

Posted July 29, 2021 @1:45PM-MK

**TOWN OF HARVARD  
PLANNING BOARD AGENDA  
MONDAY AUGUST 2, 2021 @ 7:00PM**

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**Pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021, this meeting will be conducted via remote participation. Interested individuals can listen in and participate by phone and/or online by following the link and phone number below.**

Topic: Hildreth Pro's Planning Board Zoom Meeting  
Time: Aug 2, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/81674774060?pwd=MStiekRhLzVaY0czb2kva1RaMG92dz09>

**Meeting ID: 816 7477 4060**

**Passcode: 080578**

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Dial by your location

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Meeting ID: 816 7477 4060

Find your local number: <https://us02web.zoom.us/u/k5i5Q2zx1>

**Public Comment**

**New Business:** a) Election of Officers  
b) Form-based Code with Alan Manoian (7:15pm)  
c) Review Strategic Planning Session Agenda

**Standard Business:** a) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

b) Approve July 19, 2021 Minutes  
c) Approve Invoice – Harvard Press \$432.00

**Old Business:** a) Fall Town Meeting, October 16, 2021, Bylaw Amendments

- Erosion Control – Add new section 125-58 – Review Permits & Conditions, Monitoring & Inspections, Appeal of Permit, Enforcement & Definitions
- §125-57 Senior Residential Development – Add “Assisted Living” and “Continuing Care Retirement Community” as allowed development types
- Scenic Roads – Amend Chapter 90 – Finalize language
- §125-10 Multiple Residence Use – Revise the provisions and criteria to make it simpler and clearer to do a conversion
- §125-2 Definitions – Addition of definitions relating to §125-57 Senior Residential Development

b) Spring Town Meeting, 2022

- Open Space Residential Development – Amend Chapter 125-35 – Density of Development

**NEXT SCHEDULED MEETING: AUGUST 7, 2021 (Strategic Planning Session)**



**TOWN OF HARVARD  
PLANNING BOARD AGENDA  
HILDRETH HOUSE PORCH 15 ELM STREET  
SATURDAY AUGUST 7, 2020 @ 12:00pm**

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**STRATEGIC PLANNING SESSION**

**WELCOME & INTRODUCTIONS**

1. Review Policy & Procedure
  - Planning Board Handbook
  - Attending CPTC Training Sessions
  - 1-on-1 Training with new members/Role of the Staff
  - Continuation of Board Training
  - Social Media
2. Master Plan
  - Review Progress of Implementation
  - Review Select Board FY2022 Goals
  - Set Priorities for FY2022
  - Future Direction and Vision
3. Transportation Advisory Committee Update
  - Priority Plan for Complete Streets
    - Town Center
  - Safe Routes to School
  - Park & Ride Lot
  - Commuter Rail Shuttle
  - MRPC DLTA grant update
  - Nashoba Regional Greenways
4. Ayer Road Corridor
  - Mass DOT Transportation Improvement Project
  - Vision Plan
    - Phase 1: Market Study Status
  - Review Comments from Spring Annual Town Meeting
5. Housing
  - Housing Production Plan
    - Implementation Tasks and Review of Goals
    - Certifying the Plan
  - Senior Housing
  - Housing Choice Initiative Program
  - Inclusionary Bylaw
6. Protective & General Bylaw Amendments
  - Fall Annual Town Meeting 2021
    - Senior Residential Development

- Erosion Control
  - Scenic Roads
  - Spring Annual Town Meeting 2022
    - Senior Residential Development
    - Open Space Design Bylaw
    - Mapping the Multi-Family District
  - Future Annual Town Meetings
    - Town Center Zoning District
    - Re-codify Zoning Bylaw
    - Rural Life
7. Appoint Liaisons & Representatives
- Montachusett Regional Planning Commission
  - Montachusett Joint Transportation Committee
  - Community Preservation Committee
  - Design Review Board
  - Community Resiliency Working Group
  - Nashoba Regional Greenways
  - Harvard/Devens Jurisdiction Committee
  - Open Space Committee
  - Master Plan Implementation:
    - Water & Sewer Commission
    - Conservation Commission
    - Community Preservation Commission
    - Municipal Affordable Housing Trust
    - Energy Advisory Committee
    - Select Board
    - Bare Hill Pond Watershed Management Committee
    - Board of Health
    - Park & Recreation Committee
    - Department of Public Works
    - Historic Commission
8. Miscellaneous Items
- Proposed FY2023 Staffing Organizational Chart
  - Montachusett Regional Planning Commission
  - Electronic Application Filing Process for Planning Board Review
  - Grants
  - Economic Development (Policy, Survey, Focus, Revenue, Data)
  - Municipal Vulnerability Preparedness: Hazard Mitigation Plan
  - Website Reorganization and Development
  - GIS and Mapping

## **Final Wrap Up**

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**HARVARD PLANNING BOARD  
MEETING MINUTES  
JULY 19, 2021**

Chair Justin Brown called the meeting to order at 7:06pm virtually pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021, under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Justin Brown, Stacia Donahue, Richard Cabelus, Brian Cook and Doug Thornton and Jefferson Buron (Associate Member)

**Others Present:** Liz Allard (Land Use Administrator)

**Public Comment**

There was no public comment this evening.

**Board Member Reports**

**•Representatives & Liaisons Update**

- **Ayer Road Vision Plan** – Brown reported although the requested \$300,000 for this project was not approved at the Spring Annual Town Meeting, the Select Board has voted to provide \$45,000 from the Rand Tool Trust account to develop Phase 1 of this project. This Phase will develop a market analysis for the commercial district and provide what the next phases should entail, which will allow for the public to provide feedback. Ryan is in the process of drafting the Request for Proposals (RFP). Burson wanted to be certain the deliverables are clear within the RFP.
- **Park & Recreation (P&R) Commission- Pump Track** – Donahue reported a meeting of stakeholders was held last Monday. The feedback from that meeting indicated there has not been enough public input and a process should be followed to obtain that feedback. P&R is meeting this evening and will be discussing the matter further. Brown had previously mentioned Donahue and himself, along with staff will be meeting with the chair of the Climate Resiliency Working Group (CRWG) to discuss recent responses to this project under the guise of CRWG.
- **Montachusett Regional Planning Commission (MRPC)** - Donahue stated she briefly attended the most recent meeting of MRPC and reported they are working on the deliverable for the two District Local Technical Assistance grants awarded to Harvard. The two grants are for Transportation Plan project, which is intended to take Harvard's existing transportation element from the 2016 Master Plan and update it through a climate change lens and assisting the Agricultural Advisory Commission to find a way to provide staff in order to begin working on their goals and objectives spelled out in multiple plans.
- **Transportation Advisory Committee (TAC)** – Donahue stated the Transportation Improvement Project, through the Mass Department of Transportation (DOT), to repave Ayer Road from the Ayer town line to Route 2 is scheduled for 2026. This timeframe will work well with the Ayer Road Redevelopment Plan, which is currently at the 25% phase, in allowing for additional infrastructure to be installed prior to re-paving. In regards to the Ayer Road Redevelopment Plan, Mass DOT has provided comments to the consultant, The Engineering Company, and TAC has provided additional comments. Those comments suggest traffic calming measures be included throughout the corridor. Once Mass DOT has provided their comments a public hearing will be held to allow for feedback from the community; possible late August, earlier September.
- **Climate Resiliency Working Group (CRWG)** – Burson stated the outreach committee will be undertaking website improvements by launching Mass Energize in mid-August and the planning development committee will be meeting next week.

**•Community Matters – None**

53 **Approve Minutes**

54 Donahue made a motion to approve the minutes of May 26, June 7 and 21 and July 12,, 2021 as amended.  
55 Cabelus seconded the motion. The roll call vote was 2-0 with Donahue; aye; Cabelus; aye; Thornton, aye;  
56 and Brown, aye.  
57

58 **Fall Town Meeting, October 16, 2021, Bylaw Amendments**

59 ○ **Erosion Control – Add new section 125-58 – Review Minor & Major Permit Need**

- 60 ▪ In general, the Board feels the provision is confusing in its current format; Allard will work with  
61 Donahue to revise into a smoother flowing document.
- 62 ▪ In determining the 25% slope in 125-58B(3)(a) needs refinement.
- 63 ▪ Cabelus shared the Town of Weston’s explanation of major and minor permit, which was amenable  
64 to the Board.
- 65 ▪ Define “significant erosion”.
- 66 ▪ Revised 125-58-b2(a) to “Not Required”.
- 67

68 ○ **Scenic Roads – Amend Chapter 90 – Review Enforcement amendments**

- 69 ▪ “Appeals” has been moved to the end of the provision.
- 70 ▪ Within 90-6 Enforcement “...in consent with the Planning Board.”, under section A was removed,  
71 along with “...with continued progression toward a good faith effort for restoration.”, in section F.
- 72 ▪ The language within 90-6D will be re-word to detail the filing of a complaint with the local courts, as  
73 opposed to the Town’s Chief of Police criminally prosecuting violations of said provision.  
74

