

## ;ARTICLE 28

### **BOSTON CIVIC DESIGN COMMISSION**

(;Article inserted on June 20, 1986)

SECTION 28-1. **Preamble.** Since its settlement, Boston has evolved a vibrant urban form that gives this historic city its vivid sense of place. Boston today is a city with many remarkable historic structures, a visionary parks and open space system, and a richness and diversity of districts and neighborhoods that distinguish it from other American cities.

A central concern to many Bostonians is how the design of new buildings affects what is called the public realm. The public realm is that aspect of the urban environment which is visible and accessible to the public, including both spaces and the building walls which frame them. The concept encompasses areas long thought of as public such as parks, tree-lined boulevards, sidewalks, and streets. It also includes some areas which are held in private ownership, but which are, in terms of their nature, function, or significance or their impact on the streetscape or existing historic context, truly public, such as the design of buildings, their lobbies, and connecting passageways. The principle of public realm rests on the belief that the public has a historic, necessary, and abiding interest in the way the city develops and changes because cities by their nature and function are public places as well as clusters of private property.

The premise of this article creating the Boston Civic Design Commission is that the citizens of Boston have a responsibility to participate in shaping the public realm, and that this responsibility begins with the public review of the design of large-scale and other significant public and private projects. This article establishes a process to allow the public that responsibility, and to undertake the complex balancing of the rights of private expression with the cultural values expressed in Boston's existing public realm.

SECTION 28-2. **Purpose.** The purpose of this article is to preserve and promote the health, safety, convenience, and welfare of the inhabitants of the City of Boston by establishing the Boston Civic Design Commission ("Design Commission"), an advisory body composed of individuals with a demonstrated interest or expertise in urban design. The Design Commission will be an integral part of the city's ongoing efforts both to make the city a more attractive place to live and work and to attain balanced growth which strengthens the economic, social, cultural, and visual connections between downtown Boston and the city's neighborhoods. The Design Commission will focus on the part of this effort that requires working with the public and with city officials in an open process to protect and enhance the public realm. By assisting and advising the city in the design review of projects that affect the public realm, the Design Commission will provide a forum for the general public and the professional design community to

actively participate in the shaping of the city's physical form and natural environment. Particular importance will be given to the integrity of those buildings, structures, open spaces, areas, parks, and monuments that contribute to Boston's distinctive character and human scale.

SECTION 28-3. **Establishment.** This article establishes the Boston Civic Design Commission.

SECTION 28-4. **Definitions.** For the purposes of this article, the following definitions shall apply:

- A. "Large-Scale Development Projects." Any development, whether commercial, residential, or other, in the City of Boston in which it is proposed: to erect a building or structure having a gross floor area in excess of one hundred thousand (100,000) square feet; to enlarge or extend a building or structure so as to increase its gross floor area by more than one hundred thousand (100,000) square feet; or to substantially rehabilitate a building or structure having, or to have, after rehabilitation, a gross floor area of more than one hundred thousand (100,000) square feet.
- B. "Projects of Special Significance." Any development in the City of Boston in which it is proposed to erect, alter, demolish, move, or enlarge a building or structure which is determined by a majority vote of the Design Commission to be of special urban design significance to the City of Boston. Projects of special significance shall include projects that are:
  - (1) In visual proximity to and within five hundred feet (500') of a landmark building designated as a category "1," "2" or "3" by the Boston Landmarks Commission; an architectural district established by the Boston Landmarks Commission or by State legislation; or a National Register District; or
  - (2) Visually prominent from a significant open space area or from a significant public right-of-way; or
  - (3) Located in areas of special historic interest, as established by the Boston Redevelopment Authority; or
  - (4) Situated in such a way as to have a significant impact on the visual quality of the surrounding area.
- C. "Civic Projects." Any project in the City of Boston in which it is proposed to create, erect, alter, demolish, move, or enlarge any park or open space, civic or cultural center, or monument which is

determined by a majority vote of the Design Commission to be of importance to the character or urban design of the City of Boston.

- D. "District Design Guidelines." Any comprehensive set of rules adopted by the Boston Redevelopment Authority and established to preserve and enhance the characteristics of a specific district within the City of Boston; these rules include the heights, setbacks, massing, scale, and materials of buildings, as well as the special features that make the district a distinct subarea of Boston.

**SECTION 28-5. Scope of Jurisdiction.** The Design Commission has the authority to review Large-Scale Development Projects, Projects of Special Significance, Civic Projects, and District Design Guidelines, as defined in Section 28-4 above, which are subject to the Boston Redevelopment Authority's planning authority. The Design Commission also has the authority to review projects which are within the executive authority of the Mayor, provided the Mayor consents to the review of such projects. In no event shall the Design Commission's power to review projects extend beyond that of the Boston Redevelopment Authority and that which is granted consensually by the Mayor. Once a project becomes subject to the Design Commission's review, in no event shall the Commission request documents from parties other than the Mayor and the Boston Redevelopment Authority; nor shall the Commission request documents from the Mayor, the Boston Redevelopment Authority, or other parties which are inconsistent with the Procedures for Review set out in Section 28-13. In all cases, the projects reviewed by the Design Commission shall be reviewed for the purposes stated in Section 28-2 on the basis of criteria referenced in Section 28-14A.

**SECTION 28-6. Composition.** There shall be eleven members of the Design Commission, all of whom shall be appointed by the Mayor. Members shall have a demonstrated interest in the design of the City of Boston; at least six members shall be professionals in the fields of architecture, landscape architecture, or urban design. At least one of the members of the Design Commission shall have expertise in historic preservation or architectural history. There shall be female and minority representation on the Design Commission.

