



# CITY OF NEW BEDFORD

In the Year Two Thousand and Twenty-Two

## AN ORDINANCE

Amending Chapter 9, Comprehensive Zoning

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

**SECTION 1.** Chapter 9 of the New Bedford Code of Ordinances, Comprehensive Zoning, Section 2110 (Districts), is amended by inserting the following:

MacArthur Drive District (MDD):

**SECTION 2.** Chapter 9, Section 4700A Waterfront Economic Development & Revitalization Overlay District (WEDROD) is amended by striking Section 4700A Waterfront Economic Development & Revitalization Overlay District (WEDROD) in its entirety and inserting the following in place thereof:

### **4700A – MacArthur Drive District (MDD)**

#### **4710A. Purpose.**

The MacArthur Drive District (“MDD”) is established to promote and support economic revitalization by retaining waterfront uses and attracting limited compatible and complimentary uses to promote the link between New Bedford’s Downtown and its waterfront; consistent with the New Bedford MacArthur Drive Redevelopment Plan (2022).

#### **4720A. Design Principles**

The following principles are consistent with the purpose of the MDD and focus on four aspects of design, each of which shall be reflected to the maximum extent possible in all new or redevelopment projects:

A. Treatment of buildings – New buildings should be oriented to face the street, serving to define space for public and private activities. Existing buildings should be reconstructed or reconfigured according to the same principles, to the greatest extent possible.

B. Treatment of the site and landscape – Sites should be landscaped to provide a buffer between incompatible uses and to define spaces for public and private activities. Landscaping should be consistent with Site Plan Review requirements.

C. Public and private infrastructure – Cognizant of truck movements, streetscapes should incorporate pedestrian and bicycle amenities throughout the MDD, including shared use paths, encourage on-street parking, and designate ride share zones and areas for ride hailing. Green infrastructure and Low Impact Development (LID) should be considered for every project. Overhead utility lines shall be relocated underground where possible or to the rear of buildings to improve the visual quality of the streetscape and to reduce conflicts between sidewalks, plantings, and utility poles.

**4730A. Location and Boundaries.**

The location and boundaries of the MacArthur Drive District are shown on the map entitled “MacArthur Drive Zoning District”, prepared by L.Ryan for the Department of City Planning, dated March 2022, adopted, and incorporated herein; and as may be subsequently amended by vote of the City Council. This map is on file with the City Clerk.

**4740A. Relationship to Existing Zoning.**

The MDD supersedes all other zoning district regulations for this area, except the Flood Hazard Overlay District (FHOD). In the case of a conflict between the MDD and the FHOD regulations, the FHOD regulations shall apply. In the case of a conflict between the MDD and the underlying zoning district regulations, the MDD regulations shall apply.

**4750A. Definitions Applicable to Section 4700A.**

The definitions contained in Section 1200 of the Zoning Ordinance shall apply to the MacArthur Drive District. The following additional definitions shall apply to this Section 4700A where applicable. In the event of a conflict between the definitions contained in Section 1200 and those below, the definitions below shall control within the MacArthur Drive District.

**Aquaponics:** The cultivation of fish and plants together in a constructed, re-circulating system utilizing natural bacterial cycles to convert fish wastes to plant nutrients, for distribution to retailers, restaurants, and consumers.

**Banking and Financial Services:** A financial institution regulated by the Commissioner of Banking for the Commonwealth of Massachusetts. Uses related to the exchange, lending, borrowing, and safe-keeping of money.

**Commercial Structured Parking Facility:** Motor vehicle parking facility operated by the City or private entity that is structured and available to the public at-large for an hourly, daily, or monthly fee. The structure may be at grade, below grade or above grade.

Flat floor event space: A space flexible enough to host events, meetings, and/or conferences, which can be internally reconfigured as needed to accommodate these activities.

Freight Terminal: A facility where the processing, loading, or unloading of freight cargo occurs.

Marine Recreation Facility: Coastal facilities and infrastructure supporting waterfront recreational activities such as marinas or boathouses for pleasure boating, charter fishing, cruises and whale watches, coastal and marine-based tourism. Food and entertainment uses may provide incidental food or beverage service for on-site consumption.

