

HOUSE No. 1130

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to a wastewater management district in the town of Harvard..

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

1 SECTION 1. The purpose of this act is to ensure and facilitate the connection of
2 buildings and structures located in the Harvard Wastewater Management Service Area to the
3 common wastewater management system to be constructed and installed therein; reduce and
4 prevent contamination and pollution of drinking water, groundwater and other natural resources
5 in said service area; provide for an efficient and financially self-sustaining wastewater
6 management system in said areas; facilitate the implementation of Title V of the State
7 Environmental Code in order to protect and improve groundwater supplying drinking water;
8 protect persons residing in said service area from the risks and hazards associated with such
9 contamination and pollution, all to the public benefit and good, and to the extent and manner
10 provided herein.

11 SECTION 2. As used in this act, the following words shall, unless the context requires
12 otherwise, have the following meanings:

13 “Board of Health”, the Board of Health of the Town of Harvard.

14 “Commission” the Harvard Wastewater Management District Commission of the
15 Town established by Section 4 of this Act.

16 “Costs”, all costs and expenses of the planning, design, acquisition, construction,
17 installation, reconstruction, alteration, extension, improvement or enlargement of the wastewater
18 management system including, without limitation, costs of labor, materials, professional
19 services, consulting services, equipment, grinder and ejector pumps, materials, supplies,
20 machinery, structures, all rights in real and personal property, costs of demolitions or relocations,
21 costs of removal or relocations of public utilities, financing charges and expenses, debt service
22 costs relative to the wastewater management system.

23 “Facility”, shall mean a facility as defined in 310 CMR 15.002 of the State
24 Environmental Code as of May 1, 2009.

25 “Revenues”, all revenues, rates, fees, charges, rents, proceeds of loans, grant funds,
26 insurance proceeds, investment earnings and other receipts derived from the operation of the
27 wastewater management system.

28 “Harvard Wastewater Management Service Area", shall mean that portion of the
29 Town of Harvard shown on a plan entitled “Proposed Sewer Service Plan, Town of Harvard,
30 Mass. prepared for Town of Harvard”, dated 11/19/2008 and revised on 3/30/2009 prepared by
31 Norfolk Ram in Association with Weston & Sampson and filed in the office of the Town Clerk
32 of the Town or as such service area may be modified by majority vote of the Town at a town
33 meeting, upon the recommendation of the Commission.

34 “Town”, the Town of Harvard.

35 “Wastewater management system”, the wastewater collection, conveyance, treatment
36 and disposal systems serving more than one facility to be constructed or to be in the possession
37 of and under the jurisdiction and control of the Commission, including all components thereof.

38 “Wastewater”, greywater and blackwater from domestic, municipal and other
39 governmental and institutional uses, but not from industrial sources, as defined in 310 CMR
40 15.002 of the State Environmental Code.

41 SECTION 3. There is hereby established in the Town of Harvard a commission to be
42 known as the Harvard Wastewater Management District Commission, which shall have the
43 rights, powers and duties specified in this Act and the General Laws relating to town boards, and
44 shall be subject to such instructions as the Town may from time to time impose by vote of its
45 town meeting.

46 Except as otherwise provided in this Act, said commission shall consist of three
47 members, each of whom shall be a resident of the Town. At least one such member shall reside
48 in the Harvard Wastewater Management Service Area. The members shall be appointed by the
49 Board of Selectmen of the Town within sixty days after the effective date of this Act, provided
50 that the design of the wastewater management system to be constructed in said service area has
51 been approved by vote of the Town at a town meeting. Of the members first appointed, one shall
52 serve in office for a term expiring on June thirtieth in the year following the effective date of this
53 Act, and one for a term expiring on June thirtieth in the second year following the effective date
54 of this Act, and one for a term expiring on June thirtieth in the third year following the effective
55 date of this Act. Thereafter, said board of selectmen shall appoint successors for a term of three
56 years, or in the case of an appointment to fill a vacancy, for the unexpired term, and until the

57 successor is appointed and qualified. Any member of said commission shall be eligible for
58 reappointment. Any member of said commission may be removed at any time for cause. No
59 vacancy in the membership of said commission shall impair the right of a quorum to exercise the
60 powers of said commission. Two members of said commission shall constitute a quorum and the
61 affirmative vote of two members shall be necessary for any action taken by vote of said
62 commission.

