

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 80 Atlantic Avenue, Our Lady Star of the Sea Community Center, Rear Parking Lot, Marblehead, MA, on Monday, the third day of May next A. D. 2021 (it being the first Monday in May) at 7:00 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, or take any other action relative thereto. Sponsored by the Board of 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, or take any other action relative thereto. Sponsored by the Board of Selectmen.

**Article 3 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 therefore to the Commonwealth, or take any other action relative thereto. 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. Sponsored by Town Counsel.

**Article 5 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. Sponsored by the Board of Selectmen.

**Article 6 Contracts in Excess of Three Years**

To see if the Town will authorize the Board of Selectmen, pursuant to G. L. c. 30B § 12, to enter into contracts in the best interest of the Town in excess of three (3) years but not more than ten (10) years. Sponsored by the Board of Selectmen.

## **Article 7 Departmental Revolving Funds**

To see if the Town will vote to:

- a. fix the maximum amount that may be spent during FY 2022 beginning July 1, 2021 for the revolving funds established in the town bylaws for certain departments, boards, committees, agencies or officers in accordance with G.L. c. 44 § 53E 1/2, and
- b. Amend Chapter 63, section 63-9, of the Town of Marblehead General Bylaws by adding a new section 63-9(E)(12) as follows:

### **12. Hobbs Memorial Building Revolving Fund**

- a. There shall be a separate fund called the Samuel Hobbs Memorial Building Revolving Fund authorized for use by the Board of Selectmen.
- b. The Finance Director/Town Accountant shall establish the Samuel Hobbs Memorial Building Revolving Fund as a separate account and credit to the fund all of the revenues received by the Samuel Hobbs Memorial Building in connection with receipts from the Samuel Hobbs Memorial Building.
- c. During each fiscal year, the Board of Selectmen may incur liabilities against and spend monies from the Samuel Hobbs Memorial Building Revolving Fund for expenses related to operating maintenance and repair of the building.
- d. The Samuel Hobbs Memorial Building Revolving Fund shall operate for the fiscal year that begins on July 1, 2021, or take any other action relative thereto. Sponsored by the Board of Selectmen.

## **Article 8 Purchase of Equipment of Several Departments**

To see if the Town will raise and appropriate any sums of money for the purchase and/or lease of equipment for several departments of the Town, to authorize the Board of Selectmen to trade old equipment as part of the purchase price and 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 9 Lease Purchase**

To see if the Town will vote pursuant to G.L. c. 44 §21C, to authorize the Board of Selectmen to enter into lease purchase agreements for the lease and purchase of vehicles and certain capital for a period of time not in excess of the useful life of the property to be procured on such terms and conditions as the Board of Selectmen deem in the best interest of the Town; and to authorize the Board of Selectmen to take all actions necessary to administer and implement such agreement and to fund said lease purchase through an annual appropriation in the Capital Budget or take any action relative thereto. Sponsored by the Board of Selectmen.

## **Article 10 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 or School buildings, infrastructure, and the purchase of 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 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 therefore; 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 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 13 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, or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 14 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 or sewer systems, or take any other action relative thereto. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 15 Storm Drainage Construction**

To see if the Town will vote to appropriate, borrow or otherwise fund a sum of money for the construction, reconstruction, permitting and maintenance of storm sewers for surface drainage, including engineering services in connection therewith, and for general Drain Department purposes, including the purchase or lease of equipment, and to authorize the appropriate Town Officers to acquire by purchase, eminent domain or otherwise, any land or easements necessary therefore, and to raise the money for such purposes by the issue of bonds or notes or in any other manner, to be expended by the Department of Public Works; or to take any other action relative thereto. Sponsored by the Board of Selectmen.

#### **Article 16 Essex North Shore Agricultural and Technical School District**

To see if the Town will vote to approve the gross operating and maintenance budget of the Essex North Shore Agricultural and Technical School District for the fiscal year

commencing July 1, 2021 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 17 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 18 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 19 Transfer Funds to the Special Education Stabilization Account**

To see if the Town will vote to raise, appropriate or otherwise transfer funds to the Special Education Reserve Fund; or take any other action relative thereto. Sponsored by the Finance Director.