Maritime Education: Use of land or structure for tertiary or experiential educational purposes related to maritime trade, including marine engineering, marine-related research and development, water-dependent industrial, and other maritime employment categories.

Maritime Trade: Water dependent uses including transportation (ship, rail, truck and towboat/barge) companies, freight forwarders and customs brokers; stevedoring companies; labor unions; chandlers; warehouses; ship building and repair firms; importers/exporters; pilot associations, etc.

Shipyard, boat yard, shipbuilding, boatbuilding: A yard, place, or enclosure where ships and/or boats are designed, built, and/or repaired.

Warehouse, Wholesale Trade and Distribution: Uses engaged in the wholesale sales, bulk storage and distribution of goods including, but not limited to, furniture and home furnishings; professional and commercial equipment; electrical goods; hardware, plumbing, and heating equipment; paper and paper products; sundries; apparel; food and beverages; healthcare equipment and supplies; and their substantial equivalents to retailers, commercial services, and/or industrial businesses.

#### **4760A. Table of Principal Use Regulations Applicable to Section 4700A.**

Parcels situated in the MDD are subject to their own table of permitted uses as contained in this section. This table shall supersede Appendix A, Table of Principle Use Regulations, for MDD district uses.

Any use not identified or specifically enumerated in the table below is prohibited. Where relevant, the use of the phrase “use” shall also include the phrase “structure” such that permitted uses shall be deemed to include a structure(s) required to support the permitted use.

Symbols employed below shall mean the following:

Y- A permitted use.

N - An excluded or prohibited use

PB – A use authorized under special permit from the Planning Board as provided under Section 4700A & Section 5300.

| <b>Principal Use</b>  | <b>MDD</b> |
|---|------------|
| <b>A. COMMERCIAL</b>  |            |
| 1. Hotel or Motel   | Y          |
| 2. Commercial Structured Parking Facility                       | PB         |
| 3. Commercial Surface Parking Facility                          | PB         |
| 4. Restaurant   | Y          |
| 5. Business or professional office                              | Y          |
| 6. Banking and Financial Services                               | Y          |
| 7. Marine Recreation Facility                                   | Y          |
| 8. Maritime Trade   | Y          |
| 9. Maritime Education   | Y          |
| 10. Nonexempt educational use                                   | Y          |
| 11. Wireless Communications Facilities                          | PB         |
| 12. Convention Centers  | PB         |
| 13. Flat floor event space                                      | PB         |
| 14. Retail stores and services not elsewhere set forth          | Y          |
| <b>B. INDUSTRIAL</b>  |            |
| 1. Manufacturing  | Y          |
| 2. Light manufacturing  | Y          |
| 3. Research, development or testing laboratories and facilities | Y          |
| 4. Warehouse, Wholesale Trade and Distribution                  | Y          |
| 5. Fish processing  | Y          |
| 6. Transportation terminal                                      | Y          |
| 7. Freight terminal   | Y          |
| 8. Shipyard, shipbuilding                                       | Y          |
| 9. Waterfront Storage & Distribution Facility                   | Y          |
| <b>C. Agriculture</b>   |            |

|                |   |
|----------------|---|
| 1. Aquaculture | Y |
| 2. Aquaponics  | Y |

**4770A. Designated Port Area Additional Restrictions.**

The Port of New Bedford has areas restricted by the Designated Port Area (DPA) and General Laws, Chapter 91 (the Waterways Act). Uses and structures located in the DPA are subject to additional regulations and requirements as promulgated by the Massachusetts Coastal Zone Management Office as it relates to the DPA of New Bedford Harbor. If these regulations and requirements conflict with an otherwise permitted use or structure within the MacArthur Drive District as listed above, the regulations and requirements of the DPA shall apply.

