

HOUSE No. 853

The Commonwealth of Massachusetts

In the Year Two Thousand 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
2 shadow”, is hereby amended by inserting after the words “height limits allowed by the Boston”
3 the following word: “Cambridge” and by inserting after the words “flagpole, sign or other
4 similar structure” the following words: “If the proposed structure is proposed for a site that is or
5 may be exempt from Boston zoning law pursuant to section 15 or 16 of chapter 81A or if said
6 site has no as-of-right height limit, the height limit for the purpose of determining new shadow
7 shall be the height 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
9 granting authority”, is hereby amended by inserting after the words “the Inspectional Services
10 Department in the city of Boston” the following words: “the Inspectional Services Department in
11 the city of Cambridge,”.

12 SECTION 3. Section 1 of Chapter 362 of the Acts of 1990, in the definition of
13 “structure”, is hereby amended by inserting after the words “and (ii) not located within the
14 boundaries of the Boston Common or the Lynn Common” the following words: “or Charles

15 River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square
16 Park, Magazine Beach Park, or Rose Fitzgerald Kennedy Greenway.”

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

19 “Charles River Esplanade”, the land in the city of Boston bounded by the Charles River
20 Dam, 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
23 Avenue, the Boston Harbor, Long Wharf, and Commercial Wharf.

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

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

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

32 “Rose Fitzgerald Kennedy Greenway”, the open space and park parcels in the city of
33 Boston bounded by Causeway Street and Kneeland Street including at a minimum parcels
34 numbered 5, 8, 10, 13, 14, 15, 16, 17, 19, 21, 22 and 23 a through d, inclusive, as shown on the
35 plan entitled “Parcel Land Use – Massachusetts Turnpike Authority - 2008”, drawn by Don

36 Kindsvatter, April 1999 and most recently revised May 2008, the original of which is to be kept
37 on file at the office of the Massachusetts Turnpike Authority, together with any additional
38 parcels and other areas as may not be developed by the Massachusetts Turnpike Authority, or as
39 the legislature may from time to time add to the greenway; provided, however, that in no event
40 shall the greenway include (a) any element or space deemed by the written certification of the
41 Massachusetts Turnpike Authority's executive director and chief engineer to be necessary for the
42 use, operation or maintenance of the Thomas P. O'Neill, Jr. Tunnel and (b) parcels 1, 1B, 2, 2A,
43 2C, 6, 9, 11A, 12 and 18 as shown on said plan and for which a real estate development
44 agreement has been executed by the Massachusetts Turnpike Authority.

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

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