

**WARRANT FOR THE 2019 TOWN OF HARVARD  
ANNUAL TOWN MEETING AND ELECTION  
COMMONWEALTH OF MASSACHUSETTS**

WORCESTER, ss.

To the Constable of the Town of Harvard:

Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of the said Town, who are qualified to vote in Town affairs, to meet in The Bromfield School on Saturday, the 4th day of May, 2019 at 9:00 a.m. by the clock to act on the following articles:

**ARTICLE 1: ANNUAL REPORTS**

To see if the Town will vote to hear the reports of the Select Board, School Committee, and any other officers or committees that may be ready to make a report and act thereon.

(Inserted by Select Board)

**ARTICLE 2: PAY BILL OF PRIOR FISCAL YEAR**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to pay bills of Fiscal Year 2018, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

**ARTICLE 3: EXTEND SUNSET DATE**

To see if the Town will vote to extend the expenditure authorization expiration date for the expenditures authorized under Article 22 (Fire Pond Restoration) of the Warrant for the 2017 Annual Town Meeting from June 30, 2019 to June 30, 2020, or take any vote or votes in relation thereto.

(Inserted by Select Board)

**ARTICLE 4: OTHER POST EMPLOYMENT BENEFITS (OPEB) ACTUARIAL AUDIT**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to conduct an OPEB actuarial audit in Fiscal Year 2019, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

**ARTICLE 5: INFORMATION TECHNOLOGY UPGRADE**

To see if the Town will vote to transfer a sum of money from the Fiscal Year 2018 Certified Free Cash Account to purchase various Information Technology Equipment for various departments in order to upgrade outdated and broken equipment, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

**ARTICLE 6: STABILIZATION FUND FUNDING**

To see if the Town will vote to transfer a sum of money from Fiscal Year 2018 Certified Free Cash to the Stabilization Fund, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

**ARTICLE 7: AMEND ARTICLE 3 HAPGOOD LIBRARY**

To see if the Town will vote to amend Article 3 Hapgood Library of the October 22, 2018 Special Town Meeting, by replacing the word "was" after "a) \$191,000" with "shall be" in order to be able to transfer the \$191,000 from the Capital Stabilization and Investment Fund as authorized by the Capital Planning and Investment Committee, or pass any vote or votes in relation thereto.

(Inserted by Select Board and Capital Planning and Investment Committee)

## **ARTICLE 8: RESCIND BORROWING AUTHORITY**

To see if the Town will vote to rescind the \$383,000 borrowing authorized by its vote under Article 7 of the November 6, 2017 Special Town Meeting for the Old Library ADA Accessibility Project, or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

## **ARTICLE 9: TRANSFER OF BORROWING PROCEEDS**

To see if the Town will vote to appropriate and transfer the unexpended amount of money that was initially borrowed to finance the Hildreth House Senior Center Project (Phase 1) that is now complete and for which no further liability remains, to pay a portion of the costs of the Old Library Accessibility (front entrance) project that have not yet been expended, including the payment of all costs incidental and related thereto, as permitted by Chapter 44, Section 20 of the General Laws thereby reducing the amount needed to be borrowed under Article 3 of the October 22, 2018 Special Town Meeting, or take any other action relative thereto.

(Inserted by Select Board)

## **ARTICLE 10: SEWER ENTERPRISE RETAINED EARNINGS**

To see if the Town will vote to transfer \$40,075 from the Certified Sewer Enterprise Retained Earnings Fund to the Fiscal Year 2019 Sewer Enterprise Expense Account, or pass any vote or votes in relation thereto.

(Inserted by Water and Sewer Commission)

## **ARTICLE 11: OMNIBUS BUDGET**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, such sums of money as may be necessary to defray the expenses of the Town for Fiscal Year 2020, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

## **ARTICLE 12: RESERVE FUND – FISCAL YEAR 2020**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for Fiscal Year 2020, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

## **ARTICLE 13: OPERATING EXPENSES FOR SENIOR TRANSPORTATION**

To see if the Town will vote to raise and appropriate a sum of money, to be spent by the Council on Aging (COA), to cover the operating expenses for a vehicle, to be donated to the COA by the Friends of the COA, used to transport senior and disabled citizens, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 14: PURCHASE PRECINCT SCANNER AND BALLOT BOX**

To see if the Town will vote to raise and appropriate a sum of money to be expended by the Town Clerk, to purchase a new precinct scanner and voting box for the Town, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 15: DPW – ROADSIDE TREE MAINTENANCE**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, a sum of money to be expended by the Department of Public Works Director, with the approval of the Select Board, to contract with a professional company to trim trees and large brush along the Town's roadsides, with unexpended funds as of June 30, 2020 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 16: PERFORMANCE-BASED WAGE ADJUSTMENTS**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, a sum of money to supplement the amount appropriated under Article 11 of the Warrant for the 2019 Annual Town Meeting for salaries and wages of non-school officials and employees in order to fund performance-based wage adjustments for Fiscal Year 2020, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 17: FACILITIES MANAGER/BUILDING INSPECTOR and ZONING ENFORCEMENT OFFICER**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to create a new full-time position of Facilities Manager/Building Inspector and Zoning Enforcement Officer in FY20, by amending line #26 of the Town Budget found on page 36 of this warrant, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 18: DPW POSITION**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to add a position to the Department of Public Works roster in Fiscal Year 2020, by amending line #34 of the Town Budget found on page 37 of this warrant, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 19: SEASONAL MOWING**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the Department of Public Works Director, with the approval of the Select Board, to hire someone on a part-time basis to do seasonal mowing, with unexpended funds as of June 30, 2020 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 20: CAPITAL STABILIZATION AND INVESTMENT FUND FUNDING**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, a sum of money to be deposited by the Town Treasurer, with the approval of the Select Board, into the Capital Stabilization and Investment Fund, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

## **ARTICLE 21: TRANSFER FROM CERTIFIED FREE CASH TO THE CAPITAL STABILIZATION AND INVESTMENT FUND**

To see if the Town will vote to transfer a sum of money from Fiscal Year 2018 Certified Free Cash to the Capital Stabilization and Investment Fund, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