63 Said commission shall annually elect one of its members as chair. The members shall
64 serve without compensation. The members of said commission shall not be municipal
65 employees within the meaning of Chapter 268A of the General Laws.

66 The Commission shall have all the rights, authority and powers necessary or
67 convenient to carry out and effectuate this Act, including, but without limiting the generality of
68 the foregoing, the rights, authority and power to:

69 (a) to hire, employ or engage the services of engineers, land surveyors, consultants
70 and such other experts as it deems necessary and determine their duties;

71 (b) to construct, install, improve, extend, enlarge, operate, maintain, repair and
72 reconstruct the wastewater management system, subject to the limitations set forth in Section 10
73 of this Act;

74 (c) to hold, manage, maintain, control and regulate the use of Town-owned property,
75 real or personal, tangible or intangible, or interests therein, for the purposes of this Act,
76 consistent with all requirements of the General Laws;

77 (d) to adopt rules and regulations relative to the use of and connection to the
78 wastewater management system including the types of wastewater that can be discharged into
79 the system, subject to the approval of the Board of Selectmen. The Commission may, by
80 regulation, prescribe civil penalties, which shall enure to the Town, in accordance with Section
81 10 of Chapter 83 of the General Laws for the violation of any such rule or regulation of the
82 Commission. Prior to adopting or amending such rules and regulations, the Commission shall
83 hold a public hearing thereon, notice of which, giving the time, date and place, shall be placed in
84 a newspaper of general circulation in the town, once in each of two successive weeks, with the
85 first such publication being not less than fourteen (14) days before the hearing. Any such rules
86 and regulations so adopted or amended and so approved shall be filed in the office of the Town
87 Clerk whereupon they shall take effect. The Commission may also assess fines not exceeding
88 three hundred dollars for each violation of its rules and regulations in accordance with Section 21
89 of Chapter 40 of the General Laws;

90 (e) to apply for, receive, accept, administer, expend and comply with the conditions of
91 any grant, gift, loan, donation, or appropriation of any money or property in aid of the purposes
92 of this Act;

93 (f) to sell, exchange, transfer or otherwise dispose of any surplus personal property,
94 tangible or intangible, consistent with all requirements of the General Laws;

95 (g) to contract for and procure wastewater management, treatment and disposal from
96 any person, private or public corporation or government agency or entity, consistent with all
97 requirements of the General laws, when necessary or convenient for the operation of the
98 wastewater management system;

99 (h) to use and expend monies borrowed or appropriated by the Town for the purposes
100 of this Act;

101 (i) to make contracts of every name and nature and to execute and deliver all
102 instruments necessary or convenient for carrying out its duties;

103 (j) to create an overall wastewater management policy and plan for the Harvard
104 Wastewater Management Service Area, which shall be consistent with the Town's Master Plan
105 and Open Space and Recreation Plan;

106 (k) to fix, revise, charge, collect and abate fees, rates, assessments, delinquency charges
107 and other charges for wastewater collection, treatment and disposal services, facilities and
108 commodities for facilities connected to the wastewater management system;

109 (i) Subject to Section 5 of this Act, such fees, rates, rents, assessments, delinquency
110 charges and other charges of general application shall be adopted and revised by the Commission
111 at least annually in accordance with procedures to be established by the Commission for assuring
112 that interested persons are afforded notice and an opportunity to present data, views and
113 arguments. The commission shall hold at least one public hearing on its schedule of fees, rates
114 and charges or any revision thereof prior to adoption, notice of which shall be delivered to the
115 Board of Selectmen of the Town and be published in a newspaper of substantial circulation in the
116 Town at least one month in advance of the hearing. No later than the date of such publication, the
117 Commission shall make available to the public and deliver to said selectmen and the Finance
118 Committee of the Town the proposed schedule of fees, rates and charges and its proposed
119 operating and capital budgets for its next fiscal year. The commission may combine its fees, rates
120 and other charges for wastewater services provided by it in a single schedule of charges. Fees,

121 rates, rents, assessments, abatements and other charges established by the Commission shall not
122 be subject to supervision or regulation by any department, division, commission, board, bureau,
123 or agency of the Commonwealth. Such schedule shall provide for the metering, monitoring and
124 other measuring of, and charging for, wastewater management services provided by the
125 commission to consumers of such services in said service area, except for the Town, provided,
126 further, that no betterment or special assessment shall be made by the Commission under the
127 authority of Chapters 80 or 83 of the General Laws or any other provision of law against
128 property owned by the Town, the Commonwealth, any political subdivisions thereof or the
129 United States or any agencies thereof. In lieu of any betterment assessment or special
130 assessment, the Town shall receive a reduction in any outstanding General Fund advances or
131 loans or make payment or transfer from the General Fund equal to the amount such assessment.

