

valuable input, and the rules were developed in close cooperation with both Massport and the BRA.

The Chapter 91 regulations rest on a few organizing principles:

- Viable maritime industrial sites, particularly those with deep-water berths, are preserved for maritime industrial use.
- Everywhere else, the watershed and the immediate shoreline are reserved for water-dependent uses, including water transportation and public access.
- Developers must provide uninterrupted pedestrian access to the shoreline, supported by ample view corridors, convenient connections to adjoining streets, and a welcoming program of signage and site management.
- Buildings on piers over the water, and the ground floors of buildings on filled tidelands within 100 feet of the water, are reserved for “facilities of public accommodation” – retail, restaurant, hotel, civic, and other uses which welcome the public (unlike offices and residences, which do not).
- The massing and layout of mixed-use, non-water-dependent projects must allow maximum public use and enjoyment of the tidelands.

A particular goal of the new regulations was to promote greater harmony – both procedural and substantive – among the three main public actors. Massport, by the terms of its Enabling Act, has exclusive planning powers in the former “Port of Boston” area and makes a good claim for exemption from Chapter 91 licensing. On the other hand, Massport’s emerging role as a redevelopment agency for vacant waterfront properties struck many as falling beyond the exclusivity intended by the legislature. The new regulations therefore clarified that Massport is exempt from Chapter 91 licensing for airport and maritime projects, but not for mixed-use development.

The BRA launched a comprehensive rezoning of the Boston waterfront in parallel with the state’s recodification of Chapter 91, and it was soon clear that the two efforts shared similar goals and planning principles. The BRA named its new zoning concept “Harborpark,” to emphasize the importance of public access and enjoyment. Mayor Raymond Flynn named senior state officials to the Harborpark Advisory Committee.

This collaborative approach enabled the state’s Chapter 91 team to solve what was known as the “one size fits all” dilemma. The new regulations clearly needed to address issues like height, lot coverage, setback from the water, and use restrictions, but no single approach would work. The Massachusetts coastline is a diverse mix of natural areas, villages, and small cities – and, in a category by itself, Boston. The solution, negotiated with the BRA, was to set relatively narrow “default” standards in the Chapter 91 Regulations. At the same time, this empowered cities and towns to prepare Municipal Harbor Plans, allowing alternatives more suitable to the harbor in question to replace these Chapter 91 standards. Once the Secretary of Environmental Affairs approved a Municipal Harbor Plan, the locally drafted substitute provisions would become the operative Chapter 91 standards for state licensing purposes. The BRA immediately