**Article 20 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 2022 with the International Association of Firefighters AFL/CIO CLC Local 2043, or take any action relative thereto. Sponsored by the Board of Selectmen.

**Article 21 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 2022 with MASS C.O.P., AFL-CIO, Local 437, or take any action relative thereto. Sponsored by the Board of Selectmen.

**Article 22 Collective Bargaining (IUE/CWA – 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 2022 with Local 1776 of the IUE/CWA, AFL-CIO, or take any action relative thereto. Sponsored by the Board of Selectmen.

**Article 23 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, 2021, or take any other action relative thereto. Sponsored by the Finance Director.

**Article 24 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, or take any other action relative thereto. Sponsored by the Conservation Commission.

**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 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 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 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 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 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 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. Sponsored by the Board of Selectmen.

**Article 29 Ratification of Salary Bylaw**

To see if the Town will vote to ratify certain actions taken by the Compensation Committee under Chapter 43 Section 3(e) as last amended and amend the classification table by reclassifying certain positions, or take any other action relative thereto. Sponsored by the Compensation Committee.

**Article 30 Affordable Housing /Tax Title Foreclosures**

To see if the Town will vote to appropriate, an amount of \$44,400 from Free Cash to be paid to the Affordable Housing Trust, which is a 10% portion of the proceeds received from the sale of tax foreclosure properties, or take any action relative thereto. Sponsored by the Board of Selectmen.

**Article 31 Release Funds from Transportation Network** To see if the Town will vote to appropriate or transfer from the reserve for appropriation Fund 27 for the purpose of implementing Transportation Infrastructure Enhancement Fund related to improvements to the rail trail, or take any other action relative thereto. Sponsored by the Finance Director.

**Article 32 Pumper Truck**

To see if the Town will vote to appropriate a sum of money for the purchase of a pumper truck for the Fire Department, and 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 33 Demolition by Neglect**

To see if the Town will vote to amend the Town of Marblehead General Bylaws by adding a new Chapter 111 as follows:

Chapter 111: Demolition by Neglect.

§111-1: Authority.

This Chapter is adopted pursuant to the Old and Historic Marblehead Districts Act, Chapter 101 of the Massachusetts Acts of 1965 (the "Act") and, more particularly, pursuant to the purposes set forth in Sections 2 and 5(b) of the Act, and in furtherance of the authority set forth in Section 5(a) and 5(c) of the Act which establish, among other things, the duty of the Old and Historic Districts Commission (the "Commission") to pass upon the removal of any building within the districts so established as well as alterations to those buildings, structures and the exterior architectural features of those buildings and structures. This Chapter is also adopted pursuant to the Home Rule Amendment, Art. 89, § 6, of the Amendments to the Massachusetts Constitution to prevent irreparable harm from the demolition of historical buildings and structures.

§111-2: Purpose.

This Chapter is enacted for the purpose of preserving and protecting Significant Buildings and Structures and to encourage owners of such buildings and structures to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings and structures rather than demolish them. To achieve these purposes, this Chapter empowers the Commission to work with the Building Commissioner and advise the Building Commissioner with respect to the issuance of permits for the demolition of Significant Buildings and Structures and with respect to such buildings and structures suspected of being Demolished by Neglect.

§111-3: Definitions.

- A. The term "Commission" as used in this Chapter shall mean the Marblehead Old & Historic Districts Commission.

- B. The term “Demolition by Neglect” as used in this Chapter shall mean the process of ongoing damage to the fabric, viability and/or functionality of an occupied or unoccupied building, or structure, leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice and wind through the roof, walls, or apertures.
- C. The term "Significant Building or Structure" as used in this Chapter shall mean all buildings and structures, as defined in Chapter 110-7(B), including the exterior architectural features of those buildings and structures, which are subject to the jurisdiction of the Commission.

§111-4: Determination of Demolition by Neglect.

