

No. #131

An Ordinance

relating to THE INTRODUCTION OF A NEW SECTION
(38-31.F) ENTITLED THE BEVERLY HARBOR INTERIM PLANNING
OVERLAY DISTRICT

IN CITY COUNCIL

MAY 19, 2014

JOINT PUBLIC HEARING: HELD JUNE 16, 2014
2ND READING: AUGUST 11, 2014
ADVERTISED AND HELD FOR FINAL PASSAGE:
SEPTEMBER 2, 2014

CITY OF BEVERLY

Presented to the Mayor for Approval

SEPTEMBER 4, 2014

Kathleen P. Conolly City Clerk

Approved *[Signature]* Mayor

Kathleen P. Conolly CMC
Clerk

Entered Page *68, 63, 79* Vol. *100, 101, 107* 120

A TRUE COPY
ATTEST: *Kathleen P. Conolly*
City Clerk



City of Beverly

In the year two thousand and FOURTEEN

An Ordinance AMENDING A ZONING ORDINANCE ENTITLED CHAPTER XXXVIII SECTION 38-31
INTRODUCING A NEW SECTION (38-31.F) ENTITLED THE BEVERLY HARBOR INTERIM PLANNING
OVERLAY DISTRICT (BHIPOD)

Be it ordained by the city council of the city of Beverly as follows:

F Beverly Harbor Interim Planning Overlay District (BHIPOD)

1. Purpose

The Beverly Harbor Interim Planning Overlay District (BHIPOD) is hereby established in anticipation of a boundary review conducted by Massachusetts Coastal Zone Management (CZM) for the Beverly Harbor Designated Port Area (DPA), and to allow the City to conduct a planning process to establish new zoning requirements for the harbor front area that align with City of Beverly Master Plan (2002), and Beverly Harbor Plan (2003) objectives. The BHIPOD is adopted with the following considerations:

- a. The City of Beverly Master Plan and Beverly Harbor Management Plan both call for removal of the DPA to permit redevelopment of the harbor front area including, but not limited to new mixed use development, expanded public access and waterside recreational facilities, while protecting the City's existing marine and waterfront resources.
- b. The Beverly Designated Port Area boundary review process is anticipated to occur over a 9 to 12 month period. The DPA review will result in a decision that is expected to alter the current location of the port area boundary thereby opening up the waterfront for redevelopment.
- c. Should CZM amend or eliminate the DPA, the BHIPOD will be utilized as an interim zoning measure governing the uses of affected parcels while the planning process is completed and zoning requirements are adopted for long term redevelopment of the harbor front area.
- d. The public planning process will be conducted simultaneously with the DPA boundary review process and will create a vision for future development along the harbor front and to establish new zoning standards in accord with the vision.

2. Applicability

- a. The Beverly Harbor Interim Planning Overlay District (BHIPOD) consists of the parcels as shown in the map entitled "Beverly Harbor Interim Planning Overlay District" prepared by the City of Beverly, dated April 14, 2014 on file in the office of the City Clerk.
- b. The area covered by the BHIPOD consists of the Waterfront District (WD), Zoning District (Section 38-22 of the Zoning Ordinance).
- c. The BHIPOD will be effective for 2 years from the date of its adoption, and may be extended an additional six months by a vote of the City Council. The Planning & Community Development Department shall, prior to the completion of its work, hold a series of public meetings to solicit public comment on the re-zoning proposal

and shall submit a zoning amendment to the City Council replacing the BHIPOD.

3. Permitting and Use Regulations

For parcels within the BHIPOD, the following use regulations shall take precedence over Section 38-22 (Waterfront Development District) paragraphs B and C of the Zoning Ordinance:

a. Uses by Right

Property and buildings shall be used for the following purposes:

1. Home occupation as defined herein, subject to the provisions of Section 38-22.G.
2. Agricultural, horticultural, and floricultural uses and expansion or reconstruction of existing structures relating thereto, permitted with a minimum lot size of 5,000 square feet, and subject to the provisions of Section 38-22.G.
3. Commercial fishing excluding the processing of fish, except as provided by Section 38-22.B.7. (Processing: meaning canning, cooking, or freezing but not preparation of bait), subject to the provisions of Section 38-22.G.
4. Commercial marina for the sale, mooring, and rental of boats, subject to the provisions of Section 38-22.G. (Rev. 6-26-87)
6. Restaurant selling food for consumption entirely on the premises, subject to the provisions of Section 38-22.G. (Rev. 6-26-87)
7. Accessory buildings and uses required for and clearly incidental to the principal building or use are permitted.
8. Any use allowed by right under Section 38-6.

b. Uses by Special Permit

The following uses are only allowed by Special Permit, granted by the Planning Board:

1. Gymnasium, health club, commercial swimming pool, subject to the provisions of Section 38-22.G.
2. Other private or quasi-public club, charitable institution, or community service organization except where the chief activity is a service customarily carried on as a business, subject to the provisions of Section 38-22.G.

3. Hotel or motel, subject to the provisions of Section 38-22.G.
4. Retail establishments, subject to the provisions of Section 38-22.G.
5. Personal and consumer service establishments including but not limited to, barber or beauty shop and Laundromat, subject to the provisions of Section 38-22.G.

6. Business and professional offices; banks subject to the provisions of Section 38-22.G.
7. Place of commercial recreation such as a theater. For purposes of this subsection, the term commercial-indoor recreation does not include those uses regulated by M.G.L. Chapter 140, Section 183A. (Rev. 5-20-93)
8. Those uses, including accessory uses, allowed by Special Permit under Section 38-6.
9. Commercial Mobile Radio Service transmission facilities, structures, and/or towers. (Ord. No. 115, 6-11-96)
10. Multi-family dwelling as part of a mixed-use building with a legal non-residential use located on the ground floor.

c. Special Permit Criteria

All land uses identified in paragraph 3.b (Uses by Special Permit) proposed in an existing structure or as part of a new development project within the BHIPOD is subject to special permit review by the Planning Board. When approving a special permit under the BHIPOD, the Planning Board shall make findings, in addition to any specific requirements or criteria set forth in this Ordinance, that the project proposal meets the following special permit criteria:

- The proposed development is consistent with the character, materials and scale of surrounding neighborhood.
- Relationship of the proposed development to public ways and the water's edge such that the project minimizes visual intrusion of parking, storage, and other outdoor service areas.
- Orientation of structures shall provide direct access to and from public ways and the waterfront. Land uses and building should be placed such that they complement public spaces.
- Public access to and along the waterfront is clearly accommodated.
- Structures shall preserve view corridors to the water.
- Proposed development is consistent with the City of Beverly Master Plan (2002) and Beverly Harbor Plan goals, objectives, and recommendations (2003). Development projects must specifically demonstrate consistency with relevant recommendations in the Land Use, Transportation & Infrastructure, and Economic Development elements of the Beverly Master Plan.
- All projects seeking special permit approval must also meet criteria outlined in Section 38-28.C of the Zoning Ordinance.

d. Underlying Zoning: In all other ways requirements of the underlying zoning district shall continue to apply to parcels within the BHIPOD. In cases of conflicts between this Section and the remainder of the Zoning Ordinance, this Section shall govern.