

HOUSE No. 715

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone and Byron Rushing

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 adoption of the accompanying bill:

An Act protecting sunlight in certain public parks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

HOUSE No. 715

By Messrs. Livingstone of Boston and Rushing of Boston, a petition (accompanied by bill, House, No. 715) of Jay D. Livingstone and others for legislation to regulate the construction of buildings and structures that would cast shadows on certain public parks . Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 826 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act protecting sunlight in certain public parks.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the public's access to sunlight in certain public parks, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 is hereby amended by striking
2 out the definition of “new shadow” and inserting in place thereof the following definition:-

3 “New shadow”, the casting of a shadow at any time of day on an area which is not cast in
4 shadow at such time by a structure. New shadow shall not include a shadow cast (i) by a
5 structure which exists; (ii) by a structure for which a building permit has been granted on the
6 date upon which application is made to a permit-granting authority for a proposed structure; or
7 (iii) by the proposed structure for which approval is being sought from a permit granting

8 authority if such structure conforms to as-of-right height limits allowed by the Boston,
9 Cambridge or Lynn Zoning Code, whichever is applicable, as in force on May 1, 1990. New
10 shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign or
11 other similar structure. If the proposed structure is proposed for a site that is or may be exempt
12 from Boston zoning law or if the site has no as-of-right height limit, the height limit for the
13 purpose of determining new shadow shall be the height limit for the zoning district in which the
14 site is located.

15 SECTION 2. Said section 1 of said chapter 362 of the acts of 1990 is hereby further
16 amended, in the definition of “permit granting authority”, by inserting after the words
17 “authorized to grant permits or approvals pursuant to” the following words:- sections 61 to 62H,
18 inclusive, of chapter 30.

19 SECTION 3. Said section 1 of said chapter 362 of the acts of 1990 is hereby further
20 amended in the definition of “permit granting authority”, by inserting after the words “the
21 Inspectional Services Department in the city of Boston,” the following words:- the Inspectional
22 Services Department in the city of Cambridge,.

23 SECTION 4. Said section 1 of said chapter 362 of the acts of 1990 is hereby further
24 amended, in the definition of “structure”, by inserting after the words “and (ii) not located within
25 the boundaries of the Boston Common or the Lynn Common” the following words:- or Charles
26 River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square
27 Park, Magazine Beach Park or Back Bay Fens.

28 SECTION 5. Said section 1 of said chapter 362 of the acts of 1990 is hereby further
29 amended by inserting after the definition of “Article 40”, the following 6 definitions:-

30 “Back Bay Fens”, the land in the city of Boston bounded by The Fenway, Park Drive and
31 Boylston Street.

32 “Charles River Esplanade”, the land in the city of Boston bounded by the Charles River
33 Dam, the Boston University Bridge, so called, the Charles River, Embankment Road and James
34 Jackson Storrow Memorial Drive.

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

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

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

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

45 SECTION 6. Said 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 sections 61 to 62H, inclusive, of chapter 30;
48 chapter 40A; chapter 121A; or chapter 121B of the General Laws; chapter 665 of the acts of
49 1956; or any other general or special law to the contrary, no permit granting authority shall take
50 any action which would authorize the construction of any structure which would cast a new

51 shadow on the Charles River Esplanade, Christopher Columbus Park, Commonwealth Avenue
52 Mall, Copley Square Park, Magazine Beach Park or the Back Bay Fens; provided, however, that
53 the provisions of this section shall not apply to actions authorizing any structure which casts a
54 new shadow upon the aforementioned lands only during the first hour after sunrise or before 7
55 o'clock in the morning, whichever is later, or the last hour before sunset.

56 SECTION 7. Section 1 of chapter 384 of the acts of 1992 is hereby amended by striking
57 the definition of "new shadow" and inserting in place thereof the following definition:-

58 "New shadow", the casting of a shadow at any time of day on an area which is not cast in
59 shadow at such time by a structure. New shadow shall not include a shadow cast (i) by a
60 structure which exists; (ii) by a structure for which a building permit has been granted on the
61 date upon which application is made to a permit-granting authority for a proposed structure; or
62 (iii) by the proposed structure for which approval is being sought from a permit granting
63 authority if such structure conforms to as-of-right height limits allowed by the Boston,
64 Cambridge or Lynn Zoning Code, whichever is applicable, as in force on May 1, 1990. New
65 shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign or
66 other similar structure. If the proposed structure is proposed for a site that is or may be exempt
67 from Boston zoning law or if the site has no as-of-right height limit, the height limit for the
68 purpose of determining new shadow shall be the height limit for the zoning district in which the
69 site is located.