact assessment is greater than the amount for which the initial impact fee was computed, the owner shall be assessed additional impact fees in accordance with section 78-121. For any change of use which increases the original impact fee for which the building was constructed, the owner will be assessed additional impact fees in accordance with section 78-121. For any change of similar use which increases the number of units (per seat, per worker, per square feet of floor space, etc.) within the establishment, the owner will be assessed impact fees only on the additional number of units proposed to be constructed, in accordance with section 78-121.

(Code 1981, § 535.05; Ord. No. 23-96, § 5, 12-3-96)

#### **Sec. 78-129. - Cost of living increase.**

Any user of the services of the sewer system shall pay a sewer impact fee as established in section 78-121. The schedule of fees is subject to revision annually as may be necessary to keep the cost commensurate with changes in the cost of living as reflected by the Consumer Price Index or because of any regulatory or environmental factors which increase the costs of sewage collection, transmission and treatment. All revisions shall be done by resolution and shall become effective as of May 1 of each year. The basis of such rate increase shall be the Consumer Price Index U.S. city average, "all items" (82-84-100), published by the Bureau of Labor Statistics of the United States Department of Labor. The index number for the month of February 1991 shall be the base index number and the corresponding index number for the month of February in each succeeding year shall be the current index number. On May 1 of each year, the sewer impact fee shall be determined by dividing the current index number (CIN) by the base index number (BIN), in accordance with the following formula, dropping all digits after 1/100:

New sewer impact fee charge = (CIN) / (BIN);  $\times$  the current sewer impact fee.

(Code 1981, § 535.06)

#### **Sec. 78-130. - Port Canaveral customers.**

Sewer impact fees for Port Canaveral customers are due and payable upon receipt of a state department of environmental protection permit application to construct wastewater transmission/collection mains. No permit application will be approved until all fees are paid in full. Any change of use or change of similar use of a structure shall be subject to the criteria outlined in section 78-128.

(Code 1981, § 535.07)

#### **Sec. 78-131. - Offsite sewage pumping.**

For purposes of this section the term "offsite sewerage" shall mean any off-site sewerage system not directly connected to the city's sanitary sewerage system including, but not limited to, cruise ships, portable sewer containers, and septic disposal trucks.

Offsite sewage pumping will be permitted according to the following:

- (1) The person requesting the pumping shall contact the public works department and formally request in writing permission to pump offsite sewage into the city's sewer system.
- (2) The city shall, by and through one of its employees, review the application and if preliminarily approved shall physically accompany the person or his representative making the application to the site where the sewage is to be introduced into the city sewer system.
- (3) The city, at the expense of the applicant, will test the sewage material that is to be pumped into the city sewer system for compliance with all applicable state department of environmental protection and Environmental Protection Agency requirements and shall reject the application if sewage does not meet the state, federal and local permit requirements for sewage to be

introduced in city sewer system.

- (4) A representative of the city will monitor until its completion the pumping of sewage into the sewer system by the requesting person.
- (5) The fee for this pumpage shall be as set forth in appendix B to this Code. This fee shall be in addition to any and all tests of the sewage material by the city employees. The person shall be invoiced by the city for this service.
- (6) There shall be no hazardous waste as identified by state, federal and city guidelines at any time introduced into the city sewer system.

*(Ord. No. 11-91, § 1(535.08), 11-19-91; Ord. No. 11-2004, § 2, 6-15-04)*

**Secs. 78-132—78-150. - Reserved.**

**Jacksonville, Florida**

**Jacksonville, Florida, Code of Ordinances >> TITLE XVII - LAND USE >> Chapter 655 -  
CONCURRENCY MANAGEMENT SYSTEM >> PART 5. - INDUSTRIAL USES >>**

