

HOUSE No. 4407

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 town of Harvard wastewater management service area to
3 the 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, 310 CMR 15.000, in order to protect and improve groundwater supplying
8 drinking water; protect persons residing in said service area from the risks and hazards associated
9 with such contamination and pollution, all to the public benefit and good and to the extent and
10 manner provided herein.

11 SECTION 2. As used in this act, the following words shall, unless the context clearly
12 requires 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 established
15 by section 3.

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 and debt
22 service 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 town
29 of Harvard shown on a plan entitled “Proposed Sewer Service Plan, Town of Harvard, Mass.
30 prepared for Town of Harvard”, dated 11/19/2008 and revised on 3/30/2009 prepared by Norfolk
31 Ram in Association with Weston & Sampson and filed in the office of the town clerk of the town
32 of Harvard 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 1 facility to be constructed or to be in the possession of
37 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,; provided, however, that wastewater does not include
40 industrial waste, as defined in 310 CMR 15.002.

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 rights,
43 powers and duties specified in this act and the General Laws relating to town boards, and shall be
44 subject to such instructions as the town may from time to time impose by vote of its town
45 meeting.

46 Except as otherwise provided in this act, said commission shall consist of 3 members,
47 each of whom shall be a resident of the town, at least 1 of whom shall reside in the Harvard
48 wastewater management service area. The members shall be appointed by the board of selectmen
49 of the town within 60 days after the effective date of this act, provided that the design of the
50 wastewater management system to be constructed in said service area has been approved by vote
51 of the town at a town meeting. Of the members first appointed, 1 shall serve in office for a term
52 expiring on June thirtieth in the year following the effective date of this act, and 1 for a term
53 expiring on June thirtieth in the second year following the effective date of this act, and 1 for a
54 term expiring on June thirtieth in the third year following the effective date of this act.
55 Thereafter, the board of selectmen shall appoint successors for a term of 3 years, or in the case of
56 an appointment to fill a vacancy, for the unexpired term. Members of the commission shall be

57 eligible for reappointment and may be removed at any time for cause by the board of selectmen.
58 Two members of the commission shall constitute a quorum and the affirmative vote of 2
59 members shall be necessary for any action taken by vote of the commission. No vacancy in the
60 membership of the commission shall impair the right of a quorum to exercise the powers of the
61 commission.

62 The commission shall annually elect 1 of its members as chair. The members shall
63 serve without compensation. The members of the commission shall not be municipal employees
64 within the meaning of paragraph (g) of section 1 of chapter 268A of the General Laws.

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

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

70 (b) to construct, install, improve, extend, enlarge, operate, maintain, repair and
71 reconstruct the wastewater management system, subject to the limitations set forth in section 10;

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

75 (d) to adopt rules and regulations relative to the use of and connection to the wastewater
76 management system including the types of wastewater that can be discharged into the system,
77 subject to the approval of the board of selectmen; provided further, that the commission may, by

78 rule or regulation, prescribe civil penalties in accordance with section 10 of chapter 83 of the
79 General Laws for the violation of any such rule or regulation of the commission; provided,
80 however, that prior to adopting or amending such rules and regulations, the commission shall
81 provide notice of a public hearing including the time, date and place of said hearing, which shall
82 be placed in a newspaper of general circulation in the town, once in each of 2 successive weeks,
83 with the first such publication being not less than 14 days before the hearing; provided that such
84 rules and regulations adopted or amended and approved shall be filed in the office of the town
85 clerk whereupon they shall take effect; and provided further, that the commission at said public
86 hearing may also assess fines not exceeding \$300 for each violation of its rules and regulations in
87 accordance with section 21 of chapter 40 of the General Laws;

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

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

93 (g) to contract for and procure wastewater management, treatment and disposal from any
94 person, private or public corporation or government agency or entity, consistent with the General
95 Laws, when necessary or convenient for the operation of the wastewater management system;

96 (h) to use and expend monies borrowed or appropriated by the town for the purposes of
97 this act;

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

100 (j) to create an overall wastewater management policy and plan for the Harvard
101 wastewater management service area, which shall be consistent with the town's master plan and
102 open space and recreation plan;