75 **Spring Town Meeting, 2022**

76 ○ **Open Space Residential Development (OSRD) – Amend Chapter 125-35 – All about Open Space**

- 77 ▪ In Ryan’s absence, Brown presented the following:
  - 78 • Brown explained convention zoning verses Open Space Residential Development, where the OSRD  
79 provides the same number of housing units, but provides for open space, trails, preservation  
80 special features and less roadway.
  - 81 • OPRD provides village like areas, diversity of housing opportunities and a reduce financial impact to  
82 the Town.
  - 83 • The current provision, Open Space Conservation – Planned Residential Development (125-35),  
84 requires a special permit, whereas the prosed revised provision would allow development by-right.
  - 85 • Conventional development may cost a developer less, as well as being less time consuming, but  
86 OSRD has a higher rate of return for a developer. Cook was concerned with by-right development;  
87 would require some type of oversight to be reviewed before allowing development to move  
88 forward. Cook was comfortable with 3-4 housing units being allowed by-right, but large-scale  
89 developments will need more checks and balances. Cabelus agreed.
  - 90 • Key definitions include Open Space, Primary Resource Protection Area (PRPA) and Secondary  
91 Resource Protection Area. 50% of a development remains in open space with PRPA’s (i.e. wetlands  
92 and steep slopes) not included, and is preserved in perpetuity. Use of the open space can be either  
93 open to the public or reserved for the home owners only.
  - 94 • This type of development is part of the long-range planning detailed within the 2016 Master Plan  
95 and Open Space and Recreation Plan.
  - 96 • The Board discussed concerns over the types of buyers for this type of development; some may see  
97 this as an investment opportunity for rental units; a balance between growing the Town in a  
98 responsible way.
  - 99 • New Board members were encouraged to review the Town’s Housing Production Plan.
- 100

101 **Adjournment**

102 Donahue made a motion to adjourn the meeting at 9:18pm. Cabelus seconded the motion. The vote was  
103 unanimously in favor of the motion by roll call, Donahue, aye; Cabelus, aye; Cook, aye; Thornton, aye; and  
104 Brown; aye.

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Signed: \_\_\_\_\_ Liz Allard, Clerk

**EXHIBITS & OTHER DOCUMENTS**

- Planning Board Agenda July 19, 2021
- Article XX: Amend Protective Bylaw Chapter 125 - §125-58 Erosion Control
- Article XX: Amend Scenic Roads Bylaw Chapter 90
- Town of Harvard Draft OSRD Bylaw Review Session 3 – Current Bylaw Part 1: Administrative, Part 2: It's All About the Open Space

DRAFT



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**Invoice**

**BILL TO**

Harvard Planning Board  
13 Ayer Road  
Harvard, MA 01451

**SHIP TO**

Harvard Planning Board  
13 Ayer Road  
Harvard, MA 01451

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
8579	07/16/2021	\$432.00	08/01/2021	Due on receipt	

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
07/02/2021	2x6 I	LEGAL NOTICE Proposed Protective Bylaw Amendments	1	144.00	144.00
07/02/2021	1x6 I	LEGAL NOTICE Proposed Scenic Road Bylaw Amendments	1	72.00	72.00
07/09/2021	2x6 I	LEGAL NOTICE Proposed Protective Bylaw Amendments	1	144.00	144.00
07/09/2021	1x6 I	LEGAL NOTICE Proposed Scenic Road Bylaw Amendments	1	72.00	72.00

BALANCE DUE

**\$432.00**



## **ARTICLE XX: AMEND PROTECTIVE BYLAW CHAPTER 125**

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

### **§125-58 EROSION CONTROL**

- A. Purpose.** The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff, decreased groundwater recharge and nonpoint source pollution associated with new development, redevelopment and other land alterations. It has been determined that proper management of erosion and stormwater will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:
- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
  - (2) Require that new development, redevelopment, and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics, where appropriate, in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
  - (3) Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.
  - (4) Establish provisions to ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
  - (5) Establish administrative procedures for the submission, review, approval or disapproval of erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; Establish administrative procedures and fees for the submission, review, approval, or disapproval of erosion control plans, inspection of construction sites, and the inspection of approved projects.

(7) Establish the Town of Harvard's legal authority and capacity to ensure compliance with the provisions of this Bylaw through funding, permitting, inspection, monitoring, and enforcement.

**B.** Nothing in this Bylaw is intended to replace the requirements of the Town of Harvard Protective Bylaw, the Mass Wetlands Protection Act, the Town of Harvard Wetland Protection Bylaw, Town of Harvard General Bylaw, any other Bylaws that may be adopted by the Town of Harvard, or any Rules and Regulations adopted there under.

**C. Definitions.**

**BEST MANAGEMENT PRACTICES (BMPs)** - Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce point source and nonpoint source pollution, and promote protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

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

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

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

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

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

**SITE** – Shall include the following meanings:

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

**D. Applicability.** Where a project is subject to Site Plan Approval, Definitive Subdivision, or Special Permit Approval from the Planning Board, the Regulations adopted by the Planning Board shall apply and a review shall be completed as part of the Planning Board

process provided that the Planning Board also finds that the activity is in compliance with any additional performance standards contained in the Regulations promulgated to implement this Bylaw.

- (1) For projects not subject to Site Plan Approval, Definitive Subdivision, or Special Permit Approval from the Planning Board, this Bylaw shall be applicable to all new development and redevelopment, land disturbance, and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land, unless exempt pursuant to Section E of this Bylaw. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this Bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section D(2), below and are not exempted by Section E, development shall not be segmented or phased in a manner to avoid compliance with this Bylaw.
- (2) No Permit Required – For activities including, but not necessarily limited to, those listed below, no permit shall be required provided that erosion control measures are used and the activity will not result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.
  - (a) Land Disturbance not to exceed 5,000 square feet in area other than work described in Section D(2)(d)
  - (b) The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
  - (c) Repair, replacement, or reconstruction of an existing driveway.
  - (d) Restoration of existing lawn areas provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
  - (e) The addition or on-site redistribution of up to 250 cubic yards of material.
  - (f) Demolition of a structure provided that any land disturbance, including the area of the structure, does not exceed 5,000 square feet.
  - (g) Routine maintenance and improvement of institutional open space, and recreational uses, provided that an annual letter or plan is filed with and approved by the Planning Board describing the work to be done.
- (3) Erosion Control Permit Thresholds - A Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section E:
  - (a) Minor Permit
    - [1] Excavating, grading, or other land-disturbing activity which disturbs an area greater than 20,000 square feet, but less than 40,000 square feet or a volume of earth greater than 500 cubic yards but less than 1,000 cubic yards per lot or parcel.

- [2] Excavating, grading, or other land-disturbing activity disturbing an area of land greater than 5,000 square feet if soil cut or fill exceeds four feet in vertical depth at its deepest point as measured from the natural ground level.
- [3] Repair, replacement, or expansion of septic systems provided the work does not exceed the thresholds in Section D(3)(b)[2].

(b) Major Permit

- [1] Excavating, grading, or other land-disturbing activity of an area of more than 40,000 square feet or a volume of earth resulting in a total quantity of 1,000 cubic yards per lot or parcel.
- [2] The addition or on-site redistribution of more than 1,000 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
- [3] Construction of any new dwelling or new dwelling replacing an existing dwelling, including accessory dwelling units.

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

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

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

**G. Enforcement.**

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

(Inserted by Planning Board)



**ARTICLE XX: AMEND CHAPTER 125-57, SENIOR RESIDENTIAL DEVELOPMENT, OF THE PROTECTIVE BYLAW**

To see if the Town will vote to amend Chapter 125-57, Senior Residential Development, of 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]

**§125-57 Senior Residential Development**

**A. Purpose and Intent.**

- (1) To address the town's demonstrated need for a variety of housing types, settings, and residential services to meet the needs of people as they age.
- (2) To permit the development of appropriately located, specially designed, and appropriately priced housing for seniors who would otherwise not have such housing opportunities within the town.
- (3) To provide opportunities for Harvard residents to age in place.
- (4) To allow flexibility in land use planning in order to improve site layouts, protect natural features and environmental values, and use land in harmony with neighboring properties;
- (5) To encourage the implementation of "Smart Growth" and sustainable development techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures;
- (6) To reduce the typical costs of providing municipal services to residential developments;
- (7) To protect Harvard's rural New England character by permitting the development of residential housing in clusters and village-like settings, in a manner which is in harmony with Harvard's historic development pattern, preserves and protects its natural resources, and is pedestrian friendly.

