

**WARRANT FOR THE 2023 TOWN OF HARVARD  
ANNUAL TOWN MEETING SECOND SESSION  
COMMONWEALTH OF MASSACHUSETTS**

Worcester, ss.

To the Constable of the Town of Harvard

Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of the said Town, who are qualified to vote in Town Affairs, to meet in the Cronin Auditorium of the Bromfield School, located on Massachusetts Avenue, on Saturday the 21st day of October, 2023 at 12:00 noon by the clock to act on the following articles at the second session of the 2023 Annual Town Meeting which was adjourned to said date and time at the conclusion of the first session of the 2023 Annual Town Meeting on April 29, 2023.

**ARTICLE 1: APPROVAL of DEPARTMENT of PUBLIC WORKS CONTRACT and FUNDING**

To see if the Town will vote to transfer from the General Stabilization account a sum of money needed to fund the Department of Public Works Union collective bargaining agreement for the current fiscal year, or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

*FINANCE COMMITTEE RECOMMENDS – the sum of \$37,144 be transferred from the General Stabilization Account to Line #33, Total DPW Wages, found on page # 41 of the Town of Harvard Annual Town Meeting – Annual Town Election Warrant Booklet for the April 29, 2023 Town Meeting, 1<sup>st</sup> session, to fund the approved DPW Union contract.*

**ARTICLE 2: AMENDMENT to CAPITAL PLANNING and INVESTMENT COMMITTEE ARTICLE**

To see if the Town will vote to amend its vote under Article 14 of the Warrant for the first session of the 2023 Annual Town Meeting held on April 29, 2023, item #2, by changing the word “Van” to “Van(s)”, or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

**ARTICLE 3: AMEND CHAPTER 125-35, OPEN SPACE and CONSERVATION PLANNED RESIDENTIAL DEVELOPMENT (OSC-PRD)**

To see if the Town will vote to amend Chapter 125-35 of the Protective Bylaw, Open Space and Conservation – Planned Residential Development (OSC-PRD), by making the following revisions thereto, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

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

## § 125-35. Open Space and Conservation - Planned Residential Development (OSC-PRD).

[Added 3-29-2003 ATM by Art. 32<sup>1</sup>]

This section establishes and regulates Open Space and Conservation Planned Residential Development (OSC-PRD). Development under this section is pursuant to a special permit granted by the Planning Board.

**A. Purpose and intent.** The purpose and intent of the OSC-PRD provision is to permit high-quality residential development that preserves open space, water resources, wetlands, habitat, prime agricultural land, scenic landscapes and natural features, reduces infrastructure and site development cost, and promotes a diversity of housing opportunities within the Town, while respecting and enhancing neighborhoods, and promoting attractive standards of appearance and aesthetics consistent with Town character.

- (1) A further purpose of the OSC-PRD provision is to reduce the anticipated negative fiscal impact on the Town associated with conventional residential development.
- (2) The OSC-PRD provision is designed to encourage the siting of homes in a manner that clusters units together in well-designed village settings, on buildable portions of the site, as a distinct alternative to the conventional siting associated with lot-by-lot development typically reflected in plans submitted pursuant to Massachusetts General Laws Chapter 41, Sections 81K through 81GG, the Subdivision Control Law, which often does not further said purpose and intent.
- (3) The OSC-PRD will aid the Town in developing sustainable housing and associated infrastructure in harmony, as much as possible, with the Town's Climate Action Plan.

**B. Applicability.** The Planning Board may grant a special permit for an OSC-PRD on an Agricultural-Residential (AR) zoned tract of land ~~that is a least 4.5 acres of land area~~, with definite boundaries ascertainable from a recorded or registered deed(s) or recorded or registered plan(s). Existing public and private ways need not constitute boundaries of the tract, but the area within such ways shall not be counted in determining tract size.

- (1) **Permitted uses in Open Space and Conservation Planned Residential Development.** Permitted uses include the following:
  - (a) Single-family detached dwellings.
  - (b) Multi-family dwellings. ~~Attached units, not to exceed 6 or more units in any single building.~~
  - (c) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables.

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<sup>1</sup> Editor's Note: This article also repealed former § 125-35. Cluster development for open space conservation, added 3-31-1990 ATM by Art. 18, as amended.

- (d) Open space.
- (e) Trails.
- (f) Passive outdoor recreation as defined in 301 CMR. 5.02.
- (g) Educational and religious uses and other uses not mentioned above which are exempt from regulation by zoning under Massachusetts General Laws Chapter 40A, Section 3.
- (h) Accessory residential recreational uses (e.g., tennis court, pool, playground).
- (i) Active outdoor recreation as defined in 301 CMR. 5.02.

**C. Requirements and process for approval.** An applicant who is the owner (or with the permission of the owner) ~~of a 45-acre or larger tract of land in the AR District as described above,~~ may submit to the Planning Board a plan and application for a special permit for an OSC-PRD in accordance with the provisions of this section, excepting the building lots or lot shown on such plans from the lot area and other dimensional requirements specified in other sections of this Bylaw. While a subdivision plan is not required to be submitted in conjunction with an application for a special permit under the provisions of this section, in the event that a subdivision plan is being proposed by the applicant, such plan shall be submitted to the Planning Board in accordance with the Subdivision Rules and Regulations of the Planning Board.