- A. If the Commission has reason to believe, through visual inspection or other means, that a Significant Building or Structure may be undergoing Demolition by Neglect, then the Commission shall notify the Building Commissioner and the owner, and the Commission and the Building Commissioner shall jointly hold a public hearing to i) confirm whether or not the building or structure is a Significant Building or Structure and ii) determine whether or not it is undergoing Demolition by Neglect, which shall require the concurrence of the Building Commissioner. In furtherance of determining its condition, the Commission may, at any time, request an inspection of the building or structure by the Building Commissioner.
- B. Notice of the Public Hearing shall be published in a newspaper of general circulation at least two times at least 14 days in advance of said hearing. Notice of the public hearing shall be provided to the property owner by certified mail at least 14 days prior to said public hearing.

§111-5: Demolition by Neglect Prohibited.

- A. No Significant Building or Structure shall be Demolished by Neglect. Notwithstanding, nothing herein is intended to or shall alter the Commission’s authority under Chapter 110.
- B. If the Commission and the Building Commissioner both determine that the Significant Building or Structure is undergoing Demolition by Neglect, the Commission and the Building Commissioner shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the building or structure and/or prevent further deterioration.
- C. In the event that the Commission and the Building Commissioner both determine that they are not able to negotiate such an agreement with the owner, for any reason, or that the owner has agreed to undertake but has failed to satisfactorily complete such repairs in a timely manner, then the Commission shall state in writing the findings of fact in support of such determination of violation of this Chapter and

shall issue and cause to be served upon the owner and/or other parties in interest therein an order to correct within a time to be specified in the written decision. The Commission's determination may be appealed to the Board of Selectmen by a written application filed by an aggrieved party within ten (10) business days following receipt of the Commission's order. A hearing on the appeal shall be held within sixty (60) days of the written application. If no appeal is filed, or, if an appeal is filed, upon a finding that the Significant Building or Structure is undergoing Demolition by Neglect, the Commission and the Building Commissioner may take such action as is permitted under the following section, including seeking a court order that specific repairs be undertaken to secure the Significant Building or Structure against the elements, vandals and vermin, to halt further deterioration, and to stabilize it structurally.

- D. Upon completion of all repairs that have been agreed upon between the owner and the Commission and the Building Commissioner or that have been ordered by the Commission and the Building Commissioner, or that have been ordered by the court, and upon certification by the Building Commissioner that said repairs have been completed, the Commission shall certify that the Significant Building or Structure is no longer undergoing Demolition by Neglect.

#### §111-6: Enforcement and remedies.

- A. Subject to Sections 4 and 5, the Commission and the Building Commissioner are each authorized to issue written orders and to institute any and all proceedings available in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this Chapter, or to prevent a violation thereof.

#### §111-7: Demolition on account of threat to public safety.

Notwithstanding any other provision of this Chapter, nothing herein shall be construed to prevent the demolition of any structure or portion thereof which the Building Commissioner certifies is required by the public safety because of an unsafe or dangerous condition; and nothing herein is intended to alter, amend or regulate any matters governed by State Code.

#### §111-8: Adoption of Regulations.

The Commission shall have the authority, following a duly noticed public hearing, to adopt regulations pursuant to the provisions hereof to further the purposes hereunder.

#### §111-9: Severability.

If any section, paragraph or part of this Chapter be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Or take any other action relative to. Sponsored by the Old and Historic Districts Commission.



### **Article 34 Amend the Bylaws of the Old and Historic District Commission Chapter 110 Old and Historic Districts**

To see if the Town will vote to amend the Town of Marblehead Bylaws section 110 as follows (**bold and underline** text added and ~~cross-out~~ deleted):

1). Amend §110-4 Structures and features not requiring certificates of appropriateness. Paragraph D.

D. Arbors, trellises, ~~terraces, patios~~, flagpoles, yardarms, screens, screen doors, storm doors, storm windows, radio or television antennas, weather vanes, wind direction or wind speed vanes, masts, derricks, and cranes.

2). Amend §110 -7 Definitions Paragraph B.:

The term "structure" shall mean and include any product or piece of work built up or composed of parts joined together in some definite manner, other than a building or a sign including but not limited to walls, terraces, **patio** walks or driveways, parking areas, tennis courts and swimming pools.