## **ARTICLE 22: CAPITAL PLANNING AND INVESTMENT COMMITTEE RECOMMENDED EXPENDITURES**

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, the following sums of money to be expended by the following boards and officials for the capital projects and acquisitions described and numbered below, each of which shall be a separate appropriation, and to provide for said appropriations from the funding sources with the expenditure expiration dates set forth below, or pass any vote or votes in relation thereto:

| <i><b>Description of<br/>Acquisition or Project</b></i> | <i><b>Board or Official<br/>Authorized to Expend Funds</b></i>    | <i><b>Amount</b></i> | <i><b>Funding Sources<br/>and Expiration<br/>Date</b></i>     |
|---------------------------------------------------------|-------------------------------------------------------------------|----------------------|---------------------------------------------------------------|
| 1 Replace Bromfield Gym bleachers                       | Superintendent of Schools<br>with School Committee approval       | \$75,000             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 2 Cronin Auditorium upgrades and<br>replacements        | Superintendent of Schools<br>with School Committee approval       | \$100,000            | Capital Stabilization<br>and Investment Fund<br>June 30, 2021 |
| 3 Air-condition Bromfield Science<br>wing               | Superintendent of Schools<br>with School Committee approval       | \$65,000             | Capital Stabilization<br>and Investment Fund<br>June 30, 2021 |
| 4 Purchase conservation land                            | Conservation Commission<br>with Select Board approval             | \$100,000            | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 5 Replace fire hose and nozzles                         | Fire Chief<br>with Select Board approval                          | \$23,500             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 6 Add parking near the Fire Station                     | Fire Chief<br>with Select Board approval                          | \$21,500             | Capital Stabilization<br>and Investment Fund<br>June 30, 2021 |
| 7 Replace Light Duty dump truck                         | Department of Public Works Director<br>with Select Board approval | \$76,500             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 8 Recurring DPW small capital items                     | Department of Public Works Director<br>with Select Board approval | \$40,000             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 9 Refurbish street sweeper                              | Department of Public Works Director<br>with Select Board approval | \$20,000             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 10 Replace outdated radios                              | Ambulance Director<br>with Select Board approval                  | \$45,000             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |
| 11 Repair and paint Old Ambulance<br>Building           | Town Administrator<br>with Select Board approval                  | \$20,300             | Capital Stabilization<br>and Investment Fund<br>June 30, 2021 |
| 12 Debt payment                                         | Town Treasurer<br>with Select Board approval                      | \$73,420             | Capital Stabilization<br>and Investment Fund<br>June 30, 2020 |

(Inserted by the Capital Planning and Investment Committee)

## **ARTICLE 23: CAPITAL PLANNING AND INVESTMENT COMMITTEE DEBT RECOMMENDATIONS**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, the following sums of money to be expended by the following boards and officials for the capital projects and acquisitions described and numbered below, each of which shall be a separate appropriation, and to determine whether such appropriation shall be provided by a borrowing pursuant to the provisions of Massachusetts General Laws Chapter 44, contingent upon the passage of a Proposition Two and One-half debt exclusion ballot question(s) at the May, 2019 Annual Town Election, or pass any vote or votes in relation thereto:

| <i><b>Description of<br/>Acquisition or Project</b></i> | <i><b>Board or Official<br/>Authorized to Expend Funds</b></i> | <i><b>Amount</b></i> | <i><b>Funding Sources<br/>and Expiration Date</b></i>                      |
|---------------------------------------------------------|----------------------------------------------------------------|----------------------|----------------------------------------------------------------------------|
| 1 Ayer Road Design and Engineering Study                | Department of Public Works Director with Select Board approval | \$300,000            | Borrowing<br>MGL Ch. 44<br>Proposition Two and One-half<br>ballot question |
| 2 Replace Heavy Duty dump truck                         | Department of Public Works Director with Select Board approval | \$195,000            | Borrowing<br>MGL Ch. 44<br>Proposition Two and One-half<br>ballot question |
| 3 Replace slate roof at Old Library                     | Permanent Building Committee with Select Board approval        | \$480,000            | Borrowing<br>MGL Ch. 44<br>Proposition Two and One-half<br>ballot question |

(Inserted by the Capital Planning and Investment Committee)

## **ARTICLE 24: HEAR REPORT AND UPDATE ON AN ACT AUTHORIZING THE TOWN OF HARVARD TO ESTABLISH A CAP ON PROPERTY TAXES FOR MEANS TESTED SENIOR CITIZENS**

To see if the Town will vote to hear a report and update on the legislation proposed in Article 39 of the 2018 Annual Town Meeting Warrant for a Means Tested Senior Citizens Property Tax Exemption legislation for Harvard, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

## **ARTICLE 25: COMMUNITY PRESERVATION COMMITTEE REPORT**

To see if the Town will vote to accept the report and recommendations of the Community Preservation Committee on the Fiscal Year 2020 Community Preservation Budget as printed in the 2019 Finance Committee Book, or pass any vote or votes in relation thereto.

(Inserted by the Community Preservation Committee)

## **ARTICLE 26: COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will vote to appropriate and transfer the following sums of money to be expended by the following boards and officials for the projects described and numbered below, each of which shall be a separate appropriation and transfer, and to provide for said appropriations from the funding sources with expenditures to begin in Fiscal Year 2020 with expiration dates set forth below, or pass any vote or votes in relation thereto:

| <i>Description of Acquisition or Project</i>               | <i>Board or Official Authorized to Expend Funds</i> | <i>Amount</i> | <i>Funding Sources and Expiration Date</i>                                    |
|------------------------------------------------------------|-----------------------------------------------------|---------------|-------------------------------------------------------------------------------|
| 1 Replace slate roof at Old Library                        | Permanent Building Committee                        | \$100,000     | Fiscal 2020 Community Preservation Fund Unspecified Reserves<br>June 30, 2021 |
| 2 Boat rental kiosk                                        | Parks & Recreation Committee                        | \$15,000      | Fiscal 2020 Community Preservation Fund Unspecified Reserves<br>June 30, 2020 |
| 3 Preservation of historic Town documents                  | Town Clerk                                          | \$25,635      | Fiscal 2020 Community Preservation Fund Unspecified Reserves<br>June 30, 2020 |
| 4 Affordable housing funds                                 | Municipal Affordable Housing Trust                  | \$46,368      | Community Preservation Affordable Housing Reserves                            |
| 5 Affordable housing funds                                 | Municipal Affordable Housing Trust                  | \$27,321      | Fiscal 2020 Community Preservation Fund Unspecified Reserves                  |
| 6 Conservation Commission fund                             | Conservation Commission                             | \$125,000     | Fiscal 2020 Community Preservation Fund Unspecified Reserves                  |
| 7 Town Hall renovation debt service                        | Select Board                                        | \$50,000      | Fiscal 2020 Community Preservation Fund Unspecified Reserves<br>June 30, 2021 |
| 8 Community Preservation Committee administrative expenses | Community Preservation Committee                    | \$2,500       | Fiscal 2020 Community Preservation Fund Unspecified Reserves<br>June 30, 2021 |

(Inserted by the Community Preservation Committee)

## **ARTICLE 27: LOCAL OPTION ROOM TAX**

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 64G, Section 3A, as amended, and impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house, short term rental, or motel located within the Town at a rate of 6%, said excise tax to take effect on the first day of the calendar quarter commencing at least thirty days after such vote of the Town Meeting, or pass any vote or votes in relation thereto.  
(Inserted by Select Board).

