

HOUSE No. 853

By Mr. Walz of Boston, a petition (accompanied by bill, House, No. 853) of Martha M. Walz and others relative to the protection of certain public parks from the construction of certain high-rise structures. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act protecting certain public parks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	8th Suffolk
Byron Rushing	9th Suffolk
Anthony W. Petrucci	First Suffolk and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROTECTING CERTAIN PUBLIC PARKS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 362 of the Acts of 1990, in the definition of "new shadow", is
2 hereby amended by inserting after the words "height limits allowed by the Boston" the following
3 word: "Cambridge" and by inserting after the words "flagpole, sign or other similar structure"
4 the following words: "If the proposed structure is proposed for a site that is or may be exempt
5 from Boston zoning law pursuant to section 15 or 16 of chapter 81A or if said site has no as-of-
6 right height limit, the height limit for the purpose of determining new shadow shall be the height
7 limit for the zoning district in which the site is located."

8 SECTION 2. Section 1 of Chapter 362 of the Acts of 1990, in the definition of "permit granting
9 authority", is hereby amended by inserting after the words "the Inspectional Services Department
10 in the city of Boston" the following words: "the Inspectional Services Department in the city of
11 Cambridge,".

12 SECTION 3. Section 1 of Chapter 362 of the Acts of 1990, in the definition of "structure", is
13 hereby amended by inserting after the words "and (ii) not located within the boundaries of the
14 Boston Common or the Lynn Common" the following words: "or Charles River Esplanade,
15 Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square Park, Magazine
16 Beach Park, or Rose Fitzgerald Kennedy Greenway."

17 SECTION 4. Section 1 of Chapter 362 of the Acts of 1990 is hereby amended by inserting the
18 following:

19 "Charles River Esplanade", the land in the city of Boston bounded by the Charles River Dam,
20 the Boston University Bridge, so called, the Charles River, Embankment Road, and James
21 Jackson Storrow Memorial Drive.

22 “Christopher Columbus Park”, the land in the city of Boston bounded by Atlantic Avenue, the
23 Boston Harbor, Long Wharf, and Commercial Wharf.

24 “Commonwealth Avenue Mall”, the land in the city of Boston bounded by Arlington Street,
25 Kenmore Street, Commonwealth Avenue (westbound) and Commonwealth Avenue (eastbound).

26 “Copley Square Park”, the land in the city of Boston bounded by Boylston Street, Clarendon
27 Street, St. James Avenue, and Dartmouth Street, excluding therefrom the land occupied by
28 Trinity Church.

29 “Magazine Beach Park”, the land in the city of Cambridge bounded by Memorial Drive, the
30 Charles River, the Boston University Bridge, so called, and River Street.

31 “Rose Fitzgerald Kennedy Greenway”, the open space and park parcels in the city of Boston
32 bounded by Causeway Street and Kneeland Street including at a minimum parcels numbered 5,
33 8, 10, 13, 14, 15, 16, 17, 19, 21, 22 and 23 a through d, inclusive, as shown on the plan entitled
34 “Parcel Land Use – Massachusetts Turnpike Authority - 2008”, drawn by Don Kindsvatter, April
35 1999 and most recently revised May 2008, the original of which is to be kept on file at the office
36 of the Massachusetts Turnpike Authority, together with any additional parcels and other areas as
37 may not be developed by the Massachusetts Turnpike Authority, or as the legislature may from
38 time to time add to the greenway; provided, however, that in no event shall the greenway include
39 (a) any element or space deemed by the written certification of the Massachusetts Turnpike
40 Authority’s executive director and chief engineer to be necessary for the use, operation or
41 maintenance of the Thomas P. O’Neill, Jr. Tunnel and (b) parcels 1, 1B, 2, 2A, 2C, 6, 9, 11A, 12
42 and 18 as shown on said plan and for which a real estate development agreement has been
43 executed by the Massachusetts Turnpike Authority.

44 SECTION 5. Chapter 362 of the Acts of 1990 is hereby amended by inserting after section 2 the
45 following section:

46 Section 3. Notwithstanding any provision of chapter 40A, chapter 121A, or chapter 121B of the
47 General Laws or chapter 665 of the Acts of 1956, or any other general or special law to the
48 contrary, no permit granting authority shall take any action which would authorize the
49 construction of any structure which would cast a new shadow on the Charles River Esplanade,
50 Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square Park, Magazine
51 Beach Park, or Rose Fitzgerald Kennedy Greenway; provided, however, that the provisions of
52 this section shall not apply to (a) actions authorizing any structure which casts a new shadow
53 upon the aforementioned lands only during the first hour after sunrise or before seven o’clock in
54 the morning, whichever is later, or the last hour before sunset, and (b) new shadow resulting
55 from structures built in parcels 1, 1B, 2, 2A, 2C, 6, 9, 11A, 12 and 18 of the Rose Fitzgerald
56 Kennedy Greenway.