

2012

Commonwealth of Massachusetts
Town of Essex

Warrant for Annual Town Meeting and Election

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, of the Annual Town Election to bring to ballot for the following officers:

- Assessor for three years
- Moderator for one year
- Selectman for three years
- Board of Health member for three years
- Two Constables for one year
- School Committee member for three years
- School Committee member to fill a vacancy for one year
- Board of Library Trustee for three years
- Planning Board Member for five years
- Housing Authority Member for five years

AND, to bring in their votes on the following questions:

Shall the Town of Essex be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to acquire real property for the relocation of the Town offices from the present Town Hall at 30 Martin Street and for the design, construction, reconstruction, renovation and improvement of such property for use as town offices, including the furnishing and equipping of such offices, moving expenses, site improvements, and all other costs incidental or related to the project?

_____ Yes _____ No

Shall the Town of Essex be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to make renovations to the Town Hall and Library building at 30 Martin Street to improve health, safety, and the working environment?

_____ Yes _____ No

Shall the Town of Essex be allowed to assess an additional \$190,000 in real estate and personal property taxes for the purpose of the purchase, refurbishment, and equipping of a used aerial ladder truck for the Fire Department and for any renovations to the Fire Station necessary to accommodate said truck, for the fiscal year beginning July 1, 2012?

_____ Yes _____ No

AND, to do this by vote on one ballot. The polls will be open on Monday, May 14, 2012 at 7:00 o'clock A.M. and will close at 8:00 o'clock P.M. at the Essex Fire and Police Headquarters.

AND, you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Monday, May 7, 2012 at 7:30 p.m. and there and then to act on the following Articles, viz:

ARTICLE 1

To see if the Town will vote to transfer the 41 numbered lots depicted on the approved Definitive Subdivision Plan, Southern Conomo Point which is on file with the Essex Town Clerk, from the Conomo Point Commissioners for purposes of lease to the Board of Selectmen for the purpose of conveyance, and further, to authorize the Board of Selectmen to convey any or all of said lots, after said plan has been duly recorded with the Registry of Deeds, and to authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town to affect said conveyance, subject to terms and conditions as the Board of Selectmen deem appropriate; or take any other action relating thereto.

ARTICLE 2

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter VI, "Zoning", by inserting a new section, to be numbered as Section 6-12, as follows; or take any other action relating thereto.

6-12 Northern Conomo Point Zoning District.

6-12.1. Purpose: The purpose of the Northern Conomo Point Zoning District ("NCPZD") is to facilitate the subdivision of the previously developed area north of Robbins Island Road while minimizing disruption to the existing historical building configuration.

6-12.2. Establishment: The NCPZD is a zoning district shown on the Town's Zoning Map (see Exhibit 1) and is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below.

6-12.3. Definitions: In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the NCPZD :

Seasonal Cottage – A detached residential dwelling unit, other than a mobile home, of 1½ stories or fewer and 1,800 square feet or under, to be used for seasonal occupancy only between April 15 and October 15 of any given year.

Floor Area, Gross – The area of all floors located within the principal structure enclosed within exterior walls, including the thickness of the walls. Unfinished or finished storage areas, attics, or basements more than 50% above the ground, shall be included as floor area.

Floor Area Ratio (FAR) – The ratio of the Gross Floor Area of all principal structures on a lot divided by the lot area.

(Example: 3,000 SF Gross Floor Area / 30,000 SF lot area = FAR .1)

Lot Area – The area(s) of a lot above the mean high water elevation.

Lot Building Coverage – The percentage of the lot area covered by the area of all principal and accessory buildings or structures with roofs.

(Example: 2,000 SF roof area / 30,000 SF lot area = 6.67% Lot Building Coverage)

Impervious Surface Coverage – The percentage of the lot area covered by impervious surface.

(Example: 1,200 SF impervious surface / 6,000 SF lot area = 20% Impervious Surface Coverage)

Right-of-Way Width - The minimum right of way width for a new or established street on NCP shall be at least 25 feet.

6-12.4. Permitted Principal Uses:

A. Seasonal Cottages – Seasonal Cottages are permitted as of right, but use and occupancy shall be limited to seasonal use only between April 15 and October 15 of any given year.

B. Hotel/Inn – Hotel/Inn uses are permitted by special permit, subject to the following conditions (and any others that may be appropriately imposed in the special permit):

- The minimum lot area shall be 12,000 SF.
- The use shall be restricted to seasonal occupancy only between April 15 and October 15 of any given year.
- There shall be no more than 20 rooms permitted for occupancy.
- Public access may be required for water dependent uses associated with the Hotel/Inn use such as, but not limited to, public docks, slips, parking and/or storage areas.

6-12.5. Permitted Accessory Structures and Uses:

A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right, subject to the following limitations:

- a maximum of two Accessory Buildings and/or Structures per lot;
- total gross floor area of all Accessory Buildings and/or Structures on each lot shall not be greater than 576 SF;
- maximum permitted height of 15 feet.
- minimum side or rear yard setback of 5 feet.

B. Home Occupations – Home Occupations are permitted as of right, subject to the following additional limitations:

- No more than one employee who does not reside in the building or structure;
- No more than one commercial vehicle shall be parked on the property;
- No external display or sale of goods or services shall be permitted.