## **ARTICLE 28: CHARTER CHANGES**

To see if the Town will vote to authorize the Select Board to petition the General Court of the Commonwealth to adopt a special substantially the same as the following act, or pass any vote or votes in relation thereto.

## **AN ACT RELATIVE TO THE TOWN CHARTER OF THE TOWN OF HARVARD.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Article 3, Section 3-1 (e) 2 ii) of the Charter of the town of Harvard, which is on file in the office of the archivist of the Commonwealth, as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out the word "shall" in the second sentence thereof and inserting in its place the word "may" and by inserting immediately after the third sentence thereof "If a vacancy occurs within 60 days of the Town Election the Select Board may choose not to fill the vacant position.",

so that, as amended, said Article 3, Section 3-1 (e) 2 ii) provides that:

"ii) School Committee, Trustees of the Harvard Public Library, and Trustees of the Warner Free Lecture Society - The remaining members of the agency shall give notice of the vacancy to the Select Board and to the public. The Select Board and the remaining members of the elected board may, by joint vote, not less than one week after notice of the date on which the vote is to be taken, fill the vacancy until the next Town Election. The affirmative votes of the majority of the persons entitled to vote on the vacancy shall be necessary for the election. If a vacancy occurs within 60 days of the Town Election the Select Board may choose not to fill the vacant position."

**SECTION 2.** Said charter is hereby further amended by inserting in Article 3, Section 3-2 (b) 1 vi) thereof the words "conform to the Town Bylaw" after the word "shall" in the second sentence thereof by striking therefrom the words "begin in September/October annually with a joint meeting of the Select Board, School Committee, Finance Committee, Capital Planning and Investment Committee, Planning Board, Board of Library Trustees, Board of Health, Conservation Commission, Community Preservation Committee, Park and Recreation Commission, and others as deemed necessary by the Select Board. A review of the proposed budget shall occur in January with final presentation to the Town for approval at the Annual Town Meeting." so that, as amended, said Article 3, Section 3-2 (b) 1 vi) provides as follows:

"vi) Prepare and submit the budget of the Town as set forth in Article 6. The budget shall support the articulated policy goals and initiatives. Budget preparation shall conform to the Town Bylaw."

**SECTION 3.** Said charter is hereby further amended by striking from Article 4, Section 4-5 (a) thereof the word "appoints" and inserting in its place the word "creates", so that, as amended, said Article 4, Section 4-5 (a) provides that:

"(a) Together with a Director of Community and Economic Development, if the Select Board creates one, work to accomplish the community and economic goals as envisioned by the Select Board."

**SECTION 4.** Said charter is hereby further amended by striking from the fourth sentence of Article 5, Section 5-3 (a) thereof the word "shall" and inserting in its place the word "may", so that, as amended, said Article 5, Section 5-3 (a) provides that:

"(a) There shall be a Finance Department managed by the Finance Director/Town Accountant reporting to the Town Administrator and the Select Board. This department will include a Treasurer/Collector and a Principal Assessor. The Department shall be responsible for the performance of all the fiscal and financial activities of the Town. The Finance Director/Town Accountant, upon certification as a school business administrator and at the will of the School Committee, may serve as the School Business Manager and report to the Superintendent of Schools and the School Committee for all school-related financial activities."

**SECTION 5.** Said charter is hereby further amended by a.) Striking from Article 6, Section 6-2 thereof the words "but not later than December 31"; b.) by striking from the first line thereof "Select Board" and inserting in its place "Finance Committee"; and by striking from the second line thereof "Finance Committee" and inserting in its place "Select Board", so that, as amended, said Article 6, Section 6-2 provides that:

“Within the time fixed by bylaw, the Finance Committee shall submit to the Select Board for its analysis, comments, and recommended funding, a proposed balanced operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents.”

**SECTION 6.** Said charter is hereby further amended by striking from second line of Article 6, Section 6-4 (b) “Finance Committee” and inserting in its place “Select Board”; striking from the second and third lines thereof “Select Board” and inserting in its place “Finance Committee”; and striking from the fourth line thereof “Select Board” and inserting in its place “Finance Committee”; so that, as amended, said Article 6, Section 6-4 (b) provides that:

“(b) Upon completion of its initial review of the budget, at least 30 days prior to the first session of the Annual Town Meeting, the Select Board shall meet with the Finance Committee and the Capital Planning and Investment Committee to discuss any changes it recommends to the budget as initially prepared by the Finance Committee. After consideration of the recommendations of the Finance Committee, the Select Board shall make such changes to the budget as it deems appropriate and shall present a revised budget to the Finance Committee.”

**SECTION 7.** This act shall take effect upon its passage.  
(Inserted by the Select Board and Finance Committee)

## **ARTICLE 29: AMEND THE CODE OF THE TOWN OF HARVARD – BUDGET BYLAW**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new Chapter relative to the budget process, or pass any vote or votes in relation thereto.

Chapter 14\_\_\_\_, Budget Process

### **Section 1: Budget Timeline**

The budget process will start no less than 8 months prior to the date of the Annual Town Meeting as set by the Select Board.

Departments, boards, and committees shall submit their budget requests, on forms approved by the Finance Committee, no later than 2 months after the start date of the budget process.

The Finance Committee must provide an initial budget roll-up to the Select Board within a month after receipt of the budgets from the various departments, boards and committees.

All financial warrant articles must be submitted to the Finance Committee and Select Board no later than three months prior to the Annual Town Meeting.

The Finance Committee shall submit its budget recommendation to the Select Board no less than 60 days prior to the date of the Annual Town Meeting.

The Select Board shall submit its recommended budget to the Finance Committee no less than 35 days prior to Town Meeting for inclusion in the warrant booklet.

(Inserted by Select Board and Finance Committee)

## ARTICLE 30: AMEND THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125 of the Code of the Town of Harvard, the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto:

[Key to revisions; underlining = additions; ~~strike through~~ = deletions]

§ 125-56 GROUNDWATER PROTECTION OVERLAY DISTRICT [Added 05-05-2018 ATM by Art. 34]

A. **Purpose of District.** The purpose of this Groundwater Protection Overlay District is to:

- (1) Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the Town of Harvard;
- (2) Preserve and protect existing and potential sources of drinking water for the Town of Harvard and the portion of the Town of Littleton's and the Town of Ayer's Zone II within the Town of Harvard's boundaries;
- (3) Conserve natural resources in the Town of Harvard; and
- (4) Prevent temporary and permanent contamination of the environment.

