

**TOWN OF MARBLEHEAD
OLD AND HISTORIC DISTRICTS COMMISSION**
c/o Engineering Department
7 Widger Road
Marblehead, MA 01945

Chapter 233: OLD AND HISTORIC MARBLEHEAD DISTRICTS COMMISSION
RULES AND REGULATIONS
Adopted 7/15/2014

§233-1 Authority

The Old and Historic Marblehead District Commission (hereinafter “Commission”) after public notice and a duly advertised public hearing, adopted these Rules and Regulations on the date hereafter entered in accordance with the provisions of Chapter 101 of the Act of 1965 (hereinafter the “Act”) and Section 110 of the By-Laws of the Town of Marblehead as amended (hereinafter the “Bylaw”).

233-2. Officers

- A. Election: Election of Chair and Secretary: The Commission shall elect a Chair and a Secretary from its own members. Such officers shall be elected annually at the first meeting of the Commission following their appointment by the Board of Selectmen.
- B. Chair: The Chair or acting Chair elected by the Commission in the absence of a Chair, shall preside at all meetings and public hearings and decide all questions of order.
- C. Secretary: The Secretary shall give all required notices of meetings and hearings, all required decisions and notices thereof, keep the minutes of the proceedings of the Commission, issue Certificates of Appropriateness, and perform such other duties as may be directed by the Chair of the Commission.

233-3. Meetings and Public Hearings

- A. Public Meetings: All meetings and public hearings are subject to the provisions of the Open Meeting Law, G.L. c. 30A, §§18-25.
- B. Quorum: A majority of the members of the Commission at the time in office shall constitute a quorum of the Commission for any meeting of the Commission. The Commission may act by a vote of the majority of its members at the time in Office. (GBTM §110-6(A)).
- C. Voting: Any regular members or designated Alternate members may vote on an Application for a Certificate so long as the voting member has attended all public meetings where information on the Application has been presented.
- D. Regular Meetings: The Commission shall hold public hearings where required by the Bylaw or the Act with respect to the applications submitted to it. Additionally the Commission may hold meetings on a regular basis. Notice, date, time and location of the regular meetings shall be provided at the Town Clerk’s Office and the agenda will be made available through the Commission at least forty eight (48) hours, in advance of a regular meeting, excluding Saturdays, Sundays and legal holidays.

- E. Special Meetings: The Commission may hold special meetings at the call of the Chair or at the request of two members. Notice of said meeting shall be provided in accordance with section D, above.
- F. Continuation: The Commission itself may continue a public hearing to another date if the new date meets the time limits imposed by the Act or if there is an executed Extension Request form for such extension by the Applicant. The Applicant may request a continuation beyond the time limits prescribed by the Act by signing the Extension Request form provided by the Commission. In either event, the date, time and place of the continued meeting shall be determined at that time and announced during the public meeting and no further publication or additional notice shall be required. The Commission shall establish a deadline for the submission of any additional or revised materials on a case by case basis, with the intent that those additional or revised materials shall be made available in advance of the next meeting date. The Extension Request form shall be filed with the Town Clerk and placed in the Applicant's file.
- G. Site Visits: The Massachusetts Open Meeting Law, G.L. c. 30A, §18 specifically exempts site visits from the definition of a public meeting in which the general public must be allowed to participate. No deliberations or decisions shall be made at the site visit. An oral summary report of the site visit should be presented to the next Commission meeting.
- H. Conduct of Public Hearing:
- 1) Notice: The Applicant and all other persons entitled to receive notice, those being all adjoining property owners and abutters to abutters within 100 feet of the property (including across any street or way) deemed by the Commission to be materially affected thereby, as they appear on the most recent real estate tax list of the Board of Assessors and to the Town of Marblehead Planning Board, and to any person filing a written request to be notified of such hearing, and to other persons as the Commission deems entitled to notice of a public hearing on an application shall receive notice of such hearing. Notice shall be provided to the public at least 14 days prior to such hearing in a manner determined by the Commission *and to those entitled to notice by mailing first class postage pre-paid notice thereof. The cost of said public notice and all other notice shall be born by the Applicant and paid for at the time of Application.*
 - 2) Proceedings: At the hearing the Applicant and all other interested persons may be heard relative to the appropriateness of the matter before the Commission. Every person so appearing before the Commission shall be required to state his name, address and the name and address of the party whom he represents at the hearing. *Questioning of person appearing other than by the Commission members shall not be permitted, except upon approval of the Chair.* Any member of the Commission may question any person present at a hearing who has or may have knowledge of any matter relating to the hearing.
 - 3) Representation: An Applicant may appoint any person to act on his behalf by a signed writing filed with the Commission.

