ARTICLE XX: AMEND CHAPTER 125-2, DEFINITIONS, OF THE PROTECTIVE BYLAW
To see if the Town will vote to amend Chapter 125-2, Definitions, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.
[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

§ 125-2 **Definitions.**
[Added 12-11-1967 STM by Art. 6; amended 3-31-1990 ATM by Art. 18]

For the purposes of this Bylaw, terms shall have the following interpretations unless another is required by context or is specifically prescribed. Other definitions used only in particular portions of the Bylaw are defined in place there.

ACCESS
As applied to land, access is that portion of a lot which is usable as a matter of right for the passage of people, vehicles, farm animals, and public services, from the street to the main buildings or other lawful activities on the lot. (See also "street.") **[Added 3-29-1980 ATM by Art. 26; amended 3-25-1995 ATM by Art. 28]**

ACCESSORY
An accessory use or structure is one clearly subordinate to, and customarily incidental to, and located on the same premises with the main use or structure to which it is accessory.

ACCESSORY DWELLING UNIT
An Accessory Dwelling Unit (ADU) is a small residence that shares a lot with a larger, primary, single-family dwelling. As an independent living space, an ADU is self-contained, with its own kitchen or kitchenette, bathroom and sleeping area. An ADU can be located within, attached to or detached from the main residence, but must meet all dimensional requirements. Because ADUs are built on single-family lots as a secondary and subordinate dwelling, they shall not be partitioned off to be sold separately.

ADULT DAY CARE
Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to senior adults and the physically challenged who require assistance with daily needs of living. **[Added 10-28-2019 STM by Art. 20]**

ADULT DAY HEALTH
A community-based and non-residential service that provides nursing care, supervision, and health related support services in a structured group setting to MassHealth members who have physical, cognitive, or behavioral health impairments. The adult day health (ADH) service has a general goal of meeting the activities of daily living (ADL), and/or skilled nursing therapeutic needs of MassHealth members delivered by a MassHealth agency-approved ADH provider that meets the conditions of 130 CMR 404.000. **[Added 10-28-2019 STM by Art. 20]**

ADULT ENTERTAINMENT USES [Added 3-28-2015 ATM by Art. 43]
A. **ADULT BOOKSTORE -** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.
B. **ADULT MOTION PICTURE THEATRE -** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31 .

C. **ADULT PARAPHERNALIA STORE -** An establishment having as a substantial or significant portion of its stock devices, objects, tools, toys or other matter which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.

D. **ADULT VIDEO STORE -** An establishment having as a substantial or significant portion of its stock in trade, videos, any visual material, movies, digital media, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.

E. **ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY FOR ITS PATRONS -** Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in M.G.L. Ch. 272, § 31.

AGRICULTURE (AGRICULTURE USE)

Includes ordinary farming, orchard keeping, animal husbandry, and all of the other agricultural specialties enumerated in Section 3 of the Zoning Act, whether or not practiced for profit. **[Added 3-27-1993 ATM by Art. 22]**

ASSISTED LIVING ~~FACILITY~~

Any entity, however organized, whether conducted for profit or not for profit, which is certified by the Executive Office of Elder Affairs and which meets all of the following criteria: **[Added 4-5-2016 ATM by Art. 52]**

A. Provides room and board; and

B. Provides, directly by employees of the entity or through arrangement with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and

C. Collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

ASSISTED LIVING UNIT

A portion of an assisted living facility designed for and occupied pursuant to residency agreements by one or more individuals as the private living quarters of such individuals. [**Added 4-5-2016 ATM by Art. 52]**

ASSOCIATED SERVICES:

A program of resident services primarily for the benefit of the residents of the CCRC.

BLOCK

A block is the smallest area that is surrounded by streets. Blocks are the space for buildings within the street pattern of a city or town, and form the basic unit of the town's pattern of development. Blocks may be subdivided into any number of smaller land lots usually in private ownership, though in some cases, it may be other forms of tenure. Blocks are usually built-up to varying degrees and thus form the physical containers or "streetwalls" of public space. Most town centers are composed of a greater or lesser variety of sizes and shapes of block. [**Added 10-28-2019 STM by Art. 20]**

BRANCH

That part of a shared driveway which provides access to the buildings or uses of a single lot. [**Added 3-29-1980 ATM by Art. 26]**

BUILDABLE LAND

Land area available, under the Bylaw and any other lawful restrictions, for location of a main building.