B. **Applicability.** The Groundwater Protection Overlay District is superimposed on the AR, C, and W ~~Districts~~ zoning districts in proximity to municipal drinking water wells and their wellhead protection areas. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection Overlay District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection Overlay District.

C. **Definitions.**

### AQUIFER

A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

### AUTOMOBILE GRAVEYARD

An establishment that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or motor vehicle parts as defined in M-G-L. Chapter ~~e~~ 140B, Section § 1.

### CMR

Code of Massachusetts Regulations.

### COMMERCIAL FERTILIZER

Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by state regulations.

### DISCHARGE

The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

## **DRY WELL**

A subsurface pit with open-jointed lining or holes through which stormwater drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.

## **GROUNDWATER PROTECTION OVERLAY DISTRICT**

The land area consisting of aquifers, Interim Wellhead Protection Areas (IWPA) serving municipal drinking water wells, and Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

## **HAZARDOUS MATERIAL**

Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

## **HAZARDOUS WASTE**

A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

## **HISTORICAL HIGH GROUNDWATER TABLE ELEVATION**

A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

## **IMPERVIOUS SURFACE**

Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

## **INTERIM WELLHEAD PROTECTION AREA (IWPA)**

The MassDEP designated protection radius around a public water well that lacks a Zone II.

## **JUNKYARD**

An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in MGL Chapter 140B, Section § 1.

## **LANDFILL**

A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

## **MASSDEP**

Massachusetts Department of Environmental Protection.

## **MGL**

Massachusetts General Laws.

## **NON-SANITARY WASTEWATER**

Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in 310 CMR 15.004(6).

**OPEN DUMP**

A facility operated or maintained in violation of the Resource Conservation and Recovery Act, 42 U.S.C. § 4004(a)(b), or state regulations and criteria for solid waste disposal.

**PETROLEUM PRODUCT**

Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas, including, but not limited to, liquefied natural gas, propane or butane.

**RECHARGE AREAS**

Land areas, such as a Zone II or Interim Wellhead Protection Area, where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

**SEPTAGE**

The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

**SLUDGE**

The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the headworks of a facility.

**TREATMENT WORKS**

Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**UTILITY WORKS**

Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling stormwater.

**VERY SMALL QUANTITY GENERATOR**

Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY**

A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21, § 52A.

**ZONE II**

The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations, 310 CMR 22.00.7.

- D. **Establishment and delineation of Groundwater Protection Overlay District.** For the purposes of this bylaw, there are hereby established within the Town of Harvard certain groundwater protection areas consisting of aquifers and/or recharge areas. These areas are delineated on a map entitled Harvard Groundwater Protection Overlay District, dated February 8, 2018, which is hereby made part of the Groundwater Protection Overlay District Bylaw and is on file in the office of the Town Clerk.

**E. District boundary disputes.**

- (1) If the location of the Groundwater Protection Overlay District in relation to a particular parcel is in doubt, resolution of the boundary dispute shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.
- (2) The burden of proof shall be upon the landowner to demonstrate that the location of the Groundwater Protection Overlay District with respect to a particular parcel(s) of land is uncertain. At the request of the landowner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the Groundwater Protection Overlay District with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation. Changes to the Groundwater Protection Overlay District require Town Meeting approval.
- (3) Where the boundary line of the Groundwater Protection Overlay District divides a lot or parcel, ~~the requirements established by this bylaw shall apply to the entire lot or parcel~~ only that portion of a lot or parcel that falls within the district shall be subject to the provisions herein.

**F. Permitted uses.** The following uses are permitted within the Groundwater Protection Overlay District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- (1) Conservation of soil, water, plants, and wildlife;
- (2) Outdoor recreation, nature study, boating, fishing, hunting where otherwise legally permitted, and operations associated with the Town Beach under the auspices of the Park and Recreation Commission, Department of Public Works, or other authorized Town department;
- (3) Foot, bicycle, all-terrain vehicles and/or horse paths, and bridges;
- (4) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- (5) Maintenance, repair, and enlargement of any existing structure, subject to Subsections G and H of this bylaw;
- (6) Residential development, subject to Subsections G and H of this bylaw;
- (7) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Subsections G and H of this bylaw;
- (8) Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
- (9) Any use permitted in the underlying zoning except for those uses specifically prohibited in Subsections G and H of this bylaw;
- (10) Temporary or seasonal portable toilets; and
- (11) Storage or composting of animal manure, subject to approval by the Board of Health (BOH) of a manure management plan, as required by the BOH stable permit.

**G. Prohibited uses.** The following land uses and activities are prohibited unless designed in accordance with the specified performance standards:

- (1) Landfills and open dumps;
- (2) Automobile graveyards and junkyards;
- (3) Landfills receiving only wastewater residuals and/or septage, including those approved by MassDEP pursuant to MGL ~~Chapter~~ 21 ~~Sections~~ 26 through ~~s.~~ 53, MGL ~~Chapter~~ 111 ~~Sections~~ 17, and MGL ~~Chapter~~ 83, ~~Sections~~ ~~s.~~ 6 and ~~s.~~ 7;
- (4) Facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.000, except for:
  - (a) Very small quantity generators as defined under 310 CMR 30.000;
  - (b) Household hazardous waste centers and events under 310 CMR 30.390;
  - (c) Waste oil retention facilities required by MGL ~~Chapter~~ 21, ~~Section~~ § 52A;
  - (d) Water remediation treatment works approved by MassDEP for the treatment of contaminated waters.
- (5) Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas;
- (6) Storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
  - (a) In container(s) or aboveground tank(s) within a building; or
  - (b) Outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.
  - (c) However, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.
- (7) Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- (8) Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (9) Storage of commercial fertilizers, pesticides, and herbicides unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (10) Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the Groundwater Protection Overlay District;
- (11) Commercial earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid order of conditions issued pursuant to MGL ~~Chapter~~ 131, ~~Section~~ § 40 and 45; and