132 (ii) Subject to Section 5 of this Act, the fees, rates, rents, assessments and other
133 charges so established by the Commission shall be so fixed and adjusted in respect to the
134 aggregate thereof so as to provide revenues at least sufficient (1) to pay the current expenses of
135 the Commission, (2) to pay the principal of, premium, if any, and interest on bonds or other
136 evidences of indebtedness issued by the Town for the Commission as the same become due and
137 payable, (3) to create and maintain such reasonable reserves as may be reasonably required by
138 any trust agreement or resolution securing bonds, (4) to provide funds for paying the cost of all
139 necessary repairs, replacements and renewals of the wastewater management system and (5) to
140 pay or provide for any amounts which the Commission may be obligated to pay or provide for by
141 law or contract including any resolution or contract with or for the benefit of the holders of
142 bonds issued for the Commission. The annual operating budget of the Commission shall be
143 submitted to the Board of Selectmen and Finance Committee of the Town for review and

144 recommendation, and all funds expended by the Commission shall be subject to appropriation by
145 town meeting.

146 (l) to exercise the powers and privileges of, and to be subject to limitations upon
147 towns and cities provided by the provisions of Sections 1 to 24, inclusive, and 27 to 29,
148 inclusive, of Chapter 83 of the General Laws, insofar as such provisions may be applicable and
149 are consistent with the provisions of this Act;

150 (m) to do all things necessary, convenient or desirable for carrying out the purposes of
151 this Act or the powers expressly granted or necessarily implied in this Act; and

152 (n) consistent with the Constitution and laws of the Commonwealth, the Commission
153 shall have such other powers as may be necessary for or incident to carrying out the foregoing
154 powers and the accomplishment of the purposes of this Act; provided, however, that nothing in
155 this Act shall impose any duty on the Commission to maintain groundwater levels within or
156 without the boundaries of the Town.

157 SECTION 4. The Town is hereby authorized to establish an Enterprise Fund in
158 accordance with the provisions of Section 53F1\2 of Chapter 44 of the General Laws for the
159 operation of the wastewater management system. On or before one year after the effective date
160 of this act and annually thereafter, the Commission shall prepare a proposed capital improvement
161 program for the next three succeeding fiscal years of said commission and shall adopt an
162 operating and capital improvement budget for the next succeeding fiscal year. Such program and
163 budgets shall include a description of the operations and projects proposed to be undertaken
164 during such periods, the costs proposed to be incurred in connection with such operations and
165 projects, the method of financing such costs and an estimate of the effect, if any, that such costs

166 will have on the current or projected fees, rates, assessments and other charges of the
167 Commission. The program and budget shall be annually prepared and the budget shall be
168 presented for approval to the town meeting. The commission shall submit its operating capital
169 budget to the Board of Selectmen and Finance Committee of the Town for review and
170 recommendation. The Commission shall hold at least one public hearing on the proposed capital
171 improvement program and budget and operating budget prior to adoption, which hearing may be
172 combined with a hearing provided in Section 4, Paragraph(i) of this Act, notice of which shall be
173 delivered to said board of selectmen and be published in a newspaper of substantial circulation in
174 the Town at least one month in advance of the hearing. No later than the date of such publication,
175 the Commission shall make available to the public and deliver to said board of selectmen copies
176 of the proposed program and budgets.

177 SECTION 5. The Town may incur debt for development of the wastewater management
178 system in accordance with Chapter 44 of the General Laws. Notwithstanding any provision of
179 Section 17 of Chapter 44 of the General Laws to the contrary, the Town may make temporary
180 loans for a period of not more than five years in anticipation of the money to be derived from the
181 sale of bonds for the construction and installation of the wastewater management system in said
182 service area. The principal of, premium, if any, and interest on all notes and bonds issued by the
183 Town for the Commission, unless otherwise provided by the Town, shall be payable solely from
184 the funds provided therefore from revenues as herein provided, but shall be general obligations
185 of the Town for payment of which the full faith and credit of said Town shall be pledged.

