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**BY-LAWS OF THE BACK BAY ARCHITECTURAL COMMISSION** as adopted on October 9, 1985,  
and as amended May 9, 1990.

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Article 1: General Provisions

- 1.1 Authority: These by-laws are adopted pursuant to Chapter 625 of the General Laws of the Commonwealth of Massachusetts for 1966, as amended, hereinafter referred to as the enabling statute.
- 1.2 Purpose: These by-laws shall govern the internal management of the Back Bay Architectural Commission and are intended to further the goals set forth in Section 1 of the enabling statute.
- 1.3 Office: The offices of the commission shall be maintained at City Hall in Boston during normal business hours on all days that the building is open to the public.
- 1.4 Counsel: Legal counsel for the commission shall be as designated by the Corporation Counsel of the City of Boston.

Article 2: Commissioners, Alternate Commissioners, Officers and Staff

- 2.1 Commissioners: The duties of Commissioners and Alternate Commissioners of the commission shall be as provided by enabling statute.
- 2.2 Officers: The commission shall annually elect on its regular meeting day in May the following officers from its membership: a chairperson and a vice-chairperson. The election of officers shall be the first item on the agenda of this meeting. A majority of those present and voting shall be necessary for election to office. Alternates shall not be eligible for permanent office.
- 2.3 Acting Officer: In the absence of the elected officers, an acting chairperson 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.
- 2.4 Duties of Chairperson: The principal duties of the chairperson 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 such other responsibilities as may be consistent with and in furtherance of the enabling statute, including representing the commission before the Boston City Council and other public bodies; and
  - (e) delegate from time to time specific responsibility to other members, committees, alternates or staff.
- 2.5 Duties of Vice-Chairperson: The vice-chairperson shall, in the absence of the chairperson, perform all the duties and assume all the responsibilities of the chairperson.
- 2.6 Secretary: The commission shall have a secretary as provided in its enabling statute.
- 2.7 Duties of the Secretary: The principal duties of the secretary shall be as follows:
- (a) take, or cause to be taken, minutes of all meetings of the commission; to include taped recordings which shall be retained for two years;
  - (b) maintain, or cause to be maintained, written records of every determination of the commission, noting the vote of every member of the commission participating in such determination and the absence or failure to vote of every other member; and distributing copies of such record to the commissioners;
  - (c) supervise the activities of the staff of the commission;

- (d) administer the preparation of all reports and publications of the commission;
- (e) receive and process, on behalf of the commission, all petitions, applications for certificates and other official correspondence;
- (f) prepare agendas and notify all persons entitled to notice as listed in Section 6.1 for all commission meetings;
- (g) act as liaison between the commission and all 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 Inspectional Services Department, the Massachusetts Historical Commission, the Back Bay Association, the Neighborhood Association of the Back Bay, the Newbury Street League, The Boston Landmarks Commission, and the Boston Redevelopment Authority;
- (h) prepare and sign, on behalf of the commission, such correspondence as the commission may from time to time authorize or direct, and
- (i) perform such other duties and assume such other responsibilities as the commission may from time to time direct.

2.8 Assistant Secretary: The commission may have an assistant secretary, to whom the commission or the secretary may delegate certain of the secretary's duties and responsibilities.

2.9 Acting Secretary: In the absence of the secretary or in the event of a vacancy in the office of the secretary, the chairperson shall designate an acting secretary who shall temporarily perform the duties of the secretary.

2.10 Staff Architect: The commission shall be provided with the services of a staff architect engaged by the City of Boston. This architect shall be experienced in historic preservation and urban design and familiar with the periods of architecture in the Back Bay Architectural District.

2.11 Duties of Staff Architect: The principal duties of the staff architect shall be as follows:

- (1) consult with applicants for certificates of appropriateness prior to the hearing on applications;
- (2) submit an analysis of each application as it applies to appropriateness for action by the commission;
- (3) determine eligibility for certificate of non-applicability as provided in Section 8.1; and
- (4) perform such other duties and assume such other responsibilities as the commission or secretary may from time to time direct.