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

106 (i) subject to the provisions of section 4, such fees, rates, rents, assessments,
107 delinquency charges and other charges of general application shall be adopted and revised by the
108 commission at least annually in accordance with procedures to be established by the commission
109 for assuring that interested persons are afforded notice and an opportunity to be heard. The
110 commission shall hold at least 1 public hearing on its schedule of fees, rates and charges or any
111 revision thereof prior to adoption, notice of which shall be delivered to the board of selectmen of
112 the town and be published in a newspaper of substantial circulation in the town at least 1 month
113 in advance of the hearing. No later than the date of such publication, the commission shall make
114 available to the public and deliver to said selectmen and the finance committee of the town the
115 proposed schedule of fees, rates and charges. The commission may combine its fees, rates and
116 other charges for wastewater services provided by it in a single schedule of charges. Fees, rates,
117 rents, assessments, abatements and other charges established by the commission shall not be
118 subject to supervision or regulation by any department, division, commission, board, bureau, or
119 agency of the commonwealth. Such schedule shall provide for the metering, monitoring and
120 other measuring of, and charging for, wastewater management services provided by the
121 commission to consumers of such services in said service area; provided, that no betterment or
122 special assessment shall be made by the commission under chapters 80 or 83 of the General

123 Laws or any other provision of law against property owned by the town, the commonwealth, any
124 political subdivisions thereof or the federal government or any agencies thereof. In lieu of the
125 town paying a betterment assessment or special assessment for wastewater management services
126 provided by the commission to the town, the town shall reduce the amount it receives from its
127 General Fund through advances or loans or the town shall make payments or transfer from the
128 town's General Fund an amount equal to the betterment or special assessment.

129 (ii) subject to the provisions of section 4, the fees, rates, rents, assessments and other
130 charges so established by the commission shall be set such that the aggregate amount of revenue
131 collected is sufficient to: (1) to pay the current expenses of the commission; (2) to pay the
132 principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by
133 the town for the commission as the same become due and payable; (3) to create and maintain
134 such reasonable reserves as may be reasonably required by any trust agreement or resolution
135 securing bonds; (4) to provide funds for paying the cost of all necessary repairs, replacements
136 and renewals of the wastewater management system; and (5) to pay or provide for any amounts
137 which the commission may be obligated to pay or provide for by law or contract including any
138 resolution or contract with or for the benefit of the holders of bonds issued for the commission.

139 (l) to exercise the powers and privileges of, and to be subject to limitations upon towns
140 and cities provided by the provisions of sections 1 to 24, inclusive, and sections 27 to 29,
141 inclusive, of chapter 83 of the General Laws, insofar as such provisions may be applicable and
142 are consistent with the provisions of this act; and

143 (m) to do all things as may be necessary for or incident to carrying out the foregoing
144 powers or the powers expressly granted or necessarily implied in this act; provided, however,

145 that nothing in this act shall impose any duty on the commission to maintain groundwater levels
146 within or without the boundaries of the town.

147 SECTION 4. The town is hereby authorized to establish an Enterprise Fund in
148 accordance with the provisions of section 53F½ of chapter 44 of the General Laws for the
149 operation of the wastewater management system. On or before 1 year after the effective date of
150 this act and annually thereafter, the commission shall prepare a proposed capital improvement
151 program for the next 3 succeeding fiscal years of said commission and shall adopt an operating
152 and capital improvement budget for the next succeeding fiscal year. Such program and budgets
153 shall include a description of the operations and projects proposed to be undertaken during such
154 periods, the costs proposed to be incurred in connection with such operations and projects, the
155 method of financing such costs and an estimate of the effect, if any, that such costs will have on
156 the current or projected fees, rates, assessments and other charges of the commission. The
157 program and budget shall be annually prepared and the budget shall be presented for approval to
158 the town meeting. The commission shall submit its operating capital budget to the board of
159 selectmen and finance committee of the town for review and recommendation and all funds
160 expended by the commission shall be subject to appropriation by town meeting. The
161 Commission shall hold at least 1 public hearing on the proposed capital improvement program,
162 capital budget and operating budget prior to adoption, which hearing may be combined with a
163 hearing provided in clause (i) of paragraph (k) of section 3, notice of which shall be delivered to
164 said board of selectmen and be published in a newspaper of substantial circulation in the town at
165 least 1 month in advance of the hearing. No later than the date of such publication, the
166 commission shall make available to the public and deliver to the board of selectmen copies of the
167 proposed program and budgets.