**PART 5. - INDUSTRIAL USES**

**Sec. 655.501. - Transportation concurrency testing for industrial uses.**

**Sec. 655.501. - Transportation concurrency testing for industrial uses.**

- (a) *Testing.* Transportation concurrency testing for proposed developments under the ITE Codes and within the future land use categories identified in this section shall only be performed on the first functionally classified roadway adjacent to each of the proposed development's access points. The length of any tested link shall not exceed two miles.
- (b) *ITE Codes.* Testing pursuant to subsection (a) shall only apply to development under the following ITE Codes, and in compliance with subsection (c):
- (i) Waterport/Marine Terminal (010)
  - (ii) Commercial Airport (021)
  - (iii) General Aviation Airport (022)
  - (iv) Truck Terminals (030)
  - (v) Park-and-Ride Lot with Bus Service (090)
  - (vi) Light Rail Transit Station with Parking (093)
  - (vii) General Light Industrial (110)
  - (viii) General Heavy Industrial (120)
  - (ix) Industrial Park (130)
  - (x) Manufacturing (140)
  - (xi) Warehousing (150)
  - (xii) High-Cube Warehouse (152).
- (c) *Land use categories.* Testing pursuant to subsection (a) shall only apply to development within the following land use categories, and in compliance with subsection (b):
- (i) Water Dependant-Water Related (WD-WR)
  - (ii) Light Industrial (LI)
  - (iii) Heavy Industrial (HI)
  - (iv) Business Park (BP)
  - (v) Multiuse (MU)
  - (vi) Public Buildings and Facilities (PBF).
- (d) *Development standards.* A development meeting the requirements of subsections (b) and (c) shall be tested pursuant to subsection (a). If a portion of the development does not meet the requirements of subsections (b) and (c), then that portion shall be tested pursuant to the current provisions of Parts 1 through 4, Chapter 655

(Ord. 2008-343-E, § 1)

**Key West, Florida**

**Key West, Florida, Code of Ordinances >> Subpart B - LAND DEVELOPMENT REGULATIONS >>  
Chapter 122 - ZONING >> ARTICLE IV. - DISTRICTS >> DIVISION 7. - HISTORIC RESIDENTIAL  
COMMERCIAL CORE DISTRICTS (HRCC-1 to 3) >> Subdivision V. - HRCC-4 Truman Waterfront  
District >>**

***Subdivision V. - HRCC-4 Truman Waterfront District***

Sec. 122-756. - Intent.

Sec. 122-757. - Uses permitted.

Sec. 122-758. - Conditional uses.

Sec. 122-759. - Prohibited uses.

Sec. 122-760. - Dimensional requirements.

Secs. 122-761—122-775. - Reserved.

**Sec. 122-756. - Intent.**

The HRCC-4 district is established to implement comprehensive plan policies for areas designated "HRCC-4" on the comprehensive plan future land use map. The HRCC-4 district shall provide the Truman Waterfront site with a designation which specifically accommodates marine-related and marine-dependent activities, as well as encourages preservation of the nature, character, and quality of the city's historic development. Building construction is to be limited on Mole Pier and no more than 15,000 square feet of building construction will be allowed on the pier.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(A))), 9-8-1999)

**Sec. 122-757. - Uses permitted.**

Only water dependent uses shall be located within the first 40 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water related uses shall be located between the 40-foot setback and the 100-foot setback from the MHW or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-4 district. Permitted uses include:

- (1) Port and port-related uses, provided that uses that constitute "port expansion" as set out in section 5B-1.B.4. of the comprehensive plan receive approval through the major development approval process of section 108-31
- (2) Harborwalk.
- (3) Mobile vending along Harborwalk, consistent with other city regulations.
- (4) Business and professional offices (marine-related) on second floor.
- (5) Commercial retail low and medium intensity (marine-related) less than or equal to 5,000 square feet.
- (6) Parking lots.
- (7) Light industrial (marine-related).
- (8) Boat sales and service.
- (9) Commercial retail low and medium intensity (bicycle rental) less than or equal to 5,000 square feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(B))), 9-8-1999; Ord. No. 00-14, § 1(Exh. A), 7-5-2000)

**Sec. 122-758. - Conditional uses.**



Conditional uses in the HRCC-4 Truman Waterfront District are as follows:

- (1) Commercial retail low and medium intensity (marine-related) greater than 5,000 square feet.
- (2) Educational institutions.
- (3) Marinas.
- (4) Public and private utilities.
- (5) Permanent residential as long as the use is less than or equal to 750 square feet or no more than 25 percent of the other use on-site, whichever is less.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(C))), 9-8-1999)

#### **Sec. 122-759. - Prohibited uses.**

In the HRCC-4 Truman Waterfront District, the following uses are prohibited:

- (1) More than one cruise ship berth on the Outer Mole Pier.
- (2) Cruise ship home porting activities.
- (3) Car ferries.
- (4) All uses not specifically or provisionally provided for in this subdivision.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(D))), 9-8-1999; Ord. No. 00-14, § 1(Exh. A), 7-5-2000)

#### **Sec. 122-760. - Dimensional requirements.**

The dimensional requirements in the HRCC-4 Truman Waterfront District are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 units per acre only as a conditional use.
- (2) Maximum FAR: 1.0
- (3) Maximum height: 35 feet, except within the 100 feet setback from mean high water (MHW), the following restrictions apply:
  - a. The minimum open space ratio shall be 0.5.
  - b. The height of buildings shall be one habitable floor/story above base flood elevation.
- (4) Maximum building coverage: 50 percent.
  - a. Maximum impervious surface ratio: 60 percent, excepting the first 100 feet from mean high water.

Cross reference—HRCC-2 Key West Bight district, § 122-716 et seq.

- (5) Minimum lot size: 5,000 square feet.
    - a. Minimum lot width: 50 feet.
    - b. Minimum lot depth: 100 feet.
  - (6) Minimum setbacks:
    - a. Front: 10 feet.
    - b. Side: 7.5 feet.
    - c. Rear: 15 feet but 10 when abutting an alley.
    - d. Street side: 7.5 feet.
- (Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(E))), 9-8-1999; Ord. No. 10-04, § 8, 1-5-2010)

#### **Secs. 122-761—122-775. - Reserved.**

**Key West, Florida, Code of Ordinances >> Subpart B - LAND DEVELOPMENT REGULATIONS >>  
Chapter 108 - PLANNING AND DEVELOPMENT >> ARTICLE II. - DEVELOPMENT PLAN >> DIVISION  
3. - APPLICABILITY AND FILING PROCEDURE >>**

**DIVISION 3. - APPLICABILITY AND FILING PROCEDURE** [109]

Sec. 108-91. - Scope; major and minor developments.

Sec. 108-92. - Preapplication.

Sec. 108-93. - Filing, application and fee.

Sec. 108-94. - Review by staff.

Sec. 108-95. - Performance guarantee.

Secs. 108-96—108-130. - Reserved.

**Sec. 108-91. - Scope; major and minor developments.**

The following types of development shall require minor and major development plan approval.

**A. *Within the Historic District:***

1. Minor development plan required for:
  - (a) Permanent residential and transient residential development: addition or reconstruction of three or four units.
  - (b) Nonresidential floor area: addition or reconstruction of 500 to 2,499 square feet of gross floor area.
  - (c) Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities of 500 to 2,499 square feet.
2. Major development plan required for:
  - (a) Permanent residential and transient residential development: addition or reconstruction of five or more units.
  - (b) Nonresidential floor area: addition or reconstruction of equal to or greater than 2,500 square feet of gross floor area.
  - (c) Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities equal to or greater than 2,500 square feet.
  - (d) Any development located within tidal waters extending 600 feet seaward of the corporate city limits.
  - (e) A port facility expansion proposed in the Truman Waterfront Parcel.

**B. *Outside of the Historic District:***

1. Minor development plan required for:
  - (a) Permanent residential and transient residential development: addition or reconstruction of five to ten more units.
  - (b) Nonresidential floor area: addition or reconstruction of 1,000 to 4,999 square feet of gross floor area.
  - (c) Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities of 1,000 to 4,999 square feet.
2. Major development plan required for:

Permanent residential and transient residential development: addition or

- (a) reconstruction of eleven or more units.
- (b) Nonresidential floor area: addition or reconstruction of equal to or greater than 5,000 square feet of gross floor area.
- (c) Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities equal to or greater than 5,000 square feet.
- (d) Any development located within tidal waters extending 600 feet seaward of the corporate city limits.