- (12) Treatment or disposal works subject to 314 CMR 5.00, for non-sanitary wastewater, including those activities listed under 310 CMR 15.004(6):
  - (a) Treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - (b) Publicly owned treatment works.
- H. **Uses and activities requiring a special permit.** The following uses and activities are permitted only upon the issuance of a special permit by the Planning Board, who is the SPGA, under such conditions as they may require:
  - (1) Enlargement or alteration of existing uses that do not conform to the Groundwater Protection Overlay District;
  - (2) Except as prohibited under Subsection G of this bylaw, activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use and which are permitted in the underlying zoning district;
- I. **Artificial recharge for impervious surfaces.** If new construction would render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater, the Building Commissioner shall refer the matter to the Planning Board for site plan review. The Board may require applicants to provide a system of artificial recharge that will not degrade water quality, or to provide an alternate means of preventing contaminants from entering the Groundwater Protection Overlay District.
- J. **Procedures for issuance of a special permit.**
  - (1) The Planning Board shall grant a special permit if they determine, in conjunction with the Building Commissioner, Select Board, Fire Department, Board of Health, Police Department, Engineering Consultant, Department of Public Works Director, Conservation Commission and Historical Commission (if applicable), that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other municipal boards, departments or commissions in its decision.
  - (2) The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in § 125-56G above and any regulations or guidelines adopted by the SPGA. The proposed use must:
    - (a) In no way, during construction or thereafter, adversely affect the quality or quantity of the water supplies protected by the Groundwater Protection Overlay District; and
    - (b) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
  - (3) The SPGA may adopt controls to govern design features of projects within the Groundwater Protection Overlay District. Such design controls shall be consistent with Chapter 130, Article IV, Design and Construction Standards, of the Town of Harvard Planning Board Subdivision Regulations.
  - (4) The applicant shall follow § 133-21 of the Planning Board Procedural Rules and Regulations for application submission in addition to the following:

- (a) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and
- (b) For activities using or storing hazardous materials or wastes, a management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan will be consistent with the requirements of § 125-56G above and shall include:
  - [1] Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures;
  - [2] Provisions for indoor, secured storage of hazardous materials or wastes with impervious floor surfaces; and
  - [3] Evidence of compliance with the Massachusetts Hazardous Waste Regulations, 310 CMR 30.000.

**K. Enforcement.**

- (1) Written notice of any violations of this bylaw shall be given by the Zoning Enforcement Officer to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- (2) A copy of such notice shall be submitted to the Select Board, Planning Board, Board of Health, Conservation Commission, and Water and Sewer Commission. The cost of containment, cleanup, or other action of compliance shall be borne by the owner/operator of the premises.

**L. Severability.** If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.

(Inserted by Planning Board)

**ARTICLE 31: AMEND PROTECTIVE BYLAW**

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 125-57, entitled Erosion Control as follows, or pass any vote or votes in relation thereto:

**§125-57**

**EROSION CONTROL (v8 – 3/25/2019)**

**A. Purpose**

The purpose of the Erosion Control Section is to protect, maintain, and enhance the public health, safety, environment, and general welfare 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 alterations.

**B. Applicability**

Any property owner or representative seeking to engage in land disturbance activities meeting or exceeding the thresholds in Section (3) below shall make a determination of whether this section is applicable to the anticipated land disturbance based on the criteria below.

### (1) Consultation (Optional)

It is highly recommended that the property owner or representative request an optional consultation whereby the Planning Board 's designee may consult with the property owner or their representative to discuss the proposed land disturbance and, if deemed necessary, conduct a site visit. The Planning Board designee will provide a non-binding consultation and opinion to assess what steps may be necessary.

### (2) Determination of Applicability

Property owner or representative shall make a determination of one of the following regarding proposed land disturbance activity:

- (a) Not Applicable
- (b) Exempt (Section C below)
- (c) Eligible for Waiver from these requirements (Section D below)
- (d) Minor permit required (defined in Section M. below)
- (e) Major permit required (defined in Section M. below)

Based on this determination, property owner or representative shall proceed in accordance with the appropriate sections below.

### (3) Thresholds to Require Permit

No person or entity shall undertake land clearing/grading activities:

- (a) Of an area with greater than a 25% slope of at least 5,000 contiguous square feet, and/or
- (b) A 30,000 square feet of total disturbance or more on a single or adjoining parcels

without first obtaining an Erosion Control Permit from the Planning Board, unless specifically exempted under Section C below or having been issued a Waiver under Section D. below. Any owner, contractor, or persons considering land clearing and/or grading as defined above shall submit an application for review in accordance with this Section.

- (4) Non-commercial agricultural operations shall comply with the provisions of this Section except that the application may follow the Minor Permit Submission Requirements of Section E. below.
- (5) To prevent duplicative permitting requirements, a person otherwise required to file a stormwater management and erosion control plan for a project or activity shall be exempt from this requirement if such a plan has been filed with, and approved by, the Planning Board, Conservation Commission, or the Zoning Board of Appeals.

## **C. Exemptions**

The provisions of this Section shall not apply to the following activities which shall be classified as exempt:

- (1) Construction of any State or Town agency project approved by the Select Board or Town Meeting, as applicable;

- (2) Non-commercial timber cutting for fuel based on forestry Best Management Practices (fBMPs), as defined in Section L. below, provided that clear-cutting does not occur;
- (3) Commercial agricultural activities;
- (4) Agricultural uses on parcels of land of more than five (5) acres or two (2) acres for small plot farm which are exempt from regulation by zoning under Massachusetts General Laws Chapter 40A, Section 3; and
- (5) Properties Under Forest Management Plans defined in Massachusetts General Laws Chapter 61). For lands devoted to forest purposes, the following activities are exempt from this Section:
  - (a) Cutting by an owner or tenant of any forest product for their own non-commercial use;
  - (b) Cutting or the sale of such products by any owner to an amount not exceeding 25,000 board feet or fifty cords on any parcel of land at any one time;
  - (c) Cutting for clearance or maintenance on-rights-of-way pertaining to public utilities and public highways;
  - (d) Clearing land for building or for purposes of cultivation;
  - (e) Maintenance cutting in pastures;
  - (f) Routine maintenance of vegetation and removal of dead or diseased limbs and/or trees necessary to maintain the health of cultivated plants, to contain noxious weeds and/or vines; and
  - (g) Commercial timbering, with a valid commercial harvesting permit.

#### **D. Waivers**

A waiver from the requirements of this Section may be granted for any activity that meets or exceeds the thresholds provided in Section B(3) above. Petitioners seeking waiver(s) shall provide the Planning Board with appropriate documentation in support of said waiver(s).

- (1) The removal of hazardous or invasive trees shall require a consultation with Planning Board designee to ensure that removal is necessary, will not destabilize the soil, and will not impact wetlands or other sensitive environmental areas;
- (2) To remedy a potential fire hazard based on a consultation and written recommendation by the Town's Fire Chief;
- (3) The construction and maintenance of public and private streets and utilities within town-approved roadway layouts and easements, approved in accordance with the Planning Board's Subdivision Rules and Regulations, Chapter 130 of the Code of the Town of Harvard and other public roads and streets. Waiver shall be deemed automatically granted by the Planning Board based on an approved Definitive Plan or other Town approval necessary to construct streets and utilities, with standard condition that addresses erosion and sedimentation control;
- (4) Work conducted in accordance with a valid earth removal permit issued by the Town of Harvard (see Section 125-15);
- (5) Work conducted in accordance with an approved Natural Resource Conservation Service Agricultural Plan; and
- (6) Other waivers from strict compliance of any of these requirements may be granted if it is determined that such requirements are unnecessary due to the size or character of the development project or because of the natural conditions at the site and where such action is:

- (a) Allowed by Federal, State, or local statutes and/or;
- (b) In the public interest; and
- (c) Not inconsistent with the purpose of this Section.

