

# North Brookfield Zoning Bylaws



Adopted March 8, 1963  
Amended May 11, 2018

North Brookfield Planning Board  
North Brookfield, MA

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**ORIGINAL ZONING BYLAWS & MAP ACCEPTED MARCH 8, 1963  
AMENDED TO DATE-MAY 11, 2018**

## ZONING BYLAW, NORTH BROOKFIELD, MASSACHUSETTS

### I. PURPOSE:

To promote the health, safety, convenience and general welfare of its inhabitants, to protect the community and to promote sound growth, the Town of North Brookfield is hereby divided into districts in which the use of land and the construction, alteration, height, location and use of buildings and structures are hereby regulated as provided under the authority of Chapter 40 A of the General Laws.

### II. DEFINITIONS:

In this Bylaw certain terms are defined as follows:

#### “A” Definitions

Accessory Apartment: Accessory apartment is a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities that are substantially contained within a structure of a single-family dwelling but functions as a separate unit. The owner(s) of the residence in which the accessory apartment is located shall occupy the principal dwelling unit. Either the occupants of both units shall be related by blood or marriage, or the accessory apartment shall be occupied by an individual hired to provide medical assistance, or custodial care to one or more individuals in the principal dwelling unit. All accessory apartments shall meet the standards for such units as set forth below (Section IV Use Regulations A. Residential District 1. Permitted uses d (5).

Accessory Use of Building: A use or building located on the same lot with (or in) the main building which is incidental or subordinate to the principal use of the building.

Agriculture: Farming in all its branches and the cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural, aquaculture, floricultural, viticultural, or horticultural commodities; growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations raising of livestock including horses; keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

Agriculture, Commercial: The production of agricultural goods for sale.

Agricultural Commission: A five member board appointed annually by the Board of Selectman to review and facilitate any grievance and report its recommendations to

the referring town authority.

Amusement: A recreational activity, ride, game or other activity that is for enjoyment

Artisan: An artisan is a worker who practices a trade or handicraft and or one who creates or performs with skill or dexterity especially in manual arts: glass, jewelry, stone or gold.

#### “B” Definitions

Building: Any roofed structure designed for housing or enclosing persons, animals or personal property.

#### “C” Definitions

Camp: Any land or buildings used primarily for recreational purposes by organizations or groups of people, whether or not conducted for profit, but does not include dwellings used on a seasonal basis for family purposes.

#### “D” Definitions

Development: Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Driveway: A graded or paved area located on a lot used to access the principal use of a property.

Driveway, Private: A driveway which serves a singular private house lot.

Driveway, Common: A driveway which provides access to more than one lot, each of which has at least the minimum required frontage on a town way as required by the Zoning Bylaw.

Dwelling Unit: One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including rooms for living, sleeping, and eating.

Dwelling, Apartments: A group of rooms intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have a direct access from the outside of the building through a common hall. Each unit in an apartment building is counted as one housing unit. Dwelling unit is not owned in fee simple fee.

Dwelling, Multi-Family: A residential building designed for or occupied by two (2) or more families with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family: A detached building designed and intended for occupancy by a single family whether for year-round or seasonal purposes.

Dwelling, Townhouse: A row of at least three one-family dwelling units whose sidewalls are separated from other dwelling units by a firewall or walls. Each unit in the row or townhouse may be owned by a separate owner and shall have its own access at grade level.

#### “E” Definitions

Reserved

#### “F” Definitions

Family: Any number of individuals living together as a single housekeeping unit.

Family Day Care Home: Any private residence which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen years of age in a family day care home shall not exceed eight, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

Farm: A tract of land in separate ownership devoted primarily to agricultural use. Includes necessary personnel structures, buildings, vehicles and equipment but not residential or commercial structures other than those directly related to farm operation. Includes any parcel or contiguous parcels of land, or water bodies used for the purpose of commercial agriculture, or accessory thereto. Shall not include slaughterhouses or the commercial raising of swine or furbearing animals.

Farming (see also agriculture): Activities including, but not limited to, the following:

1. Farming in all its branches and the cultivation and tillage of soil; dairying; production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, or horticultural commodities; growing and

harvesting of forest products upon forest land, and any other forestry or lumber operations; raising of livestock including horses; keeping of horses as a commercial enterprise and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches, and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

2. Operation and transportation of slow-moving farm equipment over roads within the Town; control of pests, including insects, weeds, predators and disease organism of plants and animals; application of manure, fertilizers and pesticides; conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm; processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto; maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations.