- (1) **Submittal requirements.** Prior to the granting of a special permit pursuant to this section, a duly submitted application for said special permit shall be submitted together with a site plan to the Planning Board, in accordance with § 125-38, Site plans, of the Bylaw, and any Site Plan Rules and Regulations adopted by the Planning Board. For purposes of this Bylaw, a landscape architect, architect, land surveyor, and professional engineer ~~shall~~ must participate in the preparation of such site plan, which shall include the following:
  - (a) The location of the proposed development.
  - (b) The size of the site in acres.
  - (c) The total number of the proposed buildings and/or lots, and the size of each in square feet.
  - (d) The acreage and proposed use of permanent open space.
  - (e) A statement on the disposition or manner of ownership of the proposed open space.
  - (f) The lots or areas which are to be used as building areas or lots, and the lots or areas which are to remain as permanent open space.

- (g) Lines showing yard and setbacks as required by this Bylaw, within which dwellings or structures must lie.
- (h) Sufficient detail of proposed built and natural features as described in § 125-35D and § 125-35E to enable the Planning Board to make the required determinations of § 125-35C(3).
- (i) A landscape preservation plan sheet(s) to be included with the site plan, reflecting the existing, natural features to be preserved and proposed landscape features and details, including snow storage area(s).

- (j) Site Development Climate Mitigation Narrative. All features which are sustainable and designed to help mitigate climate impact should be included in this plan. This plan should specifically address, but not be limited to, the following areas.

[1]. Heating and Cooling. How the development will be heated and cooled. The plans to use heat pumps or a geothermal system to heat and cool the buildings. Electrification of all systems and appliances.

[2]. Energy Generation. Solar panels should be considered to the maximum extent. Include how much power they will provide both in absolute kilowatt-hours and as a percentage of the total electricity requirements.

[3]. Energy Use and Resource Use Minimization. Roofing, insulation and windows that minimize heat loss and cooling loss. LED lights should be installed in all common areas. Water-saving fixtures should be installed in units as well as for landscaping.

[4]. Parking. EV chargers installed with infrastructure to expand capacity based on anticipated growth. Include percentage of the anticipated automobile population that will be served by the chargers and the anticipated expansion readiness. Parking to be pervious to reduce runoff.

[5]. Landscaping. Any trees removed from the site to be replaced with trees of equal size or compensated by more trees than removed. Shade trees be planted in areas to offset heat from parking areas. Drought-tolerant and native plants to be used in the landscaping.

[6]. Site Infrastructure. Composting and recycling stations available to all residents. Rain water collection site to reduce water usage.

- (k) Requests for waiver or relief to dimensional standards as identified in § 125-35J (1).

**(2) Submittal of preliminary plan.** In order to assist the Planning Board in making a determination, pursuant to § 125-35C(3)(d), that an OSC-PRD is superior to a

conventional subdivision development, an applicant must submit a plan of the required form and content standards as a "Preliminary Plan" in accordance with the Massachusetts General Laws Chapter 41, Section 81S and the "Rules and Regulations of the Harvard Planning Board Relative to Subdivision Control." Such plan, although not a formal subdivision plan filing, and submitted for conceptual purposes only, shall include a perimeter survey prepared by a registered land surveyor, location of wetlands delineated by a wetlands specialist, and topography based upon the most recent United States Geological Survey map. The applicant shall demonstrate to the satisfaction of the Board that a subdivision plan, if formally filed, would be buildable without reliance on significant waivers of the subdivision regulations, and without extraordinary engineering techniques. Further, the applicant must demonstrate and provide sufficient evidence, to the satisfaction of the Planning Board, that each of the lots reflected on the "Preliminary Plan" submitted are capable of being served by an individual sewage system that would comply with the regulations of the Board of Health.

(3 2) **Approval criteria.** After notice and a public hearing in accordance with Massachusetts General Laws Chapter 40A, Section 9, 11, and 15 and after following the procedure outlined in this Bylaw, the Planning Board may grant such a special permit with any conditions, safeguards, and limitations, if it determines:

- (a) That the application form and content referred to in § 125-35C(1), herein is properly completed.
- (b) That the site plan referred to in § 125-35C(1) is properly completed.
- (c) That all the other requirements of this Section and Bylaw are fully met.
- (d) That the design and layout of the proposed OSC-PRD ~~is superior to a conventional subdivision plan in preserving~~ preserves open space for conservation and recreation; that it preserves natural features of the land; allows more efficient provision of streets, utilities and other public services; and, that it provides a high degree of design quality, based on the criteria and considerations enumerated herein in § 125-35E.
- (e) That if development of single-family homes is being proposed on separate lots, as opposed to a clustered village concept that is a major objective of this Bylaw, exemplary site planning is demonstrated, and other determinations in § 125-35D, are met.

~~(2) Editor's Note: See Ch. 130, Subdivision Control.~~

**D. Design criteria.** In its consideration of an OSC-PRD, the Planning Board shall give particular attention to, and shall use as a basis for its decision, all of the following:

- (1) Lots, streets, off-street parking, sidewalks, pathways and buildings which achieve the harmonious integration of the proposed development with surrounding properties.

- (2) Overall layout and design that achieves the relationship between the proposed development and the land under consideration.
- (3) Appropriately sized and configured open spaces for active or passive recreation, and where possible, links to adjoining common open space areas.
- (4) Protection of natural features such as streams, mature trees or clusters of trees, rock outcrops, bluffs, slopes, high points, views, vistas, and historic or archeological features.
- (5) Provision of ~~large~~ buffer areas, composed of existing vegetation, to surround building groupings and building envelope areas, to discourage site clearing and encourage preservation of existing land cover and mature vegetation.
- (6) Provision of ~~access~~ accessibility to open spaces ~~for the physically handicapped, elderly and children. for all, consistent with Massachusetts Architectural Access Board, 521 CMR 1.00 et seq.~~ Accessibility Rules and Regulations.
- (7) Use of open spaces for preserving, enhancing, or providing scenic vistas; preservation and protection of historic resources.
- (8) Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.
- (9) Is consistent with the Town of Harvard Climate Action Plan, with sufficient conservation and sustainability in the design of the development.

