

**WARRANT FOR THE 2022 TOWN OF HARVARD
ANNUAL TOWN MEETING SECOND SESSION
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 at the Bromfield School Auditorium, located on Massachusetts Avenue, on Saturday the 1st day of October, 2022 at 12:00 noon by the clock to act on the following articles at the second session of the 2022 Annual Town Meeting which was adjourned to said date and time at the conclusion of the first session of the 2022 Annual Town Meeting on May 14, 2022.

ARTICLE 1: Pay Prior Year Bills

To see if the Town will vote to transfer sums of money from the General Stabilization Fund to pay prior fiscal year bills, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 2: Police Department - Radar Poles and Electrical Work.

To see if the Town will vote to transfer a sum of money from the General Stabilization Fund to pay for the cost of new poles and electrical work to permanently mount the old mobile radar systems, with the approval of the Police Chief, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 3: Fire Chief Contract and Funding for the Contract for Fiscal 2023

To see if the Town will vote to approve the most recent contract between the Town and Fire Chief, which has been approved by the Fire Chief and the Select Board and to transfer from the General Stabilization Fund a sum of money to pay for the cost of funding Fiscal Year 2023 of said contract, or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

ARTICLE 4: Recreation/Beach Director

To see if the town will vote to create the new Recreation/Beach Director position for the Parks and Recreation Commission, said position to be funded until FY24 from the FY23 OMNIBUS Beach Director Budget and from the Beach Revolving account and that this position be included in future budgets if so approved, or pass any vote or votes in relation thereto.

(Inserted by Park and Recreation)

**ARTICLE 5: Adopt Bylaw Allowing Noncriminal Disposition for
Certain Town Code Violations.**

To see if the Town will vote to amend the Town Code of the Town of Harvard by adding to the Chapter 1 thereof the following new Article II relative to noncriminal disposition of certain violations, or take any vote or votes in relation thereto.

Article II Noncriminal Disposition of Certain Violations

§ 1-1. Criminal complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court Department. Except as may be otherwise provided by law and as the District Court Department may see fit to impose, the maximum penalty for each violation or offense brought in such manner shall be \$300.

§ 1-2. Noncriminal complaint. Whoever violates any provision of these bylaws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in Massachusetts General Laws Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and sections of bylaws are to be included within the scope of this subsection, that the specific penalties, as listed here, shall apply in such and that the municipal personnel listed for each section, if any, shall be enforcing persons for such section. Each day during which any violations exist shall be deemed to be a separate offense.

§ 1-3. List of Town Code provisions subject to enforcement under Massachusetts General Laws Chapter 40, Section 21D, procedures:

(a) Alarm Systems, Chapter 6, § 6-1.

[1] Fine allowed: \$200.

[2] Enforcement agent: Town Administrator.

(b) Alcoholic Beverages, Chapter 9, § 9-1.

[1] Fine allowed: \$50.

[2] Enforcement agents: police officers.

[3] Fine schedule: first and subsequent offenses, \$50.

(c) Bare Hill Pond, Chapter 13, § 13-1 through § 13-7.

[1] Fine allowed: \$(TBD).

[2] Enforcement agents: Select Board or designee.

[3] Fine schedule: first and subsequent offenses, \$(TBD).

(d) Canvassers and Solicitors, Chapter 15, § 15-3 through § 15-9.

[1] Fine allowed: \$50.00 as set forth in § 15-10.

[2] Enforcing agents: police officers.

(e) Chapter 24, Dogs

(i) Dangerous and Nuisance Dogs, § 24-2 through § 24-2.

[A] Fine allowed: \$50 to \$1,000.

[B] Enforcement agents: Select Board or designee and Animal Control/Dog Officer.

[C] Fine schedule: first offense, \$50; second offense, \$100; third offense, \$200; subsequent offenses, \$300; and, for violation of a Select Board order issued pursuant to Massachusetts General Laws Chapter 140, Section 157, first offense, up to \$500; second offense, up to \$1,000.

(ii) Licensure, § 24-8.

[A] Fine allowed: \$15.

[B] Enforcement agents: Town Clerk and Assistant Town Clerk.

(f) Firearms and Explosives, Chapter 39, § 39-1.

[1] Fine allowed: \$50.

[2] Enforcement agents: police officers.

(g) Health, Board of Health Regulations, Chapter 145.