ARTICLE 3: Meetings

- 3.1 Annual Meetings: The commission shall meet annually for the purpose of electing officers; such meetings shall occur at the regular May meeting.
- 3.2 Regular Meetings: Regular meetings of the commission shall be held monthly on the second Wednesday of the month in the Boston City Hall, or at other locations within the city which are accessible to the public and the subject of appropriate advance notice in accordance with Chapter 303 of the Acts of 1975, known hereafter as the open meeting law.
- 3.3 Special Meetings: Special meetings of the commission may be called by the chairperson, by the secretary with the consent of the chairperson or in the absence of the chairperson, vice-chairperson, or by any three members of the commission.
- 3.4 Emergency Meetings: Emergency meetings to deal with special matters may be called by the chairperson or in the absence of the chairperson, vice-chairperson and may proceed as soon as a quorum is present.
- 3.5 Public Hearings: The commission shall, from time to time, hold hearings about such matters before it as are required by statute or otherwise desired by the commission. (All meetings of the commission shall be public and regular meetings of the commission shall be public hearings which shall be part of the regular meetings of the commission). The hearings shall be announced and conducted in accordance with the enabling statute, the open meeting law, and the commission's own regulations.
- 3.6 Executive Session: For purposes authorized by the open meeting law, the Commission may on a motion duly adopted and for reasons stated on the record, adjourn to executive session.

ARTICLE 4: Procedures

- 4.1 Notice: The commission shall provide advance notice 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 commission's own regulations.
- 4.2 Quorum: The number of members required to constitute a quorum shall vary as follows, according to the nature of the business being conducted at the commission meeting:
- (a) election of officers: 9 voting members;
  - (b) amendments to the rules and regulations of the commission or to request resignation or removal of a commissioner: 9 voting members;
  - (c) other business of the commission: 5 voting members
- 4.3 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.

4.4 Manner of Voting: With the exception of votes taken in executive session, all votes of the Commission shall be taken in open public session. A member may cast a vote in favor of or in opposition to a proposed action of the commission; abstentions shall be permitted.

4.5 Proxies: Voting by proxy shall not be allowed.

4.6 Conflicts Of Interest: A member who has an interest in a matter before the Commission which would affect the unbiased discharge of his or her responsibilities shall not participate in the discussion of the matter or in the voting on the matter before the commission. No commissioner shall represent a client on any matter before the commission. Said member shall inform the commission and secretary in advance of the conflict, and shall disqualify him or herself by physically withdrawing from the hearing room while the matter is before the commission. The minutes of the meeting shall state that the member has abstained from consideration of the matter.

In the event a member is in doubt about whether he or she has a disqualifying interest in regard to a matter before the Commission, he or she should disqualify (him) herself or seek an opinion of the Corporation Counsel. Should a member who has a potentially disqualifying interest in a matter before the Commission not disqualify (him) herself or seek an opinion of the Corporation Counsel, the Commission may by majority vote request an opinion of the Corporation Counsel which opinion shall determine the question.

4.7 Advance Review of Applications: All members shall, if possible, review applications for certificates of appropriateness and be familiar with the subject building 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 commission office. Maximum possible advance notice of the agendas should be distributed to commissioners, alternate commissioners, counsel, and neighborhood organizations.

4.8 Minutes: Minutes, taken by the secretary or his or her delegate shall include:

- (a) a summary of discussion of each application presented at the public hearing, including recorded tapings, thereof to be retained for a minimum of two years;
- (b) a record of all motions, including the name of the member making the motion, and a listing of yea and nay votes cast.

Record of motions and votes thereof 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.

