

BallardVale Historic District Commission
Andover, Massachusetts

PROCEDURES, RULES & REGULATIONS

(Revision # 3 – October 27, 2019)

1 Meetings

1.1 Place of Meetings

The designated place for meetings of the BallardVale Historic District Commission (BVHDC) shall be the Andover Town Office Building, 36 Bartlet Street, Andover, Massachusetts, unless otherwise designated by majority vote of the full Commission.

1.2 Meeting Types

1.2.1 Organization

The Commission shall meet at 7:00 PM on the first Wednesday of July of each year. The Commission shall be called together by the most recent chairman of the Commission who shall also preside. The Commission shall then elect from among its members a chairperson, a vice-chairperson, and a secretary (Section 5, Commission By-Law).

The Commission shall adopt its rules of order and procedure for the organization and conduct of its business. Amending and/or supplementing ‘Rules & Regulations’, as well as ‘Guidelines requires a 2/3 vote of all Commission members present.

1.2.2 Regular

Regular meetings of the Commission shall be held on the first Wednesday of each month at 7:00 PM.

Whenever the day set by these rules for any meeting of the Commission shall fall on a holiday, election day, or the day before such a day, then the meeting shall be held on the next succeeding day which is not a holiday or as otherwise voted by the Commission at a prior meeting.

1.2.3 Special

Special meetings may be called by the chairperson of the Commission or by written request by three (3) or more members of the Commission. The town staff person assigned to the Commission shall prepare a notice of the special session stating the time, place and subject matter(s) of the special meeting. This notice shall be served personally upon each member of the Commission, or left at his or her usual place of residence at least forty-eight (48) hours before the time of the meeting. The designated town staff person shall also post the notice of the special meeting on the Town Office bulletin board.

Only matters set forth in the notice of the meeting shall be discussed and/or acted upon. The provisions of this rule may be suspended.

1.2.4 Adjourned Meeting

Any session of the Commission may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

1.2.5 Executive Session(s):

The Commission may convene in executive session in accordance with the following requirements:

1. To discuss strategy with respect to litigation if an open meeting may be deemed to have a detrimental effect on the litigatory position of the Commission/Town;
2. To discuss the purchase, exchange, lease or value of real property, if such discussions may be deemed to have a detrimental effect on the negotiating position of the Commission/Town and a person, firm or corporation; and
3. To comply with the provision of any general or specific law or federal grant requirements.
4. Any other reason allowed by the Massachusetts General Laws.

No executive session shall be held until the Commission has first convened in an open session for which notice has been given; a majority of the members has voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes; the chairperson has cited the purpose for an executive session; and the Commission chairperson has stated before the executive session if the Commission will reconvene after the executive session.

1.3 Quorum

Meetings of the Commission shall be held only if attended by a quorum of at least five members, including alternate members, designated to act as members. (By-Law)

1.4 Privilege of Voting

Alternate members of the Commission may vote on matters before the Commission only when designated by the Commission Chairperson to act in place of regular member(s) of the Commission. Alternate members may, however, participate in the discussion of all matters before the Commission.

1.5 Conflict of Interest

Any member of the Commission, including alternates, who has a conflict of interest in a matter before the Commission shall temporarily step down from the Commission and shall excuse him/herself from the meeting room during consideration and voting on any such matters. Conflicts of interest shall be determined in accordance with Chapter 268A of the Massachusetts General Laws (Conflict of Interest Law).

1.6 Decisions

Decisions of the Commission require a majority vote of the members including designated alternates who are present at the meeting.

1.7 Roll Call, When Required

Except on procedural matters, all votes shall be taken by a call of the roll and the yeas and nays recorded in the minutes.

1.8 Open Meeting Law

All meetings of the Commission shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by these rules, the BallardVale Historic District By-Law and the General Laws of the Commonwealth of Massachusetts

1.9 Notice(s) of Meeting(s)

All regular and special meetings of the Commission shall be called by written notice to the residence or place of business of each member including alternate members at least forty-eight (48) hours in advance of the meeting time. Such written notice shall include an agenda.

