

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 fourth day of May next A. D. 2009 (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 Payment in Lieu of Tax ("PILOT") Agreement

To vote to approve the payment in lieu of Tax ("PILOT") Agreement between the Town of Marblehead and Adventcare, Inc. with respect to the property known as the Lafayette Rehabilitation and Skilled Nursing

Facility and located at 25 Lafayette Street, Marblehead, Massachusetts. Sponsored by the Board of Selectmen and the Board of Assessors.

Article 8 Available Funds Appropriate to Meet State Aid Revenue Cuts

To see if the Town will vote to appropriate the free cash balance in the hands of the Town Treasurer sufficient to offset the reductions in fiscal year 2009 state aid revenue, or take any other action relative thereto. Sponsored by the Finance Director.

Article 9 Reductions in Fiscal 2009 Expenses of Several Departments

To see what amounts of money the Town will reduce from existing fiscal year 2009 appropriations to be reduced from amounts appropriated in Article 44 of the May 2008 Annual Town Meeting in order to address the reductions in the fiscal year 2009 state aid revenue or take any other action relative thereto. Sponsored by the Finance Director.

Article 10 Proposed Establishment of Other Post Employment Benefits Liability Trust Fund

To see if the Town will vote to accept the provisions of Chapter 479 of the Acts of 2008. Sponsored by the Finance Director.

Article 11 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 12 Transfer of a portion of the unexpended proceeds of Seawall Project Bond Anticipation Notes to Village School Project

To see if the Town will vote to transfer a portion of the unexpended proceeds of outstanding bond anticipation notes that the Town issued pursuant to the vote of the Town passed May 9, 2007 (Article 52), which vote appropriated and authorized a borrowing of \$8,700,000 for the construction and/or reconstruction of the Ocean Avenue Causeway, to finance costs associated with the architectural, project management, and construction of the Village School project as authorized by the vote of the Town passed May 5, 2008 (Article 39), which vote appropriated and authorized a borrowing \$21,766,993 for such project, and to reduce the amount authorized to be borrowed pursuant to such vote by the amount of such transfer; or to take any other action relative thereto. Sponsored by the Finance Director.

Article 13 Revolving Funds

To see if the Town will vote to authorize various revolving funds as required by M.G.L. c 44 s.53E ½, or take any other action relative thereto. Sponsored by the Board of Selectmen.

Article 14 Fiscal 2009 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 2009 school budget, said sum to be added to Article 44, Item 101, Schools, as voted at Town Meeting in May 2008, or take any action relative thereto.

Sponsored by the School Committee.

Article 15 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 16 Storm Drainage Construction

To see if the Town will vote to appropriate a sum of money for the construction or reconstruction of sewers for surface drainage purposes, and to authorize the appropriate Town Officers to acquire by purchase, eminent domain or otherwise, any land or easements necessary therefor, and to raise the money for such purposes by the issue of bonds or notes or in any other manner, or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

Article 17 Sewer 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 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 take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

Article 18 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 to take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

Article 19 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 20 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 purchase necessary equipment including computer hardware and software 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 21 Sidewalks

To see if the Town will vote to amend Chapter 162 Article III Section 162-9 of the Bylaw which now reads, "No person shall deposit or cause to be deposited any snow and/or ice on or against a fire hydrant or on any sidewalk or roadway." To be revised as follows:

Omit section 162-9 in its entirety and replace as follows:

Section 162-9 A. Purpose

To protect the health and safety of the citizens of Marblehead by requiring snow removal from sidewalks and in particular to assist school children, the elderly, and the general public from having to walk in the street or be injured on snow-filled sidewalks.

Section 162-9 B. Prohibition

No person shall deposit or cause to be deposited any snow and/or ice on or against a fire hydrant or on any sidewalk or roadway. This prohibition includes the requirement that property owners remove snow from their bordering and adjacent sidewalks, including curb cuts, within six hours after the snow ceases to fall if it ceases to fall in the daytime and before 12:00 noon if it ceases to fall in the nighttime.

Section 162-9 C. Penalty

Who so ever is found in violation of this Bylaw shall be fined \$25.00 for each offense. Every day that the sidewalk and adjacent areas remain unclear shall constitute a separate offense. The Building Commissioner and the Police Department shall enforce this Bylaw. Any appeal hereunder shall be taken to the Clerk of the District Court as set forth in G.L. c. 40 §21D or take any action relative thereto. Sponsored by Judith Bocock and others.

Article 22 Collective Bargaining (Fire)

To see if the Town will, pursuant to G.L. c. 150E §7, vote to appropriate the sums of money sufficient to fund the collective bargaining agreement for fiscal year 2010 with the International Association of Firefighters AFL/CIO CLC Local 2043, or take any action relative thereto. Sponsored by the Board of Selectmen.

