

OFFICE OF THE
TOWN CLERK



13 AYER ROAD · HARVARD, MASSACHUSETTS 01451-1458
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The following is a copy of the final vote taken under Article 34 at the Annual Town Meeting of the qualified voters of the Town of Harvard on May 3, 2025:

ARTICLE 34: AMEND THE PROTECTIVE BYLAW 125-58, EROSION CONTROL

(Two-Thirds Majority Vote Required)

To see if the Town will vote to amend Chapter 125 of the Protective Bylaw of the Code of the Town of Harvard by making the following changes to Section 125-58, Erosion Control, to add conditions around tree removal, or take any vote or votes in relation thereto.

(Inserted by Planning Board)

[key to revisions: underline = additions; ~~strike through~~ = deletions]

- A. **Purpose.** The purpose of this bylaw is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff, decreased groundwater recharge and nonpoint source pollution associated with new development, redevelopment and other land-disturbance. It has been determined that proper management of erosion and stormwater will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This bylaw seeks to meet that purpose through the following objectives:
1. Establish decision-making processes surrounding land development activities that protect the integrity of the Bare Hill Pond, Assabet River, and Nashua River watersheds and preserve the health of water resources.
 2. Require that new development, redevelopment, and other land-disturbance activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics, where appropriate, in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
 3. Require that new development, redevelopment, and other land-disturbance activities seek ways to protect, maintain, and replace tree canopy to the extent practicable, based on the integral role tree roots and tree canopy play in stabilizing soils, slowing runoff, and supporting infiltration.
 4. Establish provisions that require practices that reduce soil erosion and sedimentation and control

the volume and rate of stormwater runoff resulting from land-disturbance activities.

5. Establish provisions to ensure that soil erosion and sedimentation control measures, stormwater and nonpoint source pollution runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
 6. Establish administrative procedures for the submission, review, approval or disapproval of erosion and sediment controls, best management practices (BMPs) 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 supersede or conflict with the requirements of the Town of Harvard Protective Bylaw, the Mass Wetlands Protection Act, the Town of Harvard Wetlands Protection Bylaw, Town of Harvard General Bylaws, any other bylaws that may be adopted by the Town of Harvard, or any rules and regulations adopted thereunder. In case of such a conflict, the provisions of such bylaws or rules and regulations shall govern.
- C. **Exemptions.** Exemptions from this bylaw apply to the following activities, provided that a project is solely comprised of any one of these activities:
1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 ("Agricultural") and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of best management practices (BMP) recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources. Normal maintenance and management of forestland under a forestry plan under MGL Chapters 61, 61A, and 61B when conducted in accordance with such plan.
 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.
8. Removal of trees that are dead, hazardous, invasive species, and/or currently infected by a disease or insect infestation of a permanent nature, as determined and confirmed by the Tree Warden or their deputy.

D. Definitions.

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

DBH (DIAMETER AT BREAST HEIGHT) — Diameter of a tree trunk measured in inches at a height of four and a half (4 1/2) feet above the ground.

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

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

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

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

INVASIVE SPECIES — Any plant or tree listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture, or currently listed as "likely invasive" or "potentially invasive" by the Massachusetts Invasive Plant Advisory Group (MIPAG).

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 — Includes the following meanings:

1. 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
2. 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.

TREE WARDEN: Appointed by the Town Administrator, the Tree Warden is responsible for preserving, protecting and managing the town's public trees according to M.G.L. Chapter 87, the Scenic Road Bylaw in

Chapter 90 of the Town Code, and the duties set forth in this bylaw.