**B. Applicability.**

- (1) The Planning Board may approve a site plan or grant a Special Permit for a Senior Residential Development project in accordance with this Section 125-57 based on the requirements of the applicable section below.
- (2) A Senior Residential Development is one that anticipates and is marketed to people age 55 or over or age 62 and older strictly following the U.S. Department of Housing and Urban Development (HUD) requirements (See CRF Title 24, Subpart E, 43 U.S.C. § 3601 *et seq.*, and Massachusetts General Laws Chapter 151B). Specific age-restriction criteria are provided in Section C(2) below.
- (3) Senior Residential Developments are restricted to the criteria and zoning district(s) specified in Section G. below.

- (4) The provisions of this Section are exempt for Accessory Dwelling Units (ADUs), except for Age-Appropriate Design provided in Section E. below.
- (5) Local preference. Age-restricted dwelling units within the development shall be available to all persons meeting the age restriction. However, a plan shall be prepared by the petitioner which shall, to the extent allowable by law, give a preference for age-restricted dwelling units within a development first to Harvard residents, then to immediate family members of Harvard residents and then to the general public.

### **C. General Compliance.**

- (1) A Senior Residential Development proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special requirements of the Historic District and the Groundwater Protection Overlay District. For development proposed as part of this Bylaw, the provisions of Chapter 125, shall apply in full, except where inconsistent with this section. In the latter case, the provisions of this section shall supersede any such inconsistent provisions.
- (2) Age Restriction - A Senior Residential Development may impose an older persons age restriction set forth in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or registered in the Land Court. The age restriction threshold shall meet the requirements of the Housing for Older Persons Act of 1995 (HOPA).

### **D. Basic Development Requirements.**

- (1) Maximum Number of Senior Housing Dwelling Units in Harvard – The maximum number of housing units within all permitted senior residential developments in the Town of Harvard shall be limited to a number equivalent to 15% of the existing total residential housing units located in the Town of Harvard. For the purpose of this section, the number of residential housing units shall be as established by the Board of Assessors as of January 1 of the calendar year. The Planning Board may waive this limitation if the Board finds that the proposed development fulfills a critical senior housing need for the Town of Harvard or the surrounding region.
- (2) Pace of Development – A maximum of 100 units may be approved by special permit on an annual basis but no more than 30 units may be permitted in any one year. The only new Senior Residential Development units permitted over this cap period shall be accessory dwelling units.

### **E. Age-Appropriate Design.**

A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. Units for seniors shall be “visitable” and designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

- (1) At least one (1) zero-step entrance,
- (2) Doorways with a 36-inch clear passage space,

- (3) Master bedroom and an accessible en-suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
- (4) Master bedroom and en-suite bathroom designed and equipped for seniors and people mobility impairments, and
- (5) For developments with three or more units, the following provisions must apply:
  - (a) Covered, indoor or structured parking shall be provided.
  - (b) Compliance with the applicable accessibility requirements of the Massachusetts Architectural Access Board.
  - (c) Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access as provided in the Federal Fair Housing Act and the Americans with Disabilities Act, as amended.

#### **F. Development Standards.**

As part of the Planning Board's site plan and special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance with design standards as they may be applicable.

Development design shall conform to the requirements of the applicable section of the Harvard Protective Bylaw for the type of development described in Section G. below.

#### **G. Senior Residential Development Types.**

This bylaw provides for two (2) Senior Residential Development types as follows. General provisions covering all developments shall be provided in Sections D through F above. Applicants should also refer to Chapter 125, Sections 38, 39 and 46, as they may be applicable to the application as well.

- (1) **Accessory dwelling units (ADUs).** Accessory Dwelling Units shall be permitted as per §125-18.1
- (2) **Assisted living facility.** ~~Communities that offer a multi-faceted residential setting that provides personal care services, 24-hour supervision and assistance, and activities and health-related services for seniors, located within ARV-SP districts, §125-52(L). Requirements for Assisted Living Facility developments are provided in §125-52(I).~~ An assisted living facility may be permitted in an ARV-SP as a stand-alone use or as part of a mixed-used development. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § 125-29. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply: [Added 4-5-2016 ATM by Art. 52]
  - (a) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.

- (b) Unless otherwise modified by the Planning Board per § 125-52G(1)(c), no building shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.
- (c) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.
- (d) The proponent shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of an assisted living facility which provides for, among other things, for payments to the Town to offset the Town's costs of providing services to the development and/or for the provision of services to the development by service providers other than the Town at the developer's expense. [Amended 10-22-2018 STM by Art. 2]

**(3) Continuing Care Retirement Village Special Permit.**

(a) Purpose

This Continuing Care Retirement Community Village Special Permit is established by the Town of Harvard in order to achieve the following purposes:

- [1] The provisions of a variety of housing choices for elderly persons by allowing for the development of a Continuing Care Retirement Community (CCRC) scaled to the needs of seniors and compatible in scale with the character of the town.
- [2] The provisions of professional services and amenities routinely used and desired by senior persons.
- [3] The design of site plans and structures adapted to the needs of the senior population.

(b) Applicability

A Continuing Care Retirement Community (CCRC), as defined herein, may be allowed upon a grant of a Special Permit by the Planning Board upon any parcel of land:

- [1] Situated within a Commercial (C) zoning district as shown on the Zoning Map.
- [2] Located on a road classified as a principal or minor arterial.

(c) Types of Dwellings, Uses, and Associated Services Permitted

[1] A CCRC may contain any or all of the following housing types, attached or detached, in any combination:

- [a] Independent Living:
  - i. Detached single-family cottage;
  - ii. Two-family or townhouse;
  - iii. Multi-family;

[b] Congregate Care: a structure or space within a larger facility which provides a range of housing and support services. The structure may contain, but is not limited to the following uses:

- i. Dwelling units with kitchen facilities;
- ii. Bedrooms with a bathroom and sitting area or without kitchen facilities;
- iii. Common, social, and recreational areas such as dining rooms, libraries, and indoor and outdoor recreation facilities and gardening areas;

[c] Assisted or Catered Living: buildings or structures other than a hospital or nursing home/institution designed to accommodate assistance with one or more activities of daily living, such as dressing, eating, bathing, walking or toileting;

[d] Nursing Care: a facility which must be licensed by the Department of Public Health;

[e] Living quarters for support staff.

[2] A CCRC may contain one or more of the following uses and associated services, individually or in any combination, as part of dwellings or as separate structures, including, but not limited to:

- [a] Dining rooms, coffee shops, and related kitchen areas and facilities;
- [b] Living rooms, libraries, music rooms, auditoriums, greenhouses;
- [c] Lounges, card rooms, meeting rooms, and other social and recreational areas;
- [d] Administrative offices, social service offices, educational uses;
- [e] Mail rooms;
- [f] Gift shops, convenience stores, and other retail, not to exceed 7,500 s.f. combined;
- [g] Medical offices, diagnostic and treatment centers, wellness centers, exercise areas, home health care centers;
- [h] Professional offices;
- [i] Barbers, hairdressers, beauty salons, and other personal services, not to exceed 3,000 s.f. combined;
- [j] Banks and ATM banking machines;
- [k] Home health care;
- [l] Adult day health and child care services;
- [m] Cleaning services;
- [n] Community center;
- [o] Indoor or outdoor recreation facilities;
- [p] Conservation or agricultural uses;
- [q] Other uses, services and activities incidental to the operation of a CCRC.

(d) Affordability

To assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a Comprehensive Permit and to prevent the Town from falling behind in meeting the requirements for Affordable Housing as detailed in Massachusetts General Law Chapter 40B, CCRC projects with greater than ten (10) dwelling units must provide Affordable Housing Units to serve low- or moderate-income households, as follows:

- [1] Percentage of Affordable Units: At least 15% of ownership units must be Affordable Housing Units. At least 20% of rental units must be Affordable Housing Units.

- [2] Living quarters for support staff, if any, are excluded from the Affordable Housing provision.
- [3] Definitions, provisions and procedures for Affordable Units are governed by the provisions of Section 3.
- [4] Projects with less than ten (10) units but with five (5) or more shall provide a payment in lieu of the provision of a unit equivalent to the assessed value of a one (1) bedroom unit. For example, for an ownership project with eight (8) units, fifteen percent affordability would require 1.2 affordable units. Assuming that the assessed value of such a unit is \$350,000, the developer would submit a payment to the Harvard Municipal Housing Trust of \$420,000.

