
Exploring Historic District Bylaws, Regulations, Rules and Guidelines

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Bylaws, Regulations, Rules and Guidelines:

The Framework of a Commission-

- **Authorize establishment of Historical and Historic District Commissions**
- **Set out authority to take actions**
- **Provide a process for those actions**
- **Justify those actions and protect against challenges**

Bylaws, Regulations, Rules, Guidelines – What’s the difference?

Category	Bylaws	Regulations	Rules	Guidelines
Definition	Statutes passed by legislative bodies that create binding legal obligations	Agency-developed directives that implement laws	Prescriptive procedures or methods tied to regulations	Resources that clarify expectations or best practices
Authority	Enacted by state or town legislative bodies	Issued by regulatory agencies under statutory authority	Created by agencies or self-regulatory organizations	Issued by agencies; not legally binding but influential
Enforcement	Enforced through courts and legal proceedings	Enforced by regulatory bodies through exams or enforcement actions	May be enforced as part of a regulatory exam or operational review	Not enforceable, but often considered in supervision or enforcement
Purpose	Establish broad legal frameworks and rights	Translate laws into enforceable operational requirements	Define specific compliance processes or standards	Provide clarity on how to interpret or apply laws and regulations

Where do commissions get their authority?

■ Historic District Commissions

- **Authority:** Enabling legislation - MGL Ch. 40C or Special Act – and locally-adopted ordinances or bylaws
- **Regulatory powers:** Review and approval of all exterior changes visible from a public way – need HDC approval to get a building permit
- **Appointed by:** City Council or Select Board/Town Manager

Where do commissions get their authority?

■ Historical Commissions

- **Authority:** MGL Ch. 40 Sec. 8D and locally-adopted ordinances or bylaws
- **Regulatory powers:** “Preservation, protection and development of the historical or archeological assets of [a] city or town” through research, survey and promotional activities. May have demolition delay authority
- **Appointed by:** City Council or Select Board/Town Manager

Where do commissions get their authority?

- **Neighborhood Conservation District Commissions**
 - **Authority:** No state enabling act – requires local bylaw or ordinance, with Attorney General approval
 - **Regulatory powers:** Review and approval of all substantial demolition, new construction or alterations or exterior changes that substantially affect the significance or cohesiveness of the NCD
 - **Appointed by:** City Council or Select Board/Town Manager

Where do commissions get their authority?

- **Other local preservation organizations:**
 - **Neighborhood design review boards**
 - **National Register Districts**
 - **Historical societies**
- **Regulatory powers:** Limited or none – neighborhood agreements may have deed-imposed or contractual review and approval rights for changes

What do commission members need to know?

■ State Laws:

- **Open Meeting Laws** – when and where communications are appropriate:
 - What is a “**meeting**”
 - What is a “**deliberation**”
 - what are the requirements for **notice** and **posting** meetings, **distribution of documents**
 - What are the requirements for keeping **minutes**
 - When can you have “**executive sessions**”

[<https://www.mass.gov/the-open-meeting-law>]

What do commission members need to know?

■ State Laws:

■ Conflict of Interest Laws – when you must recuse:

- **financial**, where personal money could influence professional decisions
- **personal**, where relationships like family or friendship might compromise judgment
- **competitive**, where an individual works for or holds an interest in a rival organization

■ <https://www.mass.gov/info-details/summary-of-the-conflict-of-interest-law-for-state-employees>

What do commission members need to know?

- **State Laws/Enabling Acts:**

- **MGL Ch. 40C or Special Act** (for HDCs)

[<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40C>]

What do commission members need to know?

- **Local adopting Ordinances or Bylaws**
- **Local Regulations and Rules**
- **Local Guidelines and Policies:**
 - Alterations to buildings (all visible aspects)
 - Commercial Storefronts
 - Signage
 - Additions (siting, scale/massing, design, materials)
 - New Construction
 - Alterations to Yards/Site Improvements (driveways, fences, outbuildings, hardscapes, etc.)
 - Alterations to public spaces (lights, sidewalks)
 - Demolition
 - Energy modifications (solar panels, heat pumps, etc.)

What standards can commission members apply?

- **Formally adopted local regulations, guidelines and policies**
- **Secretary of the Interior Standards**
[<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>]
- **National Register Criteria**
[https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf]
- **State and local case law precedents**

How can commission members stay out of trouble?

- **Apply law/regulations/guidelines/policies uniformly and consistently** to avoid actual or perceived bias or arbitrary and capricious actions
- Document and post your **decisions**
- Keep accurate, complete **minutes** of your meetings
- **Recuse** yourself if there is an actual or perceived conflict of interest

How can commission members stay out of trouble?

- Stay within the limits of your **authority** – i.e. don't make unauthorized demands of any applicant
- Avoid all **ex parte communications** – base your decisions solely on open meeting presentations
- **If there is any doubt, call town counsel!**

How can commissions maintain a positive local reputation?

- **Cultivate** relationships with town officials and other boards and committees (Building and Planning departments, housing organizations, others that could aid or conflict with your decisions)
- **Coordinate** with other preservation committees and organizations
- Look for opportunities to **publicize** your good work

Any Questions?

Thank you!