Rules of Procedure

Beverly Historic District Commission

Historic District Commission Rules of Procedure

1.0 Purpose of Rules of Procedure

To establish procedures for organizing the business of the Beverly Historic District Commission, hereafter termed "Commission," which includes, but shall not be limited to, processing applications for Certificates of Appropriateness for (1) any changes in the external appearance of existing structures; (2) design of new structures; and (3) for demolition of existing structures which are found historically significant.

2.0 General Rules

The Commission shall be governed by the terms of the Historic District Ordinance as contained in Chapter 15 of the Revised Ordinances of the City of Beverly and by the terms of Massachusetts General Laws Chapter 40C as amended or revised. For procedures not covered by these rules, the Commission shall follow the rules contained in the current edition of Roberts' Rules of Order.

3.0 Members, Officers, and Duties

The Commission shall be composed of not less than five members nor more than seven members and up to three alternates, whose terms of office are set by Chapter 40C as amended. Appointments are made by the Mayor subject to confirmation by the City Council.

3.1 Chairman. A chairman shall be elected annually by the members of the Commission. The chairman shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Commission.

3.2 Vice-Chairman. A vice-chairman shall be elected annually by the Commission from among its members in the same manner as the chairman. The vice-chairman shall serve as the acting chairman in the absence of the chairman, and at such times shall have the same powers and duties as the chairman.

3.3 Secretary. A secretary may be elected by the Commission from among its members in the same manner as the chairman and vice-chairman. The secretary, subject to the direction of the chairman, shall keep the minutes of the meetings, type the minutes for the next meeting and send out the "Notice of Meeting" to arrive not later than five days prior to the meeting. A staff member of the Beverly Planning Department may be designated to hold the responsibilities of the secretary. The Beverly Planning Department may hire a recording secretary to keep minutes of the meetings.

3.4 Elections. Election of officers shall be held at the first regular meeting in December. Members shall be notified by the Planning Department in writing of the election of officers at least seven days prior to the regular December meeting. All members shall be appointed for terms of three years.

3.5 Attendance at Meetings. Faithful and prompt attendance at all meetings of the Commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Commission. Should a member fail to attend three consecutive regular meetings of the Board, and should there be no adequate excuse for such absences, the Chairman, with concurrence of a majority of the entire Commission, shall recommend to the Mayor that a vacancy be declared and that the vacated position be filled.

3.6 Applications Involving Member. No Commission member shall take part in the hearing, consideration, or determination of any case in which he/she is a party or has a financial interest and shall so state for the record.

3.7 Qualification to Vote. No Commission member shall vote on any matter deciding an application or a request to reconsider unless that member shall have attended the Commission's previous deliberations on such application, or shall otherwise have the approval of the chairman to vote on such matter. The chairman's approval shall be contingent on the assurance by the member that the member has read the application and the minutes of any meetings at which the application was discussed.

3.8 Impartiality Required. No Commission member shall, in any manner, discuss any application with any parties prior to the Commission's deliberations on such application, except as authorized in advance by the chairman; provided, however, that members may seek and/or receive information pertaining to the application from any other member of the Commission or its staff prior to the hearing.

Members of the Commission shall not express individual opinions on any application with any persons prior to the determination of the application, except in accordance with these rules. Violation of this rule shall be cause for recommendation for dismissal from the Commission.

3.9 Each member of the Commission shall be thoroughly familiar with all statutes, laws, ordinances, and rules of procedure relating to the District and the Commission.

4.0 **Meetings**

4.1 Regular Meetings. Regular meetings of the Commission shall be held in the fourth week of each month at 7:00 P.M. in City Hall; provided that meetings may be held at some other convenient place if directed by the chairman in advance of meeting.

4.2 Special Meetings. Special meetings of the Commission may be called at any time by the chairman or at the request of two members. At least forty-eight hours notice of the time and place of special meetings shall be given, by the Planning Department, to each member of the Commission; provided, that this requirement may be waived by action of a majority of all the members.

4.3 Cancellation of Meetings. Whenever there is no business for the Commission, the chairman may dispense with a regular meeting by giving prior notice to all the members not less than twenty-four hours prior to the time set for the meeting.

4.4 Quorum. A quorum is required to for the Commission to hold a meeting, in accordance to Massachusetts' Open Meeting Law. A quorum shall consist of a majority of the members of the Commission. Alternate members may vote when there are not enough members to constitute a quorum.

4.5 Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall include but not be limited to: (a) roll call; (b) approval of minutes of the previous meeting; (c) reports by chairman; (d) unfinished business; (e) new business; (f) consideration of applications; (g) adjournment.