(e) Design Objectives

- [1] Buildings shall be in accordance with an overall plan and shall be designed as a single architectural scheme;
- [2] Structure and site designs which blend the scale of residential units and non-residential uses such as professional office or administrative space, resident services, and other non-residential permitted uses;
- [3] Minimization of traffic impacts and safe design of all ways, vehicular and pedestrian. No dwelling within the CCRC may take access directly from any existing public road or street;
- [4] Maximization of preservation of natural features and the protection of wetlands, scenic vistas and open spaces;
- [5] Structure and site designs which meet the specific needs of the elderly;
- [6] No unit may exceed two (2) bedrooms except that age-restricted independent living units may have up to 25% as three (3) bedrooms;
- [7] Site plan design which visually emphasizes building design and landscaped areas and minimizes the visual impact of parking areas and elements such as refuse collection stations;
- [8] Site plan design which creates open space by using cluster principles. At least 40% of the site shall be preserved as open space and maintained as natural vegetation or landscaped areas. Use of open space, except for natural lands, active and passive recreation, landscape plantings, footpaths, and agriculture shall be prohibited. Easements may be granted for the installation of underground utilities, provided all disturbed areas be restored to a natural state after construction. A restriction, enforceable by the Town of Harvard, shall be recorded to ensure that such land shall be kept in an open, natural or landscaped state and not built upon for residential use or developed for accessory use such as parking or roadways. A landscape management plan shall be developed with restrictions to provide for maintenance of the open areas in a manner which will ensure its suitability for its function, appearance, cleanliness, and for proper maintenance of drainage, utilities and the like.
- [9] Site and structure design shall provide suitable means of access and egress to dwellings for handicapped persons. Enclosed walkways and/or unenclosed walkways connecting all buildings shall be permitted.
- [10] Structures shall be located on the site so as to provide for the privacy of residents adjacent to the CCRC.

(f) Site and Dimensional Requirements

**Table 1 – Site and Dimensional Criteria**

<b>Criteria</b>	<b>Minimum/Base</b>	<b>Maximum</b>
<u>Project Size</u>	<u>Five (5) Acres</u>	<u>Twelve (12) acres</u>
<u>Project Open Space Useable Open Space (% of total OS)</u>	<u>40% for projects of 5-7 acres and 50% for projects 8 or more acres.</u>	
<u>Density (base/max)</u>	<u>10.0 units/acre gross</u>	
<u>Maximum Number of Units</u>	<u>50</u>	<u>120</u>
<u>Unit Size/Bedrooms/Mix</u>		
<ul style="list-style-type: none"> <li>▪ <u>Independent Living</u> <ul style="list-style-type: none"> <li>○ <u>Studio-2BR (75%)</u></li> <li>○ <u>3BR (25%)</u></li> </ul> </li> <li>▪ <u>Congregate Living</u></li> <li>▪ <u>Assisted Living Units</u></li> <li>▪ <u>Skilled Nursing Units</u></li> <li>▪ <u>Hospice Care</u></li> </ul>	<u>25% of units</u>  <u>No Minimum</u> <u>No Minimum</u> <u>No Minimum</u> <u>No Minimum</u>	<u>70% of units</u>  <u>30% of units</u> <u>30% of units</u> <u>15% of units</u> <u>10% of units</u>
<u>Building Height</u>		
<ul style="list-style-type: none"> <li>▪ <u>Congregate Building</u></li> <li>▪ <u>Other Buildings/Structures</u></li> </ul>	<u>40'</u> <u>35'</u>	
<u>Setbacks</u>		
<u>Project Site</u>	<u>50'</u>	
<u>Front</u>	<u>100'</u>	
<u>Side</u>	<u>50'</u>	
<u>Rear</u>	<u>50'</u>	
<u>Parking Structures</u>	<u>100'</u>	
<u>Zoning Districts Permitted</u>	<u>C</u>	
<u>Locational Criteria</u>	<u>Should be located on a major or minor arterial roadway and adjacent to existing residential development and ideally near local services such as institutional and commercial nodes.</u>	

[1] Other Dimensional Requirements:

- [a] Maximum number of units allowed provided in Table 1 above. Actual maximum permitted density will be determined by the provision of water and wastewater services in compliance with Title V.
- [b] The number of habitable buildings on a lot and the maximum number of dwelling units permitted per habitable building shall be determined by the Planning Board on a case-by-case basis.
- [c] Non-residential uses: the total area devoted to non-residential uses located in the buildings may not exceed twenty-five percent (25%) of the total area of the living areas.

- [d] The open space requirement is substituted for the more conventional rear and side yard requirements in order to provide flexibility in the protection of natural features; to maintain significant open space areas for the enjoyment of the residents; and to promote a variety of site plans tailored to the needs of the elderly.
- [e] While there are no yard requirements between buildings within the CCRC, all structures must conform to the Massachusetts Building Code with respect to building separation and fire walls.
- [f] Location and design of all structures shall be reviewed by the Harvard Fire Chief with regard to accessibility of fire and other emergency vehicles.
- [g] Disposal areas shall be located in screened areas according to law standards contained in this zoning by-law.

(g) Roadway, Parking, and Circulation Requirements

[1] The following minimum parking standards shall apply to CCRC facilities approved under this section of the by-law. The Planning Board may waive the construction of parking until it is demonstrated that it is actually needed. Parking areas shall be designated as either to be constructed at the time of building construction or at a future date when it is demonstrated that it is needed. Where there is a mix of uses, the total parking area for the CCRC must equal or exceed the sum of the minimum requirements required by the following:

- [a] There shall be provided a minimum of one and one-half (1.5) parking spaces for independent and congregate living units except as follows:
  - i. Assisted living facilities: One (1) parking space for every five (5) beds and one (1) parking space for each employee on the largest shift.
  - ii. Nursing Care facility: One (1) parking space for every twenty (20) beds and one (1) parking space for every employee on the largest shift.

[b] The Planning Board shall have the discretion to waive the applicant's compliance with these parking requirements, provided that the applicant's plans demonstrate the capacity to fully comply with all other requirements of this Section.

[c] Roads and utilities shall be designed and constructed in conformance with the Town of Harvard Site Plan review standards. The Planning Board may modify said standards if it determines that such action will more acceptably meet the purposes of this section.

[2] A CCRC shall provide internal pedestrian circulation with sidewalks or multi-purpose paths meeting or exceeding Americans with Disabilities Act minimum requirements. Such pedestrian facilities shall serve as an internal site circulation system for residents, visitors, and staff connecting all building entrances to the system. It shall also externally connect to any municipal pedestrian network.

(h) Sewerage Disposal

No special permit for a CCRC may be granted unless the proposed developer has designed a plan in compliance with 310 CMR 15.000: Septic Systems ("Title 5") and its successors and standard Board of Health regulations for the number of bedrooms being served by the system or connected to a municipal sewer system.

(i) Public Safety

The Planning Board shall require all CCRC applications to include statements, drawings and/or plans indicating that all applicable public safety devices (including fire safety and suppression devices) have been provided as required by law. Further, in recognition of the unique requirements of the elderly for protection against the hazards due to fire, applicants are advised to incorporate sprinkler systems in accordance with provisions of the National Fire Protection Association (NFPA 13D).

(j) Signs

Signs will be regulated by §125-41 of the Protective Bylaw.

(k) Other Provisions

[1] Restrictive Covenants – A Declaration of Restrictive Covenants must be approved by the Town and recorded at the Worcester County Registry of Deeds. Said Declaration shall provide all of the restrictions necessary to assure that a proposed development will operate as depicted on the Site Plan and be in compliance with the Federal Fair Housing Act amendments of 1988, as it may also be subsequently amended, and the provisions of MGL Chapter 93, §76 and all other federal, state, and local laws and regulations related to senior housing, housing, and other applicable provisions.

[2] Executive Office of Elder Affairs Submittal

(l) Procedure

[1] Pre-Application Review: The applicant shall submit a pre-application packet to the Planning Board consisting of a sketch plan and narrative, in sufficient detail for the Board and other review participants to develop feedback to the applicant, so that a formal application can be complete and has a greater likelihood of success. The deliverable resulting from this review will be a letter or memorandum listing all of the comments and recommendations from the reviewing parties. At the applicants' request, the pre-app review committee can meet with the applicant to discuss the findings in the letter.

[2] Preliminary Plan: The applicant shall submit a preliminary site plan package to the Planning Board for its review and recommendations which shall contain the following:

[a] Preliminary site plan developed by a registered civil engineer or landscape architect.

[b] Project narrative that includes how applicant meets all of the provisions of this Section and §§125-38, 39, and 46 of this Bylaw.

The applicant shall be required to meet with the Planning Board to discuss the package including the provisions of this Section and other referenced sections; the elements of the proposed development; and the requirements and specific provisions of the preliminary site plan.

[3] Design Review Board: Once a Preliminary Plan approval has been secured, the applicant must submit a project design program to the Design Review Board based on the procedures in §133-57 of the Town of Harvard Bylaws and incorporate the Commercial Design

Guidelines (October 2016) adopted by the Planning Board. As this project type requires a Special Permit, the Commercial Design Guidelines shall be mandatory.

- [4] Full Site Plan and Special Permit: The applicant will be required to submit a full special permit and site plan application packet in accordance with the applicable provisions of §125-38 and -39 and §125-46. The Planning Board may issue a special permit if it determines that all of the applicable requirements for the CCRC have been met and the full site plan is generally consistent with the preliminary site plan.