1.10 Absences

1.10.1 Any member who will be absent from a meeting shall notify the person designated by the Commission at least forty-eight (48) hours ahead of the scheduled time of the meeting, if possible.

1.10.2 If any Commission member is absent from three (3) consecutive Commission meetings, the Chairperson may appoint an alternate member as a replacement to serve for the remainder of that members term (whereupon the Town Manager shall appoint a new alternate member with the approval of the Board of Selectman (Section 5, By-Law).

1.11 Tape Recording

10-14-09: BVHDC vote to cease recording of meetings, as per sections 1.11, 1.11.1, 2.3.3

1.11.1 Copies of Taped Meetings

10-14-09: BVHDC vote to cease recording of meetings, as per sections 1.11, 1.11.1, 2.3.3

2 Duties and Privileges of Commission Officers

2.1 Chairperson of Commission

2.1.1 Preside

The chairperson shall preside at all meetings and Public Hearings of the Commission and perform such other functions as may be assigned by the by-law of the Commission.

2.1.2 Committee Appointments

All special committees of the Commission shall be appointed by the Chairperson.

2.1.3 Order

The Chairperson shall preserve order and decorum, may speak to points of order and may participate in all discussions of any matter before the Commission.

2.1.4 Appointments

In case of absence, inability to act or unwillingness to act because of self-interest by a member, the Chairperson shall designate (an) alternate member(s) of the Commission to act for a specified time.

2.1.5 Budget

The Chairperson, with the approval of the Commission, shall submit an annual budget to the Town Manager in such form as the Town Manager may require.

2.1.6 Certificates

The Chairperson, or other designated Commission member, shall sign all certificates (and disapprovals) issued by the Commission.

2.2 Vice-Chairperson

2.2.1 Substitute for Chairperson

The Vice-Chairperson, or other designated Commission member, shall act as Chairperson during the absence or disability of the Chairperson (Section 5, Bylaw)

2.2.2 Maintain Membership List

The Vice-Chairperson shall maintain an up to date Commission membership list and distribute to Commission members as well as to designated town staff person and Town Manager, as changes occur.

2.3 Secretary

2.3.1 Minutes of Commission Meetings

The Secretary shall keep a record of the substance of all meetings of the Commission including the individual votes of all members voting on matters coming before the Commission and shall cause such minutes to be prepared and delivered to the designated town

staff person by one week prior to the next scheduled Commission meeting whenever possible, so that the minutes can be mailed to all Commission members, including alternates, along with the agenda.

2.3.2 Clerical Work And Correspondence

The Secretary shall perform the clerical work and correspondence of the Commission.

2.3.3 Tape Recording of Commission Meetings

10-14-09: BVHDC vote to cease recording of meetings, as per sections 1.11, 1.11.1, 2.3.3

In the absence of a designated secretary, the responsibility for secretarial duties shall rotate monthly among all members except Commission officers.

3 Commission Meeting Procedures

3.1 Agenda

The agenda for all meetings shall contain all items scheduled to come before the Commission.

3.1.1 Filing of Agenda Items

Items for the agenda must be filed with the designated town staff person by noontime one week prior to the next scheduled meeting (or by Wednesday, noon time), in order to appear on the agenda.

Any member of the Commission, including alternates, may submit an item for the agenda.

To the extent necessary or possible, all matters included on the agenda (unless clearly self-explanatory) shall have been preceded by or should be accompanied by written explanation or descriptive material provided by the sponsor(s) of the agenda item.

3.1.2 Copies of Agenda for Public

Copies of the agenda only shall be made available to the public at a meeting and shall be reasonable in supply.

3.1.3 Posting of Agenda

At least forty-eight (48) hours before any Commission meeting, an agenda containing all items which are scheduled to come before it at the meeting shall be available in the Building Division of the Department of Community Development and Planning and shall be posted on the Town Office bulletin board by the designated town staff person.