- 4.9 Continuance: A decision on an application before the commission may, at the discretion of the chairperson, be taken under advisement and continued to the next regular meeting of the commission or to a special meeting in the event that unusual conditions warrant more time to study the merits of the application. This condition must not exceed 50 calendar days from the date of the application as per enabling statute without applicant's written permission.
- 4.10 Delinquent Attendance: Members who are absent from three or more successive regular meetings and public hearings of the commission or who, in the judgement of the chairperson and the vice-chairperson repeatedly fail to attend committee meetings, shall be subject to appear before the commission in Executive Session to show cause why the commission should not request their resignation or seek their removal and a new appointment in their stead in accordance with the enabling statute. Such action by the commission shall require 2/3 vote.
- 4.11 Absence: (a) If a commissioner is unable to attend a meeting, it is his duty to notify the secretary and that commissioner's alternate in sufficient time as to allow that alternate to attend.  
(b) If a commissioner is absent at the commencement of an application, the chair will designate the appropriate alternate as a replacement. If designated, that alternate will sit for the duration of the hearing on that application and shall vote in place of the commissioner thereupon.
- 4.12 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 of his or her vote, 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 in his or her stead or the procedures hereinbefore established under enabling statute shall be utilized to select among alternates for purpose of voting.
- 4.13 Reconsideration: - The commission may reconsider its vote upon any action, except where prohibited by the enabling statute. A motion for reconsideration must be made by a member present and voting upon the original determination and prior to the end of the meeting in which the vote was initially taken. 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.
- 4.14 Effective date: The effective date of a decision is the day of issue of the Certificate of Appropriateness.

ARTICLE 5:

Applications for Certificate of Appropriateness

- 5.1 Applicants: All applicants for a certificate of appropriateness pursuant to Section 8 of the enabling statute must meet the specifications of Section 5.2 below. Those persons making application shall file in person with the secretary during normal business hours, and shall present proof that they have received written approval from the owner of record of the property that an application is being filed and have said owner's written approval. In the case of condominiums or cooperatives, the written approval of the board of trustee or their equivalent



5.2 Applications: All applications for a certificate of appropriateness must be complete and include all items specified on the instructions. Incomplete applications will not be heard. The secretary shall not accept any incomplete application. In that event, the applicant must file the additional information required by the commission before the secretary may accept the application. It is the policy of the commission to encourage one complete application for all contemplated changes on any one building.

5.3 Deadline: An applicant must file a complete application for a certificate of appropriateness no later than 14 days prior to a regular meeting of the commission to be heard at that meeting.

ARTICLE 6: Public Hearings

6.1 Notice: The commission shall hold public hearings as required by an enabling statute as amended on all applications filed in conformance with Article 5 of these by-laws. The secretary shall give maximum possible advance notice; (every effort should be made to provide at least seven days notice) of the hearing to the following:

- (a) members and alternates of the commission;
- (b) the City Clerk, the Mayor, and the at large and district members of the City Council;
- (c) all persons requesting notice, such request to be made or renewed annually in writing in December;
- (d) the executive director and chairperson of the architecture committee of the Neighborhood Association of the Back Bay, Newbury Street League, Back Bay Association and;
- (e) all persons materially affected by any application to be heard at the hearing, consisting of at minimum:
  - (1) all persons listed on any application;
  - (2) all owners of property abutting, i.e. those on either side, directly across the street, those materially affected from the subject property, (in some cases, may include notification in the rear), such person to be determined from the most recent tax list.

6.2 Form of Notice: The notice of the public hearing shall contain the following information:

- (1) the date, time and place of the hearing;
- (2) a list of all applications to be heard, including number, address, applicant, and a precis of the work proposed;
- (3) a statement that applications are available for public inspection in accordance with Section 4.7 of these regulations and the open meeting law.

6.3 Waiver of Notice: The commission shall hear an application for certificate of appropriateness without advance notice at a regular meeting if, and only if, all persons entitled to notice as listed in Section 6.1(e) of these regulations waive, in writing, their right to notice.

6.4 Conduct of Hearings: The chairperson shall serve as presiding officer at all hearings; if he or she is not present, the vice-chairperson or an acting chairperson shall preside.

6.5 Order of Speaking: Any member of the public, in order of recognition by the chair, may speak on the application within the time limit imposed by the chair, so that all will have a fair opportunity to be heard.