6-12.6. Dimensional and Density Regulations:

A. General Requirement: Except as provided under Section 6-12.5.A., all lots, new construction and reconstruction of or additions, alterations or extensions to any principal or accessory buildings or structures shall comply with the dimensional regulations listed in Table 1 at Section 6-12.6(E).

B. Exceptions: This Section contemplates that new lots will be created through a subdivision to accommodate the principal and accessory buildings or structures in the NCPZD existing at the time of adoption of this Section. The following exceptions to the dimensional regulations in Table 1 at Section 6-12.6(E) shall apply within the NCPZD:

1. Lots - New lots approximating the currently shown lease areas may be created for the following areas to accommodate the existing buildings and structures in those areas:

Robbin's Island Road:

Assessor's Map 19, Lot 68B, provided (a) such lot shall have a minimum lot area of 2,500 square feet and a minimum frontage of 25 feet, and (b) the existing building and structure on such lot shall have minimum front yard and side yard setbacks of 5 feet, and a minimum rear yard setback of 1 foot.

Conomo Point Road:

Assessor's Map 24, Lots 10 and (11 & 12 combined), provided (a) such lots shall have a minimum lot area of 2,500 square feet and a minimum frontage of 40 feet, and (b) the existing buildings and structures on such lots shall have minimum front yard and side yard setbacks of 5 feet, and a minimum rear yard setback of 1 foot.

Assessor's Map 24, Lots 13, 14 and 15 (15A & 15B combined), provided (a) such lots shall have a minimum lot area of 500 square feet and a minimum frontage of 40 feet, (b) the existing buildings and structures on such lots shall have minimum front yard and side yard setbacks of 5 feet, and a minimum rear yard setback of 1 foot, and (c) the use of the lots are restricted to accessory uses only.

Middle Road:

Assessor's Map 24, Lot 3, provided (a) such lot shall have a minimum lot area of 3,000 square feet and a minimum frontage of 50 feet, and (b) the existing buildings and structures on such lots shall have minimum front yard and side yard setbacks of 5 feet, and

a minimum rear yard setback of 1 foot.

2. Structures - New lots complying with the lot area and frontage requirements in Table 1 at Section 6-12.6(E) may be created within the areas of the NCPZD to accommodate the existing buildings and structures, even if the new lot lines render the existing buildings or structures nonconforming.

C. Regulation of Nonconforming Lots and Structures: All newly-created nonconforming lots created pursuant to this Section and all existing buildings and structures rendered nonconforming as a result of the newly-created lots created pursuant to this Section are hereby deemed to be lawful nonconforming lots and lawfully existing nonconforming buildings or structures. Future reconstruction, alterations, extensions and/or additions to such nonconforming lots and buildings/structures are subject to the following:

1. As-of-Right Changes: Any reconstruction, alteration, extension or addition to any existing nonconforming building or structure that conforms to the dimensional requirements listed in Table 1 at Section 6-12.6(E) and does not increase any existing nonconformity shall be permitted as-of-right, except as provided in subsection 2(b) below concerning nonconforming lots created under Section 6-12.6.B.1.
2. Variance Changes:
 - (a) Any reconstruction, alteration, extension or addition to an existing nonconforming building or structure that does not conform to the dimensional requirements listed in Table 1 at Section 6-12.6(E) or increases any nonconformity shall require a variance from the Board of Appeals.
 - (b) Any reconstruction, alteration, extension or addition to a building or structure on a nonconforming lot created pursuant to 6-12.6(B)(1) shall require a variance from the Board of Appeals.