**C. Modifications of development plan:**

1. **Administrative Modifications.** The following and similar modifications that do not rise to the status of minor or major plan modifications may be approved by the city planner:
  - (a) Reduction of building size;
  - (b) Reduction of impervious area;
  - (c) Expansion of landscaping; or
  - (d) A revision to enhance storm water management, landscaping, handicapped accessibility, and/or utilities.
2. **Minor Modifications.** The following and similar modifications must be approved by the city planner, city engineer and planning board chairperson and reported to the planning board at a regularly scheduled meeting:
  - (a) Relocation of at least ten feet of pools, parking spaces, drives and driveways, or buildings from the location shown on the approved plan;
  - (b) Addition of parking spaces not to exceed 25 percent (including fractions thereof) of the total number of existing parking spaces or five spaces, whichever is the lesser amount, and no such additional parking shall consume the approved landscaped area;
  - (c) Attached or detached additions to buildings in the historic district that do not increase the floor area in excess of 500 square feet;
  - (d) Installation of utility system improvements including buildings not exceeding 200 square feet; or
  - (e) Any use, except single-family dwelling units and accessory structures thereto, or change in use resulting in less than 1,000 square feet of impervious surface area on the entire site.
3. **Major Modifications.** Modifications exceeding those to be treated as administrative or minor will be treated in the same manner as the original approval.
4. Changes to specific conditions required by the original approval shall require approval by the administrative body that originally approved the development and shall be noticed in accordance with division 2 of article VIII of chapter 90

**D. Administrative determination:**

1. For development not fitting within the categories set forth herein, the city planner shall determine the appropriate review process after considering similarity, complexity of the development, impacts on the demand for city services, and the potential for adverse impact(s) upon neighboring areas.
2. In applying the criteria set forth herein, all phases of the total project or development shall be considered. In determining the appropriate level of review, the city planner may aggregate previous development completed within two years of a new application.

(Ord. No. 05-04, § 22, 1-19-2005)

**Sec. 108-92. - Preapplication.**

An optional nonbinding preapplication conference is encouraged for development plan review. The purpose of the preapplication conference is to provide potential applicants an opportunity to discuss conceptual development and determine applicable public policy and regulatory procedures.

(Ord. No. 05-04, § 23, 1-19-2005)

**Sec. 108-93. - Filing, application and fee.**

An application for development plan approval shall be filed with the city's planning department in a form prescribed by the city planner. The fee schedule for development plan review shall be determined by resolution of the city commission.

(Ord. No. 05-04, § 24, 1-19-2005)

**Sec. 108-94. - Review by staff.**

Each application for development plan approval shall be reviewed by the city planner and transmitted to the development review committee and other staff as may be designated by the city planner based upon the type of development proposed. The city planner shall review each application for compliance with land development regulations.

(Ord. No. 05-04, § 25, 1-19-2005)

**Sec. 108-95. - Performance guarantee.**

A performance guarantee may be required from applicants as a condition of development plan approval if all required on- or off-site infrastructure improvements are not in place at the time of development plan approval. The performance guarantee shall be in the form of a performance bond or other instrument approved by the city commission. The performance guarantee shall be furnished and payable to the city in the sum of 125 percent of the total cost of the city engineer's estimates for extension of potable water distribution system components; sanitary sewer system components; street improvements, including acceleration and/or deceleration lanes, traffic control devices, markings, signage, and/or related street improvements; sidewalks, curbs, and/or gutters; stormwater management improvements; and/or other improvements required in the development plan approval. The terms of the performance guarantee may be modified by the city commission after considering recommendations of staff and the city attorney.

(Ord. No. 05-04, § 26, 1-19-2005)

**Secs. 108-96—108-130. - Reserved.**

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**FOOTNOTE(S):**

<sup>(109)</sup> **Editor's note**— Ord. No. 05-04, adopted Jan. 19, 2005, repealed and/or amended §§ 108-91—108-101 to read as herein set out. Formerly §§ 108-91—108-101 pertained to the same subject matter and derived from Ord. No. 97-10, adopted July 3, 1997. ([Back](#))

## Sec. 86-9. - Definition of terms.

Terms not otherwise defined in this section shall be interpreted first by reference to the comprehensive plan and this subpart B; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise. For the purpose of enforcing and administering this subpart B, the following words shall have the definition and meanings ascribed:

*Abandon* means to discontinue a land use for a period of 24 months without demonstrating an intent to continue the use as indicated by the following:

- (1) Allowing licenses to lapse;
- (2) Removing meters;
- (3) Not maintaining a structure in a habitable condition;
- (4) Not making a unit available for occupation (i.e., advertising or marketing through a Realtor or other agent); and/or
- (5) Failure to perform pursuant to the terms of an active building permit.

*Abutting*. See *Adjoining*.

*Access, point of*, means a driveway or other opening for vehicles onto a public street.