233-4. Applications

- A. Form: All Applications for Certificates of Appropriateness shall be on a form approved by the Commission and shall be signed by the Applicant or someone duly authorized in his behalf in accordance with these rules. Application forms may be obtained from the Town Clerk, the Building Inspector, or the Secretary of the Commission.
- B. Requirements: All Applications for Certificates of Appropriateness shall include sketches, plans or other information required by these rules and regulations and filed with the Town Clerk.
 - 1) Each application must include: photographs of existing conditions, a reasonable description of the work for which the Certificate of Appropriateness is requested, including the exterior architectural features of the building or structure or addition to be erected, reconstructed, altered, restored, moved or demolished, and including wherever appropriate, the texture and materials (shingle or clapboard etc.) trim, gutters and leaders, windows and sash, doors and door frames, number of stories and roof pitch, and in the case of a sign, a general description of the sign showing its size, wording, material and if lighting is proposed, a description of the lighting, and in all cases any other information reasonably necessary to enable the Commission to visualize changes in exterior appearance which will result from the proposed work. The Application must contain existing dimensions and proposed dimensions of all work performed.
 - 2) A registered land surveyor's plot plan and scale drawings showing exterior elevations and containing exact dimensions must be submitted in the case of exterior dimensional changes or reconstruction or alteration. In other cases sketches and scale drawings may be required by the Commission in order to enable it to act upon the application.
 - 3) If a public hearing is held and notice has been given as required hereunder, the documents and material referred to in this paragraph C.2. a. and b. shall not be altered or revised without express permission of the Commission.
 - 4) Each Application shall include a detailed description of how the proposed work meets the Guidelines For Alterations to Existing Buildings and New Construction of the Commission (hereinafter the "Guidelines"), provisions of the By-Law and the provisions of the Act and if said work does not meet the Guidelines, By-Law or Act, how specifically the proposed work qualifies for an exception to the requirements of the Guidelines, By-law or Act, as set forth in the Act at §8 and detailed in Section D.3 hereunder.

233-5. Determinations

- A. Within ten (10) days after the filing of an Application for a Certificate of Appropriateness, Saturdays, Sundays and legal holidays excluded, the Commission shall determine the estates deemed by it to be materially affected by such Application, a request for the voluntary waiver of this time requirement of the Act shall be signed by the applicant at the time of application or and unless a public hearing on such Application is waived in writing by all persons entitled to notice thereof, shall forthwith cause the Secretary to provide notice as set forth in §233-4(H)(1) above.
- B. The Commission shall set a reasonable time to hold such public hearing.

- C. As soon as is convenient after the close of the public hearing or waiver thereof, but in all events within sixty (60) days after the filing of the Application for the Certificate of Appropriateness, or within such further time as the Applicant may in writing allow, the Commission shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the historic district for the purposes of the Act, and whether notwithstanding that it may be inappropriate, owing to conditions especially affecting the building or structure involved, but not affecting the historical district generally, failure to issue a certificate of appropriateness will involve a substantial hardship, financial or otherwise, to the applicant, and such certificates may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of the Act. (the Act at Section 8).
- D. If the Commission determines that a Certificate of Appropriateness should issue, or the Commission shall fail to act within the time prescribed, the Secretary shall forthwith issue a Certificate of Appropriateness to the Applicant. (GBTM §110-5)
- E. If the Commission determines that a Certificate of Appropriateness should not issue, then it shall spread upon its records the reasons for such determination and it may make recommendations to the Applicant respecting appropriateness of design, arrangement, texture, material and other relevant factors. The Secretary shall forthwith notify the Applicant of the determination and transmit to the Applicant an attested copy of the reasons and any recommendations spread upon the records of the Commission. (GBTM §110-5)

233-6. Appeal

- A. Appeals may be taken within twenty (20) days to the Board of Selectmen, acting as the Board of Appeals hereunder by any person aggrieved by a ruling of the Commission. (The Act §10)

233-7. Miscellaneous

- A. Any rule of the Commission, except as is governed by a law, statute or By-Law, may be suspended in a particular case by a vote of a majority of its members at the time in office at any meeting of the Commission.
- B. These rules, or any one of them, may be altered, amended or repealed by a vote of a majority of the members at the time in office at a meeting of the Commission after six (6) days written notice to the members of the proposed amendment and following public notice and a hearing on the proposed changes. Notwithstanding the above, any rule made pursuant to a law, statute or By-law shall not be altered so as to be in violation of said law, statute or By-law.

At its meeting on _____, the foregoing Rules and Regulations were adopted and then filed with the Town Clerk.

Secretary