Article 23 Collective Bargaining (Police)

To see if the Town will, pursuant to G.L. c. 150E §7, vote to appropriate the sums of money sufficient to fund the collective bargaining agreement for fiscal year 2010 with Town of Marblehead Police Officers Union, or take any action relative thereto. Sponsored by the Board of Selectmen.

Article 24 Collective Bargaining (IUE/CWE – Local 1776)

To see if the Town will, pursuant to G.L. c. 150E §7, vote to appropriate the sums of money sufficient to fund the collective bargaining agreement for fiscal year 2010 with Local 1776 of the

IUE/CWE, or take any action relative thereto. Sponsored by the Board of Selectmen.

Article 25 Proposed Reclassification and Pay Schedule (Administrative)

To see if the Town will vote to amend Chapter 121 of the Bylaws, 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 26 Proposed Reclassification and Pay Schedule (Seasonal and Temporary Personnel)

To see if the Town will vote to amend Chapter 121 of the Bylaws, 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 27 Pay Schedule and Reclassification (Traffic Supervisors)

To see if the Town will vote to amend Chapter 121 of the Bylaws, 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 28 Ratification of Salary Bylaw

To see if the Town will vote to ratify certain actions taken by the Compensation Committee under the 1955 Salary Bylaw, Section 3(e) as last amended. Or take any other action relative thereto, as sponsored by the Compensation Committee.

Article 29 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 30 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 31 Public consumption of Marijuana or Tetrahydrocannabinol

To see if the Town will amend Chapter 119 of the Town Bylaw by adopting the following Article IV:

Chapter 119 Peace and Good Order

Article IV PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL

§ 119-4 A. Prohibition on Use

1. Not in a Motor Vehicle: No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, §1) while in or upon any public building, vehicle controlled by the Town, recreational area, playground, park, beach, boat landing or launch, schoolhouse, school grounds, street, sidewalk, public way, passageway, bridge, stairs, parking lot, cemetery, bus stop, or any area or property owned or under the control of the Town, or any area accessible to the public.
2. In a Motor Vehicle: The consumption of marijuana or tetrahydrocannabinol is also prohibited in any motor vehicle in or on a public way whether or not the user is operating the vehicle or whether the vehicle is in operation at all.

§ 119 –4 B. Violations and Penalties

1. Whoever violates this Bylaw shall be punished by a fine of three hundred dollars (\$300) for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, §32L. If a violator fails to pay the fine issued, he or she may be subject to civil contempt proceedings.

§ 119 – 4 C. Enforcement

1. Violations of any provision of this Bylaw may be processed pursuant to Chapter 40, section 21 D of the general laws of the Commonwealth and shall be in amount set forth above. Enforcement of this Bylaw under the Non-Criminal Disposition process shall be carried out by the Police Chief, and duly sworn Police Officers who shall have full enforcement powers.

Sponsored by the Police Chief.

Article 32 Regional Emergency Communications Center

To see if the Town will vote to direct the Board of Selectmen to enter into an intergovernmental agreement for a period of ten years to provide emergency and non-emergency police, fire and emergency medical services dispatch with other municipalities in Essex County based on a per capita chargeback through the Cherry Sheet, or take any other action thereon. Sponsored by the Board of Selectmen.

Article 33 Sex Offender Bylaw

To see if the Town will vote to require that no level two or level three sex offender may reside or be employed within one mile of any school, library, pediatrician's office, park, playground, nursery school or school bus stop. No level two or three sex offender may loiter within fifty feet of any school, library, pediatrician's office, park, playground, nursery school or school bus stop. Sponsored by Minora Collins and others.

Article 34 Support for Merger of North Shore Technical High School and Essex Agricultural High School

To see if the Town will vote to approve the merger of North Shore Technical High School and Essex Agricultural High School. Sponsored by the Board of Selectmen.

Article 35 North Shore Technical High School Building Project

To see if the Town will vote to approve the indebtedness authorized by the Regional District School Committee of the North Shore Regional Vocational School District for the purpose of the construction of a new North Shore Technical High School, or take any other action relative thereto. Sponsored by the Board of Selectmen.

Article 36 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 37 Facilities Permit

To see if the Town will vote that the Marblehead Facilities Permit be of 3 options: 1. As current, allowing access to the Transfer Station and Devereux Beach; 2. Allowing access to the Transfer Station only at a reduced fee; 3. Allowing access to Devereux Beach only at a reduced fee. Fees to be determined by the Board of Health. Sponsored by James Terlizzi and others.