*Accessory apartment* means a second attached or detached dwelling unit contained within a single-family detached dwelling or an accessory building (structure) on the same lot as a single-family detached dwelling for use as a complete, independent living quarters, with provisions for living, sleeping, bathing, and cooking which meet the following criteria:

- (1) The principal single-family dwelling shall:
  - a. Contain no more than one accessory apartment;
  - b. Be owner-occupied when the original accessory unit occupancy permit is initiated; and
  - c. Not be used or licensed for transient rental housing.
- (2) The accessory apartment shall:
  - a. Contain no more than 600 square feet of gross floor area;
  - b. Be occupied by a person or household for whom the unit is a primary residence;
  - c. Accessory units shall be used only by permanent residents;
  - d. Accessory units may not be rented transiently nor can they be granted a business tax receipt for transient use; and
  - e. Adequate public utilities and public facilities shall be available concurrent with the permitting of such unit.

*Accessory structure* means a subordinate structure that is detached from the principal structure, the use of which is incidental to that of the principal structure.

*Accessory use* means a use that is clearly incidental to the principal use, that is subordinate in area, extent or purpose to the principal use and that contributes to the comfort, convenience or necessity of the principal use, and that is located on the same lot with such principal building or use. In a residential district, the accessory use shall not be nonresidential in character.

*Adjoining lot or land* means a lot or parcel of land that shares all or part of a common lot line including a common right-of-way with another lot or parcel of land.

*Administrative official* and *city official* mean the official appointed by the city manager to administer and enforce the land development regulations.

*Advertising structure* means a structure of any kind or character, including any sign, billboard, or other object or structure erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be

*Port expansion at the Truman Waterfront Parcel* means the following activities at the Truman Waterfront parcel which shall constitute port expansion:

- (1) Any increase in cruise ship berthing capacity (other than the one existing cruise ship berth on the Outer Mole Pier, which shall be appropriately permitted by the State of Florida).
- (2) Development of new port facilities designed to accommodate ferry service, or use of the existing cruise ship berth at Outer Mole Pier to provide ferry service.
- (3) Development of new port facilities that require either new maritime related infrastructure or channel dredging.

The replacement or repair of existing infrastructure, so long as that activity is in the same location and does not increase capacity, as well as maintenance dredging shall not be considered expansion.

*Premises* means any land together with any structures occupying it.

*Principal structure* means a building occupied by the principal use of the premises or lot. In a residential district any dwelling shall be deemed to be the principal building on the lot where it is located. An attached carport, shed, garage, or any other structure with one or more walls or a part of one wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport, or other structure conforming as an accessory building may be attached to the principal building by an open breezeway not to exceed six feet in width. A connecting breezeway in excess of six feet and enclosed on one or both sides, including louvers, lattice or screening, shall cause the entire structure to be construed as the principal building and shall be subject to the regulations applicable to the principal building.

*Project area.* For the purpose of computing density, lot coverage, and floor area ratio for any project site, the project area shall not include public rights-of-way, or land lying below the mean high water line.

*Public use* means any use of land or structures owned and operated by a municipality, county, state or the federal government or any agency thereof and for a public service or purpose.

*Public water and sewer service* means water and sewer systems, including pipes, rights-of-way and treatment plants, owned and operated by the city or operated under a franchise granted by the city.

*Recreational and landscaped open space* means unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. Rooftops, porches, raised decks, parking spaces, driveways, utility and service areas are not calculated as open space.

*Redevelopment* constitutes "development" and shall be subject to the land development regulations.

*Rental housing* means affordable and/or assisted rental housing that is expected to be available to low/moderate income and/or homeless persons at rents that do not exceed the established fair market rent (FMR) as determined by the U.S. Department of Housing and Urban Development (HUD).

*Semipublic use* means any use of land or buildings owned and operated by an individual, firm, corporation, lodge or club, either as a profit or nonprofit activity, for a public service or purpose. This shall include privately owned utilities, transportation, recreation, education, and cultural activities and services.

*Setback* means the required open spaces of a lot where buildings are not permitted.

- (1) Setbacks are required for the purpose of providing and ensuring open space and become part of the yard but not necessarily the total yard.
- (2) Setbacks shall be measured from the lot, building site, boundary lines and will be designated as "front yard setback," "rear yard setback," "side yard setbacks," combining to surround and define the remaining buildable area.
- (3) Setbacks go with the land and are not intended to control or direct the actual placement or orientation of buildings.
- (4) Buildings may be designed and constructed to fit on any part of the buildable area and are not required to front on the platted front of the lot or building site.