#### **E. Minor Permit Procedure**

Minor permits, as defined in Section L below, shall have a less detailed administrative application and filing process as follows:

- (1) The applicant shall arrange for a site walk with the Planning Board designee to view the project area and discuss protective measures;
- (2) Completed erosion control application form;
- (3) Fee of \$25.00;
- (4) Sketch plan showing limits and scope of work and proposed Best Management Practices (BMPs);
- (5) Project narrative that includes a description of the proposed project and a description of how and where stormwater will be controlled and erosion and sediment controls to be used; and
- (6) Permit issuance by the Planning Board is required prior to any site altering activity.

Minor permits shall, as applicable, based on project type and scale, and determined after consultation with Planning Board designee, comply with the requirements of Sections H. and I. below.

#### **F. Major Permit Procedure**

Major permits, as defined in Section L below, shall be as follows:

- (1) Permit Required;
  - (a) Projects that exceed the threshold in Section B(3) above and are not exempt or issued a waiver shall require an Erosion Control Permit in accordance with this Section; and
  - (b) Permit issuance by the Planning Board is required prior to any site altering activity.
- (2) Fee; and
  - (a) At the time of an application, the applicant shall pay a filing fee of \$200 as specified on the Erosion Control Application; and
  - (b) The Planning Board may waive the filing fee, consultant fee, and costs and expenses for an application filed by a government agency, the Town, or a non-governmental organization working the interest of the Town.
- (3) Major Permit Application Filing;

Applications for erosion control permits shall include the materials as specified below. Applicants shall file one (1) original completed application packet and seven (7) copies. Application packets shall include:

- [1] Written application for an Erosion Control Permit shall be filed with the Planning Board to perform activities affecting areas protected by this Section. The application shall include such information and plans as are deemed necessary by the Planning Board to describe proposed activities and their effects on the areas and at a minimum include:
  - [1] Completed erosion control application form;
  - [2] Filing fee of \$200.00;
  - [3] Project narrative that includes a description of the proposed project and a description of how and where stormwater will be controlled and erosion and sediment controls to be used, plus a description of any specimen trees within the project area; and
  - [4] Engineered plan set, signed and stamped by a professional engineer or a professional land surveyor registered in the Commonwealth of Massachusetts, and drawn at a legible scale and including
    - [a] Existing conditions plan;
    - [b] Proposed conditions plan; and
    - [c] Erosion control plan.
- [2] The existing and proposed conditions plans shall identify significant natural features and specimen trees within the project area.
- [3] The Erosion and Sediment Control Plan shall include the following related specifically to the disturbance area:
  - [1] Location of all structural and non-structural erosion and sediment control measures and BMPs;
  - [2] Locations where stabilization practices are expected to occur;
  - [3] Locations for storage of materials, waste, vehicles, equipment, soil, snow, and other potential contaminants;
  - [4] Operations and Maintenance Plan for BMP's including inspections and maintenance activities as noted in Section I. below;
  - [5] Areas where previous stabilization has been accomplished and no further construction-phase permit requirements apply; and
  - [6] Any other information deemed necessary by the Planning Board.

## **G. Review Standards**

The applicant shall demonstrate that the following measures are employed in development of the site:

- (1) Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees;
- (2) Sites shall be designed in such a way as to avoid impacts to rare and endangered species and their habitat on a site, and to maintain contiguous forested areas to the extent practicable; and

- (3) In the design of a site, priority shall be given to retention of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.

## **H. Permits and Conditions**

- (1) Erosion Control Permit and approved plans shall be posted at the work site over the duration of site disturbance, construction, and post-construction cleanup;
- (2) No activities shall commence without receiving and complying with an Erosion Control permit issued pursuant to this Section;
- (3) Understory vegetation beneath the drip line of preserved trees shall also be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state;
- (4) Development envelopes for structures, driveways, wastewater disposal, lawn areas, and utility work shall be designated to limit clearing and grading;
- (5) Other efforts to minimize the clearing and grading on a site associated with construction activities shall be employed, such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, etc. in areas already planned for permanent structures. Topsoil, gravel, or other construction or landscaping materials shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers;
- (6) Finished grades should be limited to no greater than a 2:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible;
- (7) The proper site management techniques that will be followed during construction:
  - (a) BMPs shall be employed to avoid detrimental impacts to existing vegetation, soil compaction, and damage to root systems; and
  - (b) The extent of a site exposed at any one time shall be limited through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.
- (8) Protection of the site during construction through adequate erosion and sedimentation controls:
  - (a) Temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as are necessary may be required by the Planning Board to intercept and divert surface water runoff. Runoff flow shall not be routed through areas of protected vegetation or re-vegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed to BMP's such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of 2:1;
  - (b) Erosion and sedimentation controls shall be constructed in accordance with the Department of Environmental Protection Stormwater Guidance manual;

- (c) Erosion control measures shall include the use of erosion control matting, silt fencing, hay bales, mulches, and/or temporary or permanent cover crops as may be most appropriate for the area. Erosion control measures damaged from heavy rainfalls, severe storms, and construction activity shall be repaired immediately;
  - (d) Erosion control matting or mulch shall be anchored where:
    - [1] Plantings are on areas subject to mulch removal by wind or water flows
    - [2] Where side slopes are steeper than 2:1 or exceed 10 feet in height.
    - [3] During the months of October through March when seeding and sodding may be impractical, anchored mulch may be applied at the Planning Board's discretion.
  - (e) Runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands, rain gardens, or similar systems covered with natural vegetation. Runoff shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are not feasible. All such basins and wells shall be preceded by oil, grease, and sediment traps. The mouths of all catch basins shall be fitted with filter fabric during the entire construction process to minimize siltation or such basins shall be designed as temporary siltation basins with provisions made for final cleaning; and
- (9) Re-vegetate the site immediately after grading:
- (a) Proper re-vegetation techniques shall be employed using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Re-vegetation shall occur on cleared sites within seven (7) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species;
  - (b) A minimum of 4 inches of topsoil shall be placed on all areas subject to land disturbance which are proposed to be planted; and
  - (c) Finished grade shall be no higher than the trunk flare(s) of trees to be retained. If a grade change of 6 inches or more at the base of the tree is proposed, a retaining wall or tree well may be required.