DRAFT

**ARTICLE XX: AMEND CHAPTER 125-52, AYER ROAD VILLAGE SPECIAL PERMIT, OF THE PROTECTIVE BYLAW**

To see if the Town will vote to amend Chapter 125-52, Ayer Road Village Special Permit, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

**§ 125-52 Ayer Road Village Special Permit (ARV-SP).**

**A. Purpose and objectives.**

(1) The purpose of this section is to provide an opportunity to present viable alternatives to conventional commercial sprawl-type development; specifically, to assist the Town in creating and maintaining a village identity for commercial properties on Ayer Road. A further purpose of this section is to discourage property owners from subdividing commercial lots into multiple parcels, which may result in multiple curb openings, uncoordinated access, circulation and signage, and less coherent design, and to encourage the merging of smaller parcels into well-planned sites. Additional objectives of this section include:

- (a) Promotion of mixed use development.
- (b) Promotion of shared access in properties, with appropriate links to adjoining properties, lessening the need for curb openings on Ayer Road.
- (c) Promotion of development that emphasizes pedestrian accessible walkways, benches, pathways, bicycle racks, and pedestrian-scale lighting and signage.
- (d) Encouragement of building and site designs compatible with the local architecture, rather than generic designs.
- (e) Avoidance of excessive building massing and unbroken building facade treatments.
- (f) Subordination of parking, loading docks, on-site utilities, heating, ventilation and air conditioning equipment (HVAC), utility lines, and solid waste dumpsters to building form.

(2) In order to promote the creation of a village commercial identity for commercial properties located on Ayer Road, and to accomplish the goals and objectives set forth for this area in the Town's Master Plan adopted by the Planning Board (as may be amended, and as described in this section), the Planning Board may more flexibly apply dimensional regulations and site standards as set forth below.

**B. Applicability.** An applicant who is the owner (or with the permission of the owner) of land that is zoned Commercial C, with a minimum of 300 feet of frontage on Ayer Road, may apply for an Ayer Road Village Special Permit (ARV-SP). Selected mixed-use village development uses also require a special permit under this section and pursuant to § 125-13. The Planning Board is the

special permit granting authority for special permits issued pursuant to this section and § 125-46.

- C. **Submittal requirements.** An application for an ARV-SP, together with an application for site plan approval, shall be filed with the Town Clerk and submitted to the Planning Board in accordance with § 125-38 and any additional site plan rules and regulations adopted by the Planning Board. A registered landscape architect, architect and professional engineer must participate in the preparation of such site plan.
- D. **Review criteria and considerations.** In reviewing a proposed development pursuant to this section, the Planning Board may adopt design guidelines to assist it in the review of applications, and shall give due consideration to the following considerations and criteria:
- (1) In mixed-use projects, new development should be located, grouped and sited in a manner to respect the context of any adjoining existing residential uses. All uses in the new development should be clustered appropriately.
  - (2) Where appropriate, historical significance shall be considered with special consideration for preservation of historic buildings on the site or on adjacent or neighboring properties.
  - (3) Development should be designed for pedestrian and bicycle passage.
  - (4) Building and site design should mitigate potential adverse impacts of a proposed development upon neighboring properties and the streetscape. Such mitigation efforts may include but not be limited to the following:
    - (a) Parking lots shall not dominate the front yards of properties and shall be broken into small increments with internal landscaping. Not more than 25% of parking spaces proposed to serve the development shall be located in front of a building or buildings.
    - (b) Landscaped, required open space and green areas, in addition to their aesthetic value, shall be designed to reduce the rate and volume of stormwater runoff compared to pre-development conditions. Massachusetts Department of Environmental Protection (DEP) Stormwater Best Management Practices and other measures to minimize such runoff and improve water quality shall be implemented.
    - (c) Solid waste shall be handled so as to avoid negative off-site impacts (noise, odor, and visual) on neighbors and neighboring properties. The use of trash compactors, fencing and screening, or the containment of all solid waste storage and handling within the building(s) of the development is encouraged.
    - (d) Loading docks shall be located and designed to minimize negative off-site impacts (visual and operational) on neighbors and neighboring properties.
    - (e) Proposed structures shall be designed and sited to minimize scale-related impacts on neighboring lots and any adjacent open space.

- (f) Changes in grade on the lot shall be designed to minimize the need for structural retaining walls close to neighboring properties and property lines.
  
- E. **Sewage disposal.** Privately owned and maintained on-site sewage disposal or treatment systems may be approved to serve buildings and lots in an ARV-SP development, if maintained and operated by an owner, notwithstanding the provisions of § 125-32D of this Bylaw, if such disposal or treatment facility or system is approved by the Town's Board of Health and in compliance with the requirements of Title 5, 310 CMR 15.00, or is approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program). Such an approved system may be located on land owned in common by the owners of the building(s) or lots within the development. The minimum setbacks of such system and any absorption area can be different from the minimum setback distance set forth in § 125-32C(2)(b), provided that such setback complies with Title 5, 310 CMR 15.00, the Town Board of Health's regulations, or is approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program).
  
- F. **Hearing and decision.** After notice and a public hearing in accordance with Massachusetts General Laws Chapter 40A, Sections 9, 11 and 15 and after following the procedure outlined in this Bylaw, the Planning Board may grant such a special permit with any appropriate conditions, safeguards, and limitations.
  
- G. **Incentives for specific uses.**
  - (1) In reviewing and acting on applications for an ARV-SP and for mixed-use village development special permits pursuant to § 125-13, and in order to provide for flexible zoning requirements in such developments, notwithstanding any provisions of this Bylaw to the contrary, the Planning Board may:
    - (a) Permit alternative building siting without regard to a lot width circle.
    - (b) Permit more than one structure or main building on a lot.
    - (c) Apply alternative building and structure setback requirements, except where lot boundaries abut property in the AR District, where a minimum of a sixty-foot setback shall apply.
    - (d) Apply alternative site standards relative to parking, loading and driveways, including the establishment of minimum and maximum parking ratios.
    - (e) Apply alternative site standards relative to lighting and signs, including the imposition of more restrictive requirements than those set forth in this Bylaw.
  - (2) Additionally, in reviewing and acting on applications for special permits issued pursuant to this section for a mixed-use village development, the Planning Board may authorize the following:
    - (a) Up to 10% more floor area than allowed under § 125-30B.

- (b) Greater total building size than allowed under § 125-37, Subsection A, provided that no building shall exceed 30,000 square feet of gross floor area.
- (3) The variations enumerated in Subsection G(1) and (2) above may be authorized by the Planning Board upon it finding that the purposes and objectives and the review criteria of this section have been met by the subject ARV-SP development proposal, and that such development, when completed, will result in one or more of the following:
  - (a) Preservation of an agricultural use, natural resources, including but not limited to woodlands, wetlands, streams and/or fields, or land with historic structures or other unique features.
  - (b) Connectivity between adjoining sites, or provisions for curb-cut reduction, shared access, and shared parking.
  - (c) Inclusion of multifamily use with a set aside of affordable housing units.

H. **Waiver of site plan requirement.** In cases where a use is proposed to be located on a site subject to an existing ARV-SP, or within an existing building that has been approved as part of an ARV-SP, and no changes are proposed to the site plan, the Planning Board may waive the requirement for a new, additional site plan submission in conjunction with such a special permit application, and require the applicant to add an appropriate notation to the previously approved plan.

~~I. **Assisted living facility.** An assisted living facility may be permitted in an ARV-SP as a stand-alone use or as part of a mixed-used development. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § 125-29. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply: [Added 4-5-2016 ATM by Art. 52]~~

- ~~(1) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.~~
- ~~(2) Unless otherwise modified by the Planning Board per § 125-52G(1)(c), no building shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.~~
- ~~(3) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.~~
- ~~(4) The proponent shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of an assisted living facility which provides for, among other things, for payments to the Town to offset the Town's costs of providing services to the~~

~~development and/or for the provision of services to the development by service providers other than the Town at the developer's expense. [Amended 10-22-2018 STM by Art. 2]~~



## **ARTICLE XX: AMEND SCENIC ROADS BYLAW CHAPTER 90**

To see if the Town will vote to amend the Scenic Roads Bylaw Chapter 90 by making the following revisions, thereto, or pass any votes or votes in relation thereto:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

### **§ 90-1 Purpose and designation.**

In order to preserve the qualities and character of the Town ways, the roads, streets and ways set forth in § 90-3 below are designated as scenic roads under the provisions of Massachusetts General Laws Chapter 40, Section 15C.