Or any action relative thereto. Sponsored by the Old and Historic District Commission

### **Article 35 Abbot Public Library**

To see if the Town will vote to raise, appropriate, or borrow a sum of money for renovating, remodeling, reconstructing, originally equipping and replacing infrastructure to the existing Town building known and identified at Abbot Public Library, and to determine whether this appropriation shall be raised by borrowing or otherwise, or by taking any other action relative thereto. Sponsored by the Abbot Public Library Board of Trustees.

### **Article 36 Joseph Brown Conservation Area**

To see if the Town will vote to replace the signs at the Norman Street entrance to Steer Swamp (which currently read "Black Joe's Pond: Named after Joseph Brown, Revolution Veteran" and "Steer Swamp Conservation Area" to reflect the intent and vote of the 1973 town Meeting which renamed the area around and including Black Joe's Pond as the "Joseph Brown Conservation Area". Sponsored by Kimberly Poitevin and others.

### **Article 37 Transparency & Accountability**

To see if the Town will vote to:

- I. Provide a direct line of contact to all elected officials, Boards and Committees with the expectation of a response
- II. Establish, document and publicize all Boards and Committees', a) active pursuit of and an on-going registry of potential citizens who are interested in serving b) adoption of terms limits and staggered terms c) annual review of members' potential conflict of interest d) purpose, goals/accomplishments, authority, and membership
- III. Establish an Ethics Board, with the "Board of Selectmen" appointing three (3) to five (5) Community Members who are not 1) officers or employees of the municipality, 2) officers in a political party, 3) appointed/elected to another Board or Committee, 4) benefitting directly or indirectly from the appointment:
  - a. The Board will serve as a resource to municipal employees and townspeople to safely report ethics violations, thereby adopting whistle-blower protections.

- b. The Code of Ethics will be posted online and reviewed annually. It will include but is not limited to bids and contracts, donations, cronyism, nepotism, conflict of interest, discrimination, open meeting violations, misallocation of resources, gifts/favors, disclosures, fines and penalties for violations.
- c. The Board is empowered to adjust the grievances provided that such adjustment shall not involve the Town in an expenditure of money in excess of the appropriation made for the use of said Board.

Sponsored by Megan Sweeney and others.

### **Article 38 Peace and Good Order**

- I. To ask if the Town will vote to amend the Bylaw Ch. 119 Peace and Good Order to include prohibition of disruptive behavior from anchored, moored, and transient boaters and/or visitors gaining access to Public Ways, Beaches, Trustees of Reservation Properties or public space in/on/along the water. No person shall engage in persistent or repeated yelling, hooting, whistling, singing, or the playing of loud excessive music from any radio or sound making device in such a manner as to be plainly audible and as to annoy or disrupt the reasonable quiet, comfort or repose of persons in any dwelling, residence, office, or of any persons in the vicinity of the waterways or other public places.
- II. To ask if the Town will vote to grant full authority of enforcement to the Harbormaster.

Sponsored by Megan Sweeney and others.

### **Article 39 Board of Selectmen**

To see if the Town will vote to:

- I. Accept that there shall be a standing "Board of Selectmen" to consist of five (5) elected officials, with a sixth (6) appointed as an Alternate in case of death or an inability to serve. The alternate will assume responsibilities and serve for the unexpired term. No one of whom shall hold Town office position or be a voting member to any Board or Committee.
- II. Accept an extension of the elected terms of "Selectmen", with staggered terms to ensure organizational knowledge is retained; three (3) seats will be designated for a one (1) year term, two (2) seats for a two (2) year term.
- III. Establish term limits, whereas an elected "Selectmen" would hold office for a maximum of (3) terms or six (years) 6, whichever is greater.

Sponsored by Megan Sweeney and others.

### **Article 40 Diversity**

To see if the Town will vote to:

- I. Adopt inclusive language:
  - a. Amend the Bylaws to reflect gender inclusive language whereas single gender use of "he/him/his/men" would be replaced with She/Her/He/Him/They/Persons/People throughout its entirety and on all governing documents, websites, media; and articles, town warrants and references in Town Meetings from here forward
  - b. Amend its Executive Leadership title "Board of Selectmen" to be replaced with "Select Board" in all references, bylaws, governing documents, websites, media, articles, town warrants.

