



## Waterfront Development in Your Neighborhood

### What is Chapter 91?

The Public Waterfront Act (commonly referred to as Chapter 91) protects our right to access and use of tidelands and waterways. **MassDEP (the Massachusetts Department of Environmental Protection)** acts as a **representative** of the public and is the agency responsible for preserving and protecting the public trust interest in tidelands.

Any project **located in, on, over, under tidal waters** seaward of the present Mean High Water (MHW) shoreline or on filled formerly submerged lands is subject to the provisions of Chapter 91.

The regulations distinguish between **water-dependent uses** and **non-water dependent uses** and strongly favor the former. The **most stringent standards** are used in determinations regarding **non-water dependent use projects** because they are presumed to diminish public access to water rights.

In order to compensate the public for diminishing its rights, the regulations require that projects include rigorous public benefits:

- open spaces for active & passive recreation and amenities
- interior space to Facilities of Public Accommodation (FPA) and recently expanded to include Facilities of Limited accommodation (FLA)
- conform to a set of numerical standards for setback distances, lot coverage ratios, height limits, and width of public walkways along the water
- extensive public notice and participation

Any project that includes Chapter 91 tidelands accessible to the public must provide for the **long-term management** of these areas to promote public use and enjoyment while minimizing conflict with private interest and natural resources.

### Top 5 Chapter 91 Points of Public Engagement *adapted from a presentation by Peter Shelley, CLF*

1. Know your neighborhood's existing Chapter 91 spaces and licenses.
2. Keep updated on your neighborhood's Chapter 91 sites' management plans.
3. Work with your local [Harborfront Neighborhood Alliance](#) member organization to keep Chapter 91 meaningful and educate your local media outlets by feeding them interesting, newsworthy stories about why your issues matter.

**Charlestown:** Friends of the Charlestown Navy Yard, Charlestown Neighborhood Council and Charlestown Waterfront Coalition

**East Boston:** Jeffries Point Neighborhood Association

**North End:** North End/Waterfront Residents Association and North End/Waterfront Neighborhood Council

**Downtown:** Wharf District Council

**South Boston:** Fort Point Neighborhood Association, South Boston Waterfront Neighborhood Association/Seaport and City Point Neighborhood Association.

4. Establish relationships with your City & State elected officials to advocate for public benefits and access to water.
5. Keep writing comment letters. Chapter 91 license approval can be challenged by 10 residents via a request for reconsideration. Ask at least 10 residents to sign on to a comment letter with the contingency that they could be potential signers in a request for reconsideration.

## Resources for Residents

Conservation Law Foundation (CLF): The People's Guide to Chapter 91

<https://www.clf.org/wp-content/uploads/2018/12/CLF-Peoples-Guide-Public-Waterfront-Act-Dec18.pdf>

Boston Harborwalk—A public access map of Boston's coastline

<https://www.bostonharborwalk.org/>

Links on this map allow you to access the MassDEP's Boston Chapter 91 map, which provides easy access to Chapter 91 Licenses and Chapter 91 Management plans for properties around Boston Harbor.

State of Massachusetts: Guide to Chapter 91, The Massachusetts Public Waterways Act

<https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act>

## Contact Information

Boston Harbor Now— [www.bostonharbornow.org](http://www.bostonharbornow.org) – 617-223-8667

Conservation Law Foundation (CLF) – [www.clf.org](http://www.clf.org) – 617-350-0990

Massachusetts Department of Environmental Protection (Mass DEP)

Waterways Program/Chapter 91 Hotline – [dep.waterways@mass.gov](mailto:dep.waterways@mass.gov)

Massachusetts Environmental Policy Act (MEPA)

Sign up for Alerts by e-mailing [mepa@MassMail.State.MA.US](mailto:mepa@MassMail.State.MA.US) with subject "Environmental Monitor Distribution List"

Office of Coastal Zone Management (CZM) -

Boston Harbor Regional Coordinator Erikk Hokenson - [erikk.hokenson@mass.gov](mailto:erikk.hokenson@mass.gov) - 617- 626-1234

## Frequently Asked Questions

**NOTE:** For more detailed information, please refer to the Conservation Law Foundation (CLF) publication, *"The People's Guide to Chapter 91"*

How can I find out about hearings for new licenses and participate in the public comment process?

After the application is submitted and preliminary determinations are made by MassDEP, notices that provide public information on projects under state environmental review must be posted in at least one local newspaper and the *Environmental Monitor* (<http://eeaonline.eea.state.ma.us/eea/emepa/emonitor.aspx>)

How do I report a violation of an existing Chapter 91 License Agreement?

**For Nonwater-dependent Projects on Commonwealth Tidelands** - If you believe a site is violating your public access rights or you see a violation, such as poor signage, you should first review the details of its license and/or management plan via BostonHarborwalk.org or MassDEP. If you confirm that there is a violation, Boston residents can call 311 or use the 311 app to report violations, such as closures during posted open hours or private events being held on the public walkway along the Harborwalk.

**For Water-dependent Uses and Private Tidelands** You can obtain a copy of the site license by contacting MassDEP. If you are kept from accessing any public spaces or you see or suspect other violations, contact MassDEP.

How can I appeal a new Chapter 91 License?

Once a license has been approved by MassDEP it can be appealed by either: 1) private parties who are aggrieved by the license or 2) a group of ten Massachusetts residents, five of whom must live in the city or town where the project is proposed. To appeal a decision, you must have participated in the public comment period for the project at issue

**Appeals Checklist:** <https://www.mass.gov/service-details/mgl-c30a-administrative-appeals-checklist>

**Appeals Flowchart:** <https://www.mass.gov/files/documents/2016/08/qg/30a-flowchart.pdf>

You may access a PDF version of this guide with "live" links here: [bit.ly/WaterfrontDevelopmentbos](http://bit.ly/WaterfrontDevelopmentbos)