Article 38 Proposed Demand Fee Level for Delinquent Taxes

To see if the Town will vote to charge for each written demand issued by the Town Collector a fee of fifteen dollars to be added to and collected as part of the tax, as authorized by Massachusetts General Laws Chapter 60, Section 15, effective as of July 1, 2009. Sponsored by the Finance Director.

Article 39 Zoning Bylaw Change

To see if the town will vote to amend the zoning Bylaw as follows: (bold text added)

- a. Article II Definitions 200-7 Meaning of words. DECK first sentence *which presently reads* "An unroofed outdoor area whether of wood or other material, whose floor is more than two feet above mean grade." *To read instead* " An unroofed outdoor **structure** whether of wood or other material, **with a** floor **which** is more than two feet above **existing grade at any point.**"

b. Article 200-9 Interpretation of zone district boundaries D. Shoreline and Harborfront District Boundaries *Add a new paragraph*
(5) In any shoreline district the side yard setback requirement shall be applied to the property line(s) that is most perpendicular to the direction of the shoreline.

Or take any other action relative thereto. Sponsored by the Planning Board.

Article 40 Smart Growth Overlay District

To see if the the Town will vote to amend the Marblehead Zoning Bylaw by adding a new § 200-44 entitled “Smart Growth Overlay District” to read as follows:

§200-44. Smart Growth Overlay District (SG)

A. Purposes. The purposes of the Smart Growth Overlay District are:

(1) To encourage smart growth development within Marblehead, especially in the downtown. (2) To promote low impact, green, and sustainable development that is pedestrian friendly. (3) To ensure high quality site planning, architecture and landscape design that is consistent with the distinct visual character and identity of downtown Marblehead and Vinnin Square and provides development with safety, convenience and amenities appropriate to its residential and mixed-use nature. (4) To establish development standards that ensure context-sensitive design and creative site planning in the reuse of existing buildings and construction of new buildings. (5) To provide for diversified housing stock at a variety of costs in close proximity to the local bus lines, including affordable housing, that meets the needs of the Town’s population and promotes diversity. (6) To generate positive tax revenue, and to benefit from the financial incentives provided by M.G.L. Ch. 40R, while providing the opportunity for housing choice among households of varying incomes, ages and sizes.

B. Scope and Authority. The SG is established pursuant to the authority of M.G.L. Ch. 40R and 760 CMR 59.00, and shall be deemed to overlay the parcels as shown on the Zoning Map of the Town of Marblehead, as amended. At the option of the owner, development of land within the SG may be undertaken by means of a Plan Approval pursuant to the zoning controls set forth in this § 200-44 or by complying with all applicable zoning controls set forth in the Zoning Bylaw of the Town of Marblehead (Underlying Zoning). Development Projects proceeding under this § 200-44 shall be governed solely by the provisions of this § 200-44 and shall be deemed exempt from the standards and/or procedures of the Underlying Zoning.

C. Establishment and Delineation of Smart Growth Overlay District and Sub-Districts.

Within the SG, there are Sub-Districts identified as SG School / Pleasant Sub-District and SG Vinnin Square Sub-District. The boundaries of the SG and the Sub-Districts are delineated SG and labeled “Smart Growth Overlay District and Sub-Districts” on the Official Zoning Map of the Town of Marblehead in the office of the Town Clerk.

D. Definitions. All definitions are as they appear in the Marblehead Zoning Bylaw in effect as of the date of adoption of this Bylaw, 2009, with the exception of the following terms which are not defined in the Underlying Zoning. As used in this § 200-44, the following terms shall have the meanings set forth below. To the extent that there is any conflict between this § 200-44, or the administrative rules referenced in § 200-44(K), and M.G.L. Ch. 40R and / or 760 CMR 59.00, *et seq.*, the latter shall control: ADMINISTERING

AGENCY – A qualified housing organization designated by the Marblehead Board of Selectmen with the power to monitor and to enforce compliance with the provisions of this Bylaw related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the SG.

AFFORDABLE HOUSING RESTRICTION – A deed restriction of an Affordable Homeownership Unit meeting the requirements in M.G.L. Ch. 184 § 31 and the requirements of this Bylaw. **AFFORDABLE RENTAL UNIT** – A dwelling unit required to be rented to an Eligible Household in accordance with the requirements of this Bylaw.

AFFORDABLE HOMEOWNERSHIP UNIT – A dwelling unit required to be sold to an Eligible Household in accordance with the requirements of this Bylaw. **APPLICANT** – A landowner or other petitioner that files a Plan for a Development Project subject to the provisions of the SG. **APPROVING AUTHORITY** – The Planning Board of the Town of Marblehead acting as the authority designated to review projects and issue approvals under this Bylaw.