- c. Amend its standard equal opportunity hiring statement: “Marblehead embraces diversity and equal opportunity. We are committed to building a team that represents a variety of backgrounds, perspectives, and skills. The more inclusive we are, the better our service to Marblehead will be”.
  - d. Amend its job postings and job descriptions to reflect inclusiveness, reviewing as needed
- II. Amend all “Screening” or “Selection” Committees, including but not limited to Ch. 45 Article 1, to reflect a commitment to diversity and inclusion:
  - i. The seven (7) person committee will be qualified to attract and commit to selecting a diverse pool of candidates, with members rotating to retain organizational knowledge. A non-voting 8<sup>th</sup> member may be appointed to assist with administrative duties – This person may be nominated by the ad hoc committee, but should not be a current ad hoc committee member.
  - ii. There will be at least four (4) members who represent marginalized groups
  - iii. The members agree to participate in an organizational inclusion, diversity hiring and /or implicit bias training as a group to serve the dual purpose of educating and team building
  - iv. Within 30 days of creation, the “Selectmen” will make a public announcement certifying the intent of the Committee.

Sponsored by Megan Sweeney and others.

#### **Article 41 Common Sense Sidewalk Snow Removal Bylaw**

To see if the Town of Marblehead will vote the following bylaws:

The owner or any other person having care of any building or land abutting any street or public place within the town where there is a sidewalk shall clear sidewalks of snow to a minimum of 3 feet width within 24 hours after snow ceases to fall.

- 1) Waivers shall be available for disabled, elderly, and others with special needs or circumstances as promulgated by the Board of Selectmen.
- 2) Waivers shall be available for buildings or properties with no reasonable area to place removed sidewalk snow as promulgated by the Board of Selectmen.
- 3) During periods of heavy snow accumulation, the Town of Marblehead may suspend this bylaw until snow removal from sidewalks becomes possible.

Enforcement: The Marblehead Police shall have authority to issue a warning for first violation. \$50 fine for subsequent violations. Warnings and fines shall be issued to property owner. Sponsored by James R. Zisson and others.

#### **Article 42 3 Year Staggered Term for Selectmen**

To see if the Town of Marblehead will vote the following bylaws:

Change the current term of the Selectmen from a one year term to a three year staggered term similar to the Marblehead School Committee and most other local Select Boards.

- 1) A citizen recall provision would also be included

Sponsored by James R. Zisson and others

#### **Article 43 MWRA Local Water System Assistance Program, Interest Free Loan, Water Distribution Improvements**

To see if the Town will appropriate \$1,022,400.00 for the construction and reconstruction of the water distribution system, including all incidental or related costs; and to pay for said appropriation, to authorize the treasurer with the approval of the Board of Selectmen,

to borrow said sum pursuant to G.L. c. 44, §§ 7 and 8 or any other enabling authority and to issue bonds or notes of the Town therefor, whether through the Massachusetts Water Resources Authority ("MWRA") Local Financial Assistance Program or federal or state loan programs, and to authorize the Town to apply for, accept and expend any federal or state grants or loans that may be available for the project, and further, that any premium received by the Town upon the sale of any bonds or notes, may be applied to the payment of costs approved by this vote in accordance with G.L. c. 44, § 20, thereby reducing the amount authorized to be borrowed to pay such costs by like amount. Sponsored by the Board of Water and Sewer Commissioners.

#### **Article 44 Compensation**

To see if the Town will amend its compensation plan Chapter 43 Section 11 as follows (**underline and bold new**, ~~strike-through removed~~):

The starting rate for an employee who is promoted or transferred to a position in a higher classification group shall be the minimum or hiring rate of the higher rated position or the employee's own rate, whichever is higher, or if the employee's own rate is higher than the minimum or hiring rate and does not appear as a step rate in the higher grade, they shall receive the next higher step rate. If the rate established in the previous sentence does not result in at least a two percent increase, the employee shall receive an increase to the next higher step in the new grade, but in no event higher than the maximum step. **Notwithstanding the foregoing, in the event the promotion or transfer is to a Department Head position, the Town Administrator shall revise, if necessary, with the approval of the Compensation Committee, the salary steps for said position, prior to the posting of the position so the salary schedule is current with competitive rates in the region and the promoted or transferred employee shall be placed in the step which is most commensurate with experience in the respective field of employment.**

Sponsored by the Finance Director.