5.0 Application Procedures for Certificates of Appropriateness, Non-Applicability, Hardship

5.1 Filing an Application. All applications must be filed with the Planning Department, accompanied by sketches, drawings, photographs, specifications, descriptions, etc. of the proposed project.

5.2 Notice to Neighboring Property. The Planning Department shall notify by mail, not less than ten days prior to the meeting at which the matter is to be heard, the affected property owners within 100 feet on all sides of the subject property.

5.3 Review of Sub-Committee. It shall be the policy of the Commission in regard to applications involving new structures or exterior alterations and/or additions of existing structures that the Commission shall be available to meet with representatives of the persons or organization involved in the coming application at some early stage in the design process in order to advise them informally concerning the Commission's guidelines, the nature of the area where the proposed construction or alteration is to take place, and other relevant actors. The members, collectively and individually, shall refrain from any indication of approval or disapproval, but shall not, for that reason, be barred from a reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the Commission at such an informal meeting shall be in any way official or binding upon the Historic District Commission at any time. Notice of the need for such a conference should be given future applicants by the Commission at the earliest appropriate time.

5.4 Public Hearing. The Commission shall hold a public hearing for every application for Certificates of Appropriateness and Certificates of Hardship. For Certificates of Non-Applicability, the decision for a public hearing shall be made at the discretion of the chairman or such person. For every public hearing, public notice shall be given 14 days prior to the hearing.

5.5 Time for Decision. The Commission must issue or deny a Certificate within sixty days after the filing of the application, except when the time limit has been extended by mutual agreement between the applicant and the Commission.

5.6 Approved Application. If the application is approved, the Planning Department shall transmit a Certificate in letter form, clearly describing the nature of the work which has been approved. A copy of this letter shall be forwarded to the Building Department which is responsible for its enforcement.

5.7 Denied Application. If an application is denied, a letter stating written reasons for denial shall be made available to the applicant and shall be forwarded to the Building Department.

6.0 Consideration of Applications for Certificates of Appropriateness, Non-Applicability, Hardship

Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of applications for Certificates shall be as follows. If a public hearing is not required, the order of business shall omit items (c) through (h).

(a) The chairman or such person as he shall direct, shall give a preliminary statement describing the application;

(b) The applicant or his representative shall present the arguments in support of the application;

(c) The chairman or such person shall open the public hearing;

(d) Persons in favor of granting the application shall present their statements;

(e) Persons opposed to granting the application shall present the arguments against the application;

(f) Statements or arguments submitted by any official, commission, or department of the City of Beverly, any state agency, or any local historical, preservation, or neighborhood association shall be presented as directed by the chairman;

(g) The Commission may ask for clarification on any points discussed during the public hearing;

(h) The chairman or such person shall close the public hearing;

(i) The chairman or such persons as he shall direct shall summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections;

(j) The Commission shall thereafter proceed to deliberate whether to grant the application or deny it;

The Commission may, in its discretion, view the premises and obtain additional facts concerning any application before arriving at a decision. All decisions of the Commission shall be supported by appropriate findings of fact, and where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances.

In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

7.0 Reconsideration of Certificate of Appropriateness, Non-Applicability, Hardship Applications Which Have Been Denied

The order of business for reconsideration of applications for Certificates which previously have been denied shall be as follows:

(a) The chairman shall entertain a motion from a member of the Commission that the applicant be allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence, or conditions relating to the application; provided, however, that the applicant shall be given the opportunity to present any other additional supporting evidence, if the Commission decides to reconsider his application.

(b) After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence or conditions relating to the application which would warrant reconsideration. If the Commission finds that there has been such a change, it shall thereupon treat the request as a new application received at that time.

8.0 Modifications of Applications for Certificates of Appropriateness, Non-Applicability, Hardship

An approved or pending application for a Certificate may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the applicant to notify affected property owners following the procedures set out in Section 6.2 before taking action on the modification. The Commission shall thereupon treat the request in the same manner as any other application as outlined in Section 6.0.

9.0 Demolition Delay Ordinance Procedures

9.1 Determination of Demolition Delay Ordinance Applicability. For any application for the demolition of a building or structure over 50 years old, the chairman or such person shall review the property and determine whether the building or structure may be historically significant, and will therefore be regulated by the Demolition Delay Ordinance. The chairman or such person reviewing the property shall make a determination within 10 business days of receipt of the application by the Planning Department.

If the chairman or such person reviewing the property finds that the building or structure may be significant, a public meeting shall be scheduled within twenty 20 business days of the initial determination of potential historic significance.