AS-OF-RIGHT DEVELOPMENT – A Development Project allowable under this Bylaw without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Plan Review requirement of this Bylaw shall be considered an As-of-Right Development. **DHCD** – The Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.

DESIGN STANDARDS – The document entitled Marblehead Smart Growth Overlay District Design Standards, as amended, approved by DHCD [INSERT DATE OF DHCD APPROVAL], 2009 pursuant to M.G.L. Chapter 40R, § 10. The Design Standards are applicable to all Development Projects within the SG that are subject to Plan Review by the Approving Authority.

DEVELOPMENT LOT – One or more Lots meeting the dimensional requirements of this Bylaw which are designated as a Development Lot on a Plan for a Development Project proposed within the SG and for which Plan Approval is required under the provisions of this Bylaw.

The lots comprising a Development Lot need not be in the same ownership but within the initial application the Applicant must demonstrate site control of all land subject to modification pursuant to the requested permit. **DEVELOPMENT PROJECT** – A residential or mixed-use development undertaken under this § 200-44. The limits of a Development Project shall be identified in the SG in the Plan which is submitted to the Approving Authority for Plan Review.

ELIGIBLE HOUSEHOLD – An individual or household whose annual income is below eighty percent (80%) of the area-wide Median Household Income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

HOUSEHOLD INCOME, MEDIAN – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

MIXED-USE DEVELOPMENT PROJECT – A building with a minimum of 25% of the floor area on the street level devoted to nonresidential uses and including residential units. A minimum of 50% of the total gross floor area in a Mixed-Use Development Project shall be devoted to

residential uses. MULTI-FAMILY DWELLING – A residential or mixed-use building containing more than three Dwelling Units designed for occupancy by the same number of families as the number of Dwelling Units. NON-RESIDENTIAL USE – Office, Retail or Restaurant Use, inclusive, or some combination of the same. OFFICE – A place of business of a professional organization or the administration facility of a commercial or industrial organization. PLAN – A plan depicting a proposed Development Project for all or a portion of the SG and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Bylaw. PLAN APPROVAL – The Approving Authority’s authorization for a proposed Development Project based upon a finding of compliance with this Bylaw and Design Standards after the conduct of a Plan Review. PLAN REVIEW – The review procedure established by § J of this Bylaw and administered by the Planning Board of the Town of Marblehead as the Approving Authority. PUBLIC PARK – The public open space owned by the Town of Marblehead and located on Assessors Parcel 129-19-0. RENOVATION – Physical improvement that adds to the value of the real property. Painting, ordinary repairs, and other normal maintenance do not constitute a renovation. SETBACK – Please refer to ARTICLE V Dimensional Regulations § 200-15. B.(3) of the Marblehead Zoning Bylaw in effect as of the date of adoption of this Bylaw. SG – The Smart Growth Overlay District, an overlay zoning district adopted pursuant to M.G.L. Ch. 40R, in accordance with the procedures for zoning adoption and amendment as set forth in M.G.L. Ch. 40A and approved by the Department of Housing and Community Development pursuant to M.G.L. Ch. 40R and 760 CMR 59.00. SUB-DISTRICT – A specific and defined area of land within the SG that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the SG. UNDERLYING ZONING – The zoning requirements adopted pursuant to M.G.L. Ch. 40A that are otherwise applicable to the geographic area in which the SG is located, as said requirements may be amended from time to time. UNDULY RESTRICT – A provision of the SG or a Design Standard that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in the SG. UNRESTRICTED UNIT – A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants. ZONING BYLAW – The Zoning Bylaw of the Town of Marblehead, Massachusetts, adopted in accordance with and pursuant to the provisions of M.G.L. Ch. 40A. ZONING MAP – The Zoning Map of the Town of Marblehead, Massachusetts, adopted in accordance with and pursuant to the provisions of M.G.L. Ch. 40A. **E. Permitted Uses.** The following uses shall be permitted in the following Sub-Districts As-of-Right upon Plan Approval, and at residential densities specified in Table G. Table of Dimensional and Density Requirements pursuant to the provisions of this Bylaw:

Residence Uses	SG Pleasant St Sub district	SG Vinnin Square Sub district
Multi-Family Dwelling	No	Yes
Mixed Use Development Project	Yes	Yes