Does not include area in a W District, a WFH District, or an inland wetland. [**Added 3-7-1970 ATM by Art. 45; amended 3-29-1980 ATM by Art. 25; 3-27-1993 ATM by Art. 25]**

BUILD FACTOR

A mathematical formula that is a measure of the regularity of lot shape. [**Added 4-2-2005 ATM by Art. 31]**

BUILDING

The area included within surrounding exterior walls exclusive of vent shafts and courts. Interior firewalls shall not be used to determine building area. **[Added 3-28-2015 ATM by Art. 44]**

BUSINESS

Business use includes commercial or industrial use. Business use includes accommodations for transient persons, as a motel, but does not include residence. A home occupation as permitted in the Bylaw is not considered a business use.

BYLAW

The Protective Bylaw of the Town of Harvard.

CAR

A motor vehicle having two axles and three or four wheels, and which is up to 19.5 feet long, and up to seven feet wide, and has a gross vehicle weight less than 7,500 pounds. Includes ordinary passenger cars, station wagons, light delivery vans, and pickup trucks. [**Added 3-31-1984 ATM by Art. 28]**

CO-LOCATION OF WIRELESS COMMUNICATIONS SERVICES

The addition of wireless communications equipment to a wireless communications tower permitted under § **125-27** of the Harvard Protective (Zoning) Bylaw. [**Added 3-25-2000 ATM by Art. 32]**

COMMON OPEN SPACE (COS)

Open land (see definition) previously called "common open space" under the former flexible plan subdivision (FPS) provisions or under the mini-subdivision provisions of the Bylaw. [**Added 3-7-1970 ATM by Art. 46; amended 3-4-1972 ATM by Art. 45; 3-25-1978 ATM by Art. 23; 3-31-1990 ATM by Art. 18]**

CONGREGATE CARE

Congregate care refers to residential living for seniors in a congregated setting. Residents of congregate care facilities have private apartments but share a common dining room, kitchen facilities, and other amenities. The purpose of congregate care is to allow seniors to continue living an independent life although assisted with such tasks like cooking. Unlike other housing arrangements for seniors, this senior living option does not offer around the clock care.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC):

A development comprised of a dwelling or dwellings with residential services operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for persons 55 years or older.

DRIVE-THROUGH FACILITY

The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use (i.e., in combination with another use such as a bank or financial institution or

pharmacy). A drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station. [**Added 5-1-2010 ATM by Art. 2]**

DRIVEWAY

An improved access for regular use by vehicles from the roadway of a street to a dwelling or other main building on a lot, or for a use for which site plan approval or a special permit is required. A track or path used primarily by animals, or primarily for access of farm equipment to a field or orchard, or primarily for wood cutting, or for maintenance of a utility line, is not a driveway. A driveway includes all of its branches. [**Added 3-29-1980 ATM by Art. 26]**

DWELLING UNIT

A room or group of rooms within a dwelling, or a dwelling, used or intended for use by one household for living quarters including cooking facilities. [**Added 3-7-1970 ATM by Art. 46]**

ERECT

Includes or is equivalent to alter, construct, move, or reconstruct, but does not include repair. Restoration of any structure which has been damaged to an extent less than 75% of its insurable value is considered repair; restoration after destruction or greater damage is considered reconstruction. [**Amended 3-22-1969 ATM by Art. 37; 3-27-1993 ATM by Art. 25]**

FLOOR AREA

Gross floor area as defined in the Massachusetts Building Code, with the following exclusions:**[Added 3-27-1993 ATM by Art. 22; amended 4-5-1997 ATM by Art. 44]**

A. The floor area of crawl spaces having less than four feet of headroom;
B. In a dwelling, the floor area of unfinished attic space under a roof with a pitch no greater than 8/12 (vertical over horizontal).

