

Commonwealth of Massachusetts,  
County of Essex, ss  
to Any Constable in the Town of Marblehead  
Greeting:

You are hereby required and directed in the name of the Commonwealth of Massachusetts to warn and give notice to the inhabitants of Marblehead, qualified to vote in elections and in town affairs, to meet at the Marblehead Veterans Middle School Auditorium, Duncan Sleigh Square, 217 Pleasant Street, Marblehead, MA, on Monday, the seventh day of May next A. D. 2007 (it being the first Monday in May) at 7:45 o'clock in the afternoon to act on the following articles in the Warrant for said meeting as follows:

**Article 1 Articles in Numerical Order**

To see if the Town will vote to adopt an order requiring articles in the Warrant to be taken up in their numerical order, as requested by the Selectmen.

**Article 2 Reports of Town Officers and Committees**

To receive the report of the Town Accountant, the reports of the Town Officers, and special Committees and act thereon.

**Article 3 Lease Town Property**

To see if the Town will vote to authorize the appropriate Town Officers to let or lease such land, buildings or structures owned by the Town on such terms as they may determine, or take any other action relative thereto, as sponsored by the Board of Selectmen.

**Article 4 Accept Trust Property**

To see if the Town will vote to accept certain trust property, gifts or grants to be administered by the Town or modify the terms thereof, or take any other action relative thereto, as sponsored by Town Counsel.

**Article 5 Assume Liability**

To see if the Town will assume liability in the manner provided by Section 29 of Chapter 91 of the General Laws, for all damages that may be incurred by work to be performed by the Massachusetts Highway Department for the improvement, development, maintenance and protection of tidal and non tidal rivers and streams, harbors, tidewaters, foreshores and shores along a public beach in accordance with Section 11 of Chapter 91 of the General Laws and authorize the Selectmen to

execute and deliver a bond of indemnity therefor to the Commonwealth, or take any other action relative thereto, as sponsored by the Board of Selectmen.

**Article 6 Unpaid Accounts**

To see if the Town will vote to appropriate or transfer from available funds a sum of money to provide for the payment of any unpaid accounts brought forward from previous years, or take any other action relative thereto. Sponsored by the Finance Director.

**Article 7 North Shore Regional Vocational School District**

To see if the Town will vote to approve the gross operating and maintenance budget of the North Shore Technical High School and appropriate a sum of money for the Town's assessment of the same, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 8 Revolving Funds**

To see if the Town will vote to authorize various revolving funds as required by M.G.L. c44s.53E ½, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 9 Proposed Reclassification and Pay Schedule (Administrative)**

To see if the Town will vote to amend Chapter 121 of the By-laws, Classification and Wage Salary Plan, by changing certain job titles where indicated and reclassify certain positions in the Administrative Pay Schedule; to strike out the pay schedule as it relates to Administrative personnel, substitute in place thereof the following new pay schedules and to transfer from available funds and/or appropriate a sum of money to make said new pay schedules effective, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 10 Proposed Reclassification and Pay Schedule (Seasonal and Temporary Personnel)**

To see if the Town will vote to amend Chapter 121 of the By-laws, Classification and Wage Salary Plan, by changing certain job titles where indicated and reclassify certain positions in the Seasonal and Temporary Personnel Pay Schedules; strike out the pay schedules as they relate to seasonal and temporary personnel, substitute in place thereof the following new pay schedules and to transfer from available funds and/or appropriate a sum of money to make said new pay schedules effective, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 11 Pay Schedule and Reclassification (Traffic Supervisors)**

To see if the Town will vote to amend Chapter 121 of the By-laws, Classification and Wage Salary Plan, by changing certain job titles where indicated and reclassify certain positions in the Traffic Supervisors Pay Schedule; to waive the pay schedule as it relates to Traffic Supervisor personnel, substitute in place thereof the following new pay schedules and to transfer from available funds and/or appropriate a sum of money to make said new pay schedules effective, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 12 School Department Computer and Support Equipment**

To see if the Town will vote to appropriate a sum of money for the purpose of purchasing computers and support software and equipment and necessary accessory furnishings and to raise the moneys for these purposes by the issue of bonds or notes or in any other manner, or take any other action relative thereto. Sponsored by the School Committee

**Article 13 Schools Construction and or Renovation Program**

To see if the Town will vote to appropriate a sum of money for the purpose of feasibility study, design, remodeling, constructing, furnishing or making extraordinary repairs, including all professional architectural, design and engineering fees, to the Gerry, Coffin, Bell, Eveleth, Glover, Village, Veterans Middle School, High School and any other schools and their respective playing fields and to raise the money for these purposes by the issue of bonds or notes or in any other manner, or take any other action relative thereto. Sponsored by the School Committee

**Article 14 Fiscal 2007 School Budget Additional Appropriation**

To see if the Town will vote to appropriate or transfer from available funds a sum of money to fund additional expenses of the fiscal 2007 school budget, said sum to be added to Article 49, Item 101, Schools, as voted at Town Meeting in May 2006, or take any action relative thereto. Sponsored by the School Committee

**Article 15 Purchase of Equipment of Several Departments**

To see if the Town will raise and appropriate any sums of money for the purchase of equipment for the several departments of the Town; to authorize the Board of Selectmen to trade old equipment as part of the purchase price; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Finance Committee.

**Article 16 Capital Improvements for Public Buildings**

To see if the Town will vote to raise and appropriate a sum of money for remodeling, reconstructing and making extraordinary repairs to existing Town buildings and the purchase of necessary equipment including computer hardware and software in connection therewith; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Selectmen.

#### **Article 17 Walls and Fences**

To see if the Town will vote to raise and appropriate a sum of money for the construction and reconstruction of walls and fences for the protection of highways and property, including engineering services in connection therewith; to authorize the appropriate Town Officers to acquire by purchase, eminent domain or otherwise, any land or easements necessary therefor; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Selectmen.

#### **Article 18 Water and Sewer Commission Claims**

To see if the Town will vote to authorize the Water and Sewer Commission and the Board of Selectmen acting jointly to compromise any claims for damages or suits pending against the Town of Marblehead on account of acts which may have occurred during the construction of the water, sewer and storm water system or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 19 Storm Drainage Construction**

To see if the Town will vote to raise and appropriate a sum of money for the construction or reconstruction of sewers for surface drainage purposes; to authorize the appropriate Town Officers to acquire by purchase, eminent domain or otherwise, any land or easements necessary therefore; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Water and Sewer Commissioners.

#### **Article 20 Sewer Department Construction**

To see if the Town will vote to raise and appropriate a sum of money to be expended by the Water and Sewer Commission for the construction or reconstruction of sewers for sanitary purposes and for sewerage disposal, pump stations, original pumping equipment, metering equipment, safety equipment, replacement of said equipment, engineering, consultants, surveys, including revenue studies and other general Sewer Department purposes, and to authorize the Board of Water and Sewer Commissioners to acquire by purchase, eminent domain or

otherwise any lands or easements necessary; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 21 Water Department Construction**

To see if the Town will vote to appropriate a sum of money to be expended by the Water and Sewer Commission for the construction, reconstruction and extending of water mains, replacement of water meters, appurtenances, engineering, consultants, surveys, including revenue studies and other general Water Department purposes, and to authorize the Board of Water and Sewer Commissioners to acquire by purchase, eminent domain or otherwise any lands or easements necessary or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 22 Storm water Management and Erosion Control By-Law for the Town of Marblehead**

To see if the Town will vote to amend the Marblehead By-Laws by adding a New Chapter 195, Storm Water Management and Erosion Control By-Law, as follows:

Chapter 195

##### **ARTICLE I.     Purpose**

1. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of: impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; flooding; and overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Marblehead, to safeguard the health, safety and welfare of the general public and protect the natural resources of the Town.