- A. The Town of Harvard adopts the provisions of Massachusetts General Laws Chapter 40, Section 15C, as amended, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in § 90-2 of this chapter, designated as a scenic road in § 90-3 of this chapter, shall not involve or include the cutting or removal of trees, or the tearing down, destruction, or alteration of stone walls or portions of stone walls within the right-of-way of a designated scenic road, except with prior written consent of the Planning Board after a public hearing.
- B. A scenic road consent is not required for the temporary removal and replacement of a stone wall at the same location with the same materials, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.
- C. The Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment.
- D. After public notice and public hearing, the Planning Board may promulgate rules to accomplish the purposes of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Planning Board to promulgate such rules or a legal declaration of their invalidity by a court of law shall not operate to suspend or invalidate the effect of this bylaw.

### **§ 90-2 Definitions.**

The following definitions shall apply in the interpretation of this bylaw.

### **CUTTING OR REMOVAL OF TREES**

The removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of a tree. However, such cutting or removal shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees, or thinning out of overcrowded trees as determined by the Tree Warden, but shall include such cutting or removal done in contemplation of, or following the repair, maintenance, reconstruction or paving work for a road.

## **ENFORCING OFFICIALS**

The following Town officials are deemed to be Enforcing Officials for the purposes of this Article and Bylaw: The Planning Board, Select Board, Chief of Police or any police officer of the Town, Tree Warden, and Building Commissioner.

## **REPAIR, MAINTENANCE OR RECONSTRUCTION**

Any such work done within the right-of-way by any person or agency, public or private, including, but not necessarily limited to, any work on any portion of any right-of-way which was not physically commenced at the time the road was designated as a scenic road; and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

## **RIGHT-OF-WAY**

The area on and within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

## **ROAD**

The entire right-of-way of a way used for vehicular travel and appurtenant structures and facilities including, but not limited to bridge structures, drainage systems, retaining walls, traffic control devices, sidewalks, pedestrian facilities, and the air space above them, but not intersecting streets or driveways.

## **TEARING DOWN OR DESTRUCTION OF STONE WALLS**

The defacement, removal, physical covering (other than naturally occurring plant covering) or rearrangement of a stone wall as defined herein. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board consent, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

## **TEMPORARY REMOVAL OF STONE WALLS**

The temporary removal and replacement at the same location with the same materials.

## **TREE**

For the purposes of this Scenic Road Bylaw only, a living tree whose trunk has a diameter of ~~1.5~~ 4 inches or more as measured one foot from the ground. All trees so defined within the right-of-way of a designated scenic road or on the boundaries thereof shall be subject to this bylaw. If, for whatever reason, it is uncertain as to whether a tree is within the right-of-way of a designated scenic road, it shall be presumed to be subject to the provisions of this bylaw and the provisions of Massachusetts General Laws Chapter 40, Section 15C until the contrary is shown. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down or remove a public shade tree.

**§ 90-3 Designated scenic roads.**

Armstrong Road

Bemis Road (Craggs Road)

Blanchard Road

Bolton Road

Brown Road

Cameron Road

Cleaves Hill Road

Cross Road

Cruft Lane

East Bare Hill Road

Eldridge Road

Elm Street

Fairbanks Street

Finn Road

Green Hill Road

Harvard Depot Road

Lancaster County Road

Littleton County Road

Littleton Road

Madigan Lane

Mill Road

Murray Lane

Oak Hill Road

Old Boston Road

Old Littleton Road

Old Mill Road

Old Post Road (Lovers Lane)

Old Schoolhouse Road

Old Shirley Road

Pattee Road

Pinnacle Road

Pond Road

Poor Farm Road

Prospect Hill Road

St. John Road

Scott Road

Shaker Road

Sherry Road

Slough Road

South Shaker Road

DRAFT 08/02/2021

Still River Depot Road  
Stow Road  
Tahanto Trail  
Under Pin Hill Road  
Warren Avenue  
West Bare Hill Road  
Westcott Road  
Whitney Lane  
Whitney Road  
Woodchuck Hill Road

§ 90-4. Design Standards.

A scenic road application shall conform to the following design standards:

A. Driveways

- (1) Driveway standards shall be consistent with the Code of the Town of Harvard, Chapter 125-31 Driveways.
- (2) Driveways shall be located in a manner that minimizes the required cut and fill, so as to preserve the existing topography to the greatest extent possible.
- (3) No tree with a trunk diameter exceeding four (4) inches or more, as measured one foot from the ground, shall be cut for a driveway unless said driveway cannot be safely located otherwise.

B. Stone walls

- (1) Removed portions of a stone wall for any purpose shall be used to repair other sections of the wall along the right -of-way.
- (2) No stone wall shall be cut without construction of an appropriate terminus. Appropriate end points consist of: stone wall with tapered ends turning back onto the lot along the driveway, but shall remain in the right-of-way: stone piers: or granite posts.
- (3) Reconstructed portions of stone walls shall use materials that match the existing wall.

C. Tree Replacement

- (1) For each tree to be removed that exceeds four (4) inches in diameter and one foot about ground level, a native, nursery-quality tree(s) shall be planted, or an equivalent payment into the town-wide Tree Replacement Fund shall be made. Species type and location, with the advice of the Tree Warden.

shall be suitable to the Planning Board.

(2) The cost of the tree(s), amended soil, if applicable, and the labor for planting the tree(s) is to be paid by the applicant.

(3) Payment covering the cost of said tree(s), soil amending, if applicable, and planting labor shall be made to the Tree Reserve Fund for the period of two years. If the tree(s) survive two years, the funds shall be returned to the applicant.

(4) This section shall not apply to projects undertaken by the Town of Harvard

D. The Planning Board may waive the design standards, as set forth under this Section 90-4, if it finds that sight lines create a public safety risk.

**§ 90-4~~5~~ Applications and fees.**

- A. Written application shall be filed with the Planning Board to perform activities affecting areas protected by this bylaw. 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. No activities shall commence without receiving and complying with written consent issued pursuant to this bylaw.
- B. At the time of an application, the applicant shall pay a filing fee as specified on the Scenic Road Consent Application.
- C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a government agency, the Town, or a nongovernmental organization working the interest of the Town.

**~~§ 90-5 Appeals.~~**

~~A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.~~

**§ 90-6 Enforcement; violations and penalties.**

**[Amended 10-22-2018 STM by Art. 1]**

~~This bylaw shall be administered and enforced by the Planning Board, the Building Commissioner, the Tree Warden, the Director of the Department of Public Works or others designated by the Town Administrator. Enforcing officials may issue a citation for the violation of this bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$100 per violation for the first offense, \$200 per violation for the second offense and \$300 per violation for the third and all subsequent offenses.~~

- A. Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within the right-of-way of the Scenic Road shall require an immediate filing as detailed above and shall be subject to restoration of the features. The restoration shall consist of replacing the stone wall as necessary and replacing the trees on a square-inch per square-inch basis at locations

specified by the Tree Warden. A square-inch per square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured at the stump.

- B. Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including but not limited to, enforcement of the funding and restoration detailed above.
- C. The Enforcing Official shall have the authority to enforce this bylaw, its regulations and permits issued thereunder by violation notices, noncriminal disposition under MGL Chapter 40, Section 21D, and civil and criminal court actions.
- D. As an alternative to criminal prosecution in a specific case, Enforcing Officials may issue citations under the noncriminal disposition procedure set forth in MGL Chapter 40 Section 21D.
- E. Enforcing officials may issue a citation for the violation of this bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$300 as set forth under the Scenic Road Act, MGL Ch.40, Section 15C. Each day that a violation continues shall constitute a separate offense, until an application is made to the Planning Board. In addition, the Planning Board and Building Inspector may withhold or revoke any current or pending permit on the property associated with said violation.
- F. Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the district court. Except as otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in this manner, shall be \$300.

**§ 90-7 Invalidity.**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or decision, which previously has been issued.

**§ 90-8 Appeals.**

A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.

**§ 125-10 Conversion for multiple residence.**

**[Amended 3-6-1971 ATM by Arts. 33 and 34; 3-4-1972 ATM by Art. 46; 3-3-1973 ATM by Art. 37; 4-5-1986 ATM by Art. 38]**

It is the intent to provide, where suitable, for conversion for multiple residence in undivided ownership of the site, including subsidized multiple residence, of pre-existing single-family dwellings (and their accessory barns, if any) which, because of oversize or other condition, cannot reasonably be continued or adapted for the existing use or other use regularly permitted in the district, and at the same time preserve the character of the AR District as one primarily for compatible agriculture and single-family residence. As used here, the word "barn" refers to an accessory structure, having a volume of at least 15,000 cubic feet, that was built with and retains the foundations and structural integrity to support the floor, joist, column, and roof loadings required for the proposed conversion; actual antecedent agricultural use is not a ~~consideration prerequisite~~. Any such conversion shall be by special permit (see § 125-46, Special permits) authorized by the Board of Appeals, subject to § 125-39A(1), and provided:

- A. The dwelling (and its accessory barn, if any) was in existence on March 6, 1965, and is not significantly enlarged from its size at that time;
- B. External character of the premises (including the barn, if any) is and will continue to be that of a customary one-family residence;
- C. ~~The lot has land area conforming to lot size standards with have additional land area of at least 0.50 acres for each dwelling unit beyond the first;~~ Conversions may occur regardless of existing lot size provided that:
  - (1) There is sufficient land area for water and wastewater facilities as per G. below
  - (2) That parking and circulation areas meet the requirements of F. below
  - (3) That any conversion have additional land area of at least 0.125 acres for each dwelling unit beyond the first;
  - (4) That no more than five (5) units may be created by conversion on any one (1) lot.
- D. The lot must remain in undivided ownership although any existing and/or newly created units may be either rental units or condominiums. These shall include units designated as "affordable" which must be units eligible for listing on the state Subsidized Housing Inventory (SHI).