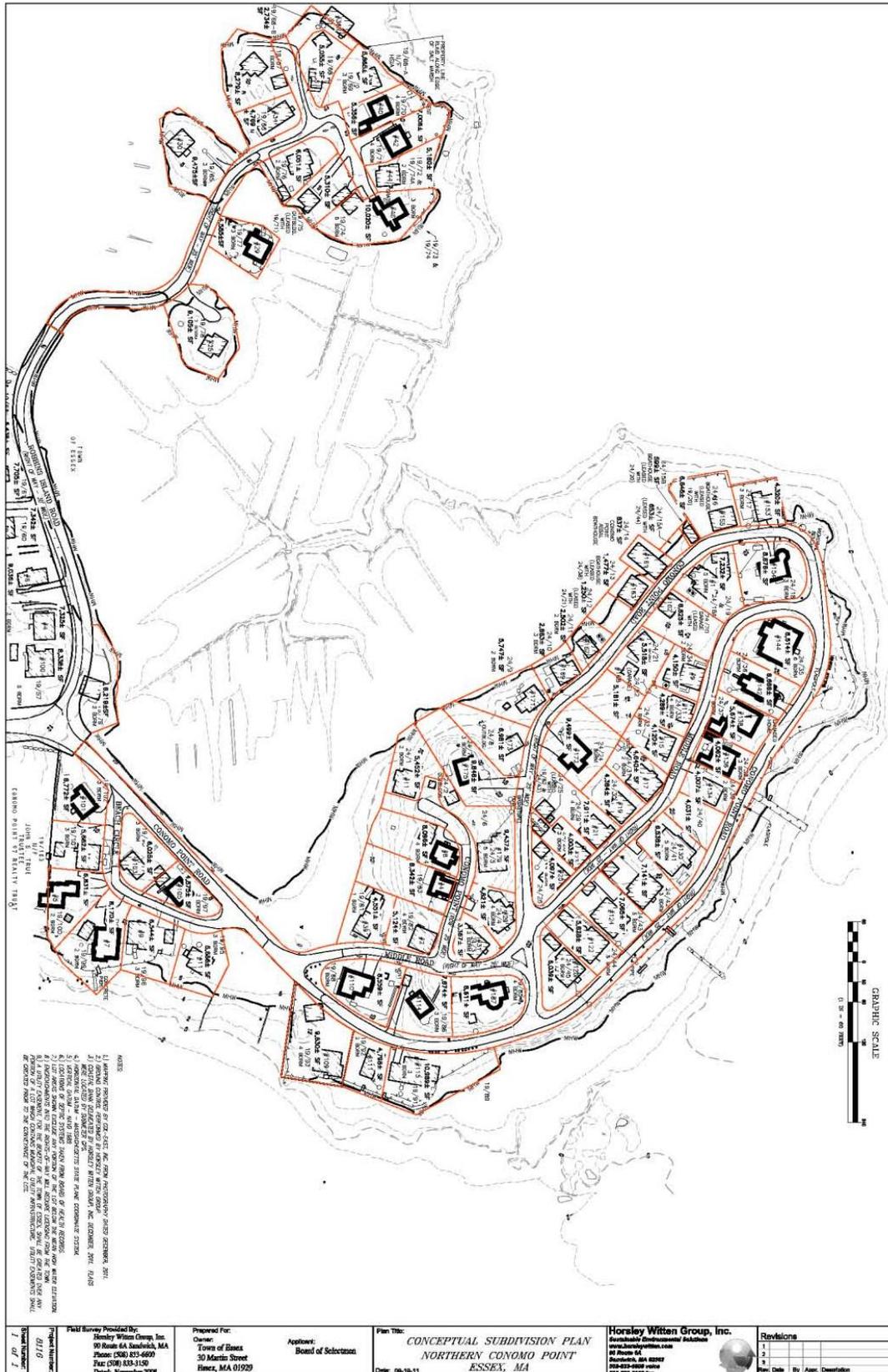
D. Merger: Within the NCPZD, adjoining lots that are held in common ownership shall retain their status as separate lots, and shall not be deemed to have merged into a single lot for purposes of zoning solely on the basis of such common ownership.

E. Table of Dimensional Regulations:

Table 1 – Dimensional Regulations – Permitted As-of-Right:

Dimensional Controls		
1	Minimum Lot Area (square feet)	4,000
2	Minimum Frontage (feet)	40
3	Minimum Front Yard Setback (feet)	5
4	Minimum Side Yard Setback (feet)	5
5	Minimum Rear Yard Setback (feet)	10
6	Maximum Height (feet)	15
7	Maximum Floor Area Ratio (%)	30%
8	Maximum Lot Building Coverage (%)	25%
9	Maximum Impervious Surface Coverage (%)	30%
10	Maximum Number of Stories	1.5

EXHIBIT 1 – CONCEPTUAL SUBDIVISION AND ZONING MAP FOR NORTHERN CONOMO POINT



ARTICLE 3

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the funding of a consultant to provide the Board of Selectmen and Conomo Point Planning Committee with various future waterfront access designs and scenarios; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to implement any physical renovations to the Town's property at Conomo Point that are required by the Planning Board's approval of the Definitive Subdivision Plan, Southern Conomo Point; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the management of property at Conomo Point including but not limited to renovation, demolition, and contents management of structures and maintenance of all outdoor areas; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote, pursuant to Town of Essex Bylaws, Chapter II, Section 2-20 to consider appointments to the Conomo Point Planning Committee, including the appointment of new members, or the reappointment or termination of current members of the Committee; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to determine the manner of electing or choosing all other Town Officers usually elected or chosen at the Annual Town Meeting and take any appropriate action to elect such officers.

ARTICLE 8

To hear and receive the Reports of the Town Officials and Committees, and also to consider and receive any Reports contained in the Annual Town Report; or take any other action relating thereto.

ARTICLE 9

To see if the Town will amend or revise the Wage and Salary scale for fiscal year 2013 in accordance with the recommendations of the Personnel Board Report, a copy of which is on file in the Town Clerk's office and is incorporated herein by reference; or take any other action relating thereto

ARTICLE 10

To see if the Town will vote to fix the salary and compensation of each of the elected officers of the Town as required by Massachusetts General Law Chapter 41, Section 108, as amended, for fiscal year 2013 in accordance with the recommendations of the Personnel Board Report, a copy of which is on file in the Town Clerk's office and is incorporated herein by reference; or take any other action relating thereto.

ARTICLE 11

To hear and act upon the Report of the Finance Committee and to vote to raise and appropriate or transfer from available funds a sum of money for the Town charges and expenditures for the ensuing year; or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of funding the Sewer Enterprise Fund; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purpose of funding the Water Enterprise Fund; or take any other action relating thereto.