2. The objectives of this By-Law are to:

- A. protect water resources;
- B. require practices that eliminate soil erosion and sedimentation;
- C. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
- D. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
- E. protect groundwater and surface water from degradation;
- F. promote infiltration and the recharge of groundwater;
- G. prevent pollutants from entering the municipal storm drain system;
- H. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
- I. ensure adequate long-term operation and maintenance of structural stormwater best management practices;
- J. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at construction sites that may cause adverse impacts to water quality;
- K. comply with state and federal statutes and regulations relating to stormwater discharges; and
- L. establish the Town of Marblehead's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring and enforcement.

## ARTICLE II. Definitions

For the purposes of this By-Law, the following shall mean:

ABUTTER: The owner(s) of land abutting the activity.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater in the area.

**APPLICANT:** Any “person,” as defined below, requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AUTHORITY:** The Conservation Commission and its employees or agents designated to enforce this By-Law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint or structural improvement that helps to reduce the quantity of and/or improve the quality of stormwater runoff.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, oils, litter and sanitary waste at a construction site that may adversely impact water quality.

**CLEARING:** Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of an existing use, usually involving construction.

**DISTURBANCE OF LAND:** Any action, including clearing and grubbing, that causes a change in the position, location or arrangement of soil, sand, rock, gravel or similar earth material.

**ENVIRONMENTAL SITE MONITOR:** A Registered Professional Engineer or other trained professional selected by the Authorized Enforcement Authority and retained by the Authorized Enforcement Authority and paid by the holder of a

Minor Land Disturbance Permit or a Full Land Disturbance Permit to periodically inspect the work and report to the Authorized Enforcement Authority.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a Registered Professional Engineer (PE) or a Registered Professional Land Surveyor (PLS), which includes best management practices or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related land disturbance activities.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools. See the Wetlands Protection Act regulations (310 CMR 10.00) and the Forest Cutting Practices Act regulations (304 CMR 11.00).

**GRADING:** Changing the level or shape of the ground surface.

**GRUBBING:** The act of clearing land surface by digging or grinding up roots and stumps.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks and roof tops. Impervious surface also includes soils, gravel driveways and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE:** Any activity including, without limitation, clearing, grubbing, grading, digging, cutting or excavation of soil; placement of fill; and construction that causes a change in the position or location of soil, sand, rock, gravel or similar earth material.

**LOT:** A single parcel of land held in identical ownership throughout and defined by metes, bounds or boundary lines in a recorded deed on a recorded plan.

**MASSACHUSETTS ENDANGERED SPECIES ACT:** M.G.L. Ch. 131A and its implementing regulations at 321 CMR 10.00, which prohibit the “taking” of any



rare plant or animal species listed as “Endangered,” “Threatened,” or “Of Special Concern.”

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Massachusetts Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, M.G.L. Ch. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. Ch. 21, §§ 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, open channel, reservoir and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Marblehead.

**OPERATION AND MAINTENANCE PLAN:** A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OUTFALL:** The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into a receiving water body and/or wetland. .

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards, promulgated at 314 CMR 4.00, and the Massachusetts Stormwater Management Standards, set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands and other waters specifically designated.

**OWNER:** A person with a legal or equitable interest in property.

**PERMITTEE:** The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee or agent thereof.

**POINT SOURCE:** Any discernible, confined and discrete means of conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container from which pollutants are or may be discharged.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**RESPONSIBLE PARTIES:** Owner(s) and persons with financial, operational and/or administrative responsibility.

**RUNOFF:** Rainfall, snowmelt or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Any earth, sand, rock, gravel or similar material.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural or vegetative methods to prevent or retard erosion.

**STORMWATER:** Stormwater runoff, snow melt runoff and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN:** A document containing narrative, drawings and details prepared by a Registered Professional Engineer (PE), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing and storage or removal of topsoil.

**TOTAL SUSPENDED SOLIDS (TSS):** Material, including but not limited to trash, debris and sand, suspended in stormwater runoff.

**VERNAL POOLS:** Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species. For the purpose of this By-law, vernal pools shall be as those areas certified as such by the Commonwealth of Massachusetts Division of Fisheries and Wildlife.

**WATERCOURSE:** A natural or man-made channel through which water flows, including a river, brook, stream, underground stream, pond or lake.

**WETLAND RESOURCE AREA:** An area specified in the Massachusetts Wetlands Protection Act, M.G.L. Ch. 131, § 40, and accompanying regulations and/or in Chapter 194 of the By-Laws of the Town of Marblehead.

**WETLANDS:** Freshwater wetland, marsh, bog, wet meadow and swamp are defined in M.G.L. Ch. 131, § 40, and accompanying regulations, and the Town of Marblehead Wetlands Protection By-Law and Regulations and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

### ARTICLE III. Authority

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, G.L. c. 83 § 1, 10 and 16 and G.L. ch. 149 §135 - 140 and pursuant to the regulations of the Federal Clean Water Act, found at 40 CFR 122.34 and published in the Federal Register on December 8, 1999, as amended.

### ARTICLE IV. Applicability

This By-Law shall apply to all land-disturbing activities within the jurisdiction of the Town of Marblehead. Except as permitted by the Authorized Enforcement Authority, or as otherwise provided in this By-Law, no person shall perform any activity that results in land disturbance of 40,000 square feet or more, including 40,000 square feet of area which is comprised of smaller, individual parcels within the same project or unconnected areas which comprise 40,000 square feet or more in the aggregate.

#### 1. Regulated Activities

Regulated activities shall include, but not be limited to:

- A. land disturbance of 40,000 square feet or more, whether or not associated with construction or reconstruction of structures;
- B. development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land;
- C. paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff;
- D. construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of 40,000 square feet or more;
- E. any other activity altering the surface of an area exceeding 40,000 square feet or more that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, or wetlands; or

F. construction or reconstruction of structures where 40,000 square feet or more of roof drainage is altered.

2. Erosion and Sedimentation Control Requirement

A project which includes land disturbance of less than 40,000 square feet shall be considered to be in conformance with this By-Law if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights-of-ways, the public storm drainage system or wetlands and watercourses. The design, installation and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulations adopted pursuant to this By-Law.

