

ARTICLE II
Certain Special Acts of the Legislature Accepted by the Town

Chapter 405 of the Acts of 1954

An Act providing that certain Town Meeting votes shall be subject to a Referendum in the Town of Marblehead.

Be it enacted, etc., as follows:

Section 1. A vote passed at any town meeting held in the town of Marblehead authorizing the expenditure of fifty thousand dollars or more as a special appropriation, or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of office of town officers, where such term is optional, or increasing or reducing the number of members of a board, or adopting a new By-Law, or amending an existing By-Law, shall not be operative until after the expiration of five days, exclusive of Sundays and holidays, from the dissolution of the meeting, nor, if a petition for referendum thereon has been filed, until the question of the ratification of such vote has been determined in the manner herein provided. If, within said five days, a petition, signed by not less than three hundred registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, then the selectmen, after the expiration of five days, shall forthwith call a special meeting for the sole purpose of presenting to the registered voters at large the question or questions so involved. The polls shall be opened at two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the evening, and all votes upon any questions so submitted shall be taken by ballot, and the check list shall be used in the several precinct meetings in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon, but no action of a town meeting shall be reversed unless at least twenty per cent of the registered voters shall so vote. Each question so submitted shall be in the form of the following question, which shall be placed upon the official ballot: - "Shall the town vote to approve the action of the town meeting whereby it was voted (brief description of the substance of the vote)?" If such petition is not filed within said period of five days, the vote of the Town meeting shall become operative and effective upon the expiration of said period.

Section 2. This act shall be submitted to the voters of the town of Marblehead for acceptance at the next annual town meeting in the form of the following question, which shall be placed upon the official ballot used for the election of town officers: - "Shall an act passed by the general court in the year nineteen hundred and fifty-four, entitled 'An Act providing that certain town meeting votes shall be subject to a referendum in the Town of Marblehead', be accepted?" - If a majority of the voters voting on said question vote in the affirmative, then this act shall take full effect, but not otherwise.

March 1955 Ballot
2020 Yes
547 No
1493 Blanks

Approved May 11, 1954

Chapter 101 of the Acts of 1965

An Act Establishing an Old and Historic Districts Commission for the Town of Marblehead

Be it enacted, etc., as follows:

Section 1. This act shall be designated and may be known as the Old and Historic Marblehead Districts Act.

Section 2. The purpose of this act is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of historic buildings, places and districts of historic interest in the town of Marblehead, through the maintenance of such districts as landmarks in the history of architecture and as a tangible reminder of the early days of the commonwealth and said town, through the development of appropriate settings for said buildings, places and districts, and through the benefits resulting to the economy of the commonwealth and said town through the promotion of such historic associations.

Section 3. The Town of Marblehead by vote at a town meeting may by By-Law establish historic districts in the Town of Marblehead. Prior to the establishment or change in any such By-Law or district the planning board of said town shall hold a public hearing thereon after due notice given and file a report on recommendations to town meeting; provided, that such By-Law or district may be established or changed if twenty days shall have elapsed after such hearing without the submission of such report.

Section 4. After the effective date of this act and the establishment of an historic district, an Old and Historic Marblehead Districts Commission hereinafter called the commission, consisting of not less than three nor more than five members, shall be established. Each member shall be a resident of the town of Marblehead and shall reside in an historic district established under this act. Such members shall be appointed by the board of selectmen for a term of one year. Any member of the commission so appointed may be removed by the board of selectmen at its pleasure. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the manner provided in section eleven of chapter forty-one of the General Laws. Said commission shall elect annually a chairman and a secretary from its own number. The commission shall have, in addition to the powers, authority and duties granted to it by this act, the powers, authority and duties as provided by said By-Law.

Section 5. (a) It shall be the function and the duty of the commission to pass upon the appropriateness of the exterior architectural features of buildings, and structures hereafter to be erected, reconstructed, altered or restored in said districts wherever such exterior features are subject to public view from a public street or way. All plans, elevations and other information deemed necessary by the commission to determine the appropriateness of the exterior features to be passed upon shall be made available to the commission by the applicant. It shall also be the duty of the commission to pass upon the removal of any building within said districts as set forth in section six, and the erection or display of occupational or other signs as set forth under section seven.