FLOOR AREA RATIO

The ratio of total gross building square footage to the surface area (in square feet) of the lot (see Figure 1 below). [**Added 10-28-2019 STM by Art. 20]**

[Image]

FRONTAGE

Distance between adjacent intersections of lot and street side lines. [**Added 3-7-1970 ATM by Art. 45]**

FRONTAGE RADIUS OF CURVATURE

The radius of the smallest circle which includes or contains the lot frontage, with the end points, and at least one other distinct point, of the frontage lying on the circle. [**Added 3-29-1980 ATM by Art. 29; amended 3-27-1982 ATM by Art. 42]**

GRADING

A term used in engineering practice which includes installation of swales and drains, excavation and fill, and other steps in site preparation. [**Added 3-27-1993 ATM by Art. 22]**

GREEN AREA

An area left as a natural or landscaped area except for fences, signs, and poles, and for footpaths and access driveways intersecting the area. [**Added 3-7-1970 ATM by Art. 46]**

GROCERY STORE

An establishment where at least 70% of the gross sales floor area is devoted to the sale of food products for home preparation and consumption. **[Added 3-28-2015 ATM by Art. 44]**

HOME HEALTH CARE

Medical and therapeutic services provided to residents in their dwelling units.

HOSPICE CARE

Facilities or services designed to provide for the physical and emotional needs of the terminally ill.

INCLUDING

Means "including but not limited to."

INDEPENDENT LIVING UNITS

Residential units and associated facilities designed for seniors who are self-sufficient and require no on-site personal or health care services. An Independent Living Housing unit consists of a room or group of rooms designed or intended to provide a habitable unit for one or more persons with provisions for cooking, living, sanitation and sleeping for the exclusive use of the household unit. Associated facilities may include substantial common and socializing areas and other amenities.

INLAND WETLAND

All wetlands as defined in the Wetlands Protection Act, General Laws, Chapter 131, Sections 40 and 40A, including any amendments through March 1, 2004. [**Added 3-29-1980 ATM by Art. 25; amended 3-27-2004 ATM by Art. 40]**

LAND AREA

Does not include any area in a W District. [**Added 3-22-1969 ATM by Art. 40]**

LANE or TRAVEL LANE

The portion of the roadway or driveway for the movement of vehicles, exclusive of shoulders. [**Added 4-1-2014 ATM by Art. 43]**

LOT

All adjoining parcels of land held in common ownership constitute a single lot except as provided in Chapter 40A, G.L. A lot does not include area inside the street side line. [**Amended 3-3-1973 ATM by Art. 37; 4-6-2002 ATM by Art. 28]**

LOT WIDTH

[Added 3-22-1969 ATM by Art. 40; amended 3-3-1973 ATM by Art. 37; 3-31-1990 ATM by Art. 18]:

A. The diameter of the largest circle which:
   (1) Contains no part of an abutting lot or property; and
   (2) Has a diameter contained in the lot.
B. Lot width at a specified distance from the roadway center line is the diameter of the largest circle which meets Subsection **A(1)** and **(2)** and has its center at the specified distance from the roadway center line.

MAIN BUILDING

A building not accessory to another on the same premises. [**Added 3-22-1969 ATM by Art. 40]**

MARIJUANA ESTABLISHMENT

A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, medical marijuana treatment center and/or any combination thereof, but excluding a marijuana

social consumption establishment. [**Added 5-5-2018 ATM by Art. 33]**

MICRO-BREWERY, MICRO-CIDERY, MICRO-WINERY, MICRO-MEADERY

A facility, licensed under the relevant state and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for distribution retail or wholesale, on or off the premises, with a capacity of not more than 5,000 barrels per year. (One barrel contains 31 U.S. gallons). A tasting room is permitted as an accessory use. [**Added 11-6-2017 STM by Art. 2]**

MULTIPLE RESIDENCE

Does not include a rooming house as defined in the State Sanitary Code (1960), except that a nursing or rest home licensed under G.L., Chapter 111, is included. For said nursing or rest home, one dwelling unit is considered to be housing designed or used for three persons. [**Added 3-7-1970 ATM by Art. 46]**

MUSEUM

A building or institution owned and operated by a nonprofit corporation, or the Town of Harvard, in the service of society and its development, and open to the public, which has as its fundamental activities to acquire, conserve, research and exhibit, for the purpose of study and enjoyment, material evidence of people and their environment, especially objects of artistic, historical, or scientific importance and value. [**Added 3-29-2008 ATM by Art. 25]**

OPEN LAND

An area which is kept for permanent use as park or open space in an open or natural state as set forth in § **125-35D(2)**, Uses of open land. [**Added 3-31-1990 ATM by Art. 18]**

OSC-PRD

Residential cluster development for open space conservation as provided under § **125-35**, Open Space Conservation - Planned Residential Development. [**Added 3-31-1990 ATM by Art. 18; amended 4-2-2005 ATM by Art. 37]**

PREMISES

Lot and structures thereon.