3. Exempt Activities

The following activities are exempt from the requirements of this By-Law:

A. normal maintenance and improvement of land in agricultural use as defined by the Massachusetts Wetlands Protection Act;

B. repair of septic systems when required by the Board of Health for the protection of public health and in compliance with Section IV.B hereof;

C. normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling, provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation or alteration of drainage patterns;

D. the construction of fencing that will not alter existing terrain or drainage patterns;

E. construction of utilities other than drainage (e.g. gas, water, electric, telephone) that will not alter terrain or drainage patterns; and

F. projects wholly within the jurisdiction of the Authorized Enforcement Authority and requiring an Order of Conditions.

ARTICLE V. Administration

The Authorized Enforcement Authority shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Authorized Enforcement Authority through this By-Law may be delegated in writing by the Authorized Enforcement Authority to its employees and/or agents.

#### ARTICLE VI. Regulations

The Authorized Enforcement Authority may adopt and periodically amend rules and regulations to effectuate the purposes of this By-Law. Prior to the adoption and subsequent amendment to the rules and regulations, if any, the Authorized Enforcement Authority shall hold a public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing. A copy of the adopted regulations shall be made available at the Office of the Town Clerk and as otherwise deemed appropriate by the Authorized Enforcement Authority. Failure by the Authorized Enforcement Authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

#### ARTICLE VII. Permits

A Permit hereunder is required prior to any activity disturbing 40,000 or more square feet of land. The site owner or his/her agent shall apply to the Authorized Enforcement Authority for the permit. While application may be made by a representative, the permittee must be the owner of the site.

##### 1. Applications

An application shall be made to the Authorized Enforcement Authority in a form and containing information as specified in this By-Law and in the rules and regulations adopted by the Authorized Enforcement Authority, if any, and shall be accompanied by payment of the appropriate application and review fees.

##### 2. Fees

Fees shall be established by Authorized Enforcement Authority to cover expenses connected with public notice, application review and monitoring permit compliance. The fees shall be sufficient to cover professional review as well. The Authorized

Enforcement Authority is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Authorized Enforcement Authority on any or all aspects of the application. Applicants must pay all review fees before the review process may begin. The applicant for a Land Disturbance Permit may be required to cover the costs of said consultant(s) through an account established pursuant to M.G.L. Ch. 44, § 53G.

3. Information Requests

The Authorized Enforcement Authority may request such additional information as is necessary to enable the Authorized Enforcement Authority to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this By-Law.

4. Determination of Completeness

The Authorized Enforcement Authority shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

5. Coordination with Other Boards

On receipt of a complete application for a Land Disturbance Permit, the Authorized Enforcement Authority shall distribute one copy each to the Planning Board, the Water and Sewer Commission, the Board of Health and the Building Commissioner for review and comment. Said agencies and persons shall, in their discretion, investigate the case and report their recommendations to the Authorized Enforcement Authority. The Authorized Enforcement Authority shall not hold a hearing on the Land Disturbance Permit until it has received reports from said agencies or until said agencies have allowed twenty (20) days to elapse after receipt of the application materials without submission of a report thereon.

6. Entry

Filing an application for a Land Disturbance Permit grants the Authorized Enforcement Authority or its agent(s) permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

7. Hearing

Within thirty (30) days of receipt of a complete application for a Land Disturbance Permit, the Authorized Enforcement Authority shall hold a public hearing and shall take final action within thirty (30) days from the close of said hearing, unless such time is extended by agreement between the applicant and the Authorized Enforcement Authority. Notice of the public hearing shall, at least Five (5) business days prior to said hearing, be given by publication in a local newspaper of general circulation, and by posting. The Authorized Enforcement Authority shall be responsible for publishing the notice in the local newspaper and posting the notice at Abbot Hall, and the Applicant shall be responsible for paying the costs of same. The Authorized Enforcement Authority shall make the application available for inspection by the public during business hours at the Mary Alley Building.

8. Action

The Authorized Enforcement Authority may:

- A. approve the application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this By-Law;
- B. approve the application and issue a permit with conditions, modifications and/or restrictions that the Authorized Enforcement Authority determines are required to ensure that the project will protect water resources and complies with the requirements of this By-Law; or
- C. disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and/or comply with the requirements of this By-Law. If the Authorized Enforcement Authority finds that the applicant has submitted insufficient information to describe the site, the work or the effect of the work on water quality and runoff volume, the Authorized Enforcement Authority may disapprove the application, denying a permit.
- D. If approved, the Authorized enforcement Authority shall require that the permit, in addition to the Plan as noted herein, shall be placed on record at the Southern Essex Registry of Deeds. Upon completion of the project and following



approval of compliance with the permit, the Authorized Enforcement Authority shall issue a certificate of completion to be placed on record at the Southern Essex Registry of Deeds.

#### 9. Project Changes

The permittee, or his/her agent, must notify the agent of the Authorized Enforcement Authority in writing of any change or alteration of a land disturbing activity before the change or alteration occurs. If the agent of the Authorized Enforcement Authority determines that the change or alteration is significant, based on the design requirements listed in the rules and regulations adopted by the Authorized Enforcement Authority pursuant to this By-Law, if any, the agent of the Authorized Enforcement Authority may require that an amended application or a new full application be filed in accordance with this Section. If any unauthorized or unpermitted change or alteration from the Land Disturbance Permit occurs during land disturbing activities, the agent of the Authorized Enforcement Authority may require the Permittee to cease all work and/or require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

#### ARTICLE VIII. Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pre and post construction conditions of the site and the adjacent areas and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed in the rules and regulations adopted by the Authorized Enforcement Authority for administration of this By-Law, if any.

#### ARTICLE IX. Stormwater Management Plan

The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pre and post construction conditions of the site and the adjacent areas and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Authorized Enforcement Authority to evaluate the environmental impact, effectiveness and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the

Massachusetts Stormwater Management Standards, as set forth in the Massachusetts Stormwater Management Policy and the United States Department of Environmental Protection's Stormwater Management Handbook: Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings and narrative. The applicant shall submit such material as is required by the rules and regulations adopted by the Authorized Enforcement Authority for the administration of this By-Law, if any.

#### ARTICLE X. Operation and Maintenance Plan

##### 1. Requirements

An Operation and Maintenance Plan (O&M Plan) for the permanent storm water management system is required for all projects at the time of application. The O&M Plan shall be designed to ensure compliance with this By-Law and its Regulations, if any, and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, in all seasons and throughout the life of the system. The O&M Plan shall include any requirements deemed necessary by the Authorized Enforcement Authority to ensure compliance therewith, including, without limitation, a covenant. The Authorized Enforcement Authority shall make the final decision of what maintenance option is appropriate in a given situation. In making said decision, the Authorized Enforcement Authority will consider natural features, the proximity of the site to water bodies and wetlands, the extent of impervious surfaces, the size of the site, the types of stormwater management structures and the potential need for ongoing maintenance activities. Once approved by the Authorized Enforcement Authority, the O&M Plan shall be recorded at the Southern Essex District Registry of Deeds by and at the expense of the permittee, shall run with the land, shall remain on file with the Authorized Enforcement Authority and shall be an ongoing requirement. The O&M Plan shall conform to the requirements listed in the rules and regulations adopted by the Authorized Enforcement Authority for the administration of this By-Law, if any. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

##### 2. Changes to Operation and Maintenance Plan

A. The owner(s) of the stormwater management system must notify the Authorized Enforcement Authority or its agent of changes in ownership or assignment of financial responsibility.

B. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-Law by mutual agreement of the Authorized Enforcement Authority and the responsible parties. Amendments must be in writing and signed by all responsible parties. Once the amended O&M Plan is signed, the Authorized Enforcement Authority shall file it with the Southern Essex District Registry of Deeds at the expense of the current owner(s).

#### ARTICLE XI. Inspection and Site Supervision

##### 1. Preconstruction Meeting

Prior to clearing, excavation, construction or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors and any person with authority to make changes to the project shall meet with the Authorized Enforcement Authority or its designated agent to review the permitted plans and proposed implementation.

##### 2. Inspection

The Authorized Enforcement Authority or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and/or any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Authorized Enforcement Authority, shall be maintained at the site during the progress of the work. To facilitate inspections, the permittee shall notify the agent of the Authorized Enforcement Authority within twenty-four (24) hours after each of the following events:

- A. erosion and sediment control measures are in place and stabilized;
- B. rough grading has been substantially completed;
- C. final grading has been substantially completed;
- D. bury inspection, prior to backfilling of any underground drainage or stormwater conveyance structures;
- E. close of the construction season; and
- F. final landscaping (permanent stabilization) and project final completion.

### 3. Permittee Inspections

The permittee or his/her agent shall conduct and document inspections of all control measures no less frequently than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance and/or additional control measures. The permittee or his/her agent shall submit monthly reports to the Authorized Enforcement Authority or designated agent in a format approved by the Authorized Enforcement Authority. The Authorized Enforcement Authority may require, as a condition of approval, that a professional environmental site monitor, approved by the Authorized Enforcement Authority, be retained by and paid for by the permittee to conduct such inspections and prepare and submit such reports to the Authorized Enforcement Authority or its designated agent.

### 4. Access Permission

To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Authorized Enforcement Authority, its agents, officers and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or samplings as the Authorized Enforcement Authority deems reasonably necessary to determine compliance with the permit.

## ARTICLE XII. Surety

Prior to the start of land disturbance activity, the Authorized Enforcement Authority may require the permittee to post a surety bond, irrevocable letter of credit, cash or other acceptable security. The form of the bond shall be approved by Town Counsel, and shall be in an amount deemed sufficient by the Authorized Enforcement Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Authorized Enforcement Authority may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Authorized Enforcement Authority has received the final report as required by Article XIII and issued a certificate of completion.

## ARTICLE XIII. Final Reports

Upon completion of the work, the permittee shall submit a report, including certified, as built construction plans, from a Registered Professional Engineer (P.E.) certifying that all requirements of the permit and any approved changes and modifications thereto have been completed in accordance with the conditions of the approved permit.

#### ARTICLE XIV. Enforcement

##### 1. Authority

The Authorized Enforcement Authority or its authorized agent shall enforce this By-Law, the rules and regulations adopted pursuant hereto, if any, and all orders, violation notices and/or enforcement orders, and may pursue all civil and criminal remedies for such violations.

##### 2. Orders

A. The Authorized Enforcement Authority or an authorized agent of the Authorized Enforcement Authority may issue a written order to enforce the provisions of this By-Law or the rules and regulations adopted pursuant hereto, if any, which may include (i) a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit; (ii) maintenance, installation or performance of additional erosion and sedimentation control measures; (iii) monitoring, analyses and reporting; or (iv) remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity.

B. If the enforcing person or entity determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the permittee or property owner fail to abate or perform remediation within the specified deadline, the Town of Marblehead may, at its option, undertake such work, and the permittee or property owner shall reimburse the Town's for the cost thereof.

C. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the permittee and the property owner shall be notified of the costs incurred by the Town of Marblehead, including administrative costs. The permittee or property owner may file a written protest objecting to the amount or basis of costs with the Authorized Enforcement Authority within thirty

(30) days of receipt of said notification. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Authorized Enforcement Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction to that effect, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount thereof. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

### 3. Criminal Penalty

Any person who violates any provision of this By-Law, the rules and regulations adopted pursuant hereto, if any, or an order or permit issued hereunder shall be punished by a fine of not more than \$300.00 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

### 4. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town of Marblehead may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D, in which case the Authorized Enforcement Authority or authorized agent shall be the enforcing person. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

### 5. Appeals

All decisions, permits or orders of the Authorized Enforcement Authority shall be final. Further relief shall be sought only in a court of competent jurisdiction.

### 6. Remedies Not Exclusive

The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

## ARTICLE XV. Certificate of Completion

The Authorized Enforcement Authority will issue a Certificate of Completion upon receipt and approval of the final reports and/or upon otherwise determining that all work under the permit has been satisfactorily completed in conformance with this By-Law and the rules and regulations adopted pursuant hereto, if any. The Certificate of Completion shall be recorded at the Essex Southern District Registry of Deeds by the property owner(s) and at the property owner(s) expense.

#### ARTICLE XVI. Severability

If any provision, paragraph, sentence or clause of this By-Law or the application hereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law. Or take any other action thereto.

Sponsored by the Board of Water and Sewer Commissioners

#### **ARTICLE 23 Public Shade Tree By-Law**

To see if the Town will vote to amend the Marblehead By-Laws by adding a new Article IV in Chapter 177, Public Shade Trees, Protection and Fines, as follows:

1. Add a new Article IV in Chapter 177, as follows:

Public Shade Trees, Protection and Fines:

Violations of the Public Shade Tree Regulations of the Town of Marblehead which are approved by the Board of Selectmen, may be penalized by a non-criminal disposition in the manner provided in chapter 40, section 21D of the General Laws. For the purpose of this section, the specific penalty which is to apply for violation of said Regulations shall be listed below and the Town officer or employee whose title(s) are listed shall be deemed the enforcing officer(s) for the Regulations.

Public Shade Tree Regulations:

Penalty for violation of the Public Shade Tree Regulations shall be as follows:

\$300 for each offense and on each day a violation exists may be deemed to be a separate offense. An offense shall be deemed to occur on each day from the day the offense(s) occurs through the date upon which a public hearing resulting in the resolution of the offense(s) is closed as determined by the Tree Warden; and

Said penalty shall be paid in accordance with G.L. c. 40 §21D. This section shall be enforced by the Tree Warden. Or take any other action thereto.

Sponsored by Recreation and Parks Commission

**Article 24 Town Bylaws Section 209-7. Digging, dredging or removal of materials**

To see if the Town will vote to add the following sentences to the end of Section 209-7 of Chapter 209: Conservation Areas:

Any person or organization performing or causing to be performed the above described activities shall remove, restore and rehabilitate at their expense the area on which material has been dug, dredged, removed, dumped or otherwise disposed of. The removal, restoration and rehabilitation shall be done as defined by and within the time frame specified by the Conservation Commission. In addition to the foregoing removal, restoration and rehabilitation, a fine in accordance with paragraph 209-14 may be levied against the person or organization causing the removal. Sponsored by Conservation Commission

**Article 25 Town Bylaws Section 209-5, Cutting or removal of trees, flowers and other plants**

To see if the Town will vote to eliminate Section 209-5 of Chapter 209: Conservation Areas of the Town Bylaws as it currently reads and replace it with a new Section 209-5 to read as follows:

**Section 209-5. Cutting or removal of trees, flowers and other plants.**

Except pursuant to authority granted under paragraph 209-4 above, the following applies:

1. DEFINITIONS:

“Vegetation” applies to trees, bushes, plants, shrubs, flowers, grasses. They can be live or dead, naturally occurring or human introduced.