E.D. The lowest floor level of a dwelling unit shall be at least partly above grade;

F.E. Parking provisions for conversions shall be as follows:

- (1) Each dwelling unit shall have 300 square feet of parking area and driveway dedicated to it including at least one (1) parking space with a maximum of seven (7) surface parking spaces. Garages may include up to three (3) bays per lot.

(2) The parking area shall be screened from view from neighboring properties and streets as provided in § 125-39D if it will be larger than a parking area normally used by a customary single-family dwelling; [Amended 3-29-2003 ATM by Art. 37]

~~G.F.~~ Conversions must comply with 310 CMR 15.000: Septic Systems (“Title 5”) and its successors and standard Board of Health regulations for any increase in bedrooms being served by the system. ~~The septic system, including the leaching facility and its expansion area, shall be located in land having a grade of less than 8%, be easily accessible by cleaning and repair vehicles, and be no more than the greater of 500 feet from the street or 200 feet from the building served;~~

~~H.G.~~ The Board of Appeals, ~~after considering the land and soil type characteristics, including the ability of the soil to absorb expected quantities of sewage disposal effluent, the degree of filtration of effluent before entering bedrock fissures or other groundwater supply, and the characteristics of the soil with respect to surface water runoff,~~ specifically finds that the conversion, including the parking area and septic system, will not result in substantial increase in surface water runoff to neighboring properties or streets, or substantial danger of pollution or contamination of groundwater supply, a groundwater absorption area, a well, pond, stream, watercourse, W District, or inland wetland, and specifically finds and requires that the increased surface water runoff that results from the development shall be retained within the lot in which it originates or shall be discharged into existing identifiable watercourses or stormwater systems without material impact on abutting properties;

~~I.H.~~ Written evidence of final approval by the Board of Health as to water supply and sewage disposal for the proposed conversion is submitted with and as part of the application for special permit;

~~J.I.~~ The dwelling (and its accessory barn, if any) shall remain in undivided ownership.

## **ARTICLE XX: AMEND CHAPTER 125-2, DEFINITIONS, OF THE PROTECTIVE BYLAW**

To see if the Town will vote to amend Chapter 125-2, Definitions, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~striketrough~~ = deletions]

### **§ 125-2 Definitions.**

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

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

### **ACCESS**

As applied to land, access is that portion of a lot which is usable as a matter of right for the passage of people, vehicles, farm animals, and public services, from the street to the main buildings or other lawful activities on the lot. (See also "street.")

**[Added 3-29-1980 ATM by Art. 26; amended 3-25-1995 ATM by Art. 28]**

### **ACCESSORY**

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

### **ACCESSORY DWELLING UNIT**

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

### **ADULT DAY CARE**

Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to elderly adults and the physically challenged who require assistance with daily needs of living.

**[Added 10-28-2019 STM by Art. 20]**

### **ADULT DAY HEALTH**

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

[Added 10-28-2019 STM by Art. 20]

#### **ADULT ENTERTAINMENT USES**

[Added 3-28-2015 ATM by Art. 43]

- A. **ADULT BOOKSTORE** - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.
- B. **ADULT MOTION PICTURE THEATRE** - An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31 .
- C. **ADULT PARAPHERNALIA STORE** - An establishment having as a substantial or significant portion of its stock devices, objects, tools, toys or other matter which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.
- D. **ADULT VIDEO STORE** - An establishment having as a substantial or significant portion of its stock in trade, videos, any visual material, movies, digital media, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, § 31.
- E. **ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY FOR ITS PATRONS** - Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in M.G.L. Ch. 272, § 31.

#### **AGRICULTURE (AGRICULTURE USE)**

Includes ordinary farming, orchard keeping, animal husbandry, and all of the other agricultural specialties enumerated in Section 3 of the Zoning Act, whether or not practiced for profit.

[Added 3-27-1993 ATM by Art. 22]

#### **ASSISTED LIVING FACILITY**

Any entity, however organized, whether conducted for profit or not for profit, which is certified by the Executive Office of Elder Affairs and which meets all of the following criteria:

[Added 4-5-2016 ATM by Art. 52]

- A. Provides room and board; and
- B. Provides, directly by employees of the entity or through arrangement with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and
- C. Collects payments or third-party reimbursements from or on behalf of residents to pay for the provision

of assistance with the activities of daily living or arranges for the same.

### **ASSISTED LIVING UNIT**

A portion of an assisted living facility designed for and occupied pursuant to residency agreements by one or more individuals as the private living quarters of such individuals.

[Added 4-5-2016 ATM by Art. 52]

### **ASSOCIATED SERVICES:**

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

### **BLOCK**

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

[Added 10-28-2019 STM by Art. 20]

### **BRANCH**

That part of a shared driveway which provides access to the buildings or uses of a single lot.

[Added 3-29-1980 ATM by Art. 26]

### **BUILDABLE LAND**

Land area available, under the Bylaw and any other lawful restrictions, for location of a main building. Does not include area in a W District, a WFH District, or an inland wetland.

[Added 3-7-1970 ATM by Art. 45; amended 3-29-1980 ATM by Art. 25; 3-27-1993 ATM by Art. 25]

### **BUILD FACTOR**

A mathematical formula that is a measure of the regularity of lot shape.

[Added 4-2-2005 ATM by Art. 31]

### **BUILDING**

The area included within surrounding exterior walls exclusive of vent shafts and courts. Interior firewalls shall not be used to determine building area.

[Added 3-28-2015 ATM by Art. 44]

### **BUSINESS**

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

## **BYLAW**

The Protective Bylaw of the Town of Harvard.

## **CAR**

A motor vehicle having two axles and three or four wheels, and which is up to 19.5 feet long, and up to seven feet wide, and has a gross vehicle weight less than 7,500 pounds. Includes ordinary passenger cars, station wagons, light delivery vans, and pickup trucks.

[Added 3-31-1984 ATM by Art. 28]

## **CO-LOCATION OF WIRELESS COMMUNICATIONS SERVICES**

The addition of wireless communications equipment to a wireless communications tower permitted under § 125-27 of the Harvard Protective (Zoning) Bylaw.

[Added 3-25-2000 ATM by Art. 32]

## **COMMON OPEN SPACE (COS)**

Open land (see definition) previously called "common open space" under the former flexible plan subdivision (FPS) provisions or under the mini-subdivision provisions of the Bylaw.

[Added 3-7-1970 ATM by Art. 46; amended 3-4-1972 ATM by Art. 45; 3-25-1978 ATM by Art. 23; 3-31-1990 ATM by Art. 18]

## **CONGREGATE CARE**

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

## **CONTINUING CARE RETIREMENT COMMUNITY (CCRC):**

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

## **COORDINATED UNITS:**

A building or group of buildings under common management which provide housing and associated services which assist seniors in maintaining an independent lifestyle.

## **DRIVE-THROUGH FACILITY**

The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use (i.e., in combination with another use such as a bank or financial institution or pharmacy). A drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station.

[Added 5-1-2010 ATM by Art. 2]

### **DRIVEWAY**

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

[Added 3-29-1980 ATM by Art. 26]

### **DWELLING UNIT**

A room or group of rooms within a dwelling, or a dwelling, used or intended for use by one household for living quarters including cooking facilities.

[Added 3-7-1970 ATM by Art. 46]

### **ERECT**

Includes or is equivalent to alter, construct, move, or reconstruct, but does not include repair. Restoration of any structure which has been damaged to an extent less than 75% of its insurable value is considered repair; restoration after destruction or greater damage is considered reconstruction.

[Amended 3-22-1969 ATM by Art. 37; 3-27-1993 ATM by Art. 25]

### **FLOOR AREA**

Gross floor area as defined in the Massachusetts Building Code, with the following exclusions:

[Added 3-27-1993 ATM by Art. 22; amended 4-5-1997 ATM by Art. 44]

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

### **FLOOR AREA RATIO**

The ratio of total gross building square footage to the surface area (in square feet) of the lot (see Figure 1 below).

[Added 10-28-2019 STM by Art. 20]

[Image]

### **FRONTAGE**

Distance between adjacent intersections of lot and street side lines.