#### **Article 45 Transfer of Property**

To see if the Town will approve the change of use from school purposes to electric light purposes and then transfer the care and custody and control of Town-owned land, parcel 146-33-0, listed in the Assessing Department records as 21 Lincoln Avenue, to the Marblehead Municipal Light Department. The unimproved parcel is bordered by Tioga Way and Hoods Lane. Sponsored by the Marblehead Municipal Light Department.

#### **Article 46 Amend General Bylaw, Stormwater**

To see if the Town will vote to amend the Town of Marblehead General Bylaws section 195, Stormwater Management and Erosion Control, as follows (**underline and bold** is new language and ~~cross-out~~ is removed language)

##### *Item 1*

§ 195-1 Purpose, **amend** as follows:

- A. 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 the municipal storm sewer system, including 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, and pollutants from illicit connections and discharges to municipal storm sewer drain systems as major sources of water pollution, impacting drinking water supplies, natural habitats and recreational resources. In order to comply with state and federal statutes and regulations, rRegulation of activities that result in the disturbance of land and the creation of stormwater runoff, and regulation of illicit connections and discharges to the municipal storm sewer drain system 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. [Amended 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]

B. The objectives of this by-law are to:

- (1) Protect water resources;
- (2) Require practices that eliminate soil erosion and sedimentation;
- (3) Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
- (4) Require practices to manage and treat stormwater runoff generated from new development and redevelopment;
- (5) Protect groundwater and surface water from degradation;
- (6) Promote infiltration and the recharge of groundwater;
- (7) Prevent pollutants from entering the municipal storm sewer drain system; [Amended X-X-2021 ATM by Art. 46]
- (8) 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;
- (9) Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
- (10) 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
- (11) Prohibit illicit connections and unauthorized discharges to the municipal storm sewer drain system; [Added 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]
- (12) Establish the authority to enforce and rRemove all such illicit connections; [Added 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art X]
- (13) Comply with state and federal statutes and regulations relating to stormwater discharges and ensure low impact development site planning and design strategies are implemented as defined in the latest Massachusetts Stormwater Handbook; and [Amended 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]
- (14) Establish the Town of Marblehead's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring and enforcement. [Added 5-6-2019 ATM by Art. 35]

§ 195-2 Definitions, add or amend as follows:

#### AUTHORIZED ENFORCEMENT AUTHORITY

The Conservation Commission and its employees or agents are designated to enforce this by-law. For permits pursuant to §195-7, where the Conservation Commission does not have jurisdiction over the land disturbance activity, the Planning Board is designated as the authorized enforcement authority. For illicit connections and discharges, the Board of Selectmen ~~Water & Sewer Commissioners~~ is designated as the authorized enforcement authority. [Amended 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]

#### ILLICIT CONNECTION

Any non-stormwater surface or subsurface drain or conveyance, which allows an illicit discharge into the storm sewer ~~drain~~ system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law. Connections to the municipal storm sewer ~~drain~~ system which constitute illicit discharges as defined below which exist at the time of enactment of this regulation are considered illicit connections. [Added 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]

#### ILLICIT DISCHARGE

Any direct or indirect discharge to the municipal storm sewer ~~drain~~ system that is not composed entirely of stormwater, except as exempted in § 195-7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit, or resulting from firefighting activities exempted pursuant to § 195-7 of this regulation. [Added 5-6-2019 ATM by Art. 35] [Amended X-X-2021 ATM by Art. 46]

#### 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 separate storm sewer (drainage) system, streets, gutters, curbs, ditches, inlets, piped separate storm sewers (storm drains), pumping facilities, retention or detention basins, natural or man-made or altered drainage channels, open channels, reservoirs and other separate storm sewers or drainage structures that together comprise the storm sewer ~~drainage~~ system owned or operated by the Town of Marblehead. [Amended X-X-2021 ATM by Art. 46]

