

RULES AND REGULATIONS OF THE BEACON HILL ARCHITECTURAL COMMISSION
(Adopted November 15, 1979; corrected 6/21/90)

Article 1: Section 1.1: These rules and regulations are adopted pursuant to Section 4 of Chapter 616 of the acts of 1955, as previously or hereafter amended; the above Chapter 616 is hereafter referred to as the enabling statute. These rules shall govern the internal and external management of the Beacon Hill Architectural Commission, as constituted by the enabling statute.

Section 1.2: OFFICE-HOURS. The offices of the commission shall be maintained at the New City Hall in Boston during normal business hours on all days that the building is open to the public.

Section 1.3: COUNSEL. Legal counsel for the commission shall be designated by the Corporation Council for the City of Boston.

Article 2: MEMBERS, OFFICE AND STAFF

Section 2.1: MEMBERS. The membership of the commission shall be as provided in Section 4 of the enabling statute.

Section 2.2: ALTERNATES. An alternate's only duty shall be to cast a vote and otherwise fulfill the duties of his or her designated member when said member is absent or withdraws.

Section 2.3: ELECTED OFFICERS. The commission shall hold an annual election at its annual meeting, as defined in Section 4, for the offices of chairman and vice chairman. The term of service of such officers shall be one year. The election of officers shall be by secret ballot under the direction of the secretary in the following manner:

An election may take place only when all five commissioners are present. Alternates may not vote for officers unless there is a vacancy on the Commission, in which case the alternate for the vacancy may vote. - The secretary shall prepare and distribute to each commissioner five ballots, each ballot containing the name of the five commissioners. The secretary will collect the ballots and announce the results. The commissioner who receives an absolute majority shall be named chairman. If there is a tie or no member otherwise receives an absolute majority, a second vote must be taken. Only those who received a tying vote are eligible as candidates in this second vote.

The vice chairman shall be elected according to the same procedure followed in the election of the chairman.

Section 2.4: ACTING OFFICERS. In the absence of the chairman and the vice chairman, an acting officer shall be elected by the members by simple majority vote and shall serve until the return of one of the elected officers or until the next annual election of officers, whichever 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 such other responsibilities as may be consistent with and in furtherance of the enabling statute, and other public bodies; and
- e) delegate from time to time specific authority to other members, alternates or staff.

Section 2.6: DUTIES OF THE VICE CHAIRMAN. The vice chairman shall, in the absence of the chairman, perform all the duties of the chairman.

Section 2.7: SECRETARY. The commission shall at its annual meeting elect a member of its staff to serve as its secretary. The secretary shall be elected by simple majority vote of the commission.

Section 2.8: DUTIES OF THE SECRETARY. The principal duties of the secretary shall be as follows:

- a) take, or cause to be taken, minutes of all the meetings of the commission;
- b) maintain, or cause to be maintained, records for every determination of the commission, noting the vote of every other member;
- 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 agenda and notify all persons entitled to notice as listed in Section 6.1 for all commission meetings;
- g) act as a 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 the City of Boston Building Department (Inspectional Services Department), the Massachusetts Historical Commission, the Beacon Hill Civic Association, 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.

Section 2.9: 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.

Section 2.10: ACTING SECRETARY. In the absence of the secretary or in the event of a vacancy in the office of the secretary, the chairman shall appoint an acting secretary.

Section 2.11: STAFF ARCHITECT. The commission shall be provided with the services of a staff architect by the Environment Department or its successor agency. This architect shall be experienced in historic preservation and familiar with the periods of architecture in the Historic Beacon Hill District.

Section 2.12: DUTIES OF THE STAFF ARCHITECT. The principal duties of the staff architect shall be as follows:

- a) consult with the applicants for certificates of appropriateness prior to the hearing on applications;
- b) make recommendations for action by the commission on applications for certificate of appropriateness;
- c) determine eligibility for certificate of non-applicability as provided in Section 8.1; and
- d) perform such other duties and assume such other responsibilities 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 meeting shall occur on the first day of May or as soon thereafter as may be convenient, but no later than the regular May meeting.

Section 3.2: REGULAR MEETINGS. Regular meetings of the commission shall be held on the third Thursday of the month in the new City Hall in Boston, 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.

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 any three members of the commission.

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

Section 3.5: PUBLIC HEARINGS. The commission shall, from time to time, hold public hearings about such matters before it as are required by statute or otherwise desired by the commission. Public hearings shall be part of the regular meetings of the commission, and may also be part of special 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 regulations adopted regarding its relationship with the public.