3.2 Order of Business

The order of business at every regular meeting of the Commission shall be as follows:

1. Call to Order
2. Roll Call (9-10-14: BVHDC vote to add "and appointment of alternates as voting members, as needed")
3. Applications (9-14-16: BVHDC vote to eliminate words, "and/or decisions")

4. Public Meetings
5. Public Hearings
6. Citizen’s “Speak Time”
7. Communication, Reports and other Commission business
8. Adjournment

unless by majority vote, the Commission members agree to change the order ~~during the current meeting~~. 03-05-14: BVHDC vote to delete “during the current meeting”.

3.3 Citizen’s “Speak Time”

Citizen’s “Speak Time” is allowed on matters other than those for which a Public Hearing is in progress.

3.4 New Applications

The Commission will vote on each new application to determine whether it must come before the Commission. All applications needing to come before the Commission must have a Public Hearing, unless the Commission votes to waive the Public Hearing.

3.4.1 Public Hearings on Applications

An applicant may appear in person or be represented by agent at the Commission meeting. Review of an application at a Public Hearing will generally be conducted according to the following procedure:

1. The Chairperson shall recess the Commission upon appropriate motion and vote of Commission, and shall convene a Public Hearing;
2. The Chairperson shall give a preliminary statement concerning the application;
3. The applicant shall present his or her application;
4. The Commission members may discuss the application, followed by public comments from anyone else with an interest in the proposal;
5. Commission members may ask clarifying questions after each speaker;
6. The chairperson shall summarize the information, giving all parties a chance to make additional comments; and
7. The Public Hearing shall be closed by motion and vote of the Commission.

3.4.2 Commission Decisions on Applications

3.4.2.1 Historic and Architectural Value

In reviewing each application, the Commission shall consider the historic and architectural value and significance of the site, building or structure involved. Also to be considered is the general design, arrangement, texture and materials of the features involved and the relation of such features to similar features of buildings and structures in the district.

3.4.2.2 Appropriateness of Size and Design

In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size, shape and design of the

building or structure, both in relation to the land area on which it is situated and to buildings and structures in the district.

3.4.2.3 Reasons for Decisions

In all decisions on applications, the Commission shall state reasons for the decisions, supported by appropriate findings of fact. Any decision on an application may be accompanied by conditions and/or recommendations. In the case of a disapproval of an application, the Commission may include recommendations for changes in the proposal which, if made and filed in a subsequent application, would make the application acceptable to the Commission.

3.4.2.4 Effort Toward Mutually Agreeable Solution

If the Commission finds that some aspect(s) of the proposed changes described in an application are inappropriate, it will make every effort to suggest ways in which the application may be amended so that approval may be granted. Such discussions among Commission members and the applicant, if present, shall focus on arriving at a solution satisfying all concerned, while still abiding by the terms and spirit of the BallardVale Historic District By-Law.

3.4.2.5 Liaison

Each new application that is required to come before the Commission shall have a Commission member assigned as a liaison, to function as a contact person when the applicant has questions.

3.4.2.6 Amending Applications

Applications may be amended by listing changes on certificate under ‘conditions for approval’.

3.4.2.7 Division of Application

The Commission may, by majority vote, approve a portion, or portions, of an application on one date, with issued certificate specifically indicating which portions are applicable. Remainder of application must be voted on within sixty (60) days of the original application date, unless further extended by applicant in writing.

3.4.2.8 Commission Decision Deadline

Within sixty (60) days after the filing of an application for a certificate, or within such further time as the applicant may allow in writing, the Commission shall issue a certificate or a disapproval. The Commission shall send a copy of its certificates and disapproval’s to the designated town staff person, who will file copies of all certificates and disapproval’s with the Town Clerk. The original certificate will be available at the Department of Community Development and Planning, and may be picked up by the applicant or representative following completion of the twenty (20) day appeal period. If the Commission should fail to issue a certificate or disapproval within sixty (60) days of the filing of the application, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Hardship due to Failure to Act.