#### NEW DEVELOPMENT

Any construction activities, land alterations or activities that are part of a larger common plan on an area that has not previously been developed to include impervious cover. [Amended X-X-2021 ATM by Art. 46]

#### QUALIFIED PERSON

A person designated by the authorized enforcing authority knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and

training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit and state and federal statutes and regulations. [Amended X-X-2021 ATM by Art. 46]

#### REDEVELOPMENT

Any construction, development, rehabilitation, expansion, demolition, land alteration, improvement of impervious surfaces, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites that does not meet the definition of new development. [Amended X-X-2021 ATM by Art. 46]

#### SITE

Any lot or parcel of land or area of property where land-disturbing activities are, were or will be performed, including but not limited to the creation of new impervious cover and improvements of existing impervious cover. [Amended X-X-2021 ATM by Art. 46]

#### Item 3

§ 195-4 Applicability, amend as follows:

This by-law or the regulations promulgated thereunder 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. [Amended X-X-2021 ATM by Art. 46]

A. Regulated activities. Regulated activities shall include, but not be limited to:

- (1) Land disturbance of 40,000 square feet or more, whether or not associated with construction or reconstruction of structures;
- (2) 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;
- (3) 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;
- (4) Construction of a new municipal separate storm sewer system, drainage system, or alteration of any existing drainage system or conveyance serving a drainage area of 40,000 square feet or more; [Amended X-X-2021 ATM by Art. 46]
- (5) 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 sewer drain system, or wetlands; or [Amended X-X-2021 ATM by Art. 46]
- (6) Construction or reconstruction of structures where 40,000 square feet or more of roof drainage is altered.

B. 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-way, the public storm sewer 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.

[Amended X-X-2021 ATM by Art. 46]

- C. Illicit discharges and illicit connections. Illicit discharges and connections shall include, but not be limited to: all flows of non- stormwater into the municipally owned storm sewer drain system, a watercourse, and any waters of the commonwealth located within the boundaries of the Town of Marblehead. [Added 5-6-2019 ATM by Art. 351] [Amended X-X-2021 ATM by Art. 46]

*Item 4*

§ 195-5 Administration, amend as follows:

The authorized enforcement authority shall administer, implement and enforce this by-law or the regulations promulgated thereunder. 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. [Amended X-X-2021 ATM by Art. 46]

*Item 5*

§ 195-7 Permits/prohibitions, amend paragraph A (3) and (5) and paragraph B as follows:

- (3) Design requirements and information requests. Stormwater management systems shall be designed to be at least as stringent as the latest Massachusetts Stormwater Handbook design requirements. Additionally, the stormwater management system shall meet the US EPA Total Phosphorus and TSS design requirements for new development and redevelopment per the Federal NPDES permit. If there is a conflict between the latest Massachusetts Stormwater Handbook and the US EPA Total Phosphorus and Total Suspended Solids requirements, the more stringent requirements apply. 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. [Amended X-X-2021 ATM by Art. 46]
- (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,~~ and the Department of Public Works as designated by the Board of Selectmen 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 20 days to



elapse after receipt of the application materials without submission of a report thereon. [Amended X-X-2021 ATM by Art. 46]

B. Illicit discharges and illicit connections shall be prohibited.

- (1) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into any storm sewer drain system, into a watercourse, or into waters of the United States and/or commonwealth. [Amended X-X-2021 ATM by Art. 46]
- (2) Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection. [Amended X-X-2021 ATM by Art. 46]
- (3) Obstruction of the municipal storm sewer drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer drain system without prior approval from the Marblehead Department of Public Works as designated by the Board of Selectmen Water and Sewer Commission. [Amended X-X-2021 ATM by Art. 46]

*Item 6*

§ 195-11 Inspection and site supervision, amend as follows:

B. Inspection. The authorized enforcement authority or its designated agent shall designate a qualified person to complete 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 24 hours after each of the following events: [Amended X-X-2021 ATM by Art. 46]