168 SECTION 5. The town may incur debt for development of the wastewater management
169 system in accordance with chapter 44 of the General Laws. Notwithstanding the provision of
170 section 17 of said chapter 44 to the contrary, the town may make temporary loans for a period of
171 not more than 5 years in anticipation of the money to be derived from the sale of bonds for the
172 construction and installation of the wastewater management system in the Harvard wastewater
173 management service area. The principal of, premium, if any, and interest on all notes and bonds
174 issued by the town on behalf of the commission, unless otherwise provided by the town, shall be
175 payable solely from the revenues derived from the wastewater management system, but shall be
176 general obligations of the town for payment of which the full faith and credit of the town shall be
177 pledged.

178 SECTION 6. The commission shall have the benefit, without further acceptance by the
179 town of section 13B of chapter 80 of the General Laws and sections 16A, 16B and 16E of
180 chapter 83 of the General Laws. Applications for abatements in accordance with section 16E of
181 said chapter 83 shall be made to the commission within 30 days after the date of such demand.

182 SECTION 7. Notwithstanding the provisions of section 13 of chapter 80 of the General
183 Laws to the contrary, (a) the board of assessors of the town may apportion all betterment
184 assessments or unpaid balances thereof relative to the wastewater management system in the
185 Harvard wastewater management service area into equal portions of up to 30 to be paid annually
186 for a period of up to 30 years after such assessments first appear on the affected landowner's real
187 estate tax bill; and (b) betterment assessments made by the commission shall, at the election of
188 the commission, bear interest at 1 rate of up to 5 per cent per annum or, at a rate of up to 5 per
189 cent above the rate of interest chargeable to the town for the betterment project to which the

190 assessments relate, from the thirtieth day after betterment assessments have been committed to
191 the town collector.

192 SECTION 8. (a) Notwithstanding the provisions of section 3 of chapter 83 of the
193 General Laws, the commission shall not be required to connect any home, facility or lot to the
194 wastewater management system, except as set forth in paragraph (b). The commission shall not
195 permit the connection of: (i) a new facility; (ii) a facility that has been reconstructed resulting in
196 an increase of the gross floor area or in the number of bedrooms; or (iii) a facility that has
197 undergone a change in use to the wastewater management system or permit an increase in design
198 flow into the wastewater management system for a facility in existence on May 1, 2009, if that
199 new or changed facility could not have been constructed with a wastewater disposal system or
200 septic system which would comply with Title V of the State Environmental Code, 310 CMR
201 15.000, or other applicable regulations of the Massachusetts department of environmental
202 protection or if the increase in design flow could not have been permitted in the absence of a
203 connection to the wastewater management system, unless the commission, with the approval of
204 the board of selectmen, determines that such a connection is necessary for the health, welfare or
205 safety of the town or creates a demonstrable benefit to the town.

206 (b) A facility within the Harvard wastewater management service area that is served by a
207 subsurface sewage disposal system which is in a state of failure as determined by the local board
208 of health or the Massachusetts department of environmental protection shall be connected to the
209 wastewater management system within 6 months after the owner of the facility receives written
210 notice from the commission that the wastewater management system is complete and
211 operational.

212 (c) An owner of a facility who is aggrieved by a decision of the commission relative to
213 such owner's application to voluntarily or involuntarily connect such owner's facility to the
214 wastewater management system may appeal the commission's decision to the board of selectmen
215 by filing a written petition with the board of selectmen within 60 days after receipt of the
216 commission's written decision. The board of selectmen may hold a hearing on the petition and
217 consult with the local board of health, and shall render a written decision thereon affirming,
218 modifying or reversing the commission's decision within 90 days after receipt of the petition or
219 such longer period of time as may be agreed to by the board of selectmen and the petitioner. If
220 the board of selectmen fails to act on such a petition within said period of time, the commission's
221 decision shall be deemed to be affirmed.

222 SECTION 9. Insofar as the provisions of this act are inconsistent with the provisions of
223 any general or special law, administrative order or regulation, or by-law, rule, regulation or code
224 of the town, other than rules and regulations or orders of the local board of health or by-laws of
225 the town which require homes or facilities to be connected to the wastewater management
226 system involuntarily, the provisions of this act shall be controlling.