[Added 3-7-1970 ATM by Art. 45]

### **FRONTAGE RADIUS OF CURVATURE**

The radius of the smallest circle which includes or contains the lot frontage, with the end points, and at least one other distinct point, of the frontage lying on the circle.

[Added 3-29-1980 ATM by Art. 29; amended 3-27-1982 ATM by Art. 42]

### **GRADING**

A term used in engineering practice which includes installation of swales and drains, excavation and fill, and other steps in site preparation.

[Added 3-27-1993 ATM by Art. 22]

### **GREEN AREA**

An area left as a natural or landscaped area except for fences, signs, and poles, and for footpaths and access driveways intersecting the area.

[Added 3-7-1970 ATM by Art. 46]

### **GROCERY STORE**

An establishment where at least 70% of the gross sales floor area is devoted to the sale of food products for home preparation and consumption.

[Added 3-28-2015 ATM by Art. 44]

### **HOME HEALTH CARE**

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

### **HOSPICE CARE**

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

### **INCLUDING**

Means "including but not limited to."

### **INDEPENDENT LIVING UNITS**

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

### **INLAND WETLAND**

All wetlands as defined in the Wetlands Protection Act, General Laws, Chapter 131, Sections 40 and 40A, including any amendments through March 1, 2004.

[Added 3-29-1980 ATM by Art. 25; amended 3-27-2004 ATM by Art. 40]

### **LAND AREA**

Does not include any area in a W District.

**[Added 3-22-1969 ATM by Art. 40]**

**LANE or TRAVEL LANE**

The portion of the roadway or driveway for the movement of vehicles, exclusive of shoulders.

**[Added 4-1-2014 ATM by Art. 43]**

**LOT**

All adjoining parcels of land held in common ownership constitute a single lot except as provided in Chapter 40A, G.L. A lot does not include area inside the street side line.

**[Amended 3-3-1973 ATM by Art. 37; 4-6-2002 ATM by Art. 28]**

**LOT WIDTH**

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

A. The diameter of the largest circle which:

- (1) Contains no part of an abutting lot or property; and
- (2) Has a diameter contained in the lot.

B. Lot width at a specified distance from the roadway center line is the diameter of the largest circle which meets Subsection A(1) and (2) and has its center at the specified distance from the roadway center line.

**MAIN BUILDING**

A building not accessory to another on the same premises.

**[Added 3-22-1969 ATM by Art. 40]**

**MARIJUANA ESTABLISHMENT**

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

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

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

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

**[Added 11-6-2017 STM by Art. 2]**

**MULTIPLE RESIDENCE**

Does not include a rooming house as defined in the State Sanitary Code (1960), except that a nursing or

rest home licensed under G.L., Chapter 111, is included. For said nursing or rest home, one dwelling unit is considered to be housing designed or used for three persons.

**[Added 3-7-1970 ATM by Art. 46]**

#### **MUSEUM**

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

**[Added 3-29-2008 ATM by Art. 25]**

#### **OPEN LAND**

An area which is kept for permanent use as park or open space in an open or natural state as set forth in § 125-35D(2), Uses of open land.

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

#### **OSC-PRD**

Residential cluster development for open space conservation as provided under § 125-35, Open Space Conservation - Planned Residential Development.

**[Added 3-31-1990 ATM by Art. 18; amended 4-2-2005 ATM by Art. 37]**

#### **PREMISES**

Lot and structures thereon.

#### **PUBLIC BUILDING**

Any building which is used in whole or in part as a school, lending library, post office, museum, theater, shopping arcade, hospital, police station, church, or state or federal or municipal offices.

**[Added 11-7-1992 STM by Art. 10]**

#### **QUALIFIED CONSERVATION ORGANIZATION**

A nonprofit corporation or trust which is tax exempt under Section 501(c)(3) of the U.S. Internal Revenue Code and has as its principal purpose the conservation of open space.

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

#### **QUALIFIED HOMEOWNERS' ASSOCIATION**

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

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

**REVISION**

Includes expansion, repair, replacement, and relocation, in whole or in part.

[Added 3-31-1984 ATM by Art. 27]

**ROAD**

Street.

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

**ROADWAY**

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

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

**SECTION**

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

**SENIOR (PERSON):**

A Senior is any person having reached the age of 55 years (also Elderly).

**SENIOR HOUSEHOLD:**

Any household having at least one person 55 years or older.

[Added 3-31-1990 ATM by Art. 18; amended 12-3-2002 STM by Art. 19]

**SEWAGE DISPOSAL SYSTEM**

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

[Added 3-30-1985 ATM by Art. 40]

**SHARED (COMMON) DRIVEWAY**

A driveway of which any portion lies on more than one lot.

[Added 3-29-1980 ATM by Art. 26]

**SIGN**

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

[Added 4-28-2012 ATM by Art. 43]

### **SKILLED NURSING CARE FACILITY**

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

### **SOIL**

For the purposes of this Bylaw, soil includes loam, peat, silt, clay, sand, and gravel.

[Added 3-27-1993 ATM by Art. 22]

### **SPECIAL PERMIT RULES**

Rules relative to the issuance of special permits, adopted by a special permit granting authority in accordance with the provisions of the Zoning Act, Section 9, § 125-46, Special permits, of the Bylaw, and any provisions for the applicable classes of special permits provided in the Bylaw.

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

### **STORY**

A building level for human occupancy. The volume of a level directly below a sloping roof, or the above-grade volume of a level partly below grade, counts as a fractional story. Such fraction is the ratio of said volume to the volume of the adjacent story. "For human occupancy" includes usable for, designed for, or intended for such occupancy.

[Added 3-4-1972 ATM by Art. 46]

### **STREET**

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

- A. Includes the entire width of the taking (right-of-way). The street side line is the boundary between the street and the lot. A residential street is a street which is not a state or Chapter 90 road, located in a residential (AR or MR) district. [Amended 4-5-1997 ATM by Art. 44]
- B. A driveway easement is not a street. For the issuance of building permits, a street does not provide access to lots unless: [Added 3-25-1995 ATM by Art. 28]
  - (1) There is already in existence within it an all-season roadway satisfactory for use by ordinary traffic and also by emergency vehicles; and
  - (2) The roadway is either:

- (a) A public way; or
  - (b) Used by the public and maintained by the Town as if it were a public way; or
  - (c) Approved in accordance with the Subdivision Control Law and the Planning Board's subdivision rules;  
or
  - (d) A private way which the Planning Board acting in accordance with procedure specified in its subdivision rules finds to be satisfactory in its present condition for the number and uses of the lots being served; and
- (3) There is a defined responsibility for maintenance of and snow removal from the roadway of such street.

### **STRUCTURE**

Any construction or assemblage of materials with a fixed location, including a primary or accessory building, platform, tower, pole, sign, fence, wall, dam, swimming pool, or any part of a structure.

Underground utilities and driveways shall not be considered structures.

**[Amended 4-21-1992 STM by Art. 4]**

### **SUBDIVISION RULES**

The Rules and Regulations of the Harvard Planning Board Relative to Subdivision Control, as amended, issued in accordance with Section 81Q of the Subdivision Control Law (G.L., Chapter 41, Sections 81K to 81GG).

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

### **SUBSTANTIAL HARDSHIP**

Includes "substantial hardship" as used in the Zoning Act, Section 10.

**[Added 3-31-1979 ATM by Art. 28]**

### **TOWN**

Town of Harvard.

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

### **TRUCK**

A motor vehicle more than 19.5 feet long, or more than seven feet wide, or having more than two axles or more than four wheels, or having a gross vehicle weight over 7,500 pounds.

**[Added 3-31-1984 ATM by Art. 28]**

### **WATERFRONT STRUCTURE**

A pier, landing, or platform for boating, fishing, or swimming.

**[Added 3-22-1969 ATM by Art. 39]**

## **WIRELESS COMMUNICATIONS EQUIPMENT**

Antennas and related transmission and reception equipment, including any accessory equipment or structures but excluding ground-mounted structures used primarily for their support, which may be used for the provision of wireless communications services.

[Added 3-25-2000 ATM by Art. 32]

## **WIRELESS COMMUNICATIONS TOWER**

A structure having the primary purpose of providing personal wireless communications services, including but not limited to a ground-mounted or otherwise supported structure with antenna(s) or other wireless communications equipment, if any, together with any guy wires and accessory structures, which shall not include a service yard, a garage, or the outside storage of equipment or vehicles.

[Added 6-19-1997 STM by Art. 6; amended 3-25-2000 ATM by Art. 32]

## **WIRELESS COMMUNICATIONS SERVICES**

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

[Added 6-19-1997 STM by Art. 6]

## **ZONING ACT**

The Zoning Act, General Laws, Chapter 40A, as enacted by Chapter 808, Acts of 1975, as amended. References are for information only and are not necessarily complete or exclusive.

[Added 3-25-1978 ATM by Art. 23]