**4780A. Table of Dimensional Regulations Applicable to Section 4700A.**

| <u>REQUIREMENT</u>                              | <u>MDD</u> |
|---|------------|
| Minimum Lot Size (sq. ft.)                      | 0          |
| Density of Dwelling Units per Lot               | N/A        |
| Lot Frontage (ft.)                              | 20         |
| Height of Buildings (ft.) <sup>1</sup>          | 60         |
| Height of Buildings <sup>1</sup><br>(# stories) | 4          |
| Front Yard (ft.) <sup>2</sup>                   | 10         |
| Side Yard (ft.)                                 | 10         |
| Rear Yard (ft.)                                 | 20         |
| Lot Coverage by Buildings (%) <sup>1</sup>      | 60         |
| Green Space (%) <sup>1</sup>                    | 10         |

<sup>1</sup> See Section 4793A. Development Incentives.

<sup>2</sup> So as to preserve the existing location of a historic building listed or eligible to be listed on the State or National Historic Registers, the Planning Board may waive the front yard setback. Additionally, the Planning Board may waive the front yard setback to allow a publicly accessible plaza between the lot line and the principal façade of the building. Parking is not allowed within the front yard setback.

**4790A. Approval of Site Plans and Special Permits; Development Incentives, Development Standards and Guidelines.**

The requirements of Section 5300 and 5400 of the Zoning Ordinance shall govern unless specifically noted below. Consistency with the purpose and intent of Section 4700A, other relevant provisions of the Zoning Ordinance and the New Bedford MacArthur Drive Redevelopment Plan 2022 shall guide Planning Board decisions in all applications for site plan, Special Permits and development incentives as set forth below.

**4791A. Criteria for Site Plan Approval Where a Special Permit Is Not Required.**

This section supersedes Section 5470 for purposes of this Section only; all other provisions of Section 5400 shall otherwise apply. The Planning Board shall grant site plan approval upon the determination that the requirements set forth in subsections A-D, below are met. Notwithstanding compliance with subsections A-D, the Planning Board may impose any rationally related condition on a Site Plan approval that is intended to protect public health or safety, or otherwise further the purpose and intent of the Zoning Ordinance.

- A. The application is complete with respect to Sections 5440 and 5450 of the Zoning Ordinance.
- B. The application is consistent with the intent of Section 4700A and the New Bedford MacArthur Drive Area Redevelopment Plan 2022.
- C. The application meets the relevant development standards in Section 4794A, below.
- D. The Planning Board may take into consideration the consistency of the application with the design guidelines, defined in Section 4790A.

**4792A. Criteria for Approval of a Special Permit.**

When required, a Special Permit may be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the benefit to the City, the District, and the neighborhood, outweighs the adverse effects of the proposed use or structure, taking into consideration the characteristics of the site and the proposal in relation to the site, as well as Section 5320 of the Zoning Ordinance and the criteria listed below:

- A. The consistency of the application and the site plan with the intent of Section 4700A and the New Bedford MacArthur Drive Redevelopment Plan 2022.
- B. The application meets the relevant development standards in Section 4794A, below.

C. The Planning Board may take into consideration the consistency with the design guidelines, defined in Section 4795A.

D. Traffic and circulatory impact on the roads and neighborhoods adjacent to the Overlay District.

E. Where relevant, compliance with the requirements of G.L. c. 91 *et seq.* and the provisions of the state-approved municipal harbor plan for the New Bedford-Fairhaven Harbor.

Any Special Permit issued pursuant to this section shall incorporate the Planning Board's findings, conditions, and approval of the site plan. Notwithstanding compliance with subsections A-E, above, the Planning Board may impose any rationally related conditions of special permit approval that is intended to protect public health or safety, or otherwise further the purpose and intent of this Section 4700A *et seq.* or the Zoning Ordinance in general.

**4793A. Development Incentives Applicable to Section 4700A.**

In the sole reasonable discretion of the Planning Board, the Board may allow building heights to be increased to a maximum of seventy-five (75) feet and/or five (5) stories, and/or the requirements applicable to maximum lot coverage and minimum green space to be waived, in whole or in part. Said dimensional regulations shall be reviewed on a case-by-case basis to ensure consistency with the goals of New Bedford MacArthur Drive Redevelopment Plan 2022. The board must find that:

1. The proposal provides a substantial enhancement to public realm spaces/amenities and/or environmental benefits; through any of the following: treatment of buildings; site design; green infrastructure; the provision of public access to waterfront (where appropriate and not in conflict with G.L. c. 91 *et seq.*), and/or public infrastructure improvements as described in the New Bedford MacArthur Drive Redevelopment Plan.