**Sec. 108-200. - Special workshop and notification procedures for port expansion at the Truman Waterfront Parcel.**

Prior to initiating the development review process outlined in this article, a joint workshop will be held between the planning board and the port advisory board for the purposes of encouraging public discussion about the proposed expansion. The workshop will be chaired by the planning board chairperson, according to the following guidelines:

- (1) The meeting will be held in a workshop format designed to encourage public discussion and interaction. The applicant will be encouraged to provide responses to questions and explain aspects of the application during the workshop. Board members will also be encouraged to enter the discussion or provide information. A hearing format is discouraged.
- (2) A neutral facilitation process can be used at the discretion of the city planner.
- (3) At the end of the workshop, the following findings will be made by the members present from both boards: Is additional information necessary for the planning board and city commission to consider the plan? Is additional public workshop discussion needed to clarify the plan? The findings should not include recommendations for or against the project at this time. If additional discussion is needed, further workshops can be scheduled. Additional information can be provided either at future workshops, if they are scheduled, or as an amendment to the development plan.
- (4) The public workshop will be advertised in the local newspaper a minimum of ten days in advance of the meeting.

The development plan application, together with the record of the public workshop(s), and the recommendation of the planning board as required by section 108-196, shall form the basis for the finding of the city commission that the proposal does or does not on balance, contribute to rather than detract from the quality of life for the residents of Key West.

*(Ord. No. 99-18, § 2 (Exh. A(4-18.4(E)), 9-8-1999; Ord. No. 05-04, § 31, 1-19-2005)*

**Sec. 108-249. - Truman Waterfront Port facilities.**

Applications for new port facilities or expansions to existing port facilities at the Truman Waterfront Port shall address the following questions:

- (1) How will the project positively or negatively impact the areas targeted for redevelopment in the community, the community as a whole, and residents on a per capita basis?
- (2) What specific positive or negative impacts to the quality of life in the community will result from this project? Specific areas of concern include: increased demand for housing, particularly affordable housing, jobs and job training programs, economic diversity, environmentally sensitive resources, public amenities including recreation and waterfront access, and transportation and traffic.
- (3) A description of the type of port facility, including proposed number of berths, whether the port use includes passenger ferries, cruise ship or marina-type uses.

*(Ord. No. 99-18, § 2 (Exh. A(4-18.5(K)), 9-8-1999; Ord. No. 00-14, § 1 (Exh. A), 7-5-2000)*



**Miami, Florida**

the coastal ridge.

2. Relationship of new structures to surrounding buildings shall be compatible as to form, size and spacing, and architectural character shall conform to Coconut Grove's architectural heritage.

3. General landscaping requirements and standards established by this ordinance for offstreet parking, yards, and open space shall be considered supplemental to retention of desirable natural features. Placement of structures and vehicular areas shall be such as to retain, to the extent reasonably practicable, desirable existing landscaping, open spaces and natural features, and to promote provision of compatible new landscaping. All accessory area and structures shall be adequately screened by appropriate plantings or other means.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 12467, § 2, 12-18-03)

Secs. 603.4--603.8. Reserved.

#### **Sec. 603.9. Special height limits.**

Height limits are established with respect to the underlying zoning districts as follows:

For O Office District, eighty (80) feet.

For R-1 Single-Family Residential and R-2 Two-Family Residential Districts, twenty-five (25) feet.

For all other districts, forty (40) feet.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 11079, § 2, 7-22-93)

#### **Sec. 603.10. Limitations on signs.**

See Article 10 for sign regulations and limitations.

(Ord. No. 12213, § 2, 4-11-02)

#### **Sec. 604. SD-4 Waterfront Industrial District.**

##### **Sec. 604.1. Intent.**

This district designation is intended for application in areas appropriately located for marine activities, including industrial operations and major movements of passengers and commodities. In view of the importance of such activities to local economy and the limited area suitable and available for such activities, it is intended to limit principal and accessory uses to those reasonably requiring location within such districts, and not to permit residential, general commercial, service, office or manufacturing uses not primarily related to waterfront activities except for office uses in existing office structures. For the purposes of section 3(mm) of the City of Miami Charter, this district shall be construed as an industrial district.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 11732, § 2, 11-17-98)

**Sec. 604.2. Effect of SD-4 district designation.**

The effect of these SD-4 regulations shall be to supplant district regulations within portions of other zoning districts included within the SD boundaries to the extent indicated herein.