Federal Emergency Management Agency (FEMA): Federal Agency that administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Base Flood: The flood has a one percent chance of being equaled or exceeded in any given year.

Flood Boundary and Floodway Map: An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. -

Flood Hazard Boundary Map (FHBM): An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (FIRM): An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones

applicable to the community.

Flood Insurance Study: An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Flood Zone A: The 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

Flood Zone A1-30 (for new and revised maps): The 100-year floodplain where the base flood elevation has been determined.

Flood Zones B, C and X: Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

One Hundred Year Flood: See Base Flood

Regulatory Floodway: See Floodway

Special Flood Hazard Area: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, A1-30. Subject to special flood and/ or erosion-related hazards, as shown on an FHBM or FIRM Zone A, A1-30.

Floor, Lowest: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

Frontage: The linear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other of the same lot. Frontage shall be measured in a continuous line along the street line between the points of intersection of the side lot lines with said street line. The frontage of a corner lot shall be measured along that side of the lot bordering the traveled way, which is in front of, and parallel to the front of the building or proposed building. Where a building has no front or is located diagonally, the owner may designate either street lot line as the frontage. The driveway providing the principal access to a lot shall be across the lot frontage as herein defined, subject to the provision, however, that if a lot has minimum frontage on more than one street, the driveway may enter the lot from any of such streets subject to the approval of the zoning

officer.

“G” Definitions

Reserved

“H” Definitions

Height: Maximum; A vertical distance from the average ground level surrounding a building or structure and the highest point of any roof or parapet. Height limitations shall not apply to chimneys, spires, cupolas, antennas or other parts of a building or structure not intended for human occupancy.

Home Occupation: Any use customarily conducted for profit by the inhabitants within a dwelling, provided such use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the residential character thereof.

“I” Definitions

Reserved

“J” Definitions

Reserved

“K” Definitions

Reserved

“L” Definitions

Lot: A tract of land under separate ownership, occupied or intended to be occupied by a principal building and the structures and areas accessory to it, defined by metes and bounds or shown on a duly recorded plan.

Lot, Rear: A tract of land zoned and used for residential purposes with reduced frontage requirements and increased lot area requirements.

“M” Definitions

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

foundation when connected to the required utilities.

Manufactured Home, Floodplain Management Purposes: The term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mixed-Use Development: A development that co-mingles two or more businesses, or comingles businesses with residences, into a single structure or group of structures on a single lot.

Mixed-Use Districts: A village development, or even a single building, that blends a combination of residential, commercial, cultural, institutional or industrial uses, where those functions are physically and functionally integrated, and that provides pedestrian or vehicle accessibility.

Registered Marijuana Dispensary (RMD) A not-for-profit entity registered under 105 CMR 725.000, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD/cultivation locations refers to the site(s) of dispensing, cultivation, and preparation of marijuana. Medical Marijuana Cultivation Center: is an area within a building where marijuana plants are cultivated solely for medical purposes

#### "N" Definitions

New Construction, Floodplain Management Purposes: Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For determining insurance rates, new construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

Nonconforming Use: Use of a building or land, existing at the time of the enactment or subsequent amendment of this Bylaw which does not conform to the regulations of the district in which it is situated.

#### "O" Definitions

Reserved

“P” Definitions

Reserved

“Q” Definitions

Reserved

“R” Definitions

Recorded or Of Record: Recorded or registered in the Worcester County Registry of Deeds or a record title to a parcel of land disclosed by any or all pertinent records.

“S” Definitions

Scrap Yard: Land or structures used commercially for collecting, storing or selling wastepaper, rags, scrap metal or discarded materials or for collecting, dismantling, storing, salvaging or selling inoperative machinery or vehicles or parts thereof.

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 60 kw and is intended to primarily reduce on-site consumption of utility power (Amended STM November 9, 2007).

Solar Energy Facility: Physical location that includes the equipment, machinery structures, and service and access roads utilized in connection with the conversion of solar energy into electrical power. It is all facility components within the fenced area.

1. Solar Energy Facility, Small: A solar facility that has a total rated nameplate capacity of not more than 100kW/0.1MW.
2. Solar Energy Facility, Large: A commercial solar facility whose primary purpose is electrical generation for the wholesale electricity market. generally with a rated nameplate capacity of greater than 100kW/0.1MW.
3. Solar, Rated Nameplate Capacity: The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a “nameplate” on the equipment.