Article 4: PROCEDURES

Section 4.1: NOTICE. The commission shall endeavor to provide the maximum possible 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 regulations regarding its relationship to the public.

2/27/91

BEACON HILL ARCHITECTURAL COMMISSION

AMENDMENT TO RULES AND REGULATIONS

On February 21, 1991 the Beacon Hill Architectural Commission voted to amend Article 4, Section 4.2 of its rules and regulations (effective 2/21/91) as follows:

Section 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: four members or alternates;
- (b) Amendments to the rules and regulations, by-laws or guidelines of the commission: four members or alternates;
- (c) Other business of the commission: three members or alternates.

RECORD OF COMMISSION VOTE

MOTION BY Pear SECOND BY Gaudreau

AFFIRMATIVE: Buckley, Flynn, Gaudreau, Pangaro, Pear

NEGATIVE: (None)

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~~Section 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:~~

*Amended
2/21/91*

- ~~a) election of officers: five members;~~
- ~~b) amendments to the rules and regulations of the commission: five members;~~
- ~~c) other business of the commission: three members or alternates.~~

Section 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.

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 268A 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 so 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 certificate of appropriateness 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 commission office.

Section 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;
- b) a record of all motions, including the name of the member making the motion, and a listing of all the yea and nay votes cast.

The minutes 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 4.9: CONTINUANCE. A decision on an application before the commission may, at the discretion of the chairman, 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 merit of the application.

Article 5: APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

Section 5.1: APPLICANTS. All applicants for a certificate of appropriateness pursuant to Section 7 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 informed the owner of record of the property that an application is being filed.

Section 5.2: APPLICATIONS. All applications for a certificate of appropriateness must include the following information:

- a) owner and address of record of the property;
- b) name and address of any person or agency acting on the owner's behalf, including building manager, architect, designer, contractor or any other person;
- c) a written description of all proposed changes, including: sizes or dimensions; location on building or property; colors and types of materials to be used (including samples). If this information does not fit on the application form, the applicant must attach a separate sheet.
- d) photographs, preferably 8x10 inches, or smaller if detail is shown adequately. Minimum size: Polaroid print or equivalent. Photos must show subject building in entirety, including enough of neighboring buildings to show relationship, and a close-up of details involved in proposed changes. Photocopy enlargements of appropriate color transparencies are acceptable.
- e) drawings of elevations, plans, sections, to scale of subject building including all major architectural features, design and location of proposed changes, relationship to buildings on either side, sight lines from pedestrian level on neighboring streets of any additions to top floor or roof. This requirement may be waived at the secretary's discretion if no structural alterations or additions of any kind are applied for.
- f) for proposed historical reproductions, documentary evidence of the appropriateness of the reproduction.
- g) the required certification fee, which is determined by the schedule in Clause 27, Section 1, Chapter 30 of the Revised Ordinances of the 1961 of the City of Boston -- for construction, reconstruction or demolition of the whole of such portion of the exterior of a structure as it is designed to be open to view from a public way, \$35.00 and in every other case, \$5.00 (see amended fee schedule: City of Boston Code, Ordinances, Chapter 18, Section 18-1.5).

For certain specific applications, the applicant must submit the following data:

Signs: a scale drawing exactly locating sign and its supports on building or structure in relation to adjacent architectural features) windows, belt courses, sills, doors, steps, etc.) and showing method and type of supports; and a scale drawing of the sign itself, showing placement and style of lettering, colors and materials to be used.

Paint: color sample of paint, and exact location of elements to be painted

Storm Windows: color sample, and supplier's leaflet or catalogue page showing type of window proposed.

The secretary must reject any application that does not contain the required data until such a time as that data is submitted. The commission at a regular meeting may reject any application without prejudice if in its view the application is incomplete. In that event, the applicant must file a new application with the additional information required by the commission's vote before the secretary may accept the new application.

Section 5.3: DEADLINE. An applicant must file for a certificate of appropriateness no later than 10 days prior to a regular meeting of the Commission to be heard at the public hearing occurring at said regular meeting.

Article 6: PUBLIC HEARINGS

Section 6.1: NOTICE The commission shall hold public hearings as required in Section 7 of the enabling statute on all applications filed in conformance with Article 5 of these regulations. The secretary shall give seven days notice of the hearing to the following:

- a) members and alternates of the commission
- b) the city clerk, the mayor, and the city council;
- c) all persons requesting notice, such request to be made or renewed annually in writing in December ¹⁹⁷¹
- d) the executive director of the Beacon Hill Association; and
- e) all persons materially affected by an application to be heard at the hearing, consisting of:
 1. all persons listed on application
 2. all owners of property abutting any subject property, such persons to be determined from the most recent tax list;
 3. any other property owner deemed affected by a member of the commission or the secretary

Section 6.2: FORM OF NOTICE. The notice of the public hearing shall contain the following information:

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

Section 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.