9.2 Public Hearing. The Commission shall hold a public hearing if a property is determined to have potential historic significance. For every public hearing, public notice shall be given 14 days prior to the hearing. The Planning Department shall notify by mail, not less than 10 days prior to the meeting at which the matter is to be heard, the affected property owners within 100 feet on all sides of the subject property. The Planning Department shall make a PDF form of the application and relevant information available through the City's website not less than 10 days prior to the meeting at which the matter is to be heard.

9.3 Determination of Historically Significant and Preferably Preserved Status. The Commission may deem a building or structure historically significant if it is at least 50 years old and is:

(a) A building or structure listed or eligible for listing on the National Register of Historic Places, or on the State Register of Historic Places; or

(b) A building or structure importantly associated with one or more historical persons or events, or with the broad architectural, cultural, economic, political, or social history of the city; or

(c) A building or structure which is historically or architecturally significant in terms of period style, method of building construction or association with a significant architect or builder either by itself or as part of a group of buildings; or

(d) A building or structure located within 150 feet of a federal, state or local historic district boundary.

If the Commission determines the building or structure is historically significant, the Commission must

then determine if the building or structure is preferably preserved. If the Commission determines the structure is both historically significant and preferably preserved, the Commission may place a delay on the demolition of the building or structure for up to 12 months.

9.4 Findings. If the Commission finds that the building or structure is both historically significant and preferably preserved, the Planning Department shall submit a Demolition Delay Ordinance Certification of Applicability to the Building Department stating the period that the demolition permit shall be delayed.

If the Commission does not find that the building or structure is both historically significant and preferably preserved, the Planning Department shall submit a Demolition Delay Ordinance Certification of Applicability to the Building Department stating that a demolition permit may be issued without delay.

10.0 Consideration of Properties Regulated by the Demolition Delay Ordinance

Any party may appear in person or by agent or attorney at the meeting. The order of business for consideration of demolition applications regulated by the Demolition Delay Ordinance shall be as follows:

(a) The chairman or such person as he shall direct, shall give a preliminary statement describing the application;

(b) The applicant or his representative shall present the arguments in support of the application;

(c) The chairman or such person shall open the public hearing;

(d) Persons in favor of granting the application shall present their statements;

(e) Persons opposed to granting the application shall present the arguments against the application;

(f) Statements or arguments submitted by any official, commission, or department of the City of Beverly, any state agency, or any local historical, preservation, or neighborhood association shall be presented as directed by the chairman;

(g) The Commission may ask for clarification on any points discussed during the public hearing;

(h) The chairman or such person shall close the public hearing;

(i) The chairman or such persons as he shall direct shall summarize the evidence which has been presented, giving all parties an opportunity to make objections or corrections;

(j) The Commission shall thereafter proceed to deliberate whether the building or structure is historically significant, and if so whether the building or structure is preferably preserved;

(k) If the Commission finds that the building or structure is both historically significant and preferably preserved, the Commission shall then deliberate on the period to delay the issuance of a building permit.

The Commission may, in its discretion, view the premises and obtain additional facts concerning any application before arriving at a decision. All decisions of the Commission shall be supported by appropriate findings of fact, and where necessary, shall be accompanied by such conditions and/or recommendations as it may determine to be reasonable under the circumstances.

In considering applications, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

11.0 Appeal of the Decision to Delay the Demolition Permit for a Building or Structure

The Commission may instruct the Building Department to lift the delay of a demolition permit if:

(a) The Commission is satisfied that the applicant has made a bonafide, reasonable, and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate, or restore the building or structure; or

(b) The applicant has agreed to accept the demolition permit according to certain conditions approved by the Commission.

If either of these conditions is fulfilled and the Commission lifts the delay of demolition, the Commission shall submit its decision in letter form to the applicant and the Building Department.

12.0 Vote

The vote of a majority those members present shall be sufficient to decide matters before the Commission, provided a quorum is present.

13.0 Appeals

Any applicant aggrieved by a determination of the Commission may, within twenty days after the filing of the notice of that determination with the City Clerk, appeal to the Superior Court sitting in equity for the County in which the City is situated. The parties shall have all rights of appeal and exception as in other equity cases.

14.0 Financial

14.1 Budget. The budget request for the coming fiscal year will be prepared and submitted annually during the month of January.

14.2 Invoices. All bills incurred by the Commission will be submitted on a warrant to the auditor's office by the 10th of any month for payment on the 20th of that month.

15.0 Amendments.

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four members of the Commission, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Approved by the Commission this 1st day of November, 2017.

Chairman