**(1) Prohibition of Smoking in Workspaces and Public Spaces,
Article VIII, 145-81B.**

[A] Fine allowed: \$100 to \$300.

[B] Enforcement agent: Board of Health Agent.

[C] Fine schedule: First offense, \$100; Second offense occurring within two years of the date of the first offense, \$200; Third and subsequent offenses occurring within two years of the date of the second offense, \$300.

(2) Sale of Tobacco Products to Minors, Article VII, §145-75

[A] Fine allowed: \$1,000 to \$5,000.

[B] Enforcement agent: Board of Health Agent.

[C] Fine schedule: First violation, \$1,000; Second violation occurring within 2 years of the date of the first offense, \$2,000; Third violation occurring within two years of the date of the second violation, \$5,000.

(3) Marijuana Establishments and the Sale of Adult-use Marijuana and Cannabidiol, Article IX, §145-97

- [A] Fine allowed: \$1,000 to \$5,000
- [B] Enforcement agent: Board of Health Agent.
- [C] Fine schedule: (TBD).

(4) Solid Waste and Recyclables, Article IV, §145-49, Commercial Generators Not Recycling and Waste Haulers Noncompliance.

- [A] Fine allowed: Up to \$500.
- [B] Enforcement agent: Board of Health Agent.
- [C] Fine schedule: First offense, written warning; Second offense, \$100; Third offense, \$300; Subsequent offenses: fine of not less than \$300 nor more than \$500. Each day of failure to comply with the regulations shall constitute a separate violation.

(5) Private Wells, Water Quality Test, Article II, §145-18, Home Sales.

- [A] Fine allowed: \$Up to \$500
- [B] Enforcement agent: Board of Health Agent
- [C] Fine schedule: First offense, written warning; Second offense, \$100; Third offense, \$300; Subsequent offenses: fine of not less than \$300 nor more than \$500. Each day of failure to comply with the regulations shall constitute a separate violation.

(6) Private Wells, Article II, §145-13 through §145-17 and §145-19 through §145-20.

- [A] Fine allowed: \$10 to \$500 per day
- [B] Enforcement agent: Board of Health Agent
- [C] Fine schedule: First offense, written warning; Second offense, \$(TBD); Third offense, (TBD). Each day of failure to comply with the regulations shall constitute a separate violation.

(h) Historic Districts, Chapter 48, §48-7.

- [1] Fine allowed: \$10 to \$500 per day
- [2] Enforcement agents: Historic District Commission or, if designated by the Historic District Commission, the Building Commissioner.

(i) House Numbering, Chapter 53, §53-1 through §53-5.

- [1] Fine allowed: Up to \$10 per day.
- [2] Enforcement agent: Building Commissioner.

(j) Select Board, Chapter 53.

(1) Vehicles and Traffic, Article I.

[A] Fine allowed: \$(TBD).

[B] Enforcement agents: Chief of Police or any police officer of the Town.

(2) Driveway Construction and Connection Permits, Article II.

[A] Fine allowed: Up to \$50.

[B] Enforcement agents: Select Board acting through the Director of the Department of Public Works.

(k) Scenic Roads, Chapter 90, §90-4 and §90-5.

[1] Fine allowed: \$300.

[2] Enforcement agents: The Planning Board, Select Board, Chief of Police or any police officer of the Town, Tree Warden, and Building Commissioner.

(l) Sewer Commission Rule and Regulations, Chapter 146.

[1] Fine allowed: \$(TBD).

[2] Enforcement agents: Harvard Wastewater Management District Commission/Sewer Commission.

(m) Street and Sidewalks, Chapter 96.

[1] Fine allowed: \$50.

[2] Enforcement agent: Select Board acting through the Director of the Department of Public Works

(n) Stretch Energy Code, Chapter 98.

[1] Fine allowed: \$(TBD).

[2] Enforcement agent: Building Commissioner.

(o) Vehicles, Operation of, Chapter 107.

[1] Fine allowed: \$50.

[2] Enforcement agents: Chief of Police or any police officer of the Town.

(p) Vehicles, Reserved Parking Spaces for, Chapter 108.

[1] Fine allowed: Up to \$300.

[2] Enforcement agents: Chief of Police or any police officer of the Town.

[3] Fine schedule: first offense, \$100; second offense, \$200; third offense and each subsequent offense, \$300.

(q) Vehicles, Unregistered or Junked, Chapter 110.

[1] Fine allowed: \$20.

