

BY-LAWS FOR THE BACK BAY WEST/BAY STATE ROAD DISTRICT COMMISSION

Article 1: General Provisions

Section 1.1 **AUTHORITY:** These by-laws are adopted pursuant to Section 3 of Chapter 772 of the General Laws of the Commonwealth of Massachusetts for 1975, hereinafter referred to as the enabling statute.

Section 2.2 **PURPOSE:** These by-laws shall govern the internal management of the Back Bay West/Bay State Road District Commission and are intended to further the goals set forth in Section 1 of the enabling statute.

Section 2.3 **OFFICE:** The offices of the commission shall be maintained at Boston City Hall during normal business hours on all days that the building is open to the public.

Section 2.4 **COUNSEL:** Legal counsel for the commission shall be designated by the Corporation Counsel of the City of Boston.

Article 2: Members, Office, Staff

Section 2.1 **MEMBERS:** The membership of the commission shall be as provided in Section 3 of the enabling statute.

Section 2.2 **ALTERNATES:** For all purposes except voting, alternates shall have the same authority and responsibilities as commissioners. An alternate shall cast a vote when his or her designated member is absent or withdraws from a vote. An alternate may also vote when a designated resident member and alternate are both absent or have both withdrawn from a vote.

Section 2.3 **ELECTED OFFICERS:** The district commission shall hold a yearly election at an annual meeting on the first of February, or as soon thereafter as may be convenient, for the offices of Chairman and Vice-Chairman. Elected officers shall serve a term of one year. The election shall be made by secret ballot under the direction of the secretary. The term of office for such offices shall be one year.

Section 2.4 **ACTING OFFICER:** In the absence of the elected officers, an acting Chairman shall be elected by the members and shall serve until the return of one of the elected officers or until the next annual election of officers, whichever event occurs first.

Section 2.5 **DUTIES OF THE CHAIRMAN:** The principal duties of the Chairman shall be as follows:

- a. supervise the affairs of the commission;
- b. preside at meetings of the commission;
- c. sign correspondence and all official documents of the commission;
- d. perform such other duties and assume responsibilities as may be consistent with and in furtherance of the enabling statute, including representing the commission before other public bodies; and
- e. delegate from time to time specific authority to other members, alternates, and staff.

Section 2.6 DUTIES OF THE VICE-CHAIRMAN: The principal duties of the Vice-Chairman shall be, in the absence of the Chairman, to perform all the duties and responsibilities of the Chairman.

Section 2.7 SECRETARY: The commission shall have the services of a staff member of the City of Boston Environment Department to act as its Secretary.

Section 2.8 DUTIES OF THE SECRETARY: The principal duties of the Secretary shall be:

- a. to take minutes of all meetings of the commission;
- b. to maintain records of every determination of the commission, noting the vote of every commission member participating in such determination and the absence or failure to vote of every member;
- c. to prepare all reports and publications of the commission;
- d. to receive and process, on behalf of the commission, all petitions, applications for certificates and other official correspondence;
- e. to prepare agendas and notify all persons entitled to notice as listed in Section 5.1 for all commission meetings;
- f. to act as liaison between the commission and other agencies, departments, and organizations to which it must relate in the conduct of its affairs, including but not limited to the City of Boston, the Inspectional Services Department, the Massachusetts Historical Commission, and the Boston Landmarks Commission; and
- g. to prepare and sign, on behalf of the Commission, such correspondence and to assume such responsibility as the commission may from time to time direct.

Section 2.9 STAFF ARCHITECT: The Commission shall be provided with the services of a staff architect by the City of Boston Environment Department. This architect shall be experienced in historic preservation and familiar with the architectural characteristics of the district.

Section 2.10 DUTIES OF THE STAFF ARCHITECT: The principal duties of the staff architect shall be:

- a. to consult with applicants for Certificates of Design Approval prior to the hearing on applications;
- b. to make recommendations for action by the commission on applications for certificates;
- c. to determine eligibility for issuing Certificates of Exemption; and
- d. to perform such duties as the commission or secretary may from time to time direct.

Article 3: Meetings

Section 3.1 ANNUAL MEETINGS: The commission shall meet annually for the purpose of electing officers. Such meetings shall occur on the first day of February or as soon thereafter as may be convenient.