“Removal” means cutting, pruning, digging, poisoning, damaging, covering with yard waste or any similar action resulting in the loss of the vegetation.



“Conservation Lands” means those lands currently under the jurisdiction of the Marblehead Conservation Commission.

## 2. REQUIREMENTS:

No vegetation is to be removed from conservation lands without the expressed, written permission of the Marblehead Conservation Commission.

In the event vegetation is removed without the permission of the Marblehead Conservation Commission, all removed vegetation must be replaced or replanted with identical vegetation or its equivalent (to be approved by the Commission).

Example: a tree with a diameter of one inch (measured six inches from its base) should be replaced with the same size tree.

Example: a tree with a diameter of five inches (measured twelve inches from its base) should be replaced with five trees measuring one inch diameter six inches from their base.

All expenses incurred with the replacement or replanting are to be borne by the person or organization causing the original removal.

The replaced or replanted vegetation must have a survival rate of at least 70% of the replaced or replanted vegetation at the end of two years after the replacement or replanting. If the 70% survival rate is not met at the end of the two year period, sufficient additional vegetation must be planted to achieve the 70% survival rate at the end of an additional two year period.

In addition to the foregoing replacement or replanting, a fine in accordance with paragraph 209-14 may be levied against the person or organization causing the removal.

Sponsored by Conservation Commission

### **Article 26 Financial Assistance for Conservation**

To see if the Town will vote to authorize the Conservation Commission and other proper officers of the Town to apply for financial assistance from public and private sources to be expended by the Conservation Commission for the purchase of vacant land and any other purpose, authorized by Section 8C of Chapter 40 of the General Laws as amended, or to reimburse the Town for sums of money expended for such

purposes, or both, and to take any other action relative thereto. Sponsored by the Conservation Commission.

#### **Article 27 Robinson Farm Land**

To see if the Town will vote to place the land known as the Robinson Farm, purchased on December 1, 2005 pursuant to the approval by voters of Article 25 of the Annual Town Meeting of May 2<sup>nd</sup> and 3<sup>rd</sup>, 2005, and subsequently approved under a town-wide referendum, under the care, custody and control of the Marblehead Conservation Commission to be used for open space purposes, or take any other action relative thereto. Sponsored by the Conservation Commission and Board of Selectmen.

#### **Article 28 Land Acquisition**

To see if the town will vote to purchase or otherwise acquire a portion of a certain parcel of land owned by William Hawkes Jr. and located on Norman Street adjacent to Redd's Pond (Assessor Map 170 Lot 9 ) for open space purposes to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. .Sponsored by Board of Selectmen

#### **Article 29 Amend Bylaw - Alternate Members**

To see if the town will vote to amend the town by-law as follows:

(bold text added) Amend Chapter 24 BOARDS, COMMISSIONS AND COMMITTEES, Article IV Planning Board paragraph 24-6 Membership, first paragraph which presently reads as follows: A Planning board of five members hereby is established under Chapter 41, Section 81A of the General Laws. To read instead; A Planning board of five members **and an alternate member** hereby is established under Chapter 41, Section 81A of the General Laws. And add a sentence at the end of the paragraph which reads

**“Alternate members shall be appointed by a majority vote of the Board of Selectmen and the Planning Board.**

Or take any other action relative thereto.

Sponsored by the Planning Board

#### **Article 30 Adopt Chapter 39 Section 32D**

To see if the town will adopt chapter 39 section 32D of the Massachusetts General Laws allowing that a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting on the matter solely due to that members absence from no more than a single session of the

hearing at which testimony or other evidence is received. Or take any other action relative thereto. Sponsored by the Board of Selectmen

**Article 31 Amend Chapter 13, ANIMALS, of the General By-Law**

To see if the Town will vote to amend Chapter 13 , of the Town By-laws to allow dogs to run in a Town designated dog park as follows:

a. Article III Dogs, Section 13.5 Running At Large *which presently reads:*  
“No person owning, harboring or having custody and control of a dog shall permit such dog to be at large in the Town of Marblehead at any time, elsewhere than on the premises of the owner, except it be on the premises of another person with the knowledge and assent of such person shall control and restrain such dog by a leash of appropriate length. Whoever violates the provisions of this section shall pay a fine in accordance with the following schedule:

- A. First offense within calendar year: \$25.
- B. Second or subsequent offense within calendar year: \$50.”

*to read as follows:* “No person owning, harboring or having custody and control of a dog shall permit such dog to be at large in the Town of Marblehead at any time, elsewhere than on the premises of the owner except;

1. it be on the premises of another person with the knowledge and assent of such person, or

**2. it be in a Dog Park established by the Town for the specific purpose to allow dogs to run;**

**and otherwise the dog shall be controlled and restrained by a leash of appropriate length.** Whoever violates the provisions of this section shall pay a fine in accordance with the following schedule:

- A. First offense within calendar year: \$25.
- B. Second or subsequent offense within calendar year: \$50.”

b. Article III Dogs, Section 13-11. Seasonal prohibition of dogs from certain areas. *which presently reads:* “ No person owning, harboring or having custody or control of a dog shall permit such dog to be on any public cemetery of the Town at any time throughout the year, nor shall such person permit such dog to be on any

public beach, athletic area, playground or park of the Town between May 1 and October 1 of each year, provided, however, that this prohibition shall not apply to Chandler Hovey Park, Crocker Park, Fort Sewell, Fountain Park, Upper Seaside Park, Riverhead Beach. Whoever violates the provisions of this section shall pay a fine in accordance with the following schedule:

- A. First offense in calendar year: \$25.
- B. Second or subsequent offense within calendar year: \$50.”

c. *to read as follows:* “ No person owning, harboring or having custody or control of a dog shall permit such dog to be on any public cemetery of the Town at any time throughout the year, nor shall such person permit such dog to be on any public beach, athletic area, playground or park of the Town between May 1 and October 1 of each year, provided, however, that this prohibition shall not apply to Chandler Hovey Park, Crocker Park, Fort Sewall, Fountain Park, Upper Seaside Park, Riverhead Beach **or the Town designated Dog Park.** Whoever violates the provisions of this section shall pay a fine in accordance with the following schedule:

- A. First offense in calendar year: \$25.
- B. Second or subsequent offense within calendar year: \$50.”

Or take any other action relative thereto.

Sponsored by Recreation and Parks Commission

### **Article 32 Land Transfer**

To see if the Town will vote to authorize the Conservation Commission to transfer land abutting and within the old landfill for purposes of remediating and capping the old landfill area(s) located off Blueberry and Stoneybrook Roads.