## **I. Monitoring and Inspections**

- (1) After installation of barriers around preserved areas and construction of all structural erosion and sedimentation controls, an initial site inspection and approval, by the Planning Board's designee, of erosion and sedimentation controls and placement of tree protection measures shall occur. This inspection shall occur before any clearing or grading has begun;
- (2) Routine inspections during the period of construction and remediation, by the Planning Board's designee of preserved areas and erosion and sedimentation controls shall be made at varying intervals depending on the extent of site alteration and the frequency and intensity of rainfall;
- (3) Effective stabilization of re-vegetated areas must be approved by the Planning Board's designee before erosion and sedimentation controls are removed. The Planning Board designee shall complete an inspection prior to removal of erosion and sedimentation controls; and
- (4) The applicant shall be required to conduct weekly inspections of all erosion and sedimentation

control measures on the site during the period of construction and during remediation to ensure that they are properly functioning as well as to conduct inspections following any storm that totals one (1) inch of rain within a 24-hour period.

#### **J. Appeal of Permit**

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

#### **K. 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.

#### **L. Definitions**

**AGRICULTURE, COMMERCIAL**- Land in commercial agriculture use shall be as defined in Massachusetts General Laws Chapter 128, Section 1A used as such for commercial purposes.

**AGRICULTURE, NON-COMMERCIAL** – Land in non-commercial agriculture refers to farms and other agricultural uses as defined in Massachusetts General Laws Chapter 128, Section 1A which are not intended for commercial sales to sustain the enterprise economically.

**APPLICANT** – A person submitting an application for development, a permit, or other required approval under the Protective Bylaw. "Applicant" includes the owner of the property subject to the application and any person designated in writing by the owner to represent the owner.

**BEST MANAGEMENT PRACTICES (BMPs)** - A structural, nonstructural, or managerial technique recognized to be the most effective and practical means to prevent and reduce nonpoint source pollutants. BMPs should be compatible with the productive use of the resource to which they are applied, and should be cost-effective.

**BEST MANAGEMENT PRACTICES, FORESTRY (fBMPs)** – Proactive practical methods or practices prescribed under Massachusetts General Laws Chapter 132 used during forest management to achieve goals related to water quality, silviculture, wildlife and biodiversity, aesthetics, and/or recreation.

**CLEARING** - Removal or causing to be removed, through either direct or indirect actions, trees, shrubs and/or topsoil from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any filling, excavation, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage.

**CLEARCUTTING** – Clearfelling, or clearcut logging is a forestry/logging practice in which most or all trees in an area are uniformly cut down.

**DRIP LINE** - An area encircling the base of a tree which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

**ESSENTIAL ROOT ZONE** - An area located on the ground between the tree trunk and 10 feet beyond the drip line of a tree which is required for protection of a tree's root system.

**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.

**DIAMETER/DIAMETER-BREAST HEIGHT (dbh)** - The diameter of any tree trunk, measured at 4.5 feet above existing grade.

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

**GRADING** – A term used in engineering which includes excavation, filling, clearing, the installation of swales or drains, the creation of impervious surface, or any combination thereof as part of site alteration or preparation, which modifies the existing surface of the land.

**HAZARDOUS TREE** - A tree with a structural defect or disease, or which impedes safe sight distance or traffic flow, or otherwise currently poses a threat to life or property.

**INVASIVE SPECIES** - an "invasive species" is defined as a species that is:

- (1) Non-native (or alien) to the ecosystem under consideration;
- (2) Whose introduction causes or is likely to cause economic or environmental harm or harm to human health; and
- (3) Which may be listed by the Massachusetts Invasive Plant Advisory Group (MIPAG) as an invasive plant.

**LAND DISTURBANCE** – Any activity which affects the ground surface and/or vegetation (i.e.: clearing, grubbing, cut/fill, grading, excavating for foundations, etc.).

**PERMIT, MAJOR** – A major erosion control permit is intended for those circumstances that meet or exceed the threshold in Section C(3) above and are not subject to a waiver or exemption.

**PERMIT, MINOR** – A minor erosion control permit is intended for those circumstances that exceed the threshold noted in Section B(3) above that are not expected to create significant erosion issues, for example, where no additional impervious surface is being created by accessory and/or non-principal uses.

**PROTECTED TREE/VEGETATION** - A tree or area of understory vegetation identified on an approved landscape plan to be retained and protected during construction.

**SPECIMEN TREE** - A native, introduced or naturalized, tree which is important because of its impact on community character, its significance in the historic/cultural landscape or its value in enhancing the effects of wildlife habitat. Any tree with a dbh of 6 inches or larger is eligible to be considered a specimen tree. Trees that have a small height at maturity or are slow growing, such as flowering dogwood or American holly with a dbh of 4 inches or larger are eligible to be considered specimen trees.

**SIGNIFICANT FOREST COMMUNITY** - Unfragmented forests including forest types that provide habitat for rare species, unusual ecological processes, highly diverse forest communities, rare forest types, and those forest types which maintain connections between similar or different habitat patches.

**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.

**SLOPE** - For the purposes of the erosion control provision, slope shall be measured using the two-foot contours on the required erosion control plan. The slope percentage will be the change in elevation divided by the shortest distance between two contour lines. Slope percentages may be averaged across specified horizontal distances.

**UNDERSTORY VEGETATION** - Small trees, shrubs, and groundcover plants, growing beneath and shaded by the canopy of trees.

(Inserted by Planning Board)

## **ARTICLE 32: CITIZEN PETITION – MARIJUANA**

The operation within the Town of Harvard of any marijuana establishment, as defined in Massachusetts General Laws c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, is prohibited. This prohibition shall not apply to the sale, distribution, or cultivation of marijuana for medical purposes by a Registered Marijuana Dispensary as defined by and registered under Chapter 369 of the Acts of 212.

(Inserted by Petition)

## **ARTICLE 33: CITIZEN PETITION – AMEND CHAPTER 125**

Chapter 125 Protective Bylaw

Article 1 General Provisions

125-2 Definitions

### **MARIJUANA ESTABLISHMENT**

A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, medical marijuana treatment center and/or any contribution thereof, but excluding a marijuana retailer as defined in M.G.L. c. 94G Section 1 and a marijuana social consumption establishment.