- (b) The town, in establishing said By-Law, may, in addition to the purposes set forth in section two, consider among other things the historical and architectural value and significance, architectural style, the general design, arrangement, texture and material of the buildings or structures to be regulated within a district and the relation of such factors to similar features of buildings and structures in the immediate surroundings within said district.
- (c) The commission shall not consider detailed designs, relative size of buildings in plan, interior arrangement or building features not subject to public view. Said By-Law may provide that the commission shall not consider ordinary maintenance and repair to buildings and structures, building permits issued prior to the notice of public hearing given by the planning board as provided in section three, fences, stone or brick walls, arbors, trellises, terraces, patios, flagpoles, chimneys, screens, storm doors, windows, color, sheds and temporary buildings as may be defined by said By-Law, and other exclusions as the Town may determine.
- (d) In the event that vacant land exists or should occur through catastrophe, and that such land is an integral part of a district, the commission shall have the right to pass upon all plans for construction, and such plans shall be submitted to the commission for its approval before a building permit may be issued.
- (e) In case of disapproval the commission shall state its reasons therefor in writing, and it may make recommendations to the applicant with respect to historic significance, appropriateness of design, arrangement, texture, material and the like, as set forth in said By-Law, of the building or structure involved.
- (f) Upon approval of the plans the commission shall cause a certificate of appropriateness, dated and signed by the chairman, to be issued to the applicant or affixed to the plans.

Section 6. In any historic district no building or structure shall hereafter be erected, reconstructed, altered or restored within said district unless and until an application for a certificate of appropriateness shall have been approved by the commission or issued as hereinafter provided. The building inspector shall not issue a building permit for work in any historic district until such certificate of appropriateness has been procured.

Section 7. The erection or display of an occupational or other sign in a size in excess of size established by the By-Law, or the erection or display of more than one such sign on any lot, building or structure located within a district shall be approved in advance by the commission. Evidence of such approval shall be a certificate of appropriateness issued by the commission.

Section 8. Within ten 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, and unless a public hearing on such application is waived in writing by all persons entitled to notice thereof, shall forthwith cause its secretary to give, by mail, postage prepaid, to the applicant, to the owners of all such estates as they appear on the then most recent real estate tax list, and to the planning board, reasonable notice of a public hearing before the commission on such application.

As soon as convenient after such public hearing or the waiver thereof, but in all events within sixty 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 this 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 certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this act.

If the commission determines that the proposed construction, reconstruction or alteration involved will be appropriate or, although inappropriate, owing to conditions as aforesaid, failure to issue a certificate of appropriateness will involve substantial hardship to the applicant and the issuance thereof may be made without substantial detriment or derogation as aforesaid, or if the commission fails to make a determination within the time prescribed, the secretary of the commission shall forthwith issue to the applicant a certificate of appropriateness. If the commission determines that a certificate of appropriateness should not issue, the commission shall spread upon its records the reasons for such determination, and may include recommendations respecting the proposed construction, reconstruction or alteration. The secretary of the commission shall forthwith notify the applicant of such determination, transmitting to him an attested copy of the reasons and recommendations, if any, spread upon the records of the commission. (5-2-77, Art. 7)

Section 9. Nothing in this act shall be construed to prevent the construction, reconstruction, alteration or demolition of a public building or structure; nor shall anything in this act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition.

Section 10. Appeals may be taken to the board of appeals, being the board of selectmen, by any person aggrieved by a ruling of the commission. The board of appeals shall hear and act upon such appeals within a reasonable time. The concurring vote of all except one member of the board of appeals shall be necessary to reverse any decision of the commission.

Section 11. Any applicant aggrieved by a determination of the board of appeals may, within twenty days after the making of such decision, appeal to the superior court sitting in equity for the county of Essex at Salem. The court shall hear all pertinent evidence, and shall annul the determination of the board if it finds the decision of the board to be unwarranted by the evidence, or to be insufficient in law to warrant the determination of the board, or make such other decree as justice and equity may require. The remedies provided by this section shall be exclusive; but the parties shall have all rights of appeal and exception as in other cases in equity. The commission shall not have the right of appeal to the superior court from a decision if the Board of Appeals.

Section 12. The superior court shall have jurisdiction in equity to enforce the provisions of this act, any By-Law established and the rulings issued under its provisions, and may restrain by injunction violations thereof.

Section 13. This act shall take effect upon its acceptance by the Town of Marblehead.

Approved March 3, 1965.

Accepted at Town Meeting, March 14, 1967. Art. 45.

Chapter 111 of the Acts of 1990

An Act authorizing the Town of Marblehead to develop and maintain a water system backflow prevention program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Notwithstanding the provisions of section one hundred and sixty A of chapter one hundred and eleven of the General Laws to the contrary, the Town of Marblehead, acting through its water and sewer commission, is hereby authorized to develop and maintain a water system backflow prevention program, and to adopt rules and regulations and set fees therefor, in conformity with the provisions of said section one hundred and sixty A.

Approved May 6, 1991