**E. Design quality.** Project design for an OSC-PRD shall be reviewed by the Planning Board with input from Town officials, boards, any review consultant(s), and others as appropriate. This section is to be interpreted as guidelines to be applied flexibly by the Planning Board as appropriate to the situation under review, including factors such as foundation and soil characteristics and other extraordinary site constraints. While these guidelines apply to all site improvements and buildings and structures, it is not the intent of this section to prescribe or proscribe use of materials or methods of construction regulated by the state building code, but rather to enhance the appearance of the built environment within an OSC-PRD.

- (1) **Building and structure placement.** The placement of buildings and structures in an OSC-PRD should:
  - (a) Provide for maximum buffering of buildings and structures to adjoining properties either within the proposed OSC-PRD or to adjacent land uses. Such buffering includes, but is not limited to: landscaping, screening materials, natural barriers, fencing, and related measures.
  - (b) Preserve attractive views from major vantage points, especially from major thoroughfares and residential neighborhoods.

- (c) Avoid regular spacings and building placements that will be viewed as continuous walls from important vantage points, which may be identified in an OSC-PRD pre-application conference.
- (d) Avoid the placement of structures, common area facilities, and private space related to individual units in a manner that eclipses views or access to open space areas described in § 125-35K.
- (e) ~~Ensure that 10% of all units are fully accessible to the disabled and that a majority of units have at least one accessible entrance and bathroom on a first floor.~~ an appropriate number of units are designed to be fully accessible consistent with Massachusetts Architectural Access Board 521 CMR 1.00 et seq. Accessibility Rules and Regulations. If greater than 4 but fewer than 10 units, one unit must be accessible. If greater than 10 and fewer than 19, two units must be made accessible. For more than 20 units, 10% must be made accessible.

(2) **Building massing/articulation.** The massing/articulation of buildings should:

- (a) Avoid unbroken building facades longer than 50 feet.
- (b) Provide human-scale features, especially for pedestrians and at lower levels.
- (c) Avoid unarticulated and monotonous building facades and window placement.

(3) **Building appearance and treatment.** To the extent not inconsistent with or preempted by the State Building Code, the following should be considered as applicable:

- (a) Materials and building treatments that reduce the visibility of the buildings from distant vantage points, and that are compatible with backgrounds and surroundings.
- (b) Materials and colors compatible with other quality buildings of similar scale in the vicinity.
- (c) Green building technologies and materials, wherever possible, to minimize adverse environmental impacts.

(4) **Roofline articulation.** The design of buildings should:

- (a) Provide a variety of building heights and varied roofline articulation that stresses New England vernacular architecture.
- (b) Locate taller buildings away from major streets, abutting and off-site single-family residential areas and homes.

(5) **Landscaping.** Landscaping criteria are as follows:

- (a) All open areas, exclusive of areas to remain in an existing natural state within an OSC-PRD, should be landscaped in an appropriate manner, utilizing both natural and man-made materials such as indigenous grasses, trees, shrubs, and attractive paving materials and outdoor furniture other appropriate elements.
- (b) Deciduous trees should be placed along new and existing streets and ways. Outdoor lighting should be considered in the landscaping plan, and should be designed to complement both man-made and natural elements of the OSC-PRD and adjacent areas. Appropriate methods (such as cutoff shields) should be used to avoid glare, light spillover onto abutting property.
- (c) Intensive, high-quality landscaping or preservation of existing vegetation should be provided within the OSC-PRD where it abuts major streets, existing residential areas, and along internal drives.
- (d) Preservation of existing vegetation or tree-lined areas should be maintained.
- (e) Parking areas and lots should use landscaping and terracing to break up large areas of pavement and to enhance residential flavor and appearance; trees and shrubs should be used to the maximum extent feasible.
- (f) Features such as shade trees, forest trees, and expansive planting areas should be preserved and/or introduced along external property boundaries and on the perimeter of the OSC-PRD itself, to buffer the site from adjoining parcels.
- (g) Any lighting in the proposed development shall comply with the Lighting provisions of the Bylaw set forth in §125-40.
- (h) Area should be designated for storage of plowed snow such that melting snow runoff will not result in undesired contamination or erosion.

~~(6) Pedestrian amenities and recreation. In this category, the design should include the following components/characteristics, appropriate to the land under consideration:~~

~~(a) Accessible pedestrian-oriented features such as walkways, pergolas, outdoor sitting plazas, landscaped open space, drop-off areas, and recreational facilities should be emphasized.~~

~~(b) Tree-lined or otherwise appropriately landscaped pedestrian paths and walkways should link together areas designated as open space within the site, and wherever possible, to adjoining public areas.~~

~~(c) Passive and active recreational facilities should be of a size and scale appropriate for the number of units proposed.~~