Street: A public or private vehicular thoroughfare, which affords the principal means of access to abutting property and which, as defined, includes the entire right of way. If no right of way has been established, it shall be deemed to extend 25 feet on each side of the center of the traveled way and parallel thereto.

Limited Residential: A Street that generally serves only those residents living on that street and which can be considered to permanently serve the exclusive function of being a residential street.

Secondary Street: A Street that serves or may eventually serve any of the following purposes: provide for internal traffic movement within an area of the town, such as a subdivision; provide for through traffic movements within a local area; connect such areas with the major Arterial System, or other subdivision, or industrial/commercial centers. A secondary street is intended to supply abutting property with the same degree of land service as a local street, while at the same time serving local traffic movement.

Primary Street: A Street that handles or is expected to handle a considerable volume of traffic and provides inter-town access between North Brookfield and adjoining communities.

Structure: A combination of materials at a fixed location to give support or shelter or for other purposes, and shall include buildings, framework, sheds, platforms, towers and the like.

1. Structure, Floodplain Management Purposes: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
2. Structure, Insurance Coverage Purposes: A walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the

structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

#### "T" Definitions

Tourist or Guest House: A dwelling in which overnight accommodations are provided for paid transient guests.

Tower Height: The height above grade of the fixed portion of the turbine tower, including the maximum height of one complete rotation of the turbine (amended STM November 9, 2007).

Town Sewer: Sewer installed or recognized as meeting the sub-division control regulation standards of the Town of North Brookfield. A property or lot is considered to be served by Town Sewer when it abuts a public way for a distance of at least twenty feet (20) which is served by a minimum sewer main size of eight inches (8) in diameter.

Town Water: Water supplied by the Town of North Brookfield. A property or lot is considered to be served by Town Water when it abuts a public way for a distance of at least twenty feet (20) which is served by a minimum water main size of eight inches (8) in diameter.

Trailer: A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels and on its own frame and axle, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like.

Trailer Park: A parcel of land which has been planned and improved for the placement of trailers and mobile homes for non-transient use and is designed to accommodate three or more mobile homes (subject to Chapter 140 of the General Statutes of Commonwealth).

#### "U" Definitions

Use: The purpose of which a building or land is arranged or intended or for which a building or a tract of land is or may be occupied.

#### "V" Definitions

Variance: An exception allowed by the Board of Appeals in the case of an individual property owner where strict enforcement of this Bylaw would create unusual hardship.

“W” Definitions

Reserved

“X” Definitions

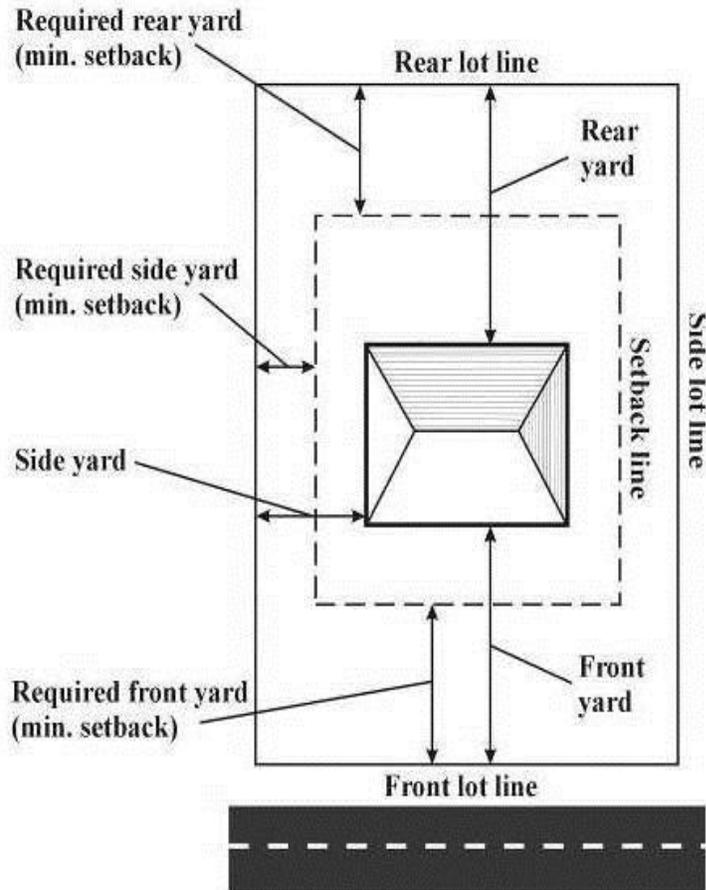
Reserved

“Y” Definitions

Yard; Front, Side, and Rear: An occupied space, open to the sky, on the same lot with a building or structure. The drawing below illustrates the positions of the front, side, and rear Yards (See Table I).