186 SECTION 6. The Commission shall have the benefit, without further acceptance of
187 Sections 16A and 16B of said Chapter 83, to the extent applicable and consistent with this Act.
188 Applications for abatements in accordance with Section 16E of said Chapter 83 shall be made to

189 the Commission within thirty days after the date of such demand. Upon written application, the
190 collector of taxes for the Town shall issue lien certificates in accordance with Section 23 of
191 Chapter 60 of the General Laws. No recordation of certificates issued by the Town pursuant to
192 said Section 23 of said Chapter 60 shall affect liens for the unpaid fees, rates, rents, assessments,
193 and other charges of the Commission.

194 SECTION 7. Notwithstanding any provision of Section 13 of Chapter 80 of the General
195 Laws to the contrary, (a) the Board of Assessors of the Town may apportion all betterment
196 assessments or unpaid balances thereof relative to the wastewater management system in said
197 service area into equal portions of up to thirty to be paid annually for a period of up to thirty
198 years after such assessments first appear on the affected landowner's real estate tax bill; and (b)
199 betterment assessments made by the Commission shall, at the election of the Commission, bear
200 interest at one rate of up to five per cent per annum or, at a rate of up to two per cent above the
201 rate of interest chargeable to the Town for the betterment project to which the assessments relate,
202 from the thirtieth day after betterment assessments have been committed to the Town Collector.

203 SECTION 8. The Commission shall have the benefit, without further acceptance of
204 Section 13B of said Chapter 80 and Section 16G of said Chapter 83.

205 SECTION 9. (a) Notwithstanding the provisions of Section 3 of Chapter 83 of the
206 General Laws, said commission shall not be required to connect any home, facility or lot to the
207 wastewater management system, except as set forth in Paragraph (b) below. The Commission
208 shall not permit the connection of (i) a new facility; (ii) a facility that has been reconstructed
209 resulting in an increase of the gross floor area or in the number of bedrooms; or (iii) a facility
210 that has undergone a change in use to the wastewater management system or permit an increase

211 in design flow into the wastewater management system for a facility in existence on May 1,
212 2009, if that new or changed facility could not have been constructed with a wastewater disposal
213 system or septic system which would comply with Title V of the State Environmental Code or
214 other applicable regulations of the Massachusetts Department of Environmental Protection or the
215 increase in design flow could not have been permitted in the absence of a connection to the
216 wastewater management system, unless the Commission, with the approval of the Board of
217 Selectmen, determines that such a connection is necessary for the health, welfare or safety of the
218 Town or creates a demonstrable benefit to the Town.

219 (b) Any facility within the Harvard Wastewater Management Service Area which is
220 served by a subsurface sewage disposal system which is in a state of failure as determined by the
221 Board of Health or the Massachusetts Department of Environmental Protection shall be
222 connected to the wastewater management system within six months after the owner of the
223 facility receives written notice from the Commission that the wastewater management system is
224 complete and operational.

225 (c) Any owner of a facility who is aggrieved by a decision of the Commission relative
226 to such owner's application to voluntarily or involuntarily connect such owner's facility to the
227 wastewater management system may appeal the Commission's decision to the Board of
228 Selectmen by filing a written petition with the Board of Selectmen within sixty (60) days after
229 receipt of the Commission's written decision. The Board of Selectmen may hold a hearing on
230 the petition, consult with the Board of Health, and shall render a written decision thereon
231 affirming, modifying or reversing the Commission's decision within ninety (90) days after
232 receipt of the petition or such longer period of time as may be agreed to by the Board of

233 Selectmen and the petitioner. If the Board of Selectmen fails to act on such a petition within said
234 period of time, the Commission's decision shall be deemed to be affirmed.

235 SECTION 10. Insofar as the provisions of this Act are inconsistent with the provisions of
236 any general or special law, administrative order or regulation, or by-law, rule, regulation or code
237 of the Town, other than rules and regulations or orders of the Board of Health or by-laws of the
238 Town which require homes or facilities to be connected to the wastewater management system
239 involuntarily, the provisions of this Act shall be controlling.

240 SECTION 11. This Act, being necessary for the health and welfare of the Town of
241 Harvard and its inhabitants, shall be liberally construed to effectuate its purposes. This Act shall
242 be construed in all respects so as to meet all constitutional requirements. In carrying out the
243 purposes and provisions of this Act, all steps shall be taken which are necessary to meet
244 constitutional requirements whether or not such steps are required by statute.

245 SECTION 12. This Act shall take effect upon its passage.