Specifically described as: Town of Marblehead Parcels 161-2-0 and 161-3-0 (formerly owned by Dixey) to the Board of Health. Sponsored by the Board of Health

### **Article 33 Landfill Assessment and Regulatory Compliance Activities**

To see if the Town will vote to appropriate a sum of money to be expended by the Board of Health for continued water quality monitoring, soil gas monitoring, risk assessment, engineering and any other services related to the Old Landfill; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any action relative thereto. Sponsored by the Board of Health

**Article 34 Disposal Area Remediation, Closure and Post Closure Use Option 1 (One)**

To see if the Town will vote to raise and appropriate a sum of money to be expended by the Board of Health for the design of a cap and post closure use of the area(s) encompassing the Old Landfill; (selection of this option would provide funds for design of a landfill cap, retain the existing Transfer Station and Recycling Drop-Off Area with no yard waste disposal post closure use) to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Health

**Article 35 Disposal Area Remediation and Closure Option 1 (One) A**

To see if the Town will vote to appropriate a sum of money to be expended by the Board of Health for the design of a cap and remediation for the area(s) encompassing the Old Landfill; (this design option caps the old landfill and closes the entire facility) to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Health

**Article 36 Disposal Area Remediation, Closure and Post Closure Use Option 2 (Two)**

To see if the Town will vote to appropriate a sum of money to be expended by the Board of Health for the design of a cap and post closure use of the area(s) encompassing the Old Landfill; (selection of this option would provide funds for design of a landfill cap, and retains existing Transfer Station with a new Recycling Drop-Off Area, and yard waste disposal post closure use) to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Health

**Article 37 Disposal Area Remediation, Closure and Post Closure Use Option 3 (Three)**

To see if the Town will vote to appropriate a sum of money to be expended by the Board of Health for the design of a cap and post closure use of the area(s) encompassing the Old Landfill; (selection of this option would provide funds for design of a landfill cap, design a new Transfer Station to replace the existing Transfer Station and Recycling Drop-Off Area as well as design for continued yard waste disposal as a post closure use) to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Health

**Article 38 Amend zoning Map Rezoning a Single Residence Area to Business**

To see if the Town will vote to:

Revise the Zoning Map of the Town by taking an area that is presently zoned Single Residence and changing its designation to Business. This area to be rezoned is described as follows:

The lot of land with building thereon known as an numbered 242-260 Humphrey Street, Marblehead, Massachusetts, being Assessor's Map 4, Parcel 14, as shown on the plan entitled "Site Plan 242-260 Humphrey Street, Marblehead, MA, Land of Beach Bluff, LLC" of Easements, Lafayette Tides", dated November 7, 2006, prepared by Kane Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk,. Or take any other action relative thereto. Sponsored by Barry S. Turkanis, and others.

#### **Article 39 Land Acquisition**

To see if the Town Meeting will vote to purchase or otherwise acquire a certain parcel of land owned by Mario and Camille Angenica and located on Longview Drive West (Assessor Map 21 Lot 19) for the purpose of open space; to determine whether this appropriation shall be raised by borrowing or otherwise; take any other action relative thereto. Sponsored by Jeffrey F. Stracka and others.

#### **Article 40 Grant Access and Maintenance**

##### **Easements**

To see if the Town will vote to:

Authorize the Board of Selectmen, with the approval of Town Counsel as to form, to execute and record all necessary and appropriate documents to effectuate the grant of all or any portion of the easements for utility installation, construction and maintenance purposes, and for emergency and public access and maintenance purposes, as described in Article 41 and shown on the plan entitled "Plan of Easements, Lafayette Tides in Marblehead, Mass.", dated January 23, 2007, prepared by Hayes Engineering, Inc. Civil Engineers & Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk, in exchange for appropriate consideration and provided the owner of said 485 Lafayette Street pays the Town's costs of effectuating said transaction. Or take any other action relative thereto .Sponsored by Bradley S. Levin and others

#### **Article 41 Grant Access and Maintenance Easements**

To see if the Town will vote to:

Instruct the Board of Selectmen, the Water and Sewer Commission and the Municipal Light Department, with the approval of Town Counsel as to form, to grant certain permanent and/or temporary easements for utility installation,

construction and maintenance purposes, and for emergency and public access and maintenance purposes, in conjunction with the development of that parcel of land known as and numbered 485 Lafayette Street, Marblehead, Massachusetts, and to allow the Board of Selectmen, the Water and Sewer Commission and the Municipal Light Department to more specifically define the easement area within which that area shown on a plan entitled "Plan of Easements, Lafayette Tides in Marblehead, Mass.", dated January 23, 2007, prepared by Hayes Engineering, Inc. Civil Engineers & Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk. Or take any other action relative thereto. Sponsored by Bradley S. Levin and others

#### **Article 42 Acquire Utility Easements**

To see if the Town will vote to:

Authorize the Board of Selectmen, with the approval of Town Counsel as to form, to execute and record all necessary and appropriate documents to effectuate the acquisition, purchase or acceptance of all or any portion of the easements for utility installation, construction and maintenance purposes, as described in Article 43 and shown on the plan entitled "Plan of Easements, Lafayette Tides in Marblehead, Mass.", dated January 23, 2007, prepared by Hayes Engineering, Inc. Civil Engineers & Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk, in exchange for appropriate consideration and provided the owner of said 485 Lafayette Street pays the Town's costs of effectuating said transaction. Or take any other action relative thereto. Sponsored by Bradley S. Levin and others

#### **Article 43 Acquire Utility Easements**

To see if the Town will vote to:

Instruct the Board of Selectmen, the Water and Sewer Commission and the Municipal Light Department, with the approval of Town Counsel as to form, to acquire by gift or purchase or take by eminent domain certain permanent and/or temporary easements for utility installation, construction and maintenance purposes, in conjunction with the development of that parcel of land known as and numbered 485 Lafayette Street, Marblehead, Massachusetts, and to allow the Board of Selectmen, the Water and Sewer Commission and the Municipal Light Department to more specifically define the easement area within which that area shown on a plan entitled "Plan of Easements, Lafayette Tides in Marblehead, Mass.", dated January 23, 2007, prepared by Hayes Engineering, Inc. Civil Engineers & Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk. Or take any other action relative thereto. Sponsored by Bradley S. Levin and others

#### **Article 44 Transfer Existing Easement**

To see if the Town will vote to:

Instruct the Water and Sewer Commission and the Municipal Light Department, with the approval of Town Counsel as to form, to transfer the care, custody, management and control of all or any portion of the utility easement on that parcel of land known as and numbered 485 Lafayette Street, Marblehead, Massachusetts, shown as "20' WIDE EASEMENT" on a plan entitled "Town of Marblehead Light Department Easement for Electric Lines Former Lead Mills", dated May 22, 1969, prepared by George H. Clark, Jr. Engineer, and recorded with the Essex South Registry of Deeds with the Deed on Certificate of Title Number 38093 Registration Book 168, Page 38093, to the Board of Selectmen for the purpose of releasing, conveying, transferring, exchanging or otherwise disposing of all or any portion of said easement in exchange for a substantially similar utility easement.

