

ARTICLE XX: AMEND PROTECTIVE BYLAW CHAPTER 125

To see if the Town will vote to amend Chapter 125 of the Code of the Town of Harvard, Protective Bylaw, by adding thereto a new Section 125-58, entitled Erosion Control as follows, or pass any vote or votes in relation thereto:

§125-58 EROSION CONTROL

A. Purpose. The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff, decreased groundwater recharge and nonpoint source pollution associated with new development, redevelopment and other land-disturbance. It has been determined that proper management of erosion and stormwater will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:

- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the Bare Hill Pond, Assabet River, and Nashua River watersheds and preserve the health of water resources.
- (2) Require that new development, redevelopment, and other land-disturbance activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics, where appropriate, in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
- (3) Establish provisions that require practices that reduces soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbance activities.
- (4) Establish provisions to ensure that soil erosion and sedimentation control measures, stormwater and nonpoint source pollution runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
- (5) Establish administrative procedures for the submission, review, approval or disapproval of erosion and sediment controls, Best Management Practices (BMP's) and for the inspection of approved active projects, and long-term follow up; Establish administrative procedures and fees for the submission, review, approval, or disapproval of erosion control plans, inspection of construction sites, and the inspection of approved projects.
- (6) Establish the Town of Harvard's legal authority and capacity to ensure compliance with the provisions of this Bylaw through funding, permitting, inspection, monitoring, and enforcement.

B. Nothing in this Bylaw is intended to supersede or conflict with the requirements of the Town of Harvard Protective Bylaw, the Mass Wetlands Protection Act, the Town of Harvard Wetland Protection Bylaw, Town of Harvard General Bylaw, any other Bylaws that may be adopted by the Town of Harvard, or any Rules and Regulations adopted thereunder. In case of such a conflict, the permitting authorities, such as the Conservation Commission or Board of Health, shall govern.

C. Exemptions. Exemptions from this Bylaw apply to the following activities, provided that a project is solely comprised of any one of these activities:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 (“Agricultural”) and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of Best Management Practices (BMP) recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.
- (2) Any work or projects for which all necessary approvals and permits were issued before the effective date of this Bylaw.
- (3) Normal maintenance of existing landscaping, gardens, or lawn areas.
- (4) Construction of any fence that will not alter existing terrain or drainage patterns.
- (5) Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants.
- (6) Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.
- (7) The maintenance or resurfacing (not including reconstruction) of any public or private way.

D. Definitions.

BEST MANAGEMENT PRACTICES (BMPs) - Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce point source and nonpoint source pollution, and promote protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, and/or promote pollutant reduction by eliminating or capturing the pollutant source.

DISTURBANCE OF LAND (Land-Disturbance) - Any action causing the removal of vegetation including tree and brush clearing; importation, removal or redistribution of soil, sand, rock, gravel or similar earth material.

EROSION - The process in which the ground surface is disturbed or worn by either natural forces such as wind, water, ice, gravity, or by mechanical means.

EXISTING LAWN - Grass area which has been maintained and mowed in the previous two years.

FILLING - The act of transporting or placing (by any manner or mechanism) material from, to, or on any soil surface or natural vegetation.

NORMAL MAINTENANCE - Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

SITE – Shall include the following meanings:

- a. Generally, a site is a contiguous area of land, including a lot or lots or a portion thereof, upon which a project is developed or proposed for development.
- b. For the purpose of erosion control, a site shall include the lot (locus) which includes clearings, structures and utilities, temporary earthen disturbances, excavations, and trenching locations, at a minimum.

E. Applicability. Where a project is subject to Site Plan Approval, Definitive Subdivision, or Special Permit Approval from the Planning Board, the Regulations adopted by the Planning Board shall apply and a review shall be completed as part of the Planning Board process provided that the Planning Board also finds that the activity is in compliance with any additional performance standards contained in the Regulations promulgated to implement this Bylaw. When a project is within the Bare Hill Pond watershed the Bare Hill Pond Watershed Management Committee shall be requested to provide comments to the Planning Board prior to approval.

- (1) For projects not subject to Site Plan Approval, Definitive Subdivision, or Special Permit Approval from the Planning Board, this Bylaw shall be applicable to all new development and redevelopment, land-disturbance, and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land, unless exempt pursuant to Section C of this Bylaw. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this Bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section E(2), and are not exempted by Section B. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw.
- (2) No Permit Required – For activities including, but not necessarily limited to, those listed below, no permit shall be required provided that erosion control measures are used and the activity will not result in an increased amount of soil, stormwater runoff,

and/or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.

- (a) Land Disturbance not to exceed 5,000 square feet in area other than work described in Sections E(2)(d) and E(3)(a).
 - (b) The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
 - (c) Repair, replacement, or reconstruction of an existing driveway in the same location.
 - (d) Restoration of existing lawn areas provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
 - (e) The addition or on-site redistribution of up to 250 cubic yards of material.
 - (f) Demolition of a structure provided that any land-disturbance, including the area of the structure, does not exceed 5,000 square feet.
 - (g) Routine maintenance and improvement of institutional open space, and recreational areas, provided that an annual letter or plan is filed with and approved by the Planning Board describing the work to be done.
- (3) Erosion Control Permit Thresholds - A Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section B:
- (a) Minor Permit
 - [1] The creation of new impervious area, or expansion of existing impervious area, greater than 750 square feet and not exceeding 2,500 square feet.
 - [2] Repair, replacement, expansion of septic systems provided the work does not exceed the thresholds in Section E(3)(b)[4].
 - [3] The addition or on-site redistribution of more than 250 cubic yards, but not exceeding 500 cubic yards, of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - (b) Major Permit
 - [1] Construction of any new dwelling or new dwelling replacing an existing dwelling or accessory dwelling;
 - [2] Any land-disturbance exceeding an area of 5,000 square feet, or more than 20% of a parcel or lot, whichever is less, other than activities described in Section E(2).
 - [3] Creation of new impervious surface area greater than 2,500 square feet.
 - [4] The addition or on-site redistribution of more than 500 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - [5] Reconstruction of public or private way.
 - [6] Reconstruction or replacement of existing non-residential parking lots, including associated driveways, greater than 2,500 square feet.

F. Appeal of Permit. Any person aggrieved by the decision of the Planning Board, whether or not previously a party to the preceding, may appeal the decision in accordance with Massachusetts General Laws Chapter 40A, Section 17.

G. Enforcement.

- (1) This Section shall be administered by the Planning Board and enforced by the Town's Zoning Enforcement Officer who shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain, or abate violations of thereof. Each day that any violation continues is a separate offense. Violators shall be subject to a fine not exceeding \$300 for each offense; and
- (2) The Town's Zoning Enforcement Officer may post the site with a Stop Work Order directing that all site disturbances in violation of this Section cease immediately. The issuance of a Stop Work Order may include remediation or other requirements which must be met before construction activities may resume. No person shall continue working in an area covered by a Stop Work Order, except work required correcting an imminent safety hazard as directed by the Town.

(Inserted by Planning Board)