(Ord. No. 10863, § 1, 3-28-91)

**Sec. 604.3. Class II Special Permits.****604.3.1. When required.**

A Class II Special Permit shall be required prior to approval of any building permit for erection of new structures or for substantial changes affecting the exterior appearance of any structure.

**604.3.2. Considerations in making Class II Special Permit determinations.**

The purpose of the Class II Special Permit shall be to ensure conformity of the application with the expressed intent of this district, with the applicable criteria listed in Section 1305 and any other applicable criteria specified in this ordinance, as amended.

1. Parking, loading, service, utility, and storage areas and uses shall be screened from view of abutting zoning districts (other than C-2 and I districts) and shade trees spaced a minimum of thirty (30) feet on center. Screening shall not be required along the waterfront.
2. Adequate vehicular parking and loading space, adequate vehicular ingress and egress configuration, and appropriate docking and mooring facilities shall be provided on any lot used temporarily, intermittently, or permanently for loading and unloading of marine vessels. In making determinations in such cases, the planning director shall seek the advice and recommendations of the public works department.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91; Ord. No. 12467, § 2, 12-18-03)

**Sec. 604.4. Principal uses and structures.****604.4.1. Permitted principal uses and structures.**

1. Piers, wharves, docks, and railroad service to related loading, storage or distribution facilities.
2. Freight terminals; facilities for warehousing and storage, packing, packaging and crating of materials from or for marine shipment; assembly and distribution facilities for marine shipments, except as provided under permitted uses and structures in section 604.4.2 below.
3. Passenger terminals, including related facilities for handling baggage or freight, ground transportation, parking, and establishments to serve needs of passengers and visitors including retail shops, eating and drinking establishments, ticket agencies, currency exchanges and the like.
4. Facilities for construction, maintenance, service, repair, supply or storage of vessels, including shipyards, dry docks, marine railways, shops for marine woodworking, electrical, communication and instrument installation and repair, welding, sail making, engine and motor repair and maintenance; ship chandlers; fuel supply establishments. Manufacture, maintenance, service, repair and/or sales or supply of parts, accessories and equipment

for marine needs.

5. Bases for marine dredging, salvage, towing; marine construction offices and yards, piloting headquarters.
6. Sales, charter or rental of vessels, marine supplies and equipment, marine sporting goods and supplies.
7. Establishments for collection, processing and/or distribution or sales of marine food products and byproducts, including eating and drinking establishments related to such operations.
8. Hiring halls for seamen and dock workers.
9. Telecommunication transmission and relay stations; radar installation.
10. Structures and uses other than as listed above for performance of governmental functions (including private facilities supplementing or substituting for governmental functions such as fire protection or provision of security), or relating to operation of public utilities.
11. Commercial marinas, including permanent occupancy of private pleasure craft as living quarters and for temporary occupancy for transients (maximum stay: thirty (30) days) as shall be required for work or security purposes, or for repair work within the district.
12. Except as permitted generally above, or permitted generally as accessory uses and structures, offices, living quarters, commercial or service establishments, manufacturing, processing and other uses shall be permitted for waterfront related activities for which the district is reserved, except that existing office structures may be used or expanded for general office uses.

**604.4.2. Conditional principal uses and structures.**

Conditional principal uses and structures shall be subject to the applicable criteria in Section 1305, any other applicable criteria specified in this Ordinance, and as follows:

1. Processing, packaging, handling, distribution and wholesale and retail sales of seafood only by Class II Special Permit and only when such uses are conducted from properties which immediately abut the Miami River.
2. Heliports, helistops, facilities for other VTOL or STOL aircraft, hovercraft, or sea planes shall be permitted only by Special Exception Permit and subject to the criteria as specified in Section 933.
3. Personal wireless service facilities subject to the criteria specified in section 949.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 10932, § 1, 10-24-91; Ord. No. 11135, § 1, 3-24-94; Ord. No. 11732, § 2, 11-17-98; Ord. No. 12305, § 2, 12-12-02; Ord. No. 12467, § 2, 12-18-03)

**Sec. 604.5. Accessory uses and structures.**

**604.5.1. Permitted accessory uses and structures.**

Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures, including occupancy of living quarters for watchmen, caretakers or employees whose work requires such quarters on the premises and living quarters for passengers and crews aboard commercial, official or scientific vessels. Otherwise occupancy of living quarters within the district shall be as

authorized by special permit below.