- E. **Applicability.** Where a project is subject to site plan approval, definitive subdivision or special permit approval from the Planning Board, the regulations adopted by the Planning Board shall apply and a review shall be completed as part of the Planning Board process, provided that the Planning Board also finds that the activity is in compliance with any additional performance standards contained in the regulations promulgated to implement this bylaw. When a project is within the Bare Hill Pond watershed the Bare Hill Pond Watershed Management Committee shall be requested to provide comments to the Planning Board prior to approval.
1. For projects not subject to site plan approval, definitive subdivision, or special permit approval from the Planning Board, this bylaw shall be applicable to all new development and redevelopment, land-disturbance, and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land, unless exempt pursuant to Subsection C of this bylaw. This bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Subsection E(2), and are not exempted by Subsection C. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.
 2. No permit required. For activities including, but not necessarily limited to, those listed below, no permit shall be required, provided that erosion control measures are used and the activity will not result in an increased amount of soil, stormwater runoff, and/or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.
 - a. Land disturbance not to exceed 5,000 square feet in area other than work described in Subsections E(2)(d) and E(3)(a).
 - b. The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
 - c. Repair, replacement, or reconstruction of an existing driveway in the same location.
 - d. Restoration of existing lawn areas, provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
 - e. The addition or on-site redistribution of up to 250 cubic yards of material.
 - f. Demolition of a structure, provided that any land-disturbance, including the area of the structure, does not exceed 5,000 square feet.
 - g. Routine maintenance and improvement of institutional open space, and recreational areas, provided that an annual letter or plan is filed with and approved by the Planning Board describing the work to be done.
 3. Erosion control permit thresholds. An erosion control permit shall be required for any of the following, except for an activity exempt per Subsection C:

- a. Minor permit.
 - 1. The creation of new impervious area, or expansion of existing impervious area, greater than 750 square feet and not exceeding 2,500 square feet.
 - 2. Repair, replacement, expansion of septic systems, provided the work does not exceed the thresholds in Subsection E(3)(b)[4].
 - 3. The addition or on-site redistribution of more than 250 cubic yards, but not exceeding 500 cubic yards, of earth materials, including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
- b. Major permit.
 - 1. Construction of any new dwelling or new dwelling replacing an existing dwelling or accessory dwelling.
 - 2. Any land-disturbance exceeding an area of 5,000 square feet, or more than 20% of a parcel or lot, whichever is less, other than activities described in Subsection E(2).
 - 3. Creation of new impervious surface area greater than 2,500 square feet.
 - 4. The addition or on-site redistribution of more than 500 cubic yards of earth materials, including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - 5. Reconstruction of public or private way.
 - 6. Reconstruction or replacement of existing nonresidential parking lots, including associated driveways, greater than 2,500 square feet.

4. Tree Removal Threshold Requirements

- a. If a major or minor permit for erosion control is required, the removal of five or more trees over 12" DBH and/or the removal of one or more trees over 20" DBH, which are not exempt pursuant to Subsection C of this bylaw,

shall require notification of the Tree Warden to review and agree upon a plan for the tree(s) to be removed and such plan shall be submitted and subject to approval as part of the permit.

- b. If no erosion control permit is required, removal of five or more trees over 12" DBH and/or the removal of one or more trees over 20" DBH, which are not exempt pursuant to Subsection C of this bylaw, requires notification of the Tree Warden for review of a plan for the tree(s) to be removed.

- 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 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.

On a MOTION by Kara Minar, 204 Still River Road, Select Board, and Seconded:

I move that the Town amend Chapter 125, Code of the Town of Harvard, the Protective Bylaw, by making the revisions to Section 125-58 thereof regarding Erosion Control as printed in the Warrant and Finance Committee Report for the 2025 Annual Town Meeting. Consult your green sheet to understand the differences.

Bradford Besse, 9 Westcott Road proposed an amendment to the Main Motion of Article 34: Section C Exemption to *Add Bullet 9: Any work on private property unrelated to new development and redevelopment where site plan approval is not required.*

**Vote on the Amendment to the Main Motion of Article 34: DID NOT PASS by Majority
(30 Yes- 110 No)**

Bonnie Chandler, 183 Prospect Hill Road, proposed a friendly amendment to the Main Motion of Article 34 *to remove Section F, Number 4, Subsection b:*

~~(b) If no erosion control permit is required, removal of five or more trees over 12" DBH and/or the removal of one or more trees over 20" DBH, which are not exempt pursuant to Subsection C of this bylaw, requires notification of the Tree Warden for review of a plan for the tree(s) to be removed.~~

The friendly amendment was accepted by the Planning Board

Paul Green, 288 Old Littleton Road, **MOTIONED** to end debate on Article 34.