Section 6.4: CONDUCT OF HEARINGS. The chairman shall serve as presiding officer at all hearings; if he or she is not present, the vice chairman or an acting chairman shall preside.

Applications will generally be heard in the order given on the agenda and will not be heard prior to the time indicated thereon. The chairman may at his or her discretion defer hearing an application, but no application may be heard prior to its time on the notice. Initial presentation will be made by the Secretary or other staff, generally in the presence of the applicant who may then make additional statements. Any member of the public, in order of recognition by the chair, may then speak on the application. The commission may take action on the application according to the provisions of Article 7 of these regulations.

The chairman may, at his discretion, change any procedure for conduct of hearings, provided that all persons affected by the application have a fair opportunity to be heard. The chairman may impose a time limit on testimony at her or his discretion.

Article 7: ACTIONS BY THE COMMISSION

Section 7.1: CERTIFICATES OF APPROPRIATENESS. The commission may take any of the following actions regarding application for certificate of appropriateness:

- a) approval -- The commission may approve the application for certificate as submitted. This action authorizes the secretary to issue a certificate of appropriateness.
- b) conditional approval -- The commission may approve the application subject to certain conditions, and may designate 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 persons that the conditions have been met.
- c) rejection -- The commission may reject the application, in which case it must set forth its reasons. This vote requires the secretary to return the certification fee to the applicant, and notify the applicant in writing of the reasons cited for rejection, and may include recommendations concerning the work proposed in the rejected application.
- d) rejection without prejudice -- The commission may reject the application for lack of sufficient information, in which case it must specifically set forth the required additional information. This action requires the secretary to return the application fee to the applicant for refiling.

Section 7.2: NOTIFICATION OF ACTIONS. The secretary shall send a notice of decision on an application for certification to the following:

- a) all persons listed on the application; and
- b) all persons requesting in writing the notice of the decision at the hearing.

Section 7.3: APPEAL OF DECISIONS. Any person aggrieved by a decision of the commission must, in accordance with section 10 of the enabling statute, file for appeal with the superior court sitting in equity for the county of Suffolk; such appeal may not be filed unless the person filing submits written notice of the appeal to the secretary within eight working days of the decision.

2/27/91

BEACON HILL ARCHITECTURAL COMMISSION
AMENDMENT TO RULES AND REGULATIONS

On February 21, 1991 the Beacon Hill Architectural Commission voted to amend Article 8 of its rules and regulations, in accordance with Section 2.8(i) (duties of the secretary) and Section 2.12(d) (duties of the staff architect), effective 2/21/91. The revised Article 8 reads as follows:

Article 8: CERTIFICATES OF NON-APPLICABILITY AND ADMINISTRATIVE REVIEW

Section 8.1: CERTIFICATES OF NON-APPLICABILITY. [Text remains as shown in 1979 rules and regulations.]

Section 8.2: ADMINISTRATIVE REVIEW. Applications for the work described in this section may be reviewed administratively by staff and one commission member or alternate (designated by the commission chair) without a public hearing, and determinations thereon issued on the commission's behalf. All administrative determinations shall be in accordance with established district guidelines. The staff may at its discretion direct to the commission for review any application subject to administrative review. The following criteria shall be used in determining whether an application may be reviewed administratively:

- (a) Ordinary Maintenance and Repair: Applications for work which constitutes ordinary maintenance and repair, as defined in Section 9 of the enabling statute, to elements visible from a public way shall be reviewed for compliance with the district guidelines. Such work may include but is not limited to the following: (1) masonry repair (including patching or in-kind replacement of materials, as long as outward appearance is maintained), cleaning, repointing, and painting; and (2) repair or replacement in kind to match existing features (including elements which have been damaged, vandalized, or stolen).
- (b) Other Items Under Administrative Review
 - 1) Public Safety Issues: In accordance with Section 9 of the enabling statute, any work certified in writing by the building department as necessary to rectify an unsafe or dangerous condition may be reviewed administratively for compliance with the district guidelines. Staff shall direct to the commission for review any work ordered by the building department for demolition, or which would be inconsistent with the district guidelines. Emergency installation of security measures may be approved administratively in compliance with the district guidelines, provided that an application is filed for public notice at the next available commission hearing.
 - 2) Deferral to Administrative Review: The commission may defer to staff the review of any application for a Certificate of Appropriateness, provided that public notice is given for such application in accordance with the enabling statute. Approvals shall be based on consistency with district guidelines.
 - 3) Certificates of Non-Applicability: In accordance with Section 6 of the enabling statute, Certificates of Non-Applicability, for work which will not affect exterior architectural features visible from a public way, may be issued administratively.