(Inserted by Petition)

## **ARTICLE 34: AMEND THE CODE OF HARVARD, CHAPTER 21, REVOLVING FUNDS**

To see if the Town will vote to amend the Code of Harvard, Chapter 21, Revolving Funds, by adding thereto in Section 21-5.4, Fire Department S.A.F.E. Program Revolving Fund, sub-section B., Revenues., at the end of the sentence the words “and including local Burn Permit fees.” Section B to read as amended:

“B. Revenues. The Town Accountant shall establish the Fire Department S.A.F.E. Program Revolving Fund as a separate account and credit to the Fund all of the fees charged and received by the Fire Department in connection with said program and including local Burn Permit fees.”

And to also add a new Section 21-5.7, Parks and Recreation Beach Revolving Fund as follows:

§ 21-5.7 Parks and Recreation Beach Revolving Fund.

A. Fund name. There shall be a separate fund called the Parks and Recreation Beach Revolving Fund authorized for use by the Parks and Recreation Commission.

- B. Revenues. The Town Accountant shall establish the Parks and Recreation Beach Revolving Fund as a separate account and credit to the Fund all of the program and activity fees charged and received by the Parks and Recreation Commission in connection with the activities at the beach, on the water, docks, and moorings operated by or allowed by the Parks and Recreation Commission.
- C. Purposes and expenditures. During each fiscal year, the Parks and Recreation Commission may incur liabilities against and spend monies from the Parks and Recreation Beach Revolving Fund for the expenses of the Town Beach.
- D. Fiscal Years. The Parks and Recreation Beach Revolving Fund shall operate for fiscal years that begin on or after January 1, 2019.

This fund will have all revenues collected in accordance with Section 21-5.7 B. above credited to the Fund starting on January 1, 2019, or pass any vote or votes in relation thereto.  
(Inserted by Select Board)

### **ARTICLE 35: REVOLVING FUNDS**

To see if the Town will vote to set the following limits on the amounts to be expended from the following revolving funds during Fiscal Year 2020:

| <b>Revolving Fund</b>                                           | <b>Expenditure Limit</b> |
|-----------------------------------------------------------------|--------------------------|
| Council on Aging                                                | \$35,000.                |
| Fourth of July Committee                                        | \$40,000.                |
| Harvard Ambulance Service                                       | \$277,724.               |
| Fire Department S.A.F.E. Program                                | \$15,000.                |
| Application Review Advertising<br>and Professional Service Cost | \$1,000.                 |
| Harvard Community Cable<br>Access Committee                     | \$25,000.                |
| Parks and Recreation Beach                                      | \$65,000.                |

or pass any vote or votes in relation thereto.  
(Inserted by Finance Committee)

### **ARTICLE 36: ACCEPTANCE OF GIFTS OF PROPERTY**

To see if the Town will vote to accept gifts of land or interests in land for any municipal purpose, and authorize the Select Board to acquire said parcels of land or interests therein so donated or purchased by eminent domain for the purpose of confirming and making clear the Town's title to said parcels of land or interests therein, or pass any vote or votes in relation thereto.  
(Inserted by Select Board)

### **ARTICLE 37: ACCEPTANCE OF HIGHWAY FUNDS**

To see if the Town will vote to accept State funds to be used for reconstruction and improvements of public ways, or pass any vote or votes in relation thereto.  
(Inserted by Select Board)

And furthermore, in the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of the said Town who are qualified to vote in Town affairs, to meet at The Bromfield School, 14 Massachusetts Avenue, on Tuesday, the 7<sup>th</sup> day of May, 2019, to cast their ballots for the following officers and questions:

Moderator, one position for one year; Select Board, two positions for three years; Library Trustee, two positions for three years; School Committee, one position for three years; School Committee, one position for two years; Warner Free Lecture Society Trustee, two positions for three years; Warner Free Lecture Society Trustee, one position for two years.

**QUESTION #1 – ACCEPTANCE OF CHAPTER 412 OF THE ACTS OF 2018 - AN ACT  
AUTHORIZING THE TOWN OF HARVARD TO ESTABLISH A CAP ON  
PROPERTY TAXES FOR MEANS TESTED SENIOR CITIZENS**

Shall the Town of Harvard accept the provisions of Chapter 412 of the Acts of 2018, an act authorizing the Town of Harvard to establish a cap on property taxes for means tested senior citizens?

YES \_\_\_\_\_ NO \_\_\_\_\_  
(Requires a majority vote for passage.)

**QUESTION #2 – AYER ROAD DESIGN AND ENGINEERING**

Shall the Town of Harvard be allowed to exempt from the provisions of Proposition two-and-one-half, so called, the amounts required to pay for the bonds issued in order to design and engineer improvements to Ayer Road from Route 2 north to the Ayer town line?

YES \_\_\_\_\_ NO \_\_\_\_\_  
(Requires a majority vote for passage.)

**QUESTION #3 – HEAVY DUTY DUMP TRUCK**

Shall the Town of Harvard be allowed to exempt from the provisions of Proposition two-and-one-half, so called, the amounts required to pay for the bonds issued in order to purchase a heavy duty dump truck for the Department of Public Works?

YES \_\_\_\_\_ NO \_\_\_\_\_  
(Requires a majority vote for passage.)

**QUESTION #4 – SLATE ROOF FOR OLD LIBRARY**

Shall the Town of Harvard be allowed to exempt from the provisions of Proposition two-and-one-half, so called, the amounts required to pay for the bonds issued in order to replace the slate roof on the Old Town Library?


YES \_\_\_\_\_ NO \_\_\_\_\_  
(Requires a majority vote for passage.)

(The polls will be open from 7:00 a.m. to 8:00 p.m.)

And you are directed to serve this Warrant by posting three attested copies thereof, one at the Town Hall, one at the Post Office in Harvard, and one at the Post Office in Still River, as directed by vote of the Town, seven days at least before the time of holding said meeting. Hereof fail not, and make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

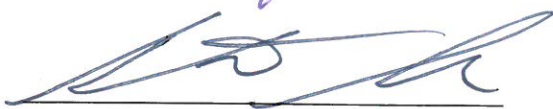
Given under our hands this 2nd day of April, Two Thousand and Nineteen.

**Harvard Select Board:**

  
Lucy B. Wallace, Chair

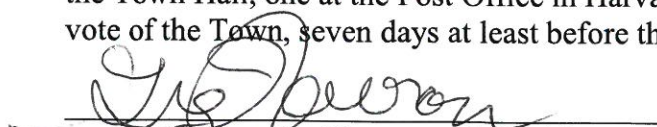
  
Richard Maiore

  
Kara McGuire Minar

  
Stuart Sklar

  
Alice von Loesecke

I hereby certify that I have posted three attested copies of the warrant for the Special Town Election, one at the Town Hall, one at the Post Office in Harvard, and one at the Post Office in Still River, as directed by the vote of the Town, seven days at least before the time of holding said meeting.

  
Gregory Newman, Constable

4/3, 2019  
(month and day)