Section 3.2 REGULAR MEETINGS: Regular meetings of the commission shall be held monthly on the second Tuesday of the month in Boston City Hall or, at the discretion of the Chairman, at other locations convenient to the district area.

Section 3.3 SPECIAL MEETINGS: Special meetings of the commission may be called by the Chairman, by the Secretary with the consent of the Chairman or Vice-Chairman, or by three members of the commission.

Section 3.4 EMERGENCY MEETINGS: Emergency meetings to deal with special matters may be called by the Chairman or Vice-Chairman and may proceed as soon as a quorum is present.

Article 4: Procedures

Section 4.1 NOTICE: The commission shall endeavor to provide the maximum possible advance notice (of at least ten days) to its members and to the public of its forthcoming meetings and public hearings. In no case shall the form and timing of such notice be inconsistent with the enabling statute, the open meeting law, and the regulations of the commission regarding its relationship with the public.

Section 4.2 QUORUM: The number of members required to constitute a quorum shall vary according to the nature of the business conducted at the commission meeting:

- a. for election of officers--five members;
- b. for amendments to the rules and regulations of the commission--five members;
- c. for modifications to the district Standards and Criteria--five members;
and
- d. other business of the commission--three members.

Section 4.2 VOTES REQUIRED FOR APPROVAL: A majority vote of the quorum shall constitute approval in all cases, except when voting for amendments to the rules and regulations of the commission, for which a two-thirds majority vote of the quorum shall be required.

Section 4.4 PROXIES: Voting by proxy shall not be allowed.

Section 4.5 CONFLICTS OF INTEREST: Any member who has a personal or business matter before the commission which would affect impartial discharge of his or her responsibilities in accordance with Chapter 286A of the Massachusetts General Laws shall not participate in the discussion of the matter or in the voting of the matter before the commission. Said member shall inform the commission and secretary in advance, and shall physically withdraw from the commission while the matter is before the commission. The minutes of the meeting shall state that the member has abstained from consideration of the matter.

Section 4.6 ABSENCES: It is the responsibility of any member unable to attend a scheduled meeting to inform the secretary and his or her designated alternate in advance of the meeting.

Section 4.7 ADVANCE REVIEW OF APPLICATIONS: All members shall, if possible, review applications for Certificates of Design Approval and shall visit the subject buildings before the public hearing on the applications. Abutting property owners and all others receiving notice shall also be notified that applications are available for public inspection at the office of the Environment Department.

Section 4.8 ADJOURNMENT AND CONTINUANCE: In the event that the absence or departure of members from a meeting causes a lack of quorum, or that the business before the commission cannot be completed at one sitting, the presiding officer may adjourn the meeting and subsequently reschedule another or may continue the meeting by announcing a convenient time and place for resumption at such meeting; motions for adjournment or continuance shall require concurrence of a numerical majority of members present and voting.

Section 4.9 MINUTES: Minutes shall be taken at every meeting of the commission, shall be distributed to all members, shall be available to the public and shall be reviewed, corrected as necessary, and ratified at the next regular meeting of the commission.

Section 4.10 MANNER OF VOTING: All votes of the commission shall be taken in open public session. A member may cast a vote only in favor of or in opposition to a proposed action of the commission; abstentions shall not be permitted. Withdrawal of a member for cause, and appointment of an alternate for purposes of voting, shall be allowed in accordance with Section 4.11 of the by-laws.

Section 4.11 WITHDRAWAL FROM VOTING: If, after participation in discussion of a matter before the commission, a member is in good conscience unable to make a determination, withdrawal from voting shall be permitted by the presiding officer upon the request of the member involved. In such instances, the member's designated alternate shall vote according to the procedures established under Section 2.2.

Section 4.12 RECONSIDERATION: The commission may reconsider its vote upon any action. A motion for reconsideration must be made by a member present and voting upon the original determination proposed for reconsideration. Approval of a reconsideration motion shall require a two-thirds majority of votes cast; the required quorum for reconsideration shall be identical to that required for determination of the motion being reconsidered.