“Z” Definitions-Reserved

Figure 1 – Depiction of Front, Side, and Rear Yards



**III. ESTABLISHMENT OF DISTRICTS:**

- A. Zoning Districts: The Town of North Brookfield is hereby divided into the following types of districts for the purpose of this Bylaw (see Table 2 for detailed dimensional requirements for each district).

Table 1 – Zoning Districts

<i>Residential Districts</i>		
<b>District</b>	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>
R-66 Rural Residence	66,000	250
R-30 Open Residence	30,000	150
R-11 Central Residence	11,000	100
<i>Commercial Districts</i>		
<b>District</b>	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>
B-G General Business	25,000	110
B-C Central Business	No Minimum	No Minimum
<i>Industrial Districts</i>		
<b>District</b>	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>
Ind Industrial	50,000	220
<i>Overlay Districts</i>		
<b>District</b>	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>
NBDO North Brookfield Downtown Overlay District	See Sections IV, H	

- B. Location of Districts: The location and boundaries of these districts shall be as shown on the Zoning Map of the Town of North Brookfield, dated November 21, 2008, which shall be on file in the Office of the Town Clerk. The zoning Map with the explanatory

matter thereon, is hereby made a part of this Bylaw.

C. Interpretation of District Boundaries:

1. Where a right of way, street, railroad or water course is shown on the map as a district boundary, the center line thereof is the actual boundary
2. Where a district boundary is shown approximately parallel to a street it shall be deemed parallel to the exterior line of the right of way of the street and at such distance there from as indicated on the Zoning Map.
3. Where district boundary lines specifically follow private, public or institutional property lines, said boundaries shall be considered to be fixed as of the date said districts were established.

D. One Residential Building per Lot:

1. In all districts each building for residential use shall be located on a separate lot which complies with the regulations specified for the district where located.

**IV. USE REGULATIONS:**

Except as hereinafter provided no building or structure shall be constructed, altered or maintained and no building, structure or land shall be used for any purpose or in any manner other than as indicted in Table 1 and below for the district in which the use is situated. If a specific use is not listed below as a permitted use or a use allowed by special permit, such use shall be explicitly prohibited.

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A. Residential Districts: 1. Permitted Uses

- a. Single-family dwelling.
- b. Governmental, educational, religious or other nonprofit institutional use.
- c. Farm, orchard, greenhouse, tree nursery, truck garden or woodlot operated for commercial purposes. May include retail sale of agricultural or horticultural products provided the major portion of those products has been raised on the premises. One or more signs with a combined maximum area of 30 sq. ft. may be displayed during the seasons when such products are for sale.
- d. Accessory uses shall be permitted as follows, provided that they are customarily incidental to a permitted main use on the same premises and not detrimental to a residential neighborhood. Except as shown below there shall be no exterior indication of the accessory use and no exterior display of merchandise. No more than two (2) persons not residents on the premises are to be employed. One sign not over eight (8) sq. ft. in area may be displayed.
  - (1) Use of space in a dwelling for a customary home occupation, office or studio maintained by resident occupants.
  - (2) Use of property in connection with his trade by a resident carpenter, contractor, electrician, painter, plumber or other artisan provided that no manufacturing or assembly work requiring substantially continuous employment shall be carried on and provided that all storage of vehicles, materials or equipment shall be within the principal building or within suitable accessory buildings.
  - (3) Renting space to lodgers, boarders or tourists provided that no separate cooking facilities are maintained, and provided that no more than three (3) rooms are rented. Accommodations shall not be provided for more than six (6) persons in addition to the resident family.
  - (4) Private swimming pool, provided that any such swimming pool is set back a minimum of 30 feet from the street line, and a minimum of 10 feet from the side lines and rear line of the lot on which it is to be constructed or installed.
  - (5) Accessory Apartment
    - a) In the case where the Accessory apartment will be occupied by an individual hired to provide medical or custodial care to one or more individuals residing in the principal dwelling unit, the rental price of the accessory apartment shall be at a price affordable to persons or families