[2] Enforcement agents: Chief of Police or any police officer of the Town.

(r) Water Supply Conservation, Chapter 117.

[1] Fine allowed: \$100.

[2] Enforcement agents: Director of the Department of Public Works.

(s) Wetlands Protection Bylaw, Chapter 119.

[1] Fine allowed: \$300.

[2] Enforcement agents: Conservation Commission and its designated agents.

(t) Zoning, Protective Bylaw, Chapter 125.

Notwithstanding the enforcement and penalties prescribed in § 125-49, A. of the Town Code and the provisions of Massachusetts General Laws Chapter 40A, the provisions the Town's Protective Bylaw be enforced by the Building Commissioner by noncriminal complaint. Each day of violation may constitute a separate offense.

[1] Fine allowed: Up to \$100.

[2] Enforcement agents: Building Commissioner.

(Inserted by Select Board)

ARTICLE 6: Adopt Bylaw Regulating Outdoor Water Usage

To see if the Town will vote to amend the Code of the Town of Harvard by deleting therefrom Chapter 117, Water Supply Conservation, in its entirety and inserting in place thereof the following new Chapter 117 relative to outdoor water usage, or take any vote or votes in relation thereto.

Chapter 117 Outdoor Water Usage

§117-1. Authority

This By-law is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and pursuant to its powers under Massachusetts General Laws Chapter 40, Section 21 *et seq.* and implements the Town's authority to regulate water use pursuant to Massachusetts General Laws Chapter 41, Section 69B. This by-law also implements the Town's authority under Massachusetts General Laws Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection under Massachusetts General Laws Chapter 21G, Section 15 through 17. This by-law is also intended to implement other water conservation requirements of Massachusetts General Laws Chapter 21G, the "Massachusetts Water Management Act" and its regulations promulgated at 310 CMR 36.00.

§117-2. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety, welfare and the environment whenever there is in force a “State of Water Supply Conservation”, a “State of Drought” or a “State of Water Supply Emergency” by ensuring an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands. This purpose will be accomplished by providing for the imposition and enforcement of any duly implemented restrictions, requirements, provisions or conditions on water use imposed by the Town [or Water District] in accordance with this by-law and/or by the Department of Environmental Protection under its state law authorities.

§117-3. Applicability

All Town residents that are customers of the public water supply system and private well users shall be subject to this by-law. This by-law shall be in effect year-round.

§117-4. Definitions

Agriculture shall mean farming in all its branches as defined at Massachusetts General Laws Chapter 128, Section 1A.

Automatic irrigation system, including sprinklers, shall mean any system for watering vegetation other than a hand-held hose or a bucket.

Nonessential outdoor water use shall mean those uses that are not required:

1. for health or safety reasons;
2. by regulation;
3. for the production of food and fiber;
4. for the maintenance of livestock; or
5. to meet the core functions of a business.

Nonessential outdoor water uses that are subject to mandatory restrictions include:

- irrigation of lawns via sprinklers or automatic irrigation systems;
- washing of vehicles, except in a commercial car wash or as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment; and
- washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement.

Exceptions to nonessential outdoor water uses are:

- irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose controlled by a nozzle or a drip-irrigation system; and
- irrigation with harvested and stored stormwater runoff.

The following outdoor water uses are subject to review and approval by The Town, through its Board of Water Commissioners or their designee:

- irrigation of public parks and recreation fields outside the hours of 9 A.M. to 5 P.M.;
- irrigation to establish replanted or resodded lawn or plantings during the months of May and September;
- irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months; and
- filling of privately owned outdoor pools.

Person shall mean any individual, corporation, trust, partnership, association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

State of Drought shall mean a Drought Advisory, Watch, Warning or Emergency declared by the Secretary of Energy and Environmental Affairs in consultation with the Massachusetts Drought Management Task Force.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, §§ 15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 5 of this by-law.

Water Customers shall mean all persons using the public water supply irrespective of that person's responsibility for payment for use of the water.

Water Users shall mean all persons using the public water supply or using privately-owned wells within the Town of Harvard.

§117-5. Declaration of a State of Water Supply Conservation

The Town, through its Board of Water Commissioners or their designee authorized to act as such:

- a) may declare a State of Water Supply Conservation upon a determination that conservation measures are appropriate to ensure an adequate supply of water for drinking and fire protection, to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands; and
- b) shall declare a State of Water Supply Conservation as necessary to ensure compliance with the Water Management Act.