MOTION to end debate on Article 34: PASSED by Two-Thirds Majority (122 Yes - 10 No)

**Vote on Article 34, Main Motion as Amended: PASSED by Two-Thirds Majority
(95 Yes - 36 No)**

ARTICLE 34: AMEND THE PROTECTIVE BYLAW 125-58, EROSION CONTROL, AS AMENDED-

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 3. Require that new development, redevelopment, and other land-disturbance activities create and implement a plan to protect, maintain, and replace tree canopy to the extent practicable, based on the integral role tree roots and tree canopy play in stabilizing soils, slowing runoff, and supporting infiltration.
 4. Establish provisions that require practices that reduce soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbance activities.
 5. Establish provisions to ensure that soil erosion and sedimentation control measures, stormwater and nonpoint source pollution runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
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- B. Nothing in this bylaw is intended to supersede or conflict with the requirements of the Town of Harvard Protective Bylaw, the Mass Wetlands Protection Act, the Town of Harvard Wetlands Protection Bylaw, Town of Harvard General Bylaws, any other bylaws that may be adopted by the Town of Harvard, or any rules and regulations adopted thereunder. In case of such a conflict, the provisions of such bylaws or rules and regulations shall govern.
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2. Any work or projects for which all necessary approvals and permits were issued before the effective date of this bylaw.
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2. No permit required. For activities including, but not necessarily limited to, those listed below, no permit shall be required, provided that erosion control measures are used and the activity will not result in an increased amount of soil, stormwater runoff, and/or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.
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 - b. The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
 - c. Repair, replacement, or reconstruction of an existing driveway in the same location.
 - d. Restoration of existing lawn areas, provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
 - e. The addition or on-site redistribution of up to 250 cubic yards of material.
 - f. Demolition of a structure, provided that any land-disturbance, including the area of the

structure, does not exceed 5,000 square feet.

- g. Routine maintenance and improvement of institutional open space, and recreational areas, provided that an annual letter or plan is filed with and approved by the Planning Board describing the work to be done.
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 2. Repair, replacement, expansion of septic systems, provided the work does not exceed the thresholds in Subsection E(3)(b)[4].
 3. The addition or on-site redistribution of more than 250 cubic yards, but not exceeding 500 cubic yards, of earth materials, including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - b. Major permit.
 1. Construction of any new dwelling or new dwelling replacing an existing dwelling or accessory dwelling.
 2. Any land-disturbance exceeding an area of 5,000 square feet, or more than 20% of a parcel or lot, whichever is less, other than activities described in Subsection E(2).
 3. Creation of new impervious surface area greater than 2,500 square feet.
 4. The addition or on-site redistribution of more than 500 cubic yards of earth materials, including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 5. Reconstruction of public or private way.
 6. Reconstruction or replacement of existing nonresidential parking lots, including associated driveways, greater than 2,500 square feet.

4. Tree Removal Threshold Requirements

- a. If a major or minor permit for erosion control is required, the removal of five or more trees over 12" DBH and/or the removal of one or more trees over 20" DBH, which are not exempt pursuant to Subsection C of this bylaw, shall require notification of the Tree Warden to review and agree upon a plan for the tree(s) to be removed and such plan shall be submitted and subject to approval as part of the permit.
- b. ~~If no erosion control permit is required, removal of five or more trees over 12" DBH and/or the removal of one or more trees over 20" DBH, which are not exempt pursuant to Subsection C of this bylaw, requires notification of the Tree Warden for review of a plan for the tree(s) to be removed.~~

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 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.

A True Copy Attest:



Rose M. Miranda,
Town Clerk