ARTICLE 14

To see if the Town will approve the Gross Operating and Maintenance Budget of the Manchester-Essex Regional School District, and raise and appropriate or transfer from available funds a sum of money for the Town's assessment from the District - said sum to be calculated solely in accordance with the "Agreement Between the Towns of Essex and Manchester-by-the-Sea, Massachusetts with Respect to the Formation of a Regional School District", as most recently amended, by invoking and approving the provision found in paragraph four of Massachusetts General Laws chapter 71, section 16B allowing District members "to reallocate the sum of their required local contributions to the district in accordance with the regional agreement", for the fiscal year beginning July first, two thousand twelve; or take any other action relating thereto.

ARTICLE 15

To see if the Town will raise and appropriate or transfer a sum of money to pay the Town's share of the costs of the Essex North Shore Agricultural and Technical School District for the fiscal year commencing July 1, 2012; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to Amend Section 7-7 of the Town's General Bylaws, titled "Sewer Service Area" as indicated below with deletions shown in ~~strike through~~ and additions shown in **bold**, or take any other action relating thereto.

7-7 SEWER SERVICE AREA

- 7-7.1 PURPOSE. It is the purpose of this by-law to protect water resources in order to:
- a. protect the health, safety and welfare of the residents of the Town of Essex through the preservation of the town's groundwater, surface water and marine water resources by addressing primarily existing sewage disposal problems;
 - b. protect groundwater, surface water and marine resources from nitrogen contamination and pollution from subsurface disposal of wastewater; and
 - c. protect other sensitive water resource areas, including those lands that contribute recharge to private drinking water supplies.

It is also the purpose of this by-law to regulate the connections to and extension of the Town's sewer system in order to preserve and manage limited treatment capacity pursuant to an intermunicipal agreement with the City of Gloucester which limits the total treatment capacity available to the Town of Essex to 225 thousand gallons a day.

7-7.2. *IDENTIFICATION OF LOTS TO BE SERVED.* Upon completion of construction of the Town's sewer collection system, only those lots existing as of record and recorded in the Essex County Registry of Deeds as of February 1, 2000 and listed in Appendix B to the Task 2 Report, Sewage Facility Plan MEPA Special Procedures Report (MEPA No. 11805) dated and filed with the Secretary of Environmental Affairs on March 30, 2000* (hereinafter defined as the "Sewer Service Area"), shall be permitted to connect to the Town's sewer collection system. ~~Notwithstanding paragraphs 7-7.7 and 7-7.8, Each lot listed in Appendix B is entitled to connect a design flow of 330 gallons per day or the design flow in place as of February 1, 2000, whichever is greater, at any time. Any vacant lot listed in Appendix B is entitled to a design flow of one (1) sewer unit as defined in paragraph 7-7.10.~~

~~Notwithstanding paragraphs 7-7.7 and 7-7.8, each lot listed in Appendix B is entitled to connect a design flow of 330 gallons per day or the design flow in place as of February 1, 2000, whichever is greater, at any time.~~

* As amended below pursuant to Article 13 of the 2001 Annual Town Meeting:

Add the following properties:

Address Map Lot
8-10 Apple Street 32 23

166 Eastern Avenue 15 31 (second lot)
166 Eastern Avenue 15 31 (third lot)
10-12 Icehouse Lane 8 47A
1 Landing Road 33 16
3 Landing Road 33 16A
9 Landing Road 33 15
21 Lebaron Road 15 14
23 Lebaron Road 15 10A
28 Lebaron Road 15 6
47 Lebaron Road 15 9
47 Lebaron Road 15 9A
0 Scot's Way 8 15D
11 Southern Avenue 38 1
89 Southern Avenue 10 18
Delete the following properties:
Address Map Lot
0 Burnham Court (Garage Lot) 41 44
0 Burnham Court 37 11
0 Burnham Court 41 41
0 Dodge Street 41 23A
0 Dodge Street 41 23B
0 Dodge Street 41 28
0 Dodge Street 41 45
12 Dodge Street 41 22
0 Eastern Avenue 39 33A
0 Forest Avenue 10 27
0 Grove Street 10 33
0 Grove Street 34 62
3 Harlow Street 15 32
0 Lakeview Road 8 43C
13 Lakeview Road 8 38A
0 Shepard Memorial Drive 37 68
0 Southern Avenue 34 3
15 Tree Hill Road 13 14
0 Walnut Park 36 74
0 Western Avenue 40 46A
0 Winthrop Street 36 27

7-7.3 RESERVE CAPACITY. As used in this Bylaw, the term “Reserve Capacity” shall mean the difference between the total treatment capacity available to the Town pursuant to the Intermunicipal Agreement with the City of Gloucester, as may be amended in the future, currently 225,000 gpd, and the total amount of flow allocated to sewer users in accordance with this Bylaw.

~~7-7.3 NEW LOTS.~~ Subject to the moratorium set forth in ~~7-7.5~~ of this by law, sewer extensions to new streets, subdivisions or lots created and recorded in the Essex County

~~Registry of Deeds after February 1, 2000 shall not be permitted except by a two thirds (2/3) vote of Annual Town Meeting and at the discretion of the Board of Public Works, subject to available capacity.~~

7-7.4 RESERVE CAPACITY FOR FUTURE MUNICIPAL BUILDINGS. The Town shall maintain **16,600 gallons per day of Reserve Capacity** ~~a reserve capacity of 16,600 gallons per day~~ for the sole purpose of serving future municipal buildings.