Uses that are not included as allowable uses pursuant to this Bylaw but allowable pursuant to the Underlying Zoning must be permitted pursuant to the Underlying Zoning. Mixed-Use Development Projects that include a non-residential component only allowable by Special Permit must apply for and receive a Special Permit pursuant to the Underlying Zoning prior to exercising a Plan Approval pursuant to this Bylaw. **F. Prohibited Uses or Activities in the SG.** (1) Non-Residential Use, except for those uses permitted pursuant to the Underlying Zoning or in a Mixed Use Development Project. (2) Any use prohibited by the Underlying Zoning in effect as of the date of adoption of this Bylaw. (3) Any use not listed in § E of this Bylaw is expressly prohibited; provided, however, that uses permitted in the Underlying Zoning district are permitted subject to the permitting requirements and performance standards in the Zoning Bylaw and other applicable regulations. **G. Dimensional and Other Requirements.** (1) New buildings within the SG shall be subject to the bulk, dimensional and density requirements in Table G. Table of Dimensional and Density Requirements:

Sub district min	Min lot area	Max Res density	Min Frontage	Min open area
SG School/Pleasant Sub-District	10,000	30	35	N
SG Vinnin Square Sub-District	10,000	30	35	(2)
Sub district min	Min front setback	Min side setback	Min rear setback	Max height
SG School/Pleasant Sub-District	N	(1)	(1)	45
SG Vinnin Sq Sub-District	N	(1)	(1)	40

Notes: N – None (1) – Except as to any boundary abutting any other business district, six feet; as to any boundary abutting any residential district, nine feet. May be reduced at the discretion of the Plan Approval Authority. (2) – One square foot of open land area (in addition to the areas of required parking spaces for such lot) for each two square feet of gross floor area.

(2) Building Renovation. Renovation of existing buildings may maintain existing building footprints, and may only expand such footprints insofar as such expansion is in compliance with the required dimensional requirements for new buildings. Renovation building projects need not meet Setback requirements applicable to new construction, but renovated buildings may not cross lot lines or Sub-District boundaries. (3) Fractional Units. When the application of the allowable densities specified in Table G. Table of Dimensional and Density Requirements results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is

0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number. (4) Adjacency to Public Park. Where a Development Project is proposed on a Development Lot located immediately adjacent to a Public Park, the allowable as-of-right density shall be calculated based on the combined land area of the proposed Development Lot and the land area of the Public Park. **H. Off-Street Parking.** (1) Off-street parking for the non-residential portion of mixed-use buildings shall be provided in order to meet or exceed the minimum requirements in § 200-17 (B-D) of the Zoning Bylaw in effect as of the date of adoption of this Bylaw. (2) Off-street parking for Dwelling Units in the SG School/Pleasant Sub-District shall be provided in order to meet or exceed the following minimum requirements: (3) Off-street parking for Dwelling Units in the SG Vinnin Square Sub-District shall be provided in order to meet or exceed two (2) parking spaces per Dwelling Unit. Dwelling Unit (1 bedroom) 1.0 spaces; Dwelling Unit (2 bedrooms) 1.5 spaces; Dwelling Unit (3 bedrooms) 2.0 spaces; Dwelling Unit (4 bedrooms) 2.5 spaces. (4) Fractional Spaces. When the application of the minimum required parking standards in this Section H results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number. (5) Location of parking. Any surface parking lot shall be located at the side or rear of a building, relative to any public right-of-way or public open space. In no case shall surface parking for new construction be permitted within the required front setbacks. Sub-surface parking is allowed. (6) The Approving Authority may grant a Plan Approval making such modifications in the parking standards or prescribe safeguards and conditions as it shall warrant appropriate, provided that it finds that it is impractical to meet the standards and that such modifications are appropriate by reason of the proposed use and will not result in or worsen parking or traffic problems in the SG. The Approving Authority may impose conditions of use or occupancy appropriate to such modifications. (7) Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous, and at the discretion of the Approving Authority, may be considered as one lot for the purpose of calculating parking requirements. (8) Shared use of required parking. At the discretion of the Approving Authority, shared use may be made of required parking spaces by intermittent use establishments such as churches, assembly halls, or theaters whose peak parking demand is only at night or on Sundays and by other uses whose peak demand is only during the day. In order for such shared parking to be eligible to satisfy required off-street parking standards in whole or in part, prior to Plan Approval a formal agreement shall be made in writing by the owners of the uses involved concerning the number of spaces involved, substantiation of the fact that such shared use is not overlapping or in conflict, and the duration of the agreement. Required spaces shall be within 300 feet of the main entrance to the principal buildings served by the shared parking. (9) The Approving Authority may require additional visitor parking beyond the maximum required spaces per unit if deemed appropriate given the design, layout, use and/or density of the proposed Development Project. (10) Construction Standards. Each parking space shall be at least nine feet wide and 20 feet long and shall be designed with appropriate means of vehicular access to a street as well as maneuvering areas. Access and

maneuvering areas shall not be obstructed or used for the parking of motor vehicles. Parking shall be designed and constructed to comply with all applicable disability access requirements including but not limited to the Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (AAB).