PUBLIC BUILDING

Any building which is used in whole or in part as a school, lending library, post office, museum, theater, shopping arcade, hospital, police station, church, or state or federal or municipal offices. [**Added 11-7-1992 STM by Art. 10]**

QUALIFIED CONSERVATION ORGANIZATION

A nonprofit corporation or trust which is tax exempt under Section 501(c)(3) of the U.S. Internal Revenue Code and has as its principal purpose the conservation of open space. [**Added 3-31-1990 ATM by Art. 18]**

QUALIFIED HOMEOWNERS' ASSOCIATION

A nonprofit corporation or trust with automatic membership, which is conducted such that all income either is from membership dues, fees, or assessments, received from owners and arising solely from membership and not from extent of use of facilities, or is from interest. "Automatic membership" means owned or to be owned by the owners of the building lots or residential units within the overall tract developed and only such owners, and such that ownership passes with conveyances of the lots or units. [**Added 3-31-1990 ATM by Art. 18]**

REVISION

Includes expansion, repair, replacement, and relocation, in whole or in part. [**Added 3-31-1984 ATM by Art. 27]**

ROAD

Street. [**Added 3-31-1990 ATM by Art. 18]**

ROADWAY

The portion of the street intended for vehicular travel; the traveled way. The roadway center line is determined from street plans, or if no plans exist, from the traveled way, stone walls, and similar evidence. Where a (single) roadway is offset from the street center line to provide for a footpath, the street center line is considered the roadway center line; a dual (divided) roadway is considered two roadways. [**Added 3-3-1973 ATM by Art. 37]**

SECTION

A section of the Bylaw is identified by its name and/or its numbering. A section includes all material within the section and unless otherwise qualified consists both of the identified section and of its subsections as indicated by numbering or as may be explicitly specified.

SENIOR (PERSON):

A Senior is any person having reached the age of 55 years.

SENIOR HOUSEHOLD:

Any household having at least one person 55 years or older. [**Added 3-31-1990 ATM by Art. 18; amended 12-3-2002 STM by Art. 19]**

SEWAGE DISPOSAL SYSTEM

Includes septic tanks, dosing tanks, siphons, pumps, distribution boxes, leaching or absorption areas or appurtenant components which are required or regulated by Title V of the State Environmental Code of 1978 for the proper sewage treatment and disposal functioning of the system. For purposes of measuring setback distance from wetlands, sewage disposal systems shall also include those features which are necessary to provide structural support for other components, including fill connected with aboveground disposal extending to that point at which the fill returns to natural grade. [**Added 3-30-1985 ATM by Art. 40]**

SHARED (COMMON) DRIVEWAY

A driveway of which any portion lies on more than one lot. [**Added 3-29-1980 ATM by Art. 26]**

SIGN

Any device, symbol, drawing, picture, design or object which is used for visual communication and intended to attract attention or convey a message. An on-site sign is one that is related to the premises on which it is located. An off-site sign is one that is not located on the premises to which it is related. Historical date plaques and markers, and flags and insignias of governmental jurisdictions shall not be considered signs. [**Added 4-28-2012 ATM by Art. 43]**

SKILLED NURSING CARE FACILITY

A facility for the care of senior persons requiring regular attention by medical or nursing personnel for reasons of age, ill health, or physical incapacity and which has been licensed as a long-term care facility by the Massachusetts Department of Public Health.