- F. **Utilities.** To the maximum extent feasible, all utilities ~~should~~ shall be located underground.
- G. **Signage.** ~~At each principal entrance to the site, one sign only shall be permitted; it should be of a maximum signboard area of three square feet, with content limited to identifying the name and address of the development. All signs shall comply with the sign provisions of the Protective Bylaw set forth in § 125-41, provided, that, however, within the development, signs, not to exceed two square-feet each, of a number and location to be approved as part of the OSC-PRD, may be permitted for the sole purposes of orientation and direction, and of identifying common building spaces.~~
- (1) ~~Within the development, signs, not to exceed two square-feet each, of a number and location to be approved as part of the OSC-PRD, may be permitted for the sole purposes of orientation and direction, and of identifying common building spaces.~~
- H. **Base development density.** The maximum number of dwelling units per acre permitted in an OSC-PRD shall not exceed ~~one~~ two units per ~~4.50~~ acre of land area, and in no event exceed the maximum number of lots or dwelling units obtainable under a conventional subdivision plan for the land area under consideration, except as provided in § 125-35I.
- I. **Development incentive.**
- (1) The Planning Board may authorize an increase in lots or dwelling units up to a maximum of 25% ~~above that allowed under 125-35H of this Bylaw, provided the following conditions ten units per acre. Increased permissible density will be allocated as the following conditions are met:~~
- (a) ~~Additional Open Space Preservation The applicant proposes a significant increase in open space above 50% and preserves significant natural resources, in the opinion of Planning Board.~~
- \_\_\_\_ [1] The applicant proposes a significant increase in open space above 50%, and preserves significant natural resources.
- \_\_\_\_ [2] There is permanent preservation of land devoted or set aside for agricultural use or other unique preservation strategy, including preservation of historic structures or barns, or other special features of the built environment.
- (If (a)[1] or (a)[2] above are found to be satisfied, in the opinion of Planning Board, it may authorize a 1 unit per acre increase over base density.)
- (b) ~~There is permanent preservation of land devoted or set aside for agricultural use or other unique preservation strategy, including preservation of historic structures or barns, or other features of the built environment. The applicant proposes public improvements or amenities that result in substantial benefit to the Town and the general public, provided:~~

(If (a) and (b) above are found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(b) The applicant proposes public improvements or amenities that result in substantial benefit to the Town and the general public, provided:

[1] There are significant improvements to the environmental quality or condition of the site and its surrounding areas, including a decrease in stormwater runoff from what would otherwise result from a conventional subdivision plan.

[2] There are provisions contributing to off-site public facilities or environmental improvements beyond those necessary to mitigate the impacts of the proposed development.

(If (b)[1] or (b)[2] if (c) above are found to be satisfied, in the opinion of Planning Board, it may authorize a 1.5 unit per acre increase over base density.)

(c) Housing units for senior citizens and persons aged 55 years and over housing is provided. Such units should conform to §125-57E, Age-Appropriate Design. The applicant proposes public improvements or amenities that result in substantial benefit to the Town and the general public, provided:

(1) There are significant improvements to the environmental quality or condition of the site and its surrounding areas, including a decrease in stormwater runoff from what would otherwise result from a conventional subdivision plan.

(2) There are provisions contributing to off-site public facilities or environmental improvements beyond those necessary to mitigate the impacts of the proposed development.

(If (c) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable 1.5 unit per acre increase over base density.)

(d) The applicant proposes attached dwellings that include a maximum of two bedrooms per unit, and are developed in the character of a New England Village style of architecture, sets aside 15% or more of lots or dwelling units on the site for Affordable Housing for purchase or rental by those with households of low or moderate incomes. Such units must be includable in the Town's Subsidized Housing Inventory, and comply with the provisions of 760 CMR 56.00, as may be amended. The Planning Board shall review and approve the actual percentage distribution of qualifying low versus moderate income units.

(If (d) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 3 unit per acre increase over 5% increase in applicable base density.)

(e) Units are designed to conform with Passive House (PassivHaus) Design standards. Housing units for senior citizens and persons aged 55 years and over housing is provided.

(If (e) above is found to be satisfied, in the opinion of the Planning Board, it may authorize a 3 unit per acre increase over 5% increase in applicable base density).

(f) The development incorporates at least five elements of environmentally conscious design beyond those elements required to meet Stretch Code provisions, including, but not limited to heat pump/geothermal climate controls, smart windows, solar panels, smart outlets, LED lighting, substantial use of pervious pavement, conservation-minded landscaping including drought tolerant plantings, and low-flow water fixtures. Elements used to claim incentives using the Passive House Design in (e) above will not count toward the five elements for this incentive. The applicant sets aside 10% or more of lots or dwelling units on the site for "affordable housing" for purchase or rental by those with households of low or moderate incomes. Such units must count toward the Town's Subsidized Housing Inventory, and be in accordance with the provisions of 760 CMR 45.00, as may be amended. The Planning Board shall review and approve the actual percentage distribution of qualifying low versus moderate income units.

(If (f) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 1.5 unit per acre increase over 20% increase in applicable base density.)

Condition	Units per acre	Additional Units per acre
Base Density	2	
(a) Additional Open Space Preservation		1
(b) Substantial Benefit to Town		1.5
(c) Senior Housing		1.5
(d) Affordable Housing		3
(e) Passive House (PassivHaus)		3
(f) Environmentally Conscious		1.5
Maximum Density if all conditions met	10	

- (2) **Standards for on-site affordable units.** Housing units set aside as affordable housing, as described in §125-35(1)(f), shall have a gross floor area comparable to market rate units and shall be integrated into the development and not grouped together. When viewed from the exterior, the affordable units shall be indistinguishable from the market rate units in the same development. The developer shall provide adequate guarantee, acceptable to the Planning Board, to ensure the continued availability and

affordability of the units in perpetuity; such guarantee must include recorded deed restrictions, recorded restrictive covenants relative to equity limitation, or other acceptable forms of guarantees. No more than 80% of the building permits for the market-rate units shall be issued within an OSC-PRD until construction has commenced on all the affordable units; no more than 80% of the certificates of occupancy for the market-rate units shall be issued until all of the certificates of occupancy for the affordable units have been issued.