~~**7-7.5 MORATORIUM ON ALLOCATION OF RESERVE CAPACITY.** Notwithstanding any other provisions of this by law to the contrary, the Town shall not allow any sewer connections or extensions except as identified in 7-7.2, 7-7.4 and 7-7.6 of this by law until after September 30, 2012. The Town shall not allow the expansion of any use connected to the sewer system that would increase the design flow above 330 gpd until after September 30, 2012.~~

7-7.5 ADDITIONAL CAPACITY FOR EXPANSION OR CHANGE IN USE OF EXISTING FACILITIES.

No property in the sewer service area shall be permitted to increase the design flow of the facility above its original capacity allocation as determined in accordance with Section 7-7.2 of this Bylaw, through an expansion or change in use, except as provided herein. Violations of this section shall be punishable in accordance with the provisions of Section 7-6 of the Town Bylaws.

In accordance with the procedures set forth in regulations adopted by the Board of Public Works, the Town may allow property owners in the sewer service area to purchase Reserved Capacity from the Town, for a fee to be determined by the Board of Public Works in accordance with the formula set forth in Section 7-7.6 of this Bylaw, to allow for an increase in design flow for expansions or changes of use above the original capacity allocation as determined in accordance with Section 7-7.2 of this Bylaw.

Subject to available capacity, the Board of Public Works may approve requests for additional capacity of 1,000 gallons per day or less per property, in the aggregate. Requests for more than 1,000 gallons per day of additional capacity per property, in the aggregate must be approved by Town Meeting.

The Board of Public works is hereby authorized to adopt regulations to carry out the provisions of this Section, which regulations shall include provisions for the method of determining the amount of additional capacity needed for expansions or changes in use.

Upon the granting of additional capacity for an expansion or change in use, the Reserved Capacity shall be reduced by like amount.

All requests for additional capacity shall be subject to availability and in no case shall the Town allocate more than the total treatment capacity available to the Town pursuant to the Intermunicipal Agreement with the City of Gloucester, as may be amended in the future, currently 225,000 gpd.

All requests for additional capacity shall be processed on a first-come, first-served basis.

7-7.6 COST REIMBURSEMENT FOR RESERVE CAPACITY. The Town owns any and all Reserve Capacity not otherwise allocated specifically to an individual, corporation, or other entity. Anyone wishing to purchase Reserve Capacity from the Town for an expansion or change in use as set forth in Section 7-7.5 of this Bylaw, shall pay the Town a permanent privilege fee based on the value of one year of additional design flow, calculated by the Board of Public Works in accordance with the following formula:

((Additional GPD x 365)/1000) x Sewer Rate at Time of Request

~~7-7.6 ALLOCATION OF RESERVE CAPACITY FOR FAILED SEPTIC SYSTEMS.~~ By majority vote of a Town Meeting and at the discretion of the Board of Public Works, subject to available capacity, failed septic systems for lots in existence on February 1, 2000 may be incorporated into the sewer service area. The sewer service design flows calculated for failed septic systems shall be determined by the sewer design capacity and sewer unit calculation set forth in paragraph 7-7.10 of this by law.

~~7-7.7 ALLOCATION OF RESERVE CAPACITY FOR EXPANSION OF EXISTING FACILITIES.~~ After the moratorium period set forth in paragraph 7-7.5, the Town may by a two-thirds (2/3) vote at an Annual Town Meeting and at the discretion of the Board of Public Works, subject to available capacity, allow the expansion of existing facilities within the Sewer Service Area that will result in increased sewage flow. The design flow for the expansion of the existing facilities shall be calculated in accordance with the sewer design capacity and sewer unit calculation set forth in paragraph 7-7.10. The reserve capacity shall be reduced by a like amount. The owner of the expanded facility shall reimburse the Town for the expense of maintaining his/her portion of the reserve capacity as set forth in paragraph 7-7.9 of this by law.

~~7-7.8 ALLOCATION OF RESERVE CAPACITY FOR CHANGE IN USE OF EXISTING FACILITIES.~~ After the moratorium period set forth in paragraph 7-7.5, the Town may by a two-thirds (2/3) vote at an Annual Town Meeting and at the discretion of the Board of Public Works, subject to available capacity, allow the change in use of existing facilities within the Sewer Service Area that will result in increased sewage flow. The design flow for the change in use of the existing facility shall be calculated as follows:
Additional Design Flow: $\frac{\text{New Design Flow} - \text{Existing Design Flow}}{\text{Existing Design Flow}}$
The Existing Design Flow is the average daily water consumption for the facility as recorded by the Essex Water Department in the year 1998 and the New Design Flow is

the Sewage Flow calculated in accordance with paragraph 7-7.10 of this by-law. The reserve capacity shall be reduced by a like amount. The owner of the facility shall reimburse the Town for the expense of maintaining the portion of the reserve capacity that has been allocated to him/her as set forth in paragraph 7-7.9 of this by-law. No rebates shall be granted for change of use which reduces water consumption. A "change of use" shall be defined as any undertaking on a property, whether involving material changes to structures or not, which results in a difference in classification of the type of establishment(s) on the property from the existing conditions pursuant to Title 5 (310 CMR 15.203).