2. The site plan or special permit is in accordance with the requirements of the Zoning Ordinance.

**4794A. Development Standards Applicable to Section 4700A.**

In addition to all other applicable requirements set forth herein or contained within the Zoning Ordinance, all projects or uses within the MDD shall comply with the following:

**4794A.01. Rehabilitation of Existing Buildings.**

For conversions of existing structures, the Planning Board must find that the proposal protects the City's heritage by minimizing removal or disruption of

historic, traditional, or significant uses, structures, or architectural elements, whether these exist on the site or adjacent properties.

#### **4794A.02. Development Standards for New Construction.**

The following standards apply to all subareas, unless noted below.

##### **A. Treatment of Buildings**

1. Buildings shall be oriented toward public spaces with entrances and windows facing the street. Blank walls parallel to the street are discouraged.
2. Building façades over 75 feet in length are required to have a change in plane articulated by projecting or recessed bays, balconies, or setbacks.
3. Buildings entrances should be located to facilitate pedestrian movement between private and public spaces and to promote strong physical connections to public spaces.
4. New mixed-use developments shall promote active ground floor uses with the potential to animate the street.
5. Awnings, facade treatments and window displays for ground floor uses, which are compatible with surrounding uses, are encouraged for mixed use developments.
6. Construction materials shall be durable, resilient, and traditional to the district area (e.g., brick, stone, steel, wood, shingles or clapboard finishes). Vinyl siding or Exterior Insulation and Finish Systems (“EIFS”) shall not be permitted.
7. Building signs shall complement the architecture and surrounding character of the district. All signs are subject to Planning Department administrative review and Section 3200 of the Zoning Ordinance.

##### **B. Treatment of the Site and Landscape**

1. Projects shall implement low-impact stormwater management techniques to control runoff and manage stormwater on-site, such as the use of structured soils, engineered tree wells, biofiltration swales, or other best management practices suited to an urban environment. Stormwater management practices should be consistent with Chapter 16, Article VIII, Stormwater Management of the New Bedford Code of Ordinances; any alteration of land will require a stormwater management permit unless such alteration meets the exemptions in the ordinance. Stormwater shall



not be permitted to drain into the City's sewer system, onto other properties, into surface waters or into New Bedford Harbor.

2. Parking areas contiguous with a public sidewalk shall provide a landscaped buffer between the parking area and the public sidewalk with a minimum width of five (5) feet.

3. Healthy mature trees and vegetation shall be maintained and incorporated into the new site plan to the greatest extent possible.

4. Invasive species included in the Massachusetts Prohibited Plant List are prohibited.

5. Hardscape materials that connect to public infrastructure shall smoothly connect to ensure public safety and mobility and shall be consistent or compatible with the public infrastructure in terms of material type and durability (e.g., a concrete public sidewalk shall be matched with either a concrete private sidewalk or decorative pavers, private asphalt sidewalks should not overrun public sidewalks).

6. Lighting shall be shielded or at a 75 to 90-degree cut-off. Lights shall not be operational during non-business hours, except for minimal lighting required for safety.

#### C. Public Access to the Waterfront

1. Where applicable, public access to the waterfront shall be provided in accordance with the requirements of Massachusetts General Laws Chapter 91 and the New Bedford-Fairhaven Municipal Harbor Plan in effect at the time of application.

#### D. Public and Private Infrastructure

1. Public amenities (including benches, lighting, bike racks, and trash receptacles) and landscape materials (planting choices, paving materials) shall be consistent in quality and appearance throughout the MDD and are subject to administrative review by the Planning Department and the Department of Public Infrastructure.

2. Bicycle parking and storage facilities shall be incorporated into all new facilities. Bike racks shall be U frame or similar, as directed by the Planning Department and the Department of Public Infrastructure.