**SECTION 28-7. Nominations.** The Mayor shall seek nominations for membership on the Design Commission from a wide range of community, civic, and professional organizations and individuals.

**SECTION 28-8. Terms of Office.** Seven of the Commission members initially appointed shall serve a term of three years; two of the remaining four shall serve for two years and two shall serve for one year. The Mayor shall determine whether each of the Commission members initially appointed shall serve a one-, two-, or three-year term. As the term of any Commission member initially appointed, or of any subsequent Commission member, expires, his

successor shall be appointed for a term of three years by the Mayor. Members shall serve until their successors are duly appointed. Vacancies, other than by reason of expiration of terms, shall be filled for the balance of the unexpired term.

SECTION 28-9. **Removal.** The Mayor may remove a member for just cause. Reasons for just cause shall include but not be limited to a pattern of nonattendance, noncompliance with procedures established under Section 28-14, failure to disclose conflicts of interest, incapacity due to illness, or conviction of a crime. The Mayor's determination that just cause for removal exists shall be conclusive.

SECTION 28-10. **Compensation.** The Mayor shall determine whether or not Design Commission members shall be compensated and the amount and timing of such compensation.

SECTION 28-11. **Selection of Chairperson.** The Chairperson of the Design Commission shall be appointed by the Mayor and shall serve a term of two years.

SECTION 28-12. **Staffing.** The Boston Redevelopment Authority shall staff the Design Commission with Boston Redevelopment Authority personnel in a manner consistent with the Commission's mission and purpose.

SECTION 28-13. **Procedures for Review.** Copies of the schematic project plans submitted by developers, as required by Development Review Procedures (1985, Boston Redevelopment Authority, and as may be amended or republished), shall be forwarded to the Design Commission for its review and use. In the instance of Projects of Special Significance and Civic Projects, the Design Commission shall receive whatever schematic design documents are available to the Mayor or the Boston Redevelopment Authority. In all cases, the Design Commission's review shall not be conducted or extend beyond the schematic design stage. The Boston Redevelopment Authority may submit its analysis and recommendations on each matter before the Design Commission. Copies of District Design Guidelines, when proposed by the Boston Redevelopment Authority, shall also be forwarded to the Design Commission for its review.

SECTION 28-14. **Recommendations.** The Design Commission may make recommendations to the Mayor and the Boston Redevelopment Authority as to the approval, the need for modifications, the need for further review, or the disapproval of the design of projects subject to its review. Such recommendations shall be made within sixty days of the date project plans are submitted to the Design Commission. With the Boston Redevelopment Authority's consent, a thirty-day extension and other such extensions may be granted to the Design Commission to afford it adequate time to formulate its recommendations. A decision not to review a project or make a recommendation

on a project shall not be deemed to be a favorable or unfavorable recommendation. If and when submitted, recommendations shall be in the form of a written report presented to the Mayor and Boston Redevelopment Authority.

- A. Basis for Recommendations. Recommendations shall be made on the basis of established urban design principles and practices, and where the Boston Redevelopment Authority deems it appropriate and applicable, recommendations shall be made on the basis of design criteria established by the Boston Redevelopment Authority, either in its planning reports and studies or in specific requests for proposals (i.e., competitions).
- B. Method. Recommendations to the Mayor and the Boston Redevelopment Authority shall require a majority of those members present and voting and, in any event, no fewer than four (4) members voting in favor of such recommendations. The Design Commission shall adopt procedures, voted by a majority of all members, to establish the time, place, and manner for its members to vote and the process by which the Design Commission decides not to review a project or make a recommendation on a project. Such procedures and revisions to such procedures shall be submitted in writing to the Mayor and the Boston Redevelopment Authority within seven (7) calendar days of their adoption.
- C. Public Meetings. A public meeting on every matter submitted to the Design Commission for its review shall be held before the Commission conducts its final vote and makes its final recommendation. All such public meetings require at least seven (7) calendar days' notice to the general public in a newspaper of general circulation.
- D. Quorum. A quorum of the Design Commission shall be five (5) members.

(;As amended on July 2, 1991)

SECTION 28-15. **Disapproval and Redesign.** In the event that two-thirds (2/3) of those members of the Design Commission that do not have a conflict of interest, as provided for by Section 28-17, after following the deliberative process outlined in Section 28-14, vote to disapprove the schematic design of a project or vote to disapprove proposed District Design Guidelines, the Boston Redevelopment Authority, or where appropriate the Mayor, shall require a redesign of such project or redrafting of such guidelines, unless the Boston Redevelopment Authority, by a vote of its Board, or the Mayor decides to approve the project's design or the proposed guidelines. In such an event, the

Design Commission shall receive a written explanation of the basis of such approval.

SECTION 28-16. **Records.** The Design Commission shall record: the time and place of each meeting; the topic(s) discussed in each meeting; members in attendance at each meeting; whether the meeting was open to the public; what nonmembers were in attendance; any votes taken; and any disclosures by members of conflicts of interest. Such record shall be maintained in good and legible condition by the chairperson, or his or her designee, and be available for inspection by any member of the public upon seven (7) calendar days' notice. Such record shall be available to the Mayor and the Boston Redevelopment Authority upon reasonable notice.

SECTION 28-17. **Conflict of Interest.** The members of the Design Commission shall be subject to M.G.L. c. 268A.

SECTION 28-18. **Rules.** The Design Commission shall adopt rules or bylaws, which shall include the procedures referenced in Section 28-14B and may include such other issues as are integral to the operation of the commission.

SECTION 28-19. **Severability.** The provisions of this article are severable, and if any provision shall be held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not impair, or otherwise affect, any other provisions of this article.