~~7-7.9 COST REIMBURSEMENT FOR RESERVE CAPACITY.~~ The Town owns any and all sewer system capacity not otherwise allocated specifically to an individual, corporation, or other entity. Upon allocation of reserve capacity from the Town to an individual, corporation or other entity, the Town shall be reimbursed for its portion of the reserve capacity in accordance with the Town's cost allocation procedures as determined by the Board of Public Works. The method of reimbursing the Town shall be in the form of a permanent privilege fee in accordance with General Laws Chapter 83, Section 17.

~~7-7.10 SEWER DESIGN CAPACITY AND SEWER UNIT CALCULATION.~~ The required number of sewer units for a failed system, new connection, expansion of an existing facility, or change in use of an existing facility shall be determined by the following formula:

~~Number of Sewer Units = Title 5 Design Flow / 330 gallons per day~~

~~The Title 5 Design Flow is equal to the sewage volume calculated per 310CMR 15.203, Title 5. The sewage capacity that must be reserved for the connection shall be determined by the following formula:~~

~~Sewage Flow = Number of Sewer Units x 141 gallons per day~~

~~7-7.11 APPROVAL REQUIRED FOR CHANGE OF PROPERTY USE.~~ Any proposed change of property use (as defined in Section 7-7.8) for a property within the Sewer Service Area shall be reviewed by the Board of Public Works (the Board). Said review shall be initiated via an application completed by the property owner on a form approved by the Board and shall accurately and completely indicate both the existing property use and the proposed property use. An application for a change of property use shall only be approved if it is determined by the Board that the proposed use will not increase the property's theoretical wastewater design flow as compared with the flow for the existing use. If the proposed use is commercial and the existing use carries a theoretical wastewater flow of 1,000 gallons per day or over, the design flow associated with the proposed use shall be deemed to be 200% of the 1998 actual water use for the property. In all other cases, the design flow associated with the proposed use shall be calculated pursuant to Title 5 (310 CMR 15.203) — see Section 7-7.10. In no case shall any Title 5 design flow: a) for any existing or proposed use on any type of property be deemed to be less than 330 gallons per day, b) for any existing or proposed use on any type of property be deemed to be greater than that calculated via Title 5, and c) for any proposed use on property originally carrying a commercial, theoretical wastewater flow of 1,000 gallons per day or over be deemed to be less than the number of betterments assessed to the

~~property multiplied by 330. Any change of property use not first approved by the Board shall result in the modification of the new use by the property owner to the extent necessary to satisfy the Board that no increase has occurred. Said modification shall be accompanied by a proper application as discussed above and the nature of the old use, the improper change of use, and the modification of the improper use shall be described thereupon. Violations of this section shall be punishable in accordance with the provisions of Section 7-6 of the Town By-laws;~~

ARTICLE 17

To see if the Town will vote to amend Section 7-7.5 of the Town of Essex Bylaws, which appears below, by replacing the year 2012 with the year 2013 in both instances.

7-7.5 MORATORIUM ON ALLOCATION OF RESERVE CAPACITY. Notwithstanding any other provisions of this by-law to the contrary, the Town shall not allow any sewer connections or extensions except as identified in 7-7.2, 7-7.4 and 7-7.6 of this by-law until after September 30, 2012. The Town shall not allow the expansion of any use connected to the sewer system that would increase the design flow above 330 gpd until after September 30, 2012.

or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to amend Chapter 6, Section 6-2.2 of the Town of Essex Bylaws by deleting, in its entirety, the definition of “abutter”, which presently reads:

Owners of property located across a street or road from any premises shall be considered to be abutters as well as the owners of adjoining abutting property;

or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to amend Chapter 6, Section 6-2.2 of the Town of Essex Bylaws by deleting the definition of “street”, which presently reads:

A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted and laid out for public use and which affords principle means of access to abutting property. No new street shall be less than 44 feet in width;

and by replacing it with the following:

A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted and laid out for public use and which affords

principal means of access to abutting property. No new street should be less than 44 feet in width;

or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to amend the Town of Essex Bylaws Chapter 6-10.2 Flood Plain Overlay District by deleting in its entirety the present bylaw text, which presently reads:

6-10.2 Flood Plain Overlay District.

6-10.2.1 Establishment.

The Flood Plain District is established, effective July 17, 1986, as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107, "Flood Resistant Construction")
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- d. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00)
- e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewerage, DEP (currently 310 CMR 15, Title 5)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30, V, and V1-30 on the Essex Flood Insurance Rate Maps (FIRM) dated July 17, 1986 and revised July 23, 1998 and July 2, 1992, and as revised by letter(s) of map amendment, and Flood Insurance study dated July 17, 1986, on file with the Town Clerk, Planning Board and Building Inspector. The Essex Flood Insurance Rate Maps (FIRM) and the accompanying Essex Flood Insurance Study are incorporated herein by reference.

6-10.2.2 Development Regulations.