SOIL

For the purposes of this Bylaw, soil includes loam, peat, silt, clay, sand, and gravel. [**Added 3-27-1993**

ATM by Art. 22]

SPECIAL PERMIT RULES

Rules relative to the issuance of special permits, adopted by a special permit granting authority in accordance with the provisions of the Zoning Act, Section 9, § **125-46**, Special permits, of the Bylaw, and any provisions for the applicable classes of special permits provided in the Bylaw. [**Added 3-31-1990 ATM by Art. 18]**

STORY

A building level for human occupancy. The volume of a level directly below a sloping roof, or the above-grade volume of a level partly below grade, counts as a fractional story. Such fraction is the ratio of said volume to the volume of the adjacent story. "For human occupancy" includes usable for, designed for, or intended for such occupancy. [**Added 3-4-1972 ATM by Art. 46]**

STREET [Added 3-3-1973 ATM by Art. 37]:

A. Includes the entire width of the taking (right-of-way). The street side line is the boundary between the street and the lot. A residential street is a street which is not a state or Chapter **90** road, located in a residential (AR or MR) district. **[Amended 4-5-1997 ATM by Art. 44]**

B. A driveway easement is not a street. For the issuance of building permits, a street does not provide access to lots unless: **[Added 3-25-1995 ATM by Art. 28]**

(1) There is already in existence within it an all-season roadway satisfactory for use by ordinary traffic and also by emergency vehicles; and

(2) The roadway is either:

(a) A public way; or

(b) Used by the public and maintained by the Town as if it were a public way; or

(c) Approved in accordance with the Subdivision Control Law and the Planning Board's subdivision rules; or

(d) A private way which the Planning Board acting in accordance with procedure specified in its subdivision rules finds to be satisfactory in its present condition for the number and uses of the lots being served; and

(3) There is a defined responsibility for maintenance of and snow removal from the roadway of such street.

STRUCTURE

Any construction or assemblage of materials with a fixed location, including a primary or accessory building, platform, tower, pole, sign, fence, wall, dam, swimming pool, or any part of a structure. Underground utilities and driveways shall not be considered structures. [**Amended 4-21-1992 STM by Art. 4]**

SUBDIVISION RULES

The Rules and Regulations of the Harvard Planning Board Relative to Subdivision Control, as amended, issued in accordance with Section 81Q of the Subdivision Control Law (G.L., Chapter 41, Sections 81K to 81GG). [**Added 3-31-1990 ATM by Art. 18]**

SUBSTANTIAL HARDSHIP

Includes "substantial hardship" as used in the Zoning Act, Section 10. [**Added 3-31-1979 ATM by Art. 28]**

TOWN

Town of Harvard. [**Added 3-31-1990 ATM by Art. 18]**

TRUCK

A motor vehicle more than 19.5 feet long, or more than seven feet wide, or having more than two axles or more than four wheels, or having a gross vehicle weight over 7,500 pounds. [**Added 3-31-1984 ATM by Art. 28]**

WATERFRONT STRUCTURE

A pier, landing, or platform for boating, fishing, or swimming. [**Added 3-22-1969 ATM by Art. 39]**

WIRELESS COMMUNICATIONS EQUIPMENT

Antennas and related transmission and reception equipment, including any accessory equipment or structures but excluding ground-mounted structures used primarily for their support, which may be used for the provision of wireless communications services. [**Added 3-25-2000 ATM by Art. 32]**

WIRELESS COMMUNICATIONS TOWER

A structure having the primary purpose of providing personal wireless communications services, including but not limited to a ground-mounted or otherwise supported structure with antenna(s) or other wireless communications equipment, if any, together with any guy wires and accessory structures, which shall not include a service yard, a garage, or the outside storage of equipment or vehicles. [**Added 6-19-1997 STM by Art. 6; amended 3-25-2000 ATM by Art. 32]**

WIRELESS COMMUNICATIONS SERVICES

Services which facilitate the transmission of writing, signs, signals, pictures, and sounds of all kinds without the aid of wire, cable, or other like connection between the points of origin and reception of such transmission, in order to facilitate the following services: cellular telephone service, personal communications service, paging service, or enhanced specialized mobile radio service. **[Added 6-19-1997 STM by Art. 6]**

ZONING ACT

The Zoning Act, General Laws, Chapter 40A, as enacted by Chapter 808, Acts of 1975, as amended. References are for information only and are not necessarily complete or exclusive. **[Added 3-25-1978 ATM by Art. 23]**