3.5 Minutes Provided Commission Members

Each member of the Commission shall be provided a copy of the minutes of the previous meeting in advance of the meeting whenever practical. The Chairman shall inquire, “Are there any additions, corrections, or deletions of the minutes?” If there be none, the minutes shall be declared approved. Should there be any, the minutes shall be amended as agreed to by the Commission and as amended, stand approved. All copies of the minutes shall be clearly marked ‘DRAFT’ until approved with any needed changes. An approved, corrected if necessary, copy will be kept on file in the Department of Community Development and Planning.

3.6 Robert’s Rules of Order shall be the guide for conduct of the meetings

4 Following Issuance of Certificate

4.1 Change from approved work

To request any minor changes from what was previously approved, applicant should contact their liaison, who will review requested changes, and relay response in writing to applicant, with copy to be attached to certificate on file.

4.2 Questions or Other Concerns

Applicant should contact their liaison with any questions or concerns.

4.3 Property changes ownership prior to Completion of Work

New owners must come before Commission with application to request re-issuance of Certificate of Applicability to continue with previously approved changes.

4.4 Completion of Work

Applicant shall notify liaison of completion of work. Liaison will then arrange for an on-site review of work by liaison (or other designated Commission member). Liaison will report on completion of work at next Commission meeting. Certificate of Completion will be issued to applicant, and copy attached to original application.

4.5 Expiration of Certificate of Appropriateness

04-02-14: Confirming vote (one year expiration has always been on Certificate) that COA shall expire 365 days after issuance unless an extension (of one year) is asked for in writing by the applicant and granted by the Commission prior to the expiration date. Maximum of two extensions are allowed before a new application process must be initiated.

5 Precedent

No action of the Commission shall establish a precedent. Each application is decided upon it’s own merit.

6 Exemptions

The following are exempt from review by the Commission:

- 6.1 Storm doors and storm windows, window air conditioners, residential light fixtures, and conventional antennae no larger than six (6) feet in any dimension. The Commission expects that property owners will make every effort to assure that that any of these items are of a design appropriate to the style of the house. However, Dish antennae and solar collectors do require Commission approval.
- 6.2 Color of paint or color of material used on roof.
- 6.3 Temporary signs or structures to be in use for not more than 90 days. See By-Law for details of requirements for these signs or structures.
- 6.4 Signs used for residential occupation or professional purposes. See By-Law for details of requirements for these signs. However, signs for commercial and institutional purposes do require Commission approval.
- 6.5 Ordinary maintenance and repair, as defined by the Commonwealth of Massachusetts State Building Code 780 CMR.
- 6.6 Landscaping with plants, trees or shrubs. While the Commission may not require approval for or prevent landscaping, the Commission may require the use of a specific type or types of landscaping, as a condition for approval for a structure that might not otherwise be approved.
- 6.7 Terraces, walks, sidewalks, driveways and other similar structures, provided the structure is at grade level. However, parking lots or parking areas do require Commission approval. (See By-Law for details).

7 Enforcement

7.1 Building Commissioner (Inspector)

The Building Commissioner for the Town of Andover will provide enforcement for the BallardVale Historic District Commission.

7.2 Superior Court

The Superior court for Essex County shall have jurisdiction to enforce the provisions of the BallardVale Historic District Commission By-law, and the determinations, rulings and regulations pursuant thereto, and may order the removal of any building, structure or exterior architectural feature constructed, altered or demolished in violation thereof, and may issue such other orders for relief as may be equitable.

7.3 Fine

Whoever violates any of the provisions of the BallardVale Historic District By-Law or its related rules and regulations shall be punished by a fine of not more than one hundred dollars for each offense. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

The BallardVale Historic District Commission is also governed by reference by the following:

- 1. BallardVale Historic District By-Law**
- 2. Massachusetts General Laws, Chapter 40C, Historic District Enabling Statute**