**J. Dimensional requirements.** The following provisions shall apply:

- (1) The Planning Board may waive or reduce the minimum dimensional for frontage and/or yard requirements that would normally be applicable to land within the AR District in order to achieve maximum open space area, as provided below, and may permit more than one single or two-family dwelling be located on a lot in an OSC-PRD, except as provided below.
- (2) The parcel proposed for development must have a minimum of 50 feet of frontage on a public way or private way which is open to the public.
- (3) ~~Attached units shall contain no more than six units in a single building.~~
- (3) The minimum distance between clusters of multiple unit dwellings, shall be 50 feet.
- (4) A minimum width of 100 150 feet of green area shall be established and maintained between any existing dwelling property adjacent to the OSC-PRD and the nearest dwelling unit or units in the OSC, and a minimum of 25 feet from adjacent property lines. (Amended 4-2-2005 ATM by Art.34)
- (5) The minimum setback from internal roads shall be 25 feet.
- (6) The maximum height of proposed buildings shall be 35 feet, and shall not exceed 3-2 ½ stories.
- (7) Except as provided in this Bylaw, any lot in an OSC-PRD shall comply with any other dimensional requirements of the zoning district in which it is located.

**K. Common open space.** In the aggregate, a minimum of 50% of the OSC-PRD parcel shall be devoted to contiguous open space, and a minimum of 30% of the parcel must be contiguous open space, completely devoid of any structure, parking, loading and unloading space, access ways thereto, or as private yards, patios, or gardens for the exclusive or principal use by residents of individual dwelling units. To the greatest extent possible, such open space shall be left in its undisturbed natural condition or shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, and where appropriate, a recreational area, and be a visual and natural amenity for the development and the Town. The common open space described herein is in substitution of and supersedes any other reference to common open space that may be described elsewhere in the Bylaw.

- (1) **Open space criteria.** The following criteria define open space, and open space that is considered usable for outdoor recreation within an OSC-PRD parcel:

- (a) No more than 25% of common open space in an OSC-PRD shall be wetlands and a buffer within seventy-five feet of the wetland as defined in Harvard Wetland Protection Regulation, Chapter 119 of Code of the Town of Harvard. The seventy-five-foot buffer is strictly for the purpose of determining how much of the wetland or buffer may be considered open space.
- (b) Unless approved by the Planning Board, common open space shall not be considered usable if the slope of the finished grade exceeds 33%.
- ~~(c) Unless approved by the Planning Board, the nearest part of the common open space shall be more than 300 feet in distance from the nearest point of any building that it is proposed to serve.~~
- (c) No common open space shall be considered usable unless it is compact and contiguous and has no dimension of less than 50 feet.
- ~~(e) All usable open space shall be open to the sky and pervious.~~

**L. Open space conveyance.**

- (1) The common open space shall be conveyed in the following ways as approved by the Planning Board:
  - (a) To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development. The developer shall include in the deed to owners beneficial rights in said open land, and shall grant a perpetual open space restriction to the Town of Harvard or a non-profit corporation or organization over such land to ensure that it be kept in an open state and not be built upon for residential use, or developed for accessory uses such as parking or roadways. Such restriction shall be in such form and substance as the Planning Board shall prescribe, and may contain such additional restrictions on development and use of the open space as the Planning Board may deem appropriate.
  - (b) To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant an open space restriction as set forth above.
  - (c) To the Town for a park or open space use, subject to the approval of the Select Board, for custody and management by the Park and Recreation Commission if a park, otherwise by the Conservation Commission, with a clause insuring that it shall be maintained as open space. [Amended 10-22-2018 STM by Art. 2]
- (2) **Multiple conveyance.** To provide flexibility, and when deemed in the public interest, the Planning Board may approve more than one organization to accept the open space conveyance, particularly when it is appropriate that a major portion of such land be

conveyed to the Town or a non-profit conservation organization, and another portion of such land is more appropriately conveyed to an owners' association.

**M. Passageways.** Private roadways and common driveways shall be allowed in OSC-PRD parcels. While roadway surface widths may be narrower than widths associated with a conventional subdivision, the durability of passageway surfaces and subsurfaces must be comparable to those in a conventional subdivision. All driveways must conform to the requirements of § 125-31 of the Bylaw. (Amended 4-2-2005 ATM by Art. 34)

(1) **Criteria for passageways.** The following criteria shall guide the development of these passageways:

- (a) Paved ~~Cleared~~ widths for traveled ways (excluding on-street parking spaces and passing turnouts) shall not be more than 22 ~~20~~ feet or less than 12 feet for one-way traffic. A cleared height of not less than 16 feet above the entire passageway shall be established and maintained.
- (b) Drainage and surface runoff from all passageways must be suitably accommodated by an approved drainage system, using best management practices.
- (c) All OSC-PRD plans shall specify that such passageways will not be dedicated to the Town, but are to remain private ways; all deeds or other instruments conveying any portion of land or structure in an OSC-PRD containing such a passageway(s), shall specify that such passage way(s) are and shall remain private way(s). ~~in perpetuity; and~~

**N. Site improvements.** Site improvements specific to an OSC-PRD are listed below. To assist the Planning Board's evaluation of site changes and improvements from any OSC-PRD plan, the applicant shall submit said plan to the Town's Conservation Commission and Board of Health for review and recommendations to the Planning Board.