I. Design Standards. To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Marblehead in adopting this Bylaw, the Approving Authority shall adopt the Design Standards governing the issuance of Plan Approvals for Development Projects within the SG and shall file a copy with the Town Clerk. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the SG shall comply with such Design Standards. In the event of any conflict between this Bylaw and the Design Standards, this Bylaw shall govern and prevail.

J. Affordable Housing. (1) Number of affordable units. Twenty percent (20%) of all Dwelling Units constructed in a Development Project shall be Affordable Units provided, however, that twenty-five percent (25%) of all rental dwelling units in a Development Project shall be Affordable Units. For Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the Dwelling Units are rental or ownership units. (2) Fractional Units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number. (3) Affordable Units shall comply with the following requirements: (a) The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, with price determined assuming a Family size equal to the number of bedrooms in the unit plus one unless other affordable program rent limits approved by DHCD shall apply; (b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the Dwelling Unit plus one; and (c) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households. (4) Design and construction. (a) Design. Affordable Units must be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Development Project. (b) Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. For any Development Project that is approved in phases, the proportion of Affordable Units shall be consistent across all phases. (5) Age/Disability. At the Applicant's option, the Development Project may include the imposition of deed restrictions on age or disability to permit the Development Project to be exclusively for the elderly and/or

persons with disabilities provided, however, that any such restrictions may not be applicable to the District as a whole.

(6) Affordable housing restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Essex County Registry of Deeds or Land Court Registry District of Essex County. The Affordable Housing Restriction shall provide for the implementation of the requirements of this Bylaw. All Affordable Housing Restrictions must include, at minimum, the following: (a) Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied. (b) A description of the Affordable Unit by address and number of bedrooms. (c) The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years. (d) The name and address of the Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Marblehead Board of Selectmen or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Marblehead Board of Selectmen or, in the absence of such timely designation, by an entity designated by the DHCD. (e) Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size. (f) A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan. (g) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set. (h) A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the Administering Agency. (i) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency. (j) Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Marblehead, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household. (k) Provision that the restriction on Affordable Rental Units in a rental Development Project or rental portion of a Development Project shall run with the rental Development Project or rental portion of a Development Project and shall run in favor of the Administering Agency and the Town of Marblehead, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household. (l) Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability. (m) A requirement that residents in Affordable Units provide such information as the

Administering Agency may reasonably request in order to ensure affordability eligibility and compliance. (n) Designation of the priority of the Affordable Housing Restriction over mortgages and other restrictions. (7) Administration. The Administering Agency shall ensure the following: (a) Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed. (b) Income eligibility of households applying for Affordable Units is properly and reliably determined. (c) The housing marketing and resident selection plan conforms to all requirements and is properly administered. (d) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given. (e) Affordable Housing Restrictions meeting the requirements of this section are recorded with the Essex County Registry of Deeds or Land Court Registry District of Essex County. (8) The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households, to conduct the housing lottery, and to monitor and enforce compliance with affordability requirements over time. **K. Administration.** The Approving Authority shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Plan Review. Such administrative rules and any amendment thereto must be approved by the Massachusetts Department of Housing and Community Development. The Plan Review process encompasses the following: (1) Pre-application review. The Applicant is encouraged to participate in a pre-application with the Approving Authority at a regular meeting(s) of the Approving Authority. The purpose of the preapplication review is to obtain the advice and direction of the Approving Authority prior to filing the application. At the preapplication review the Applicant shall outline the proposal and seek preliminary feedback from the Approving Authority, other municipal review entities, and other members of the public. The Applicant is also encouraged to request a site visit by the Approving Authority and/or its designee in order to facilitate pre-application review. (2) Application procedures. (a) An application for Plan Approval shall be filed by the Applicant with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the Approving Authority. The Applicant shall also file the required number of copies of the application with the Building Inspector and with the Approving Authority. Said filing shall include any required forms provided by the Approving Authority. (b) As part of any application for Plan Approval, the Applicant must submit the following documents to the Approving Authority and the administering Agency: (1) Evidence that the Development Project complies with the cost and eligibility requirements of § J. Affordable Housing; (2) Development Project plans that demonstrate compliance with the requirements of § J. Affordable Housing; and (3) A form of Affordable Housing Restriction that satisfies the requirements of § J. Affordable Housing. (c) Review fees. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Approving Authority. Such fees shall be held by the Town of Marblehead in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Approving Authority in reviewing the Plan