ARTICLE 7: Actions by the Commission:

7.1 Certificate of Appropriateness: The commission may take any of the following actions regarding applications for Certificate of Appropriateness:

- (1) approval--The commission may approve the application for certificate as submitted. This action authorizes the secretary to issue a certificate of appropriateness;
- (2) conditional approval--The commission may approve the application subject to certain conditions, and may designate the commission as a whole, any commissioner, the secretary or any other member of the staff to certify that the conditions have been met. This action authorizes the secretary to issue a certificate of appropriateness upon certification by the designated person that the conditions have been met;
- (3) denial--The commission may deny the application, in which case it must set forth its reasons, and notify the applicant in writing of the reasons cited for denial, and may include recommendations concerning the work proposed in the denied application. Without substantial changes, a denied application may not be resubmitted for two years;
- (4) denial without prejudice--The commission may deny without prejudice the application in order to request additional or alternative information, in which case it must specifically set forth the required additional or alternative information.

7.2 Notification of Actions: The secretary shall send a notice of decision on an application for certification to the following:

- (1) all persons listed on the application; and
- (2) all persons who have requested, in writing, notice of the decision at the hearing.

7.3 Appeal of Satisfaction of Conditions: If both the person designated under Section 7.1(2) to certify conditional approval and the applicant cannot agree as to whether the conditions have been met, the applicant may appeal to the full commission by filing an appeal with the secretary. The appeal must be filed in writing by the deadline for application for certificate of appropriateness, and must include all necessary drawings and documents. The appeal will be heard at the first eligible regular meeting of the commission; the commission may uphold or deny an appeal by simple majority vote.

7.4 Limitation of Effectiveness: Certificate of Appropriateness shall be effective for one year from the date of the decision. If work is not completed within one year of the date of the decision, said certificate shall lapse and be invalid unless renewed by the Commission prior to the expiration.

ARTICLE 8: Certificates of Non-Applicability and Exemptions:

8.1 Certificate of Non-Applicability: The commission may issue a certificate of non-applicability as described in Section 7 of the enabling statute to persons seeking building permits within the Back Bay Architectural District whose proposed work does not involve any exterior architectural feature, as defined in Section 3 of the enabling statute as amended.

It is the duty of the secretary to certify that no exterior architectural feature is involved, based on plans presented to the secretary and other documents required in any building permit application. If the secretary is unavailable, any one commission member or the staff architect, may make such certification. Such certification may include a visit to the property in question. Within eight days the member, secretary or architect shall determine if the work proposed on the building permit application involves any exterior architectural feature. If no such feature is involved, the secretary shall stamp on the permit application that a certificate of non-applicability has been issued, and return it to the applicant. If an exterior architectural feature is involved, the secretary shall notify the applicant of the determination and of the requirement for a certificate of appropriateness.

8.2

Exclusions: Work excluded from the commission's jurisdiction by the enabling statute consists of ordinary maintenance or repair involving no change in design, material, color or exterior appearance; and work ordered by the building commissioners to rectify an unsafe or dangerous condition.

The secretary or staff architect shall stamp on any building permit application for work excluded from review that the work is excluded, and return it to the applicant. Any application for exclusion for public safety must include a copy of the order from the building commissioner requiring the work. Any attempted ordinary maintenance or repair that produces a change in a building's exterior appearance shall be stopped by the applicant and application made for a certificate of appropriateness.

ARTICLE 9: Violations:

9.1

Procedures: The secretary shall notify owners of record of property where exterior changes are being made without commission approval that they are in violation of the enabling act and that they are required to apply for a certificate of appropriateness. 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 filed by any of the following:

Adopted May 9, 1990

BACK BAY ARCHITECTURAL DISTRICT  
AMENDMENT TO BBAC BY-LAWS  
ARTICLE 9: ARCHITECTURAL VIOLATIONS

Replace Sections 9.1 and 9.2 of existing by-laws with following revisions.

9.1. VIOLATIONS COMMITTEE.

In order to attempt to resolve violations without litigation, the commission may appoint a subcommittee of its members and alternates to review architectural violations, to determine a course of corrective action, and to pursue legal enforcement as provided by statute. The violations committee shall be assisted by Assistant Corporation Counsel and by the commission staff. The committee's disposition of violations shall be final unless the commission or committee determines that commission review is appropriate.