Article 5: Public Hearings

Section 5.1 NOTICE: The commission shall hold public hearings as required in Section 6 of the enabling statute. The secretary shall give ten days notice of the hearing to:

- a. the members and alternatives of the commission;
- b. the City Clerk, the mayor, the director and deputy director of the City of Boston Environment Department, the City of Boston Neighborhood Development Agency, and the counsel to the commission;
- c. those requesting notice;
- d. all persons materially affected by any application to be heard at the hearing, consisting of:
 - 1. all persons listed on any application;
 - 2. all owners of property abutting any subject property;
 - 3. other property owners deemed affected by a member of the commission or the secretary, such persons to be determined from the most recent tax list.

Section 5.2 FORM OF NOTICE: The notice of the public hearing shall contain the following:

- a. the date, time and place of the hearing;
- b. a list of all applications to be heard, including the address, the name of the applicant, and a precis of the proposed work; and
- c. a statement that applications are available for public inspection in accordance with Section 4.7 of these regulations.

Section 5.3 CONDUCT OF HEARINGS: Applications will generally be heard in the order given in the agenda and will not be heard prior to the time indicated thereon. Initial presentation will be made by the staff architect or by the secretary, who will summarize the application and read the staff recommendation. The applicant may then make additional statements, and any member of the public, in order of recognition by the chair, may subsequently speak on the application. The Chairman may impose a time limit on testimony at his or her discretion.

Article 6: Actions by the Commission

Section 6.1 DECISIONS: As soon as may be convenient, but no later than the thirtieth day next following the date of filing of the application, the commission shall issue the following determination:

- a. a Certificate of Design Approval with approval of the application as submitted;
- b. a Certificate of Design Approval with conditional approval, subject to certain conditions, such as a field visit or subsequent certification by a commission member or the staff architect that certain conditions have been met;
- c. to take the application for a Certificate of Design Approval under advertisement with the understanding that a formal decision shall be conveyed to the applicant within the time requirements specified in Section 6 of the enabling statute;
- d. to reject the application for a certificate, in which case the reasons for the action of the commission will be set forth in writing to the applicant; and
- e. to reject the application for a certificate without prejudice on account of a lack of sufficient information; this action requires that a new application be resubmitted for a future hearing.

Section 6.2 VOTING: In most cases, the commission shall vote its approval or rejection of an application for a Certificate of Design Approval at the time of the presentation at the public hearing.

Article 7: Violations

Section 7.1 PROCEDURES: The Secretary shall notify owners of record of property where exterior changes are being made, or have been completed, without the approval of the commission that they are in violation of the enabling statute, and that they are required to apply for a Certificate of Exemption or a Certificate of Design Approval. The Secretary shall issue notices of violation to the owners of record, describing the violation and the steps needed to rectify it, in response to complaints received from:

- a. a member of the commission or alternate;
- b. the Secretary or a member of the staff;
- c. the Inspectional Services Department of the City of Boston; and
- d. any persons, if the violations is verified by a person listed in categories a, b, and c above.

The Secretary shall send the notice of violation by first class mail upon receipt of the complaint, subject to certification, as noted in Section 9.1. The secretary may also request that a stop work order be issued by the City of Boston Inspectional Services Department. If the owner of record does not respond within ten days of the issuance of the notice, the Secretary shall send a second notice pointing out the intention of the commission to transfer the case to the Corporation Counsel within five days if no response is received. If there is still no response from the owner or an agent of the owner, the Secretary shall turn the violation over to the Corporation Counsel for appropriate action to require conformance with the enabling statute.

Section 7.2 RECORDS: The Secretary shall maintain a record of all notices of violation and shall distribute a summary of this record to the commission at its regular meetings.

Article 8: Amendments

Section 8.1 FORM: Amendments to these by-laws shall be proposed in writing and shall be made available to all members of the commission at such time as notice is given for the meeting at which they are to be considered.

Section 8.2 APPROVAL: Amendments to these by-laws may be considered at any regular, special, or annual meeting of the commission and shall be approved with the provisions of Section 4.2 regarding an appropriate quorum and Section 4.3 regarding votes required for approval.

Article 9: Severability

Section 9.1 SEVERABILITY: The provisions of these rules and regulations are severable; if any provision or provisions shall be held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect other provisions of these rules and regulations.