(1) **Water supply.** ~~Each lot and~~ The development ~~in its entirety~~ shall be served by a single water supply system. Any water supply for such a development must be compliant with MassDEP's well guidelines. These guidelines require a public water supply well if the well services more than 24 people. The applicant should be prepared to meet those requirements in the initial plan submittal.

(2) **Sewage disposal.** Privately owned and maintained on-site sewage disposal or treatment systems may be approved to serve buildings and lots in an OSC-PRD, if owned, maintained, operated, and monitored by a residents association, notwithstanding the provisions of § 125-32D of this Bylaw, provided that the owners provide evidence that a qualified professional has been hired to maintain the treatment system, and provided such treatment facility or system is approved by the Board of Health and in compliance with the requirements of Title 5, 310 CMR 15.00, or approved in accordance with the

requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program). An approved system may be located on land owned in common by the owners of the building lots or residential units within the development.

- (3) **Parking.** Unless otherwise approved by the Planning Board, ~~a minimum and a~~ maximum of 1.5 off-street parking spaces shall be provided for each unit, exclusive of spaces within garages. The Planning Board may also approve, based upon the nature of the development proposed and exclusive of the 1.5 parking space ratio provided, areas for visitor parking.
  - (4) **Storm runoff control.** The applicant shall demonstrate that, as compared with the situation that would exist on the site without the development, no phase of the proposed OSC-PRD will result in an increase in the peak rate of storm runoff at the parcel boundary for the OSC-PRD as a whole for the 25-, 50- and 100-year design storms, and that there will be no net loss in flood storage capacity for the 100-year design storm. In making such determinations, any state or local orders or requirements of the Wetlands Protection Act or the Town's Wetlands Protection Bylaw<sup>2</sup> shall be assumed in the calculations of runoff and flood storage without the OSC-PRD, but alternative forms of development shall not be assumed.
  - (5) **On-site runoff and erosion control.** The applicant shall demonstrate that any adverse existing off-site runoff and erosion conditions or off-site runoff and erosion conditions which would result from the development of the OSC-PRD, are fully identified and that workable and acceptable mitigation measures are proposed as part of the submission of a final plan, consistent with the provisions of § 125-58 of the Bylaw.
- O. Residents association.** In order to ensure that common open space and common facilities within the development will be properly maintained, each OSC-PRD shall have a residents association, which may be in the form of a corporation, non-profit organization, or trust, established in accordance with appropriate State law by a suitable legal instrument or instruments properly recorded with the Worcester County Registry of Deeds or registered in the Worcester County Registry District of the Land Court. As part of the final OSC-PRD site plan submission, the applicant shall supply to the Planning Board copies of such proposed instruments, which shall at a minimum provide the information required by said OSC-PRD submission requirements, § 125-35L of this Bylaw, and Site Plan Rules and Regulations in effect at the time of final submission.
- (1) **Responsibilities of the residents association.** Said legal instruments pertaining to the residents association shall specify that the residents association shall be solely responsible for all related improvements, and all costs associated with the operation of the development, including:

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<sup>2</sup> Editor's Note: See Ch. 119, Wetlands Protection.

- (a) Roadway maintenance.
- (b) Snow-plowing and clearing of all walkways and public paths/areas.
- (c) Maintenance of street lighting and on-site improvements and utilities.

**P. Amendments without public hearing.** Following the granting of a special permit pursuant to this Section, the Planning Board may, upon application and for good cause shown, without public hearing, amend the OSC-PRD plan solely to make changes in lot lines shown on the plan, which lot lines are not part of the perimeter of the site, or other minor engineering changes, provided, however, that no such amendment shall:

- (1) Grant any reduction in the size or change in location of the open space as provided in the permit;
- (2) Grant any change in the layout of the ways as provided in the permit;
- (3) Increase the number of lots or units as provided in the permit; or
- (4) Decrease other dimensional requirements of any lot below the minimal permitted by the approval of the initial site plan and special permit.

**Q. Amendments requiring public hearing.** Any proposed change to an existing OSC-PRD special permit considered substantial by the Planning Board, shall require notice and a formal public hearing in accordance with Massachusetts General Laws Chapter 40A, Section 9, 11, and 15 and an amendment to the special permit decision made pursuant to this section.

*(1) Editor's Note: This article repealed former § 125-35, Cluster development for open space conservation, added 3-31-1990 ATM by Art 18, as amended.*

#### **ARTICLE 4: LOCAL OPTION ROOM OCCUPANCY TAX**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 64G, Section 3A to impose a local room occupancy excise tax for bed and breakfast establishments, hotels, lodging houses, short-term rentals or motels at the rate of six percent, or take any vote or votes in relation thereto.