Upon notification to the public that a State of Water Supply Conservation has been declared, no water user shall violate any provision, restriction, requirement or condition of the declaration. Public notice of a State of Water Conservation shall be given under Section 9 of this by-law before it

may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§117-6. State of Drought

Upon notification to the public that a State of Drought has been declared, no water user shall violate any provision, restriction, requirement or condition of the Town's water use restrictions. Public notice of a State of Drought shall be given under Section 9 of this by-law before it may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§117-7. Declaration of a State of Water Supply Emergency

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Massachusetts Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department for the purpose of bringing about an end to the State of Water Supply Emergency. Public notice of a State of Water Supply Emergency shall be given under Section 9 of this by-law before it may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§117-8. Restricted Water Uses

A declaration of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency shall include one or more of the following restrictions, conditions, or requirements limiting nonessential outdoor water use by water users as necessary to control the volume of water pumped each day, except as provided as acceptable in Section 4. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 9.

- a) Nonessential outdoor water use days: Nonessential outdoor water use is permitted only on the days per week specified in the State of Water Supply Conservation, State of Drought or a State of Water Supply Emergency and public notice thereof. During a State of Water Supply Conservation, nonessential outdoor water use is restricted as necessary to ensure compliance with the Water Management Act, or for a Town or Water District without a Water Management Act permit, to two days or fewer per week.
- b) Nonessential outdoor water use hours: Nonessential outdoor water use is permitted only during the hourly periods specified in the State of Water Supply Conservation, State of Drought or State of Water Supply Emergency and public notice thereof. At a minimum, nonessential outdoor water use is prohibited during the hours from 9 A.M. to 5 P.M.

- c) Nonessential outdoor water use method restriction: Nonessential outdoor water use is restricted to a bucket or hand-held hose controlled by a nozzle.
- d) Nonessential outdoor water use ban: Nonessential outdoor water use is prohibited at all times.
- e) Automatic irrigation systems, including sprinklers: The use of automatic irrigation systems is prohibited.

§117-9. Public Notification and Notification of Mass DEP

- a) Public Notification of a State of Water Supply Conservation or a State of Drought – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town [Water District] as part of a State of Water Supply Conservation or a State of Drought shall be made as soon as possible, but no later than 48 hours following the declaration of a State Water Supply Conservation or State of Drought by publication in a newspaper of general circulation within the Town and by signage on major roadways or intersections. Notification may also include email, Web sites, public service announcements on local media, reverse 911 calls or other such means reasonably calculated to reach and inform all water users.
- b) Public Notification of a State of Water Supply Emergency – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the Department shall be made as soon as possible, but not later than 48 hours after the public water system receives notice of the Department's declaration of a State of Water Supply Emergency, by publication in a newspaper of general circulation with the Town and by signage on major roadways or intersections. Notification may also include email, Web sites, public service announcements on local media, reverse 911 calls or other such means reasonably calculated to reach and inform all water customers [water users] of the State of Water Supply Emergency.
- c) Any restriction imposed pursuant to Section 5 or Section 6 or in the Department's State of Water Supply Emergency or Order shall not be effective until notification to the public is provided.
- d) Notification of MassDEP: Submittal of MassDEP's form "Notification of Water Use Restriction" shall be provided to the Massachusetts Department of Environmental Protection within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

§117-10. Termination of a State of Water Supply Conservation; Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners or by decision of their designee upon a determination by either or both of them that the conditions requiring the State of Water Supply Conservation no longer exist, or in accordance with the Water Management Act permit conditions. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required in Section 9a for notice of its imposition.

§117-11. Termination of a State of Drought; Notice

Upon notification to the Town Water Commissioners or their designee that the declaration of a State of Drought has been terminated by the Massachusetts Secretary of Energy and Environmental Affairs, the public will be notified of the termination in the same manner as is required in Section 9a for notice of its imposition.

§117-12. Termination of a State of Water Supply Emergency; Notice

Upon notification to the Town [to the Water Commissioners or their designee that the declaration of a State of Water Supply Emergency has been terminated by the Department of Environmental Protection, the public will be notified of the termination in the same manner as is required in Section 9b for notice of its imposition.