(c) Procedures

- 1) An application for Administrative Approval will be required for all proposals meeting the above criteria. Documentation accompanying applications shall be sufficient to make a determination, and may include photographs, specifications, drawings, etc. Site visits may also be necessary before issuing a determination. Review shall proceed as quickly as possible, but may take up to the 30 days provided by statute if necessary, and may be extended upon written consent of the applicant.
 - 2) Written decision letters shall be issued for all administrative determinations, to all persons listed on the application form. Letters shall be titled "ADMINISTRATIVE APPROVAL (or DENIAL)," and subtitled as appropriate according to the categories in section 8.2(b)(1-2) above. (Certificates of Non-Applicability are titled as such.) Copies of all administrative decision letters shall be forwarded to the commission chair. Administrative Approvals shall be valid for two years from date of issue.
 - 3) All Administrative Approval letters shall include standard language indicating that any work represented by the applicant as meeting the criteria for administrative review, which proceeds or is completed in a manner inconsistent with the terms of the Administrative Approval, may be stopped by the commission or its staff and cited as an architectural violation. In such cases, remedial action may be required to bring the work into compliance with the Administrative Approval and with the district guidelines.
 - 4) Staff shall forward to the commission for review any applications involving new technologies not previously approved for use in the same circumstances in the district, and applications for ordinary maintenance and repair at properties with outstanding violations.
- (d) Appeals: Applicants aggrieved by an administrative determination may appeal to the full commission, provided written notice of appeal is filed with the secretary within 30 days of the determination, and provided that no work commences before the commission has decided the appeal. The appeal shall be scheduled for review at the next regular commission meeting and included in the notice of public hearing.

RECORD OF COMMISSION VOTE
MOTION BY Buckley SECOND BY Flynn
AFFIRMATIVE: Buckley, Flynn, Gaudreau, Pangaro, Pear
NEGATIVE: (None)

Section 7.4: APPEAL OF SATISFACTION OF DECISIONS. If both the person designated under section 7.2 (a) 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 for 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 an appeal by simple majority vote.

Article 8: ~~CERTIFICATES OF NON-APPLICABILITY AND EXEMPTIONS~~ *amended 2/21/91*

Section 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 Historic Beacon Hill District whose proposed work does not involve any exterior architectural feature, as defined in Section 3 of the enabling statute.

Any commission member, the secretary or the staff architect may certify that no exterior architectural feature is involved, based on plans presented to the secretary and other documents required in any building permit application. Such certification may include a visit to the property in question. Within eight working days the member, secretary or architect shall determine if the work proposed on the building permit application involves any exterior feature. If no such feature is involved, the secretary shall stamp on the permit application that 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.

~~**Section 8.2: EXCLUSIONS.** Work excluded from the commission's jurisdiction by Section 9 of 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 commissioner 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 certificate of appropriateness.~~

~~**Section 8.3: RECORDS.** The secretary shall maintain a record of all certificates of non-applicability and exclusions granted by the commission, and shall distribute the list to the commission at its regular meeting.~~

*amended
2/21/91*

Article 9: VIOLATIONS

Section 9: 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:

- a) any commission member or alternate;
- b) the secretary or any member of the staff;
- c) the chairman of the architecture committee or executive director of the Association;
- d) the City of Boston Inspectional Services Department;
- e) any person, if the violation is certified by a person listed in a, b, d 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 (d). The secretary may also request that a stop work order be issued by the Inspectional Services Department. 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 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 turn the violation over to the Corporation Counsel for appropriate action to require conformance with the enabling act.

Section 9.2: RECORDS. The secretary shall maintain 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

Section 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 members, alternates and other interested parties as determined by the secretary and the chairman with the notice of the meeting.

Article 11: SEVERABILITY. The provisions of these rules and regulations are severable; if any such provision 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 provisions of these rules and regulations.

2/27/91

BEACON HILL ARCHITECTURAL COMMISSION

AMENDMENT TO RULES AND REGULATIONS

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- (b) Amendments to the rules and regulations, by-laws or guidelines of the commission: four members or alternates;
- (c) Other business of the commission: three members or alternates.

RECORD OF COMMISSION VOTE

MOTION BY Pear SECOND BY Gaudreau

AFFIRMATIVE: Buckley, Flynn, Gaudreau, Pangaro, Pear

NEGATIVE: (None)