under which low income families earning not more than 50% of the median family income and moderate income families making less than 80% of the median family income based on household size as set forth in the guidelines of the Department of Housing and Community Development (DHCH) and the (Metro Worcester Core Based Statistical Area (CBSA). The income affordability requirements shall run in perpetuity. Prior to the initial lease of the apartment, a use restriction complying with the terms set forth above shall be approved as to the form and content by the Board's legal counsel. The use restriction shall insure that the unit remains affordable to low and moderate-income households in perpetuity and that the rent for the apartment will only increase in proportion to the growth in the area's median household income as documented by the DHCD.

- b) Only one (1) Accessory Apartment may be created within a single-family dwelling.
- c) An Accessory Apartment may only be created in a dwelling that would otherwise be classified as a single-family dwelling.
- d) The design of the Accessory apartment is such that the appearance remains that of a single-family residence. Any new additions required for the Accessory Apartment shall conform to the minimum yard and maximum height requirements for a single-family dwelling of the district where the building is located and be reviewed by the Planning Board prior to a building permit being issued.
- e) The Accessory Apartment shall be clearly secondary in nature to the principal dwelling, and it shall not be less than six hundred (600) square feet or more than nine hundred (900) square feet in area.
- f) At least three (3) off-street parking spaces must be provided for any single-family dwelling that has an Accessory Apartment.
- g) If the lot is not connected to public sewer, prior to obtaining a building permit, and another bedroom is added to the existing structure the Board of Health shall certify that the septic system is in compliance with Title 5 of the State Environmental code and the Board's regulations. Certification shall be obtained prior to issuance of a building permit.
- h) The construction of an Accessory Apartment must be in conformity with all applicable state Building Code requirements.

- i) The Planning Board may require more or other appropriate conditions in order to protect the public health and safety, and the single-family character of the neighborhood. The Board may also allow deviation from the above conditions when necessary.
  - j) Accessory Apartments existing prior to (approval of this zoning Bylaw) shall be grandfathered, as long as they conform to all state building codes and to the above guidelines.
2. Uses which may be allowed, on special permit, by the Board of Appeals, or in the case of "o" below, by the Planning Board, after a public hearing and subject to appropriate regulations if determined to be neither offensive or detrimental to the neighborhood:
- a. Cemetery, golf course, riding stable, boat livery, ski area, ski mobile area, airport or camp for children or adults.
  - b. Nursing home, sanatorium, orphanage or similar use.
  - c. Dog kennel or veterinary hospital (in R-66) District only.
  - d. Private school, kindergarten, trade or professional school.
  - e. Telephone exchange, natural gas or electric power facility, pumping station, railroad or bus station or other public utility use.
  - f. Commercial raising of swine or furbearing animals or commercial slaughterhouse.
  - g. Private club not conducted for profit.
  - h. Removal of gravel, loam, sand or rock for commercial purposes.
  - i. Conversion of a dwelling, existing at the time of the adoption of this Bylaw, into a multi-family dwelling provided that all sewage disposal, yard and parking requirements can be met.
  - j. Antique or gift shop for retail sale of products of home occupation provided items for sale are not displayed outdoors.
  - k. Undertaker.

- l. Construction of a multi-family dwelling containing no more than four (4) dwelling units shall be permitted only in the Central Residence District provided the dwelling is served by public water and sewer. Lots for multi-family dwellings shall comply with the dimensional requirements as specified in Section V. Each dwelling unit shall have a minimum floor area of 600 square feet and not less than 180 square feet per occupant. No building of this type shall be allowed unless all water supply, sewage disposal, yard, and parking requirements can be met. Building permits for no more than two(2) multi-family dwellings in any twenty-four (24) month period may be granted to any one applicant, or to any agent or associate of such applicant, concerning the lots involved in such permits.
- m. Office, minimum area of office should approximate 100 square feet per person.
- n. Cemetery for burial of all types of animals, provided written permission is received from the Board of Health and the State Department of Environmental Quality Engineering.
- o. Use of a part of an existing single family dwelling or a secondary building or a new building for the following uses permitted in the Central Business District: 1-b, 1-c, 1-d (except hotel, motel), 1-e, 2-b, 2-c, 2-d and the following uses permitted in the General Business District: 1-d. 1-e.
- p. In considering an application for a special permit under this section, the Planning Board will insure that such uses are: (1) secondary to the principal use of the premises for residence purposes; (2) neither offensive nor detrimental to the abutters, the neighborhood or the town; and (3) compatible with adjoining uses.