The following requirements apply in the Flood Plain District:

- a. UN-NUMBERED ZONE: Within any unnumbered Zone A, since the base flood elevation is not provided on the Flood Rate Insurance Map (FIRM), the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered Zone A.
- b. ZONE V: Within areas designated as coastal high hazard areas (Zone V), all development shall be located landward of the reach of mean high tide, since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wave wash.
- c. Zone V1-30: Man-made alteration of sand dunes within Zones V1-30, VE and V which would increase potential flooding damage are prohibited.
- d. SUBDIVISIONS: All subdivision proposals must be designed to assure that
 - 1. Such proposals minimize flood damage
 - 2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided to reduce exposure to flood hazards.

6-10.2.3 Notification of Watercourse Alteration

In a riverine situation, upon submission of the application to the planning Board, evidence shall be provided that the following entities have been notified in writing, including a copy of the application and plans, of a pending zoning permit to alter or relocate a watercourse:

- a. The adjacent communities of Gloucester, Hamilton, Ipswich and Manchester by the Sea.
- b. National Floor Insurance Program (NFIP) State Coordinator

Massachusetts Dept. of Conservation and Recreation
 251 Causeway Street, Suite 600-700
 Boston, MA 02114-2104

- c. NFIP Program Specialist

FEMA Region 1
 99 High Street, 6th Floor
 Boston, MA 02110;

and by replacing it with the following:

6-10.2 Flood Plain Overlay District.

6-10.2.1 Establishment.

The Flood Plain District is established, effective July 17, 1986, as an overlay district to all other districts. All development in the district, including structural and non-structural

activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR).
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- d. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00)
- e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewerage, DEP (currently 310 CMR 15, Title 5)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

The Flood Plain District includes all special flood hazard areas within the Town of Essex designated as Zone A, AE, and VE on the Essex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRMs that are wholly or partially within the Town of Essex are panel numbers 25023C0289F, 25023C0291F, 25023C0292F, 25023C0293F, 25023C0294F, 25023C0311F, 25023C0313F, 25023C0427F, 25023C0431F, 25023C0432F and 25023C0451F dated July 3, 2012. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector.

6-10.2.2 Development Regulations.

The following requirements apply in the Flood Plain District:

- a. UN-NUMBERED ZONE A: Within any unnumbered Zone A, since the base flood elevation is not provided on the Flood Rate Insurance Map (FIRM), the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered Zone A.
- b. Within areas designated as coastal high hazard areas (Zone VE), all development shall be located landward of the reach of mean high tide, since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wave wash.

- c. Man-made alteration of sand dunes within Zone VE which would increase potential flooding damage are prohibited.
- d. SUBDIVISIONS: All subdivision proposals must be designed to assure that
 - 1. Such proposals minimize flood damage
 - 2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided to reduce exposure to flood hazards.
- e. In Zone AE, along watercourses that have a regulatory floodway designated on the FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the Town during the occurrence of the base flood discharge (i.e., one-hundred year flood). In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit such encroachments.

6-10.2.3 Notification of Watercourse Alteration

In a riverine situation, upon submission of the application to the Planning Board, evidence shall be provided that the following entities have been notified in writing, including a copy of the application and plans, of a pending zoning permit to alter or relocate a watercourse:

- a. The adjacent communities of Gloucester, Hamilton, Ipswich and Manchester by the Sea.
- b. National Flood Insurance Program (NFIP) State Coordinator
 Massachusetts Dept. of Conservation and Recreation
 251 Causeway Street, Suite 600-700
 Boston, MA 02114-2104
- c. NFIP Program Specialist
 FEMA Region 1
 99 High Street, 6th Floor
 Boston, MA 02110;

or take any other action relating thereto.

ARTICLE 21

To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift or eminent domain, real property for the relocation of the Town offices from the present Town Hall at 30 Martin Street and to authorize the Board of Selectmen to enter into all such agreements necessary in connection with such purpose, subject to terms and conditions as may be established by the Board of Selectmen; and further, to raise and appropriate, transfer from available funds, or borrow a sum of money sufficient for such acquisition and for the design, construction, reconstruction, renovation and improvement of such property for use as town

offices, including the furnishing and equipping of such offices, moving expenses, site improvements, and all other costs incidental or related to the project; and to determine whether such vote will be contingent upon a vote of the Town to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2½) the amounts required to pay the principal of and interest on any borrowing authorized by the vote; or to take any other action relating thereto.

ARTICLE 22

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for renovations to the Town Hall and Library building at 30 Martin Street in order to improve health, safety, and the working environment; and to determine whether such vote will be contingent upon a vote of the Town to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2½) the amounts required to pay the principal of and interest on any borrowing authorized by the vote; or take any other action relating thereto.

ARTICLE 23

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purchase, refurbishment, and equipping of a used aerial ladder truck for the Fire Department and for any renovations to the Fire Station necessary to accommodate said truck; and to determine whether such vote will be contingent upon a vote of the Town to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2½) the amount of the appropriation therefor that may be authorized by the vote; and to authorize the Board of Selectmen to dispose of the truck replaced by this purchase by sale or trade and to take other action as necessary to effectuate the purposes of this vote; or take any other action relating thereto.