(Inserted by Select Board)

#### **ARTICLE 5: AMEND GENERAL BYLAW - CHAPTER 78 PERSONNEL BYLAW**

To see if the Town will vote to amend Chapter 78 of the Code of the Town of Harvard, Personnel Bylaw, by making the following changes, or pass any vote or votes in relation thereto:

(Inserted by Personnel Board)

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



#### § 78-5 Adoption and amendment of personnel policies.

The ~~Select~~ Personnel Board shall promulgate personnel policies, including rules and regulations, defining the rights, benefits and obligations of employees subject to this bylaw. Policies shall be adopted or amended as follows:

- A. Preparation of policies. The Personnel Board shall prepare policies or amendments to policies. Any member of the ~~Select Board~~, Personnel Board, the ~~Executive Secretary~~ Town Administrator, or any three employees may suggest policies for consideration by the Personnel Board. The Personnel Board need not consider any proposal already considered in the preceding 12 months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policies or amendments. Any proposed policies or amendments shall be posted at least five days prior to the public hearing in prominent work locations; copies of all proposals shall be provided to representatives of each employee collective bargaining unit, and a copy shall be submitted to the ~~Select Board~~ Town Administrator.
- B. Public hearing. The Personnel Board shall present the proposed policy(ies) or amendment(s), the purpose of the proposal, and the implication of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. Within 31 days after such public hearing the Personnel Board shall consider the proposed policies and may vote to recommend that the ~~Select Board~~ Town Administrator adopt the policies, (with or without modifications), reject the policies, or indicate that further study is necessary.
- C. Recommended policies. The Personnel Board shall transmit recommendations in writing to the ~~Select Board~~ Town Administrator within 20 days of any vote on proposed personnel policies or amendments. The recommendations from the Personnel Board shall contain the text of the proposed policy or amended policy, an explanation of the policy and the implications of the policy. The ~~Select Board~~ Town Administrator shall only consider proposals with a recommendation of the Personnel Board, unless the Personnel Board fails to provide a recommendation within 20 days, and may adopt, reject or return recommendations for further action to the Personnel Board. Policies shall become effective upon approval of the ~~Select Board~~ Town Administrator, unless some other date is specified.
- D. ~~Computation of time. In computing time (days) under this bylaw only Town Hall working days shall be counted.~~

#### § 78-6 Problem resolution.

- A. Employees are encouraged to bring any problems or complaints to their respective supervisor or appointing authority regarding their work or other day-to-day relations with the Town.
- B. If an employee has a request or problem, it should be first discussed with the immediate supervisor or appointing authority.
- C. If this conference fails to clear up any question to the satisfaction of the employee, the employee ~~he~~ may refer the matter in writing to the appropriate appointing authority. The appointing authority shall then discuss the matter with the parties and attempt to reach a satisfactory understanding and solution of the problem.
- D. If two weeks have elapsed since the submission of the matter in writing to the appointing authority and the dispute is still unresolved, either party may appeal to the Personnel Board.

This Board shall take the question under advisement, collecting such facts relating thereto as it may deem helpful, and it may, in its discretion, hold private or public hearings with respect to such question. Not later than 30 days after receipt of written submission of the matter to it, the Personnel Board shall render its decision and thereafter promptly take such action as may be necessary and authorized hereunder relative to the dispute. If the decision rendered by the Personnel Board is considered unsatisfactory to either party, then final appeal may be made to the ~~Select Board~~ Town Administrator.

**§ 78-7 Employee benefits. This section in its entirety has been moved to the Personnel Policies and Procedures**

All employee benefits shall be defined in the Personnel Policies and Procedures.

~~The benefits for employees covered by this bylaw shall include but not be limited to the following:~~

A. ~~— Paid Time Off (PTO). Regular Benefit eligible employees scheduled for 20 hours or more each week are entitled to paid time off each year based on the amount of continuous service originating with the date of hire using the following schedule, which is prorated for employee's scheduled for 20 hours or more each week: [Amended 3-27-1999 ATM by Art. 32; 10-10-2007 STM by Art. 10]~~

~~Years of Service — PTO~~

~~(days)~~

~~1 — 25~~

~~2 — 26~~

~~3 — 27~~

~~4 — 28~~

~~5 — 29~~

~~6 — 30~~

~~7 — 31~~

~~8 — 32~~

~~9 — 33~~

~~10 — 34~~

~~11 or more — 35~~

~~B. — (Reserved)~~

~~C. — Other excused absences. Absences with pay may be excused by supervisors without charge to vacation PTO for court leave jury duty, military leave, bereavement leave (no more than three days), and voting (when not practicable to vote otherwise), and emergencies.~~

~~D. — Leave without pay. A temporary non-pay status and absence from work granted by the Town at the employee's request and approval by the Town Administrator.~~

~~E. — Retirement/health insurance. For the purpose of retirement health insurance, an employee must have been a "regular" municipal/county/state employee with 10 years of continuous service in which he/she was eligible for benefit coverage and, at a minimum, age 55.~~

F. — Overtime. Overtime shall not be paid to employees of the Town except as provided in this subsection:

(1) — When overtime work is requested by the head of the department concerned, nonexempt employees shall receive pay on the following basis:

(a) — Nonexempt employees will be paid at 1-1/2 times their base pay for hours worked in excess of 40 hours worked per week. For payroll calculations, holiday and vacation shall be considered as hours worked.

(b) — Employees recalled to work from off-duty hours will receive a minimum of three hours' pay. Police will receive a minimum of three hours' pay at their regular base pay for court time only.

(2) — Exempt salaried employees do not receive overtime. These employees by federal law are not required to receive overtime compensation.

G. — Holidays. The following shall be considered holidays:

New Year's Day —

Martin Luther King Jr. Day —

Presidents' Day

Independence Day

Patriot's Day —

Memorial Day —

Juneteenth Day

Labor Day —

Indigenous Peoples Day

Veterans Day —

Thanksgiving Day —

Christmas Day

H. — Workers' compensation. An employee who by reason of an industrial accident receives statutory compensation may receive, in addition, the amount necessary to make up his regular weekly compensation only to the extent of the person's accumulated PTO applied on a pro rata basis. These payments are not pensionable.