Or take any other action relative thereto

Sponsored by Bradley S. Levin and others

#### **Article 45 Release Existing Easement**

To see if the Town will vote to:

Authorize the Board of Selectmen, with the approval of town counsel as to form, to release, convey, transfer, exchange or otherwise dispose of all or any portion of the utility easement described in Article 44 as follows: all or any portion of the utility easement on that parcel of land known and numbered 485 Lafayette Street, Marblehead, Massachusetts, shown as "20' WIDE EASEMENT" on a plan entitled "Town of Marblehead Light Department Easement for Electric Lines Former Lead Mills", dated May 22, 1969, prepared by George H. Clark, Jr. Engineer, and recorded with the Essex South Registry of Deeds with the Deed on Certificate of Title Number 38093 Registration Book 168, Page 38093, in exchange for a substantially similar utility easement as shown on a plan entitled "Plan of Easements, Lafayette Tides in Marblehead, Mass.", dated January 23, 2007, prepared by Hayes Engineering, Inc. Civil Engineers & Land Surveyors, a copy of which plan is on file in the Office of the Town Clerk. Or take any other action relative thereto. Sponsored by Bradley S. Levin and others

#### **Article 46 Amend Zoning By-Law to Establish Multifamily Residence District**

To see if the Town will vote to:

Amend the Zoning By-Law of the Town to establish a Multifamily Residence District as follows:



(a) **Article III Zoning Districts – Section 200-8. Establishment of districts, Subsection A. Zone districts,** to *insert* after “SG-R Shoreline General Residence” the following class of district: “M-R Multifamily Residence”

(b) **Article III Zoning Districts – Section 200-9. Interpretation of zone district boundaries.,** to add the following subsection:

“E. Multifamily District boundaries. Where a Multifamily Residence District is immediately adjacent to a river or shoreline, its boundaries shall be determined consistent with the provisions for Shoreline and Harborfront Districts contained in subsection D above.

(c) **Article IV Use Regulations – Section 200-15, Subsection B(5)** *which presently* reads: “Not more than one principal dwelling or other principal building shall be constructed or placed on a lot.” to read as follows: “In all districts except a Multifamily Residence District, not more than one principal dwelling or other principal building shall be constructed or placed on a lot.”

(d) **Article V Dimensional Regulations – Section 200-16. Additional dimensional provisions, Subsection D Maximum front yard setback.** *which now* reads: “In all districts the maximum setback, measured through the lot, shall not exceed twice the lot frontage.” to read as follows: “In all districts except a Multifamily Residence District, the maximum setback, measured through the lot, shall not exceed twice the lot frontage.”

(e) **Article V Dimensional Regulations – Section 200-16. Additional dimensional provisions, Subsection E Minimum Lot width.** *which presently* reads “The width of a lot shall not at any point be less than 75% of the required lot frontage (for corner lots only the frontage opposite the rear lot line) without having first obtained a special permit for use and dimension from the Board of Appeals. (See the definition of “lot width” in §200-7).” *to read as follows:* “In all districts except a Multifamily Residence District, the width of a lot shall not at any point be less than 75% of the required lot frontage (for corner lots only the frontage opposite the rear lot line) without having first obtained a special permit for use and dimension from the Board of Appeals. (See the definition of “lot width” in §200-7).

(f) **Article V Dimensional Regulations – Section 200-16. Additional dimensional provisions, Subsection G Maximum building height.** *which now* reads: “In all zone districts the maximum height of any building shall be 35 feet excepting the five Shoreline Districts and the Harborfront District where the

maximum height for all buildings shall be 30 feet” to read as follows: “In all zone districts the maximum height of any building shall be 35 feet excepting the five Shoreline Districts and the Harborfront District where the maximum height for all buildings shall be 30 feet. In addition, in a Multifamily Residence District the maximum height of new construction multifamily dwellings shall be 48 feet measured from the highest point of the finished grade of the ground adjoining the building to the highest point of any roof or parapet, which may not be altered by the Board of Appeals by special permit. Height limitation shall not apply to chimneys.”

(g) **Article IX Special Permits – Section 200-37 Special Permit for site plan review., Subsection A Applicability, subpart (3),** *which now reads:*

“(3) Any construction or external addition provided that the addition exceeds 500 square feet in gross floor area in any of the five Shoreline Districts or in the Harborfront District” to read as follows: “(3) Any construction or external addition provided that the addition exceeds 500 square feet in gross floor area in any of the five Shoreline Districts or in either the Harborfront District or Multifamily District.”

(h) **Table 1 Land Use Regulations,** *to revise* the classifications of Land Use Regulations as shown on Table 1 *by adding* a column between that for the G-R & SG-R districts and that for the B districts for the M-R districts as follows: except for Multifamily dwelling all classification shall be the same as those of the SS-R districts, and the classification for Multifamily dwelling shall be “Yes”.

(i) **Table 2 Dimensional Regulations,** *to revise* the dimensional regulations as shown on Table 2 *by adding* two rows for the Multifamily Residence district, one for One-family dwellings which shall be the same as that for One-family dwellings in a Shoreline Single Residence district, and one for Multifamily dwellings which with footnotes shall provide as follows:

Max Ht.	(9)
Lot Area (sq. ft.)	(7)
Min. Frontage (feet)	300
Min. Front Setback	0
Min. Side Setback	0
Min. Rear Setback	0
Min. Open Area	(8)

(7) 100,000 square feet or 4,000 square feet per unit, whichever is greater, which cannot be altered by the Board of Appeals by special permit.

- (8) One square foot of total lot area for each square foot of gross floor area, excluding from gross floor area below grade parking areas and maneuvering areas.
- (9) 48 feet measured from the highest point of the finished grade of the ground adjoining the building to the highest point of any roof or parapet, which may not be altered by the Board of Appeals by special permit. Height limitation shall not apply to chimneys. Or take any other action relative thereto.

Sponsored by William Woodfin, III and others

**Article 47 Amend Zoning Map Rezoning a Shoreline Single Residence Area to Multifamily Residence**

To see if the Town will vote to:

Revise the Zoning Map of the Town by taking an area that is presently zoned Shoreline Single Residence and changing its designation to Multifamily Residence. This area to be rezoned is described as follows:

The 300-foot wide strip of land that has the Marblehead/Salem boundary line along the Forest River as its northwesterly boundary and that begins at the Leggs Hill Road Marblehead/Salem boundary line and continues in a northeasterly direction to the mouth of the Forest River at Salem Harbor; thence this 300-foot wide strip, now with the shoreline of Salem Harbor as its northwesterly boundary, continues in a northeasterly direction for approximately 800-feet, as measured along the shoreline of Salem Harbor, to include a 300-foot wide strip of the property of the Town of Marblehead shown on the Town of Marblehead Assessors Maps as Map 59, Parcel 10 and Map 55, Parcel 2. Or take any other action relative thereto. Sponsored by William L. Woodfin, II and others

**Article 48 Layout and acceptance of Tioga Way**

To see if the Town will vote to accept and allow the layout of Tioga Way as a Town Way as made by the Selectmen and authorize the Selectmen to take by eminent domain or otherwise the lands included in said layout and raise and appropriate a sum of money for the payment of land damages and for the construction of said way, or to take any other action relative thereto.

Petitioned for by Robert Hansen and others.