- (1) Erosion and sediment control measures are in place and stabilized;
- (2) Rough grading has been substantially completed;
- (3) Final grading has been substantially completed;
- (4) Bury inspection, prior to backfilling of the municipal separate storm sewer system and/or any underground drainage or stormwater conveyance structures; [Amended X-X-2021 ATM by Art. 46]

*Item 7*

§ 195-14 Enforcement, amend as follows:

B. Orders

- (4) Upon discovery of illicit discharges or illicit connections, the authorized enforcement authority may issue a written order to enforce the provisions of this by-law or the regulations promulgated thereunder, which may include: [Added 5-6-2019 ATM by Art. 35]
- a. Elimination of illicit connections or discharges to the municipal storm sewer drain system; [Amended X-X-2021 ATM by Art. 46]

- b. Performance of monitoring, analyses, and reporting;
- c. That unlawful discharges, practices, or operations shall cease and desist; and
- d. Remediation of contamination in connection;
- e. Payment of a fine to cover administrative and remediation costs; and
- f. Implementation of source control or treatment BMPs.

If the enforcing person determines that abatement or remediation of contaminations is required and is the responsibility of the property owner, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator 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 expenses times three thereof shall be charged to the violator.

Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Marblehead, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department of Public Works as designated by the Board of Selectmen ~~Marblehead Water & Sewer Commission~~ within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Department of Public Works as designated by the Board of Selectmen ~~Marblehead Water & Sewer Commission~~ affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the thirty-first day at which the costs first become due. [Amended X-X-2021 ATM by Art. 46]

Or take any other action relative thereto. Sponsored by Board of Selectmen.

#### **Article 47 Use of Gas Powered Leaf Blowers**

1. Gas powered leaf blowers may be used by commercial landscapers from the day after Labor Day through the day before Memorial Day, Monday through Saturday, 7 am- 5 pm, in keeping with the Town permits for construction projects.
2. Individual homeowners are not restricted in their personal use of gasoline powered leaf blowers.
3. A representative chosen by the Board of Selectmen may implement the use of gas powered leaf blowers in a Town emergency situation at any time.
4. This Bylaw shall be effective on Memorial Day 2021.
5. Enforcement of the Bylaw shall be determined by the Board of Selectmen.

Sponsored by Kathy Breslin and others.

#### **Article 48 Supplemental Appropriation for the Schools**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to supplement the School Department's operating budget for FY2022, contingent upon the passage of a Proposition 2½, so called, ballot question, or take any action relative thereto. Sponsored by the School Committee.

## **Article 49 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, 2021, or take any other action relative thereto. Sponsored by the Finance Director.

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**

**1 Market Square**

In Precinct 2 - Polling Place –

**MASONIC TEMPLE**

**62 Pleasant Street**

In Precinct 3 - Polling Place –

**MASONIC TEMPLE**

**62 Pleasant Street**

In Precinct 4 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

**10 Humphrey Street**

In Precinct 5 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

**10 Humphrey Street**

In Precinct 6 - Polling Place –

**MARBLEHEAD COMMUNITY CENTER**

**10 Humphrey Street**

on Tuesday, the 22<sup>nd</sup> day of June next A.D. 2021 (it being the third Tuesday after the first Monday in June) 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:

Selectmen 5 for a 1 year term

Moderator 1 for 1 year term

Assessor 1 for 3 year term

Cemetery 1 for a 3 year term

Board of Health 1 for 3 year term

Housing Authority 1 for 5 year term

Library Trustee 2 for a 3 year term

Municipal Light Commissioner 2 for 3 year term

Planning Board 2 for 3 year term

Recreation & Park Commission 5 for a 1 year term

School Committee 1 for 3 year term

Water and Sewer 1 for 3 year term

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  
24th day of February 2021.

  
\_\_\_\_\_  
JACKIE BELF-BECKER, Chair

  
\_\_\_\_\_  
M. C. MOSES GRADER

  
\_\_\_\_\_  
JAMES E. NYE

Selectmen of Marblehead



A True Copy

Attest:

, Constable