ARTICLE 24

To see if the Town will vote to authorize the Board of Selectmen to enter into a contract extension with Covanta Haverhill, Inc., for a term of ten years, for the receipt, processing, and disposal of municipal solid waste and the operation of the Town's transfer station; and to raise and appropriate or transfer from available funds a sum of money to meet the Town's contract obligations under the extension agreement; or to take any other action relating thereto.

ARTICLE 25

To see if the Town will vote to increase the transfer station sticker fee from \$150 to \$170 per year for residents under the age of 65 with a corresponding increase in the cost of a transfer station sticker for residents who are 65 years of age or older from \$75 to \$85 per year; or take any other action relating thereto.

ARTICLE 26

To see if the Town will vote, pursuant to Chapter 7-2 of the Town's General Bylaws, to establish a \$10 per item transfer station fee for the disposal of bulky items, including but not limited to mattresses, box springs, couches, love seats, recliners, large rugs, tables, large toys, or

any other large items that transfer station personnel determine large enough to inhibit efficient compaction; or take any other action relating thereto.

ARTICLE 27

To see if the Town will vote to amend the Town of Essex Bylaws, Chapter V, Article 4, Section 1, Subsection o, which presently reads:

o. 30-minute maximum parking on the north side (Joe's Market side) of Martin St. from Route 133 (Main St.) to the west side of Winthrop; 30-minute maximum parking both sides of Pickering St. for 100 feet north of Martin St; 30-minute maximum parking both sides of Winthrop St. for 100 feet north of Martin St.; no parking on the south side of Martin St. from Route 133 (Main St.) to the fire station.

by deleting “(Joe’s Market side)” and replacing it with “(odd-numbered side)”; or take any other action relating thereto.

ARTICLE 28

To see if the Town will vote to accept the provisions of §73A of Chapter 272 of the General Laws, allowing for the removal of gravestones and other memorials for repair or reproduction; or take any other action relating thereto.

ARTICLE 29

To see if the Town will vote to appropriate or reserve from the Community Preservation Fund, including FY2013 estimated annual revenues, a sum or sums of money for Community Preservation projects or purposes, including, but not limited to, acquisitions of interests in land, all as recommended by the Community Preservation Committee; or take any other action relating thereto.

ARTICLE 30

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the purchase and installation of a new outboard motor for the Harbormaster Department; or take any other action relating thereto.

ARTICLE 31

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to purchase a fully-equipped backhoe, and to authorize the Board of Public Works to enter into a purchase agreement on such terms and conditions as the Board deems in the best interest of the Town in order to replace one of the existing backhoes; and to authorize the Board of Public Works to dispose of the backhoe replaced by the new backhoe by sale or trade and to take other action as necessary to effectuate the purposes of this vote; or take any other action relating thereto.

ARTICLE 32

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be used to defray operational expenses of the various Town departments for the remainder of fiscal year 2012; or take any other action relating thereto.

ARTICLE 33

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the payment of unpaid bills from past fiscal years; or take any other action relating thereto.

ARTICLE 34

To see if the Town will vote to rescind certain borrowing authorizations; or take any other action relating thereto.

ARTICLE 35

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund a deficit in the Town's Chapter 90 Fund; or take any other action relating thereto.

ARTICLE 36

To see if the Town will vote to transfer from the Town Septic Betterment Fund a sum of money for the purpose of making necessary payments to the Massachusetts Water Pollution Abatement Trust during fiscal year 2013 in accordance with the terms of repayment for Community Septic Management Program loan funds; or take any other action relating thereto.

ARTICLE 37

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Dog Officer for the purpose of compensating the Dog Officer for the care of impounded dogs and for reimbursing the Dog Officer for all associated expenses. Payments from dog owners seeking to claim impounded dogs shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Selectmen up to a maximum of \$10,000; or take any action thereto.

ARTICLE 38

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchase of supplies and services as deemed necessary by the Board of Health for the purpose of the planning and execution of an annual youth triathlon or other exercise program. Donations, grants and fees

collected for said purpose shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Health up to a maximum of \$12,000; or take any action thereto.

ARTICLE 39

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchase of supplies and services as deemed necessary by the Board of Health Department for the purpose of health, safety, and/or emergency planning, preparation and education. Donations, grants and fees collected for said purpose shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Health up to a maximum of \$10,000; or take any action thereto.

ARTICLE 40

To see if the Town will vote pursuant to Massachusetts General Laws chapter 44, section 53E ½ to reauthorize a revolving fund for the Board of Health for the purpose of purchasing supplies and pharmaceuticals as needed by the Public Health Nurse and for the payment of Public Health Nurse wages. Medicare and other reimbursements relating to said programs and donations for the purpose of purchasing supplies and pharmaceuticals and for Public Health Nurse labor shall be credited to the fund and expenditures from the fund shall be authorized by the Board of Health up to a maximum of \$10,000; or take any action thereto.

And you are hereby directed to serve this Warrant by posting attested copies; one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, seven days at least before the time for holding said meeting.

Given under our hand this 26th day of March, two thousand twelve.

Jeffrey D. Jones, Chairman

Lisa J. O'Donnell

Susan Gould-Coviello

BOARD OF SELECTMEN
TOWN OF ESSEX

Attest: _____
Constable

Date: _____