**Article 49 Land Acquisition**

To see if the Town of Marblehead will vote to acquire for conservation and recreation purposes a fee simple interest in certain parcel(s) of land totaling

approximately three acres, commonly known as the WESX property, located on Naugus Avenue, owned by ATCO Inc. or the Trust for Public Land, which are shown on Marblehead Assessors Maps as Map 176 Lot 16, which land shall be held in the care and custody of the Conservation Commission pursuant to Massachusetts provisions of Massachusetts General Laws, Chapter 40, Section 8C, as it may hereafter be amended and other Massachusetts statutes relating to Conservation and/or Recreation; that a sum of money be appropriated for such purpose and to raise such appropriation, the Treasurer be authorized to borrow under and pursuant to Chapter 44, Section 7 and 8C, and if applicable Chapter 40, Section 8C, of the General Laws or any other enabling authority, and to issue bonds or notes of the Town therefor; provided that the amount authorized to be borrowed hereunder shall be contingent upon the vote of the Town Election to exempt from the provisions of Proposition 2-1/2, so called, the amount required to satisfy the obligations, including principal and interest, under the bonds; and further than the Marblehead Conservation Commission shall be authorized to file on behalf of the Town of Marblehead any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts or the United States under the Self-Help Act (Chapter 132A, Section 11) and/or any other state or federal programs including those in aid of conservation or recreation land acquisition and to receive and accept such grants and reimbursements, including grants from private parties, for this purpose and/or any others in any way connected with the scope of this Article; and the Conservation Commission in conjunction with the Board of Selectmen shall be authorized to transfer the amount of any financial contributions received by the Town of Marblehead designated for the purchase of the Naugus Avenue land to the Trust for Public Land; and the Conservation Commission in conjunction with the Board of Selectmen shall be authorized to enter into all agreements and to execute any and all instruments as may be necessary on behalf of The Town of Marblehead to affect said purchase; or take any other action in relation thereto. Sponsored by Board of Selectmen

#### **Article 50 Capital Improvements**

##### **Abbot Public Library**

To see if the Town will vote to appropriate a sum of money for the purpose of remodeling or making extraordinary repairs, including all professional architectural, design or engineering fees, to the Abbot Public Library and to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Abbot Public Library Board of Trustees.

#### **Article 51 Ratification of Salary By-law**

To see if the Town will vote to ratify certain actions taken by the Compensation Committee under Chapter 121 of the By-law, as last amended and amend the classification of positions as follows:

1.           Reclassify positions in the Administrative Pay Schedule:
  - a.           Director Council on Aging from Group 54 to Group 55.
  - b.           Assistant Sewer / Water Superintendent from Group 54 to Group 55
2.           Reclassify and change job title in the Administrative Pay schedule:
  - a.           One Accounting Assistant position from Group 51 to Group 52 with the new title of Accounting and Website Assistant
  - b.           Senior Clerk position in the Payroll Office reclassified as an Administrative Clerk Group 50
3.           Addition of position title and grade to Temporary Personnel Pay Scale
  - a.           Add Heavy Equipment Operator Group 26 to Temporary Personnel Pay Schedule.

Or take any other action relative thereto, as sponsored by the Compensation Committee.

#### **Article 52 Causeway Seawalls**

To see if the Town will vote to appropriate a sum of money for the construction and/or reconstruction of the Ocean Avenue Causeway Seawall for the protection of highways, property and harbor, including engineering services in connection therewith; to determine whether this appropriation shall be raised by borrowing or otherwise; or take any other action relative thereto. Sponsored by the Board of Selectmen

#### **Article 53 Fiscal 2007 Expenses of Several Departments**

To see what sums of money the Town will raise and appropriate, to defray the necessary and usual expenses of the several departments of the Town for the fiscal year beginning July 1, 2006, to be added to Article 49 of the May 2006 Annual Town Meeting, or take any other action relative thereto, as sponsored by the Finance Department.

#### **Article 54 Compensation - Town Officers**

To see if the Town will vote to revise the compensation of the Town Clerk as the Town by vote may determine and to transfer from available funds and/or

appropriate a sum of money to make said revision effective or take any other action relative thereto, as Sponsored by the Board of Selectmen.

**Article 55 Available Funds Appropriate to Reduce Tax Rate**

To see if the Town will vote to appropriate free cash balance in the hands of the Town Treasurer, including any surplus or part of any surplus, in the Water, Sewer, Harbor and Waters and Electric Light Departments for the use of the Assessors in making the tax rate or take any other action relative thereto. Sponsored by the Finance Department.

**Article 56 Expenses of Several Departments**

To see what sums of money the Town will raise and appropriate, including appropriations from Federal Revenue Sharing moneys, to defray the necessary and usual expenses of the several departments of the Town for the fiscal year beginning July 1, 2007, or take any other action relative thereto, as sponsored by the Finance Department.

**Article 57 Supplemental Expenses of Several Departments**

To see what sums of money the Town will raise and appropriate, including appropriations from Federal Revenue Sharing moneys, to defray the supplemental expenses of the several departments of the Town for the fiscal year beginning July 1, 2007, or take any other action relative thereto, as sponsored by the Finance Department.

You are hereby further required and directed to notify and warn the Inhabitants of the Town of Marblehead aforesaid who are qualified to vote in elections and in Town affairs to subsequently meet at the several designated polling places in their respective precincts in said Marblehead to wit:

In Precinct 1 - Polling Place –

**OLD TOWN HOUSE**

In Precinct 2 - Polling Place –

**STAR OF THE SEA COMMUNITY CENTER**

In Precinct 3 - Polling Place –

**STAR OF THE SEA COMMUNITY CENTER**

In Precinct 4 - Polling Place –

**STAR OF THE SEA COMMUNITY CENTER**

In Precinct 5 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

In Precinct 6 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

In Precinct 7 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

on Monday, the 14th day of May next A.D. 2007 (it being the second Monday in May) at 7 o'clock in the forenoon then and there to bring into the precinct officers of their respective precincts their votes on one ballot for the following-named Town Officers to wit:

5 Selectmen  
1 Town Clerk  
1 Assessor  
1 Cemetery Commissioner  
1 Board of Health  
1 Housing Authority  
2 Library Trustees  
2 Electric Light Commissioners  
1 Moderator  
1 Planning Board  
5 Recreation & Park Commissioners  
2 School Committee  
2 Water and Sewer Commissioners

For these purposes the polls will be open at each and all of said precincts at 7 o'clock in the forenoon and will be closed at 8 o'clock in the afternoon at each and all of said precincts and you are directed to serve this Warrant by posting attested copies thereof at Abbot Hall and ten (10) other conspicuous places in Town as required by the By-laws not later than thirty (30) days after being closed.

Hereof fail not and make due return of this Warrant or a certified copy thereof with our doings thereon, to each of the several precinct wardens at the time and place of meetings aforesaid and to the Town Clerk as soon as may be before the said meetings.

Given under our hands at Marblehead aforesaid this **14<sup>th</sup> day of February 2007.**

---

HARRY C. CHRISTENSEN, JR., Chairman

---

JACKIE BELF-BECKER

---

JUDITH R. JACOBI

---

JAMES E. NYE

---

JEFFREY N. SHRIBMAN

Selectmen of Marblehead

A True Copy

Attest:

, Constable