A special permit issued under this section shall only be issued to the resident owner of the premises and shall expire upon the transfer of ownership of the premises.

- q. Family day care, subject to the following conditions:
  - (1) A report shall be submitted to the Board of Appeals by the Building Inspector prior to, or during the public hearing, regarding suitability of the structure for such use and compliance with applicable building code and safety regulations. As a condition of granting the special permit, said Board may require any deficiencies to be corrected prior to start of operation.
  - (2) Outdoor play areas shall be fenced with a suitable material and shall contain a minimum of seventy-five (75) square feet per client.

(3) Where the Board determines traffic on the adjacent street may present a safety hazard, the applicant shall provide three (3) off-street parking spaces in addition to those otherwise required to insure safe access and egress to the dwelling.

(4) The special permit shall be granted solely to the resident owner operator of the premises and may not be transferred to another party. The special permit shall be valid for a three-year (3) period and may be reviewed by the Board of Appeals upon certification by the applicant that the property remains his or her principal residence and that all conditions met at the time of the original special permit remain unchanged. The Board may require a new special permit if it has reason to believe health or safety concerns exist or if any conditions of the original special permit are no longer being met.

r. Use of buildings existing on August 19, 1998 (excluding Dwellings) for warehouse and storage of restaurant equipment.

B. Business Central District:

1. Permitted Uses:

- a. Any use permitted under Sect. IV, A, 1 and A, 2 except f and h, 1, under A, 2. No dwelling shall be erected on a lot less than 11 000 sq. ft. in area.
- b. Office or bank.
- c. Retail Business or consumer service. A maximum of 4 employees may be engaged in repair or service work or in making articles to be sold at retail on the premises only.
- d. Hotel, motel, restaurant or parking lot.
- e. Newspaper or job printer.
- f. Signs or other advertising devices indicating the name of the firm and goods or services available on the premises provided such signs or devices do not project more than two (2) feet from the wall and do not exceed three (3) square feet in area per lineal foot of building frontage on the street side. One sign not exceeding eight (8) square feet per business establishment may be attached to a marquee, which is an integral part of the building.
- g. One sign or other advertising device of a freestanding nature indicating the name of the firm or goods or services available on the premises provided that such sign or device is located at least ten (10) feet from the street and does not

exceed 25 square feet per business establishment in total area.

- h. Office facility associated within an Industrial use, located on land which abuts an Industrial District, with a 20 foot set-back from a public way.
  - i. Parking lot, access ways and landscaping associated with an Industrial use, located on land which abuts an Industrial District.
2. Uses which may be allowed on special permit, by the Board of Appeals after a public hearing and subject to appropriate regulations, if determined to be neither offensive nor detrimental to the district and provided all necessary safety precautions have been taken:
- a. Place of amusement or assembly, commercial recreation facility *or* club conducted for profit.
  - b. Undertaker.
  - c. Automobile service station or garage, automobile sales or parking garage.
  - d. Sale and storage of feed, lumber, building supplies or fuel.
  - e. Conversion of a structure lawfully in existence into mixed residential and business use. Prior to occupancy all ZBA requirements shall be met including parking, trash removal and comply with all building, safety, conservation and health codes.

C. Business General District:

1. Permitted Uses:
- a. Any use permitted under Sect. IV, A, 1 and A, 2 except f, h and 1 under A, 2. No dwelling shall be erected or used on a lot less than 30,000 square feet in area.
  - b. Any use permitted under Sect. IV, B, 1 and B, 2 except B, 2-a.
  - c. Wholesale or storage establishment or trucking firm.
  - d. Sale and servicing of tractors, construction equipment or farm equipment.
  - e. Light manufacturing or processing activity where the major portion of the product is sold to the consumer on the premises.
  - f. Research laboratory.

- g. Undertaker.
  - h. Signs or other advertising devices indicating the name of the firm and goods and services available or made on the premises. Such a sign or device may be located on or off the building provided it does not exceed three (3) square feet in area per lineal foot of building frontage on the street side and is at least fifty (50) feet from the street.
  - i. One sign or other advertising device of a freestanding nature indicating the name of the firm and goods or services available or made on the premises provided that such sign or device is located at least ten (10) feet from the street and does not exceed thirty (30) square feet per business establishment in total area.
2. Uses which may be allowed, on special permit, by the Board of Appeals after a public hearing and subject to appropriate regulations, if determined to be neither offensive nor detrimental to the district.
- a. Place of amusement or assembly or commercial recreation facility or club conducted for profit.
  - b. Removal of gravel, loam, sand or rock for commercial purposes.