application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith. (d) Upon receipt by the Approving Authority, applications for Site Approval shall be distributed to the Board of Selectmen, Board of Health, Fair Housing Committee, Building Inspector, Conservation Commission, Zoning Board of Appeals, Department of Public Works, the Fire and Police Departments and the Water and Sewer Commission. Any reports from these parties shall be submitted to the Approving Authority within sixty (60) days of filing of the application. (e) Within thirty (30) days of filing of an application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the application. Where an application is found to be incomplete, the Approving Authority or its designee shall provide a statement outlining required items that were missing from the application. The Board or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments. (3) Public hearing. The Approving Authority shall hold a public hearing and review all applications according to the procedure specified in M.G.L. Ch. 40R § 11. (4) Prior to the granting of any Plan Approval for a Development Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency or, in the event that an Administering Agency has not yet been named, to the satisfaction of the Approving Authority, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Marblehead. (5) Plan Approval decision. (a) The Approving Authority shall make a decision on the Plan application by majority vote of its members, and shall file said decision with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk. (b) Failure of the Approving Authority to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application. (c) An Applicant who seeks approval because of the Approving Authority's failure to act on an application within the 120 days or extended time, if applicable, must notify the Town Clerk in writing, within fourteen (14) days from the expiration of said time limit for a decision, of such approval and that a copy of that notice has been sent by the Applicant to parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to M.G.L. Ch. 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed. (d) The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Plan Approval application. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. (e) The decision of the Approving Authority, together with the detailed reasons therefore, shall be filed with the Town Clerk, the Board of Appeals and the Building Inspector. A copy of the decision shall be mailed to the Applicant and

to the owner if other than the Applicant by the Approving Authority certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority. A notice of the decision shall be sent to parties in interest and to persons who requested a notice at the public hearing. (f) Effective date. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application shall be recorded with the title of the land in question in the Essex County Registry of Deeds or the Essex Land Registry District, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The responsibility and the cost of said recording and transmittal shall be borne by the Applicant. (6) Criteria for approval. The Approving Authority shall approve the Development Project upon finding that it complies with the requirements of the SG and applicable Design Standards. (7) Criteria for conditional approval. The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with this § 200-44 and applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of M.G.L. Ch. 40R and applicable regulations and do not Unduly Restrict opportunities for development. The Approving Authority may require construction of an approved Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address extraordinary adverse Development Project impacts on nearby properties. (8) Criteria for denial. The Approving Authority may deny an application for Plan Approval pursuant to this Bylaw if the Board finds one or more of the following: (a) The Development Project does not meet the conditions and requirements set forth in the SG Zoning and applicable Design Standards. (b) The Applicant failed to submit information and fees required by the SG Zoning and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts. (c) It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions. (9) Time limit. A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project. (10) Appeals. Pursuant to M.G.L. Ch. 40R, § 11, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court department, or the Housing Court department within twenty (20) days after the Plan decision has been filed in the office of the Town Clerk. **L. Waivers.** The Approving Authority may authorize waivers in the Plan Approval with respect to the dimensional and other standards set forth in this § 200-44 and in the Design Standards upon a finding that

such waiver will allow the Development Project to achieve the density, affordability and/or physical character allowable under this Bylaw. However, the Approving Authority may not waive any portion of the Affordable Housing requirements in § J. Affordable Housing except insofar as such waiver results in the creation of a number of Affordable Units in excess of the minimum number of required Affordable Units.

M. Fair Housing Requirement. All Development Projects within the SG shall comply with applicable federal, state and local fair housing laws. **N. Annual Update.** On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to M.G.L. Ch. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review. **O. Notification of Issuance of Building Permits.** Upon

issuance of a residential building permit within the SG, the Building Inspector shall cause to be filed an application to the DHCD in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to M.G.L. Ch. 40R. The application shall contain all information required in 760 CMR 59.06 (2), as may be amended from time to time, and additional information as may be required pursuant to M.G.L. Ch. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

P. Date of effect. The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of M.G.L. Ch. 40A § 5 and M.G.L. Ch. 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the Department of Housing and Community Development and the Office of the Massachusetts Attorney General. **Q. Severability.** The provisions of this section are severable. If any provision of this section is held invalid, the other provisions shall not be affected but shall remain in full force. (A copy hereof is available at the office of the Town Clerk)

Or take any other action relative thereto. Sponsored by the Planning Board.

Article 41 Landfill 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 42 Disposal Area Remediation / Stoneybrook Rd.