- a) Members: Minimum of 3, maximum of 5; to be appointed by BBAC chair for 1 year term (renewable).
- b) Chair: To be elected by committee members at commission's annual meeting.
- c) Meetings: The violations committee may meet as necessary to conduct its business.

9.2. PROCEDURES.

- a) Role of Staff: The staff shall investigate reported architectural violations, issue notices of violation and cease and desist orders (the latter to be served on site by constable), schedule violations committee meetings and take minutes, maintain records (including electronic recording of meetings), conduct inspections and monitor the progress of correction, confirm correction and issue dismissals, refer violations to counsel for judicial enforcement at the direction of the committee, and report to the commission on the status of outstanding violations. The committee and/or staff architect shall review and approve details of approved corrective action. The staff shall maintain records of the status and disposition of all violations.
- b) Notices of Violations: Upon the determination by staff that a violation exists, the party responsible shall be informed in writing by means of a Notice of Violation. If the violation is the result of work performed by or for a tenant or individual unit owner, the property owner or condominium/cooperative association will also be notified. Said notice shall set forth in detail the nature of the violation and the corrective action required. If corrective action requires a determination by the violations committee, the notice shall require the responsible party's attendance at the committee's next meeting.

- c) Corrective Action: Applications for Certificates of Appropriateness will not be accepted to approve work done in violation of the statute. Work done to correct violations shall be in accordance with Remedial Action Orders issued by the violations committee. A Compliance Agreement, signed by the party responsible for the violation, will be required as part of corrective action. An application for a Certificate of Appropriateness will be required only in cases where the violations committee negotiates the settlement of a violation which entails alterations to exterior architectural features not involved with the violation (e.g. correction of inappropriate grandfathered alteration in return for violation dismissal). Except where the commission specifically decides otherwise, or where the application is for maintenance and repair of features not in violation, applications for Certificates of Appropriateness will not be accepted for properties having outstanding violations.
- e) Responsibility of the Property Owner: Although the commission holds all parties liable under the statute responsible for the correction of violations, the commission holds the property owner ultimately responsible. If a property is conveyed to another party, the new owner, as well as the former owner, will be responsible for correction of any outstanding violations.

RECORD OF COMMISSION VOTE

MOTION TO APPROVE: Gordon SECOND: Mitchell  
AFFIRMATIVE: Braley, Brenner, Gleason, Gordon, Hoffman, MacDonald,  
Mitchell, Prindle, Simon, Summers NEGATIVE: (None)  
ABSTAIN: (None)

- (1) any commission member or alternate;
- (2) the secretary or any member of the staff;
- (3) the chairperson of the architecture committee or executive director of the Neighborhood Association of the Back Bay; Bay Bay Association;
- (4) the City of Boston Inspectional Services Department; or
- (5) any person, if the violation is certified by a person listed in (1), (2) or (4) above.

The secretary shall send the notice of violation by first class mail upon receipt of the complaint, subject to certification, as noted in Article 9.1(5). The secretary shall request that a stop work order be issued by the Inspectional Services Department for exterior work while violation exists. If the owner of record does not respond within 10 days of the issuance of the notice, the secretary shall send a second notice pointing out the commission's intention to turn the case over to the Corporation Counsel within five days if no response is received. If there is still no response from the owner or any agent of the owner, the secretary shall be required (with the consent of the Chairman or vote of BBAC at its next meeting) to turn the violation over to the Corporation Counsel for appropriate action to require conformance with the enabling act. Enforcement shall be pursued according to Section 11 of the enabling statute as amended.

- 9.2 Records: The secretary shall maintain or cause to be maintained a record of all notices of violation sent and responses received, and shall distribute a copy of the record to the commission at its regular meetings.

ARTICLE 10: Amendments:

- 10.1 Procedures: These regulations may be amended by a two-thirds majority of the commission as provided in Section 4.3, at a regular or special meeting of the commission provided that the amendments are filed with the secretary and mailed to the commission members, alternates, and other interested parties as determined by the secretary and the chairperson with the notice of the meeting.

Article 11: Severability:

- 11.1 Severability: The provisions of these rules and regulations are severable; if any such 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 any other provision of these rules and regulations.