**604.5.2. Conditional accessory uses and structures.**

Conditional accessory uses and structures shall be subject to the applicable criteria in Section 1305, any other applicable criteria specified in this ordinance, and as follows:

As for "principal uses and structures" in this district, and in addition:

1. At commercial marinas, or docks, or slips, occupancy of private pleasure craft as permanent living quarters by the public, by Special Exception only.
2. Lodgings for temporary accommodation of passengers, visitors and crew members at passenger or freight terminals only by Class I Special Permit, and only upon findings that such facilities are primarily related to the operation of the terminal, and are not for general public use.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91; Ord. No. 10932, § 1, 10-24-91; Ord. No. 12467, § 2, 12-18-03)

**Sec. 604.6. Minimum lot requirements.**

1. Minimum lot area - ten thousand (10,000) square feet.
2. Minimum lot width - one hundred (100) feet.

(Ord. No. 10863, § 1, 3-28-91)

**Sec. 604.7. Floor area limitations.**

The floor area ratio shall not exceed one and seventy-two-hundredths (1.72) times the gross lot area.

(Ord. No. 10863, § 1, 3-28-91)

**Sec. 604.8. Minimum open space requirements.**

**604.8.1. Minimum yards and setbacks.**

1. All yards adjacent to streets shall be a minimum of five (5) feet in depth.
2. All yards on interior lot lines abutting another zoning district shall be the same as the minimum setback requirements for the abutting district.
3. For all yards other than [in subsections] 1 and 2 above, there shall be no minimum yard or setback requirement.

**604.8.2. Building footprint and green space.**

1. The building footprint shall not exceed seven-tenths (0.7) times the gross lot area.
2. Open space requirements shall be as required for C-2. Open space requirements as set forth herein, are based on gross lot area, however all such required open space must be provided on the subject property or the property's net lot area, open space requirements may not be fulfilled on public or adjacent lands as used for gross lot area calculations.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 12752, § 2, 12-15-05)

#### **Sec. 604.9. Height limitations.**

The maximum building height shall be one hundred twenty (120) feet or ten (10) stories, whichever is less, above grade or above the base flood elevation, if applicable.

(Ord. No. 10863, § 1, 3-28-91)

#### **Sec. 604.10. Offstreet parking and loading.**

##### *604.10.1. Minimum offstreet parking requirements.*

1. For commercial marinas, five (5) parking spaces plus one (1) parking space for each two (2) vessels of sixteen (16) feet or more in length.
2. For dry dockage or boat racks, five (5) spaces plus one (1) for each three (3) boats.
3. For all other uses there shall be a minimum of one (1) parking space for each one thousand (1,000) square feet of gross floor area.

##### *604.10.2. Minimum offstreet loading requirements.*

1. For buildings in excess of twenty-five thousand (25,000) square feet and up to five hundred thousand (500,000) square feet of gross building area:

Berth minimum dimension to be twelve (12) by thirty-five (35) feet;

First berth for gross building area up to fifty thousand (50,000) gross square feet;

Second berth for gross building area of fifty thousand (50,000) up to one hundred thousand (100,000) gross square feet;

Third berth for gross building area of one hundred thousand (100,000) up to two hundred fifty thousand (250,000) gross square feet;

Fourth berth for gross building area of two hundred fifty thousand (250,000) up to five hundred thousand (500,000) gross square feet;

2. For buildings with square footage in excess of five hundred thousand (500,000) square feet:

Berth minimum dimension to be twelve (12) by fifty-five (55) feet;

In addition to the requirements set forth above, there shall be one (1) berth for every five hundred thousand (500,000) gross square feet of building area.

3. One (1) larger six hundred sixty (660) square feet loading space may be replaced by two (2) of the smaller four hundred twenty (420) square feet loading spaces.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 12467, § 2, 12-18-03)

#### **Sec. 604.11. Limitations on signs.**

See Article 10 for sign regulations and limitations.