§117-13. Penalties

The Town through its Water Commissioners or their designee including the Director of the Department of Public Works, Building Commissioner and/or Town police may enforce this by-law. Any person violating this by-law shall be liable to the Town in the amounts listed below:

- 1) First violation: Written warning.
- 2) Second violation: \$100.
- 3) Third violation: \$200.
- 4) Fourth and subsequent violations: \$300.

Each day of violation shall constitute a separate offense. Fines shall be recovered by complaint before the District Court Department, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the Massachusetts General Laws. For purposes of non-criminal disposition, the enforcing person shall be any police officer of the Town or the Director of the Department of Public Works or said Director's designee. If a State of Water Supply Emergency has been declared the Water Commissioners may, in accordance with Massachusetts General Laws Chapter 40, Section 41A, shut off the water at the meter or the curb stop.

§117-14. Severability

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

§117-15. Controls on In-Ground Irrigation Systems

Subsection XX.1 Registration and Installation

- a) All new and existing in-ground irrigation systems shall be registered with the Town's Board of Water Commissioners in such form and manner as they shall determine. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners. The Board may require inspection of the irrigation system.
- b) All in-ground irrigation systems shall be equipped with a timing device that can be set to make the system conform to the Town's nonessential outdoor water use restrictions. Whenever outdoor water use restrictions are in force, the timing device must be set to conform to the daily and hourly nonessential outdoor water use restrictions.
- c) All in-ground irrigation systems shall be plumbed so that a shutoff valve is located outside the building and situated so that it may be shut off if found to be in violation of this by-law. For the purposes of this section only, Police Officers of the Town and/or Agents of the Board of Water Commissioners may enter upon any property to enforce this section.

Subsection XX.2 Soil Moisture-Sensor Devices

- a) All in-ground irrigation systems installed in the Town after the date of effect of this bylaw shall be equipped with a soil moisture-sensor device, approved by the Board of Water Commissioners, to prevent the system from starting automatically when not needed. Proof of this installation shall be provided to the Board of Water Commissioners at the time of registration.
- b) Any service or repair to an existing in-ground irrigation system shall include the installation of an approved moisture-sensor device, if the same is not already installed and in good working condition. Proof of this installation shall be provided to the Board of Water Commissioners at the time of installation.
- c) The Board of Water Commissioners shall maintain a list, available to the public, of approved soil moisture-sensor devices.

Subsection XX.3 Backflow Prevention

- a) All in-ground irrigation systems connected to the municipal water system in the Town shall be protected from backflow events by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners.
- b) The Board of Water Commissioners shall maintain a list, available to the public, of approved backflow prevention devices.
- c) Each backflow prevention device shall be installed in accordance with 310 CMR 22.22 and the manufacturer's instructions. Each device shall be tested upon its installation and annually

thereafter. A Massachusetts Certified Backflow Device Tester shall perform all testing. Copies of results of all testing shall be filed with the Board of Water Commissioners.
(Inserted by Select Board)

ARTICLE 7: Expand Harvard Common Historic District to Include the Bromfield House Property.

To see if the Town will vote to amend the Town Code, Chapter 48, Historic Districts, Section 48-3, Historic District Maps, Paragraph B, Plan of Harvard Common Historic District – Revision D, by said replacing said Revision D map with Revision E map to include in the Harvard Common Historic District the property located at 39 Massachusetts Avenue, Harvard, Massachusetts and known as the Bromfield House property, shown as “Lot 43 Town of Harvard” having an area of 1.9 acres on said Revision D map dated March, 2015 and on said Revision E map dated May, 2022, a copy of which maps are on file in the Office of the Town Clerk, or take any vote or votes in relation thereto.

(Inserted by the Harvard Historical Commission)

And you are directed to serve this Warrant by posting two attested copies thereof, one at the Town Hall and one on the Town of Harvard website, as directed by the Town Charter, 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.

Given under our hands this 6th day of September, Two Thousand and Twenty-Two.

Harvard Select Board:


Richard Maiore, Chair

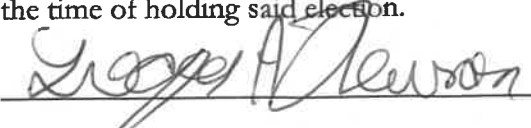

Erin McBee


Kara McGuire Minar


Charles Oliver

Donald Ludwig

I certify that I have posted two (2) attested copies of the warrant for the Special Town Election, one at the Town Hall and one on the Town Website, per the Town Charter, at least seven days before the time of holding said election.


Constable

08/09 Sep, 2022.
(month and day)