3. Utility lines shall be located underground or to the rear of buildings to improve the visual quality of the streetscape and to eliminate conflicts between sidewalks, plantings, and utility poles.

## **4795A. Design Guidelines.**

Design guidelines to assist Applicants with the design of projects within the District are as noted below. Although these are not mandatory, consistency with the guidelines shows consideration of the City's desires for development that includes low-impact design strategies for landscape and on-site stormwater management; building design that is consistent with LEED criteria (or other similar rating system); and a mixed-use area that is cognizant of the needs of both truck movements and amenities for pedestrians and bicyclists.

### **A. Treatment of Building**

1. New urban-scaled buildings should match the setback of the existing streetscape and height differences between buildings should be gradual.
2. Avoid boxy, uniform front façades that extend the entire block.
3. Reduce the perception of height by breaking apart taller buildings utilizing wall plane offsets and other variations in building massing.
4. Roof parapets or appropriate screening materials should be used to screen all roof mounted equipment from view of pedestrians.
5. Use façade elements to define proportions of the massing and create distinct organization, such as street-level, upper-level, and roof.
6. Entries and windows should be arranged to create a welcoming appearance for public entries and uses.
7. Façades should be treated with similar care on all sides of the building visible from a public right-of-way.
8. Use high quality, resilient materials that draw inspiration from local architecture. Materials should continue around to all sides of buildings and changes in material types are encouraged to reinforce the organization of façade elements.
9. The use of reflective surfaces for roofs or green roofs is encouraged to reduce heat island effect.
10. Historic buildings should be rehabilitated, and the historic elements preserved.
11. When historic preservation is not feasible, new construction or the adaptive reuse of old buildings should incorporate façade and roof articulation, window and door patterns, and building materials that establish a compatible design character with neighboring buildings.
12. Above-grade parking garages should be wrapped with active ground floor uses on primary streets.
13. Above-grade parking garages and parking areas contiguous with a public sidewalk on a secondary street should be screened by a creative installation or vegetation or wrapped with active uses.

### **B. Treatment of the Site and Landscape**

1. Building street edges should be pedestrian-friendly and contribute to a comfortable, attractive public realm.
2. Where possible, curb cuts should be minimized, and property owners are encouraged to share access from the public right-of-way to contiguous parking lots and service areas to adjacent buildings.
3. Parking and loading access should be from service streets. Any curb cuts should be consolidated to minimize the impact of the continuous ground floor street edge.
4. Parking lots and loading areas should be located behind or to the side of buildings and screened from public view.
5. Clear signage should be provided to direct drivers to private parking.
6. Plants should be native or adapted to coastal conditions.
7. The use of permeable pavements, vegetated buffers, rain gardens, bioswales, and wetlands restoration to control runoff and manage stormwater on-site is encouraged.
8. The visual impact of wide expanses of parking should be reduced with large, landscaped islands and planting strips.
9. Utility boxes and trash receptacles should be located at the rear of the property and/or out of sight from any street and screened from public view.

**C. Public and Private Infrastructure**

1. Owners and developers of buildings with active ground floor uses should work in concert with the City to ensure that a minimum clear width of six (6) feet for pedestrians is maintained on every sidewalk (not including the space assigned to light poles, hydrants or street trees). If the available sidewalk clear width is less than six (6) feet, new buildings may consider setting back the storefront or ground floor active uses from the front property line as much as needed to achieve the desirable minimum sidewalk clear width.
2. Sidewalks should be continuous along all roadways as part of a “complete streets” design approach that allocates right of way access for bicycle lanes, sidewalks, and parked or ride share vehicles.

**4796A. Severability.**

If any provision of this Section 4700A *et seq.* is found to be invalid by a court of competent jurisdiction, the remainder of Section 4700A shall not be affected but shall remain in full force. The invalidity of any provision of Section 4700A shall not affect the validity of the remainder of the City’s Zoning Ordinance.

**SECTION 3.** This ordinance shall take effect in accordance with the provisions of Chapter 40A of the General Laws.