D. Industrial Districts:

1. Permitted Uses:

- a. Any manufacturing, industrial, warehousing, service or utility use including processing, fabrication, assembly, storage and sales. Provided no such use shall be permitted which would be detrimental or offensive in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire without approved mediation.
- b. Automobile service station, automobile repair shop, automobile storage garage, automobile salesroom or lot.
- c. Accessory uses customarily incidental to a permitted use on the same premises.
- d. Signs or other advertising devices indicating the name of the firm and goods or services available or made on the premises. Such sign or device may be located on or off the building frontage on the street side and is at least fifty (50) feet from the street.

- e. One sign or other advertising device of a freestanding nature indicating the name of the firm or goods or services available or produced there provided that sign or device is located at least ten (10) feet from the street line and does not exceed thirty (30) sq. ft. in area.
- f. Wholesale warehouse or storage facility
- g. Walking, hiking, bicycling, roller-skating, picnicking, cross-country skiing, snow shoeing through established districts.
- h. Farm including agriculture, horticulture and viticulture provided that the lot is not less than five (5) acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located (Amended STM November 9, 2007).
- i. Registered Marijuana Dispensary/cultivation locations. See Section VI, H

E. North Brookfield Downtown Overlay District:

1. Purpose: The purpose of this regulation is to ensure historic development patterns in the existing Town center to create an attractive, walkable neighborhood; Encourage adaptive reuse of abandoned, vacant or underutilized buildings or structures where appropriate; Allow for a mix of new land uses that are appropriate to both the needs of the community, and the scale of surrounding neighborhoods; And maintain a consistently high level of design quality throughout the district.
2. Establishment/District Boundaries: The North Brookfield Downtown Overlay District is hereby established and consists of the area depicted on *The North Brookfield Downtown Overlay District Map, Dated November 21<sup>st</sup> 2008* (Map on file at the office of the Town Clerk)
3. Authority: The planning board shall serve as the Special Permit Granting Authority for:
  - a. Any use in the Downtown Overlay district.
  - b. Any use in the Downtown Overlay district that requires a special permit through the Zoning Board of Appeals for existing zoning districts R-11 (Central Residence), R-30 Open Residence), B-C (Central Business), B-G (General Business), and Industrial Districts.
  - c. Any use requiring a special permit pursuant to 4. Use Provisions b. Uses by Special Permit of this Downtown Overlay District Bylaw.

- d. Where standards or other requirements listed as part of this Downtown Overlay District may conflict with those in the underlying District(s); R-11 (Central Residence), R-30 Open Residence), B-C (Central Business), B-G (General Business), and Industrial Districts, the overlay provision shall apply.
4. Permitted Uses include but are not limited to:
    - a. Mixed-use development
    - b. Cafes
    - c. Professional Offices
    - d. Financial Institutions such as but not limited to: banks and mortgage companies
    - e. Small Scale Retail Establishments (<4,000 square feet)
    - f. Personal Services such as but not limited to: Dry Cleaners, Beauty Salons, Tailors, Printing, photocopying, photo processing, and Photography Studios
  5. Uses which may be allowed on special permit from the Planning Board after a public hearing and subject to appropriate regulations, if determined to be neither offensive nor detrimental to the district and provided all necessary safety precautions have been taken:
    - a. Entertainment uses such as but not limited to: Movie Theaters (1 or 2 screens) or Indoor recreation (i.e. arcade, bowling alley, etc).
    - b. Outdoor Markets such as but not limited to Farmers' Market, Flea Market, etc.
    - c. Bed and Breakfast and Boarding Houses
    - d. Restaurants
  6. Prohibited Uses:
    - a. Retail operations with more than 2,000 square feet of gross floor area on any individual floor.
    - b. Drive-through operations
    - c. Adult Entertainment

7. Dimensional Requirements:

- a. All Dimensional requirements must conform to existing underlying zoning districts; R- 11 (Central Residence), R-30 (Open Residence), B-C (Central Business), B-G (General Business), and shall be subject to the design standards in section 7 of this Bylaw. Refer to *Table 