I. — Deferred Compensation A deferred compensation program shall be established. All employees with five or more years of continuous service with the Town are eligible. Employees may elect to contribute any amount up to 5% of their base salary, as determined by the compensation plan. Such contributions will be forwarded directly to the vendor for credit to the employee's account. The Town will match the employee's contributions according to the following schedule: [Added 3-31-1990 ATM by Art. 16]

— The Town provides all benefit-eligible employees the opportunity to participate in a 457(b) plan. The 457(b) plan, a type of retirement plan for government employees in the United States, allows employees to save for retirement through payroll deductions.

~~Employees may elect to contribute any amount to their plan, in accordance with IRS contribution limits, which are revised annually.~~

~~Employees hired prior to February 26, 2015 are eligible for a Town-paid match of their 457(b) contributions.~~

~~The Town will match an employee's contribution, up to 5% of the employee's base salary, according to the following schedule:~~

~~(1) Employees with five but less than 10 years of service on July 1 will have their contributions matched at the rate of 15%.~~

~~(2) Employees with 10 but less than 20 years of service on July 1 will have their contributions matched at the rate of 25%.~~

~~(3) Employees with 20 or more years of service on July 1 will have their contributions matched at the rate of 50%.~~

§ 78-8 Severability.

The provisions of this bylaw and any regulations adopted pursuant to this bylaw are severable. If any bylaw provision or regulation is held invalid, the remaining provisions of this bylaw or regulations shall not be affected thereby.

§ 78-9 Effective date.

This bylaw shall take effect on July 1, 1990. Personnel policies existing prior to said date will remain in effect for at least 180 days from said date and until promulgation of new policies in accordance with § 78-5 herein.

#### **ARTICLE 6: ADD CIVILIAN TRAFFIC CONTROL AGENT to the POLICE DEPARTMENT STAFFING**

To see if the Town will vote to add the position of Civilian Traffic Control Agent to the Police Department Staffing under the control of the Police Chief and or their designee, for which position compensation shall be paid through the funds collected for details, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

#### **ARTICLE 7: CAPITAL PLANNING and INVESTMENT COMMITTEE – FIRE DEPARTMENT EMERGENCY GENERATOR**

To see if the Town will vote to transfer a sum of money from the Capital Stabilization and Investment Fund, to be expended by the Fire Chief, with the approval of the Select Board, to replace the Fire Department's emergency generator, or pass any vote or votes in relation thereto.

(Inserted by Capital Planning and Investment Committee)

***FINANCE COMMITTEE RECOMMENDS – the passage of this article, contingent upon the Capital Planning and Investment Committee (CPIC) approving this article and recommending a dollar amount. CPIC has not yet had an opportunity to review this article and will make a recommendation at Town Meeting.***

**ARTICLE 8: AUTHORIZE SELECT BOARD to ACQUIRE LAND and  
EASEMENTS for AYER ROAD PROJECT**

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise (1) for highway purposes, the fee in the parcels of land on and near Ayer Road, Harvard, Massachusetts shown as Parcel No.'s 1-T, 2-T, 3-T and 4-T on Sheet No.'s 26 through 29 and 40 on the plan entitled "Massachusetts Department of Transportation Highway Division Plan and Profile of Ayer Road in the Town of Harvard Worcester County Preliminary Right of Ways Plan", dated February 12, 2021, with revisions through February 17, 2023, prepared by TEC The Engineering Corp., a copy of which plan is on file in the Office of the Town Clerk; and (2) permanent and temporary easements in the areas of land shown as Parcel No.'s D-4, D-5, D-PUE-2 through D-PUE-7, PUE-1 through PUE-4, PUE-8, PUE-9, PUE-12 through PUE-16, PUE-18 through PUE-24, PUE-26 through PUE-31, PUE-43, PUE-47, PUE-53, PUE-60 through PUE-64, TE-2, TE-3, TE-6, TE-7, TE-10, TE-11, TE-13, TE-15 through TE-20, TE-22, TE-24, TE-25, TE-27 through TE-31, TE-33 through TE-36, TE-38, TE-41 through TE-44, TE-46 through TE-48, TE-50, TE-52 through TE-56, TE-58 through TE-64, TE-66 through TE-70, TE-72, TE-73, TE-75, TE-76, TE-79, TE-82 through TE-84 and TE-86 through TE-88 on Sheet No.'s 23 through 41 of said plan for the purposes set forth the "Remarks" column of Sheet 16 through 21 of said plan, provided that the acquisition of any of said parcels of land and easements shall not be consummated unless a subsequent town meeting votes to appropriate funds for consideration or compensation for purchases or takings of them or to accept the donation of any parcels or easements offered to the Town as gifts, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

**ARTICLE 9: AUTHORIZE SELECT BOARD to ACQUIRE an EASEMENT to  
CONNECT the TOWN'S WATER SYSTEM to the WATER SYSTEM  
at DEVENS.**

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift, eminent domain, or otherwise land and easements in the Town of Harvard and Devens needed for the connection of the Town's Water system to the water system at Devens, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

And you are directed to serve this Warrant by posting two attested copies thereof, one at the Town Hall and one on the Town of Harvard website, as directed by the Town Charter, seven days at least before the time of holding said meeting. Hereof fail not, and make due return of this Warrant with your doings thereon to the Town Clerk.

Given under our hands this 3rd day of October, Two Thousand and Twenty-Three.

**Harvard Select Board:**

Richard Maiore, Chair  
Donald Ludwig  
Erin McBee  
Kara McGuire Minar  
Charles Oliver