To see if the Town will vote to raise and appropriate a sum of money to be expended by the Board of Health for disposal area remediation as it relates to Stoneybrook Road and private property(s) on Stoneybrook Rd., some of which abut land owned by the Town of Marblehead and 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 43 Litchman Terrace Open Space

To see if the Town will vote to transfer the care, custody, management and control of a portion of the following described parcel of land known as Parcel 29 on Marblehead Assessor's Map 136 which is owned by the Town of Marblehead to the Marblehead Conservation Commission for Open Space purposes. Said entire parcel of land is described as a certain parcel of land owned by the Town of Marblehead containing 1.153 acres and lying between a proposed road off Turner Road to the northwest and Litchman is bounded as follows:

NORTHWEST by said proposed road (45 feet in width) off Turner Road;

NORTHEAST by land now or Bryan C. and Sara W. Segee (12 Turner Road), Steven J. Elliott and Jane L. Knight (10 Turner Road), Sharon A. Trainor (76 Green Street), Linda W. Boynton (72 Green Street), Vlad Farfel (68 Green Street) and Robert L. and Michele McKay (66 Green Street);

SOUTHEAST by Litchman Terrace;

SOUTHWEST by land now or formerly of Paul and Sophia Moroz (24 Taft Street), Joanne N. Jauron (22 Taft Street), Lewis W. II and Kristine E. Farrar (20 Taft Street), Martha M. Stiles (18 Taft Street), William J. and Constance M. Willis (16 Taft Street) and Louise M. Antoniolli (14 Taft Street)

The parcel of land described above is identified by the term "Reservation" on a plan entitled "Town of Marblehead, Turner Estate, Lot Plan" dated October 22, 1941, R. O. Burlingham, Town Engineer, recorded with Essex South District Registry of Deeds, Plan Book 73, Plan 82. The "Reservation" parcel shown on the 1941 plan has been modified by the layout of Litchman Terrace in 1969 as shown on plan entitled "Town of Marblehead, Litchman Terrace Layout (In Part)" dated September 24, 1968, George H. Clark, Jr., Town Engineer, on file in the Office of the Town Engineer, Marblehead, MA 01945.

Said portion of land to be transferred to the Conservation Commission shall include the above description but shall not include a portion of the parcel of land which consists of a 40-ft wide strip of land running parallel to and adjacent to Litchman Terrace as shown on Plan entitled "Town Land off Litchman Terrace, Marblehead, MA 01945" dated January 2009 on file in the Office of the Town Engineer, Marblehead, MA 01945. Said strip of land to be excluded contains about 4,000 square feet (0.09 acres) and is to remain under the care, custody, management and control of the Marblehead Board of Selectmen, or take any action relative thereto. Sponsored by the Board of Selectmen.

Article 44 Land Acquisition, Naugus Avenue

To see if the Town of Marblehead will vote to acquire for 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. which are shown on Marblehead Assessors Maps as Map 176 Lot 16, which land shall be held in the care and custody of the Board of Selectmen for recreation purposes; 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, 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 that the Board of Selectmen 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 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 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 45 School Department Computer, Support Equipment, and Technology Infrastructure.

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

Article 46 Schools Construction and or Renovation Program

To see if the Town will vote to appropriate a sum of money for the purpose of remodeling, constructing, furnishing or making extraordinary repairs, including all professional feasibility studies, design, architectural and engineering fees, to the Gerry, Coffin, Bell, Eveleth, Glover, Village, Veterans Middle and High School and/or 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 47 Fiscal 2009 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, 2008, to be added to Article 44 of the May 2008 Annual Town Meeting, or take any other action relative thereto, as sponsored by the Finance Department.

Article 48 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 surplus in the Electric Light Department for use of the Assessors in making the tax rate or take any other action relative thereto. Sponsored by the Finance Director.

Article 49 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, 2009, or take any other action relative thereto, as sponsored by the Finance Department.

Article 50 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, 2009, 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 11th day of May next A.D. 2009 (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 Assessor

1 Cemetery Commissioner

1 Board of Health

1 Housing Authority

1 Library Trustee for 1year unexpired term

2 Library Trustees

2 Electric Light Commissioners

1 Moderator

2 Planning Board

5 Recreation & Park Commissioners

1 School Committee

1 Water and Sewer Commissioner

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 Bylaws 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 **11th day of February 2009.**

JACKIE BELF-BECKER, Chairman

HARRY C. CHRISTENSEN, JR.

JUDITH R. JACOBI

JAMES E. NYE

WILLIAM L. WOODFIN, II

Selectmen of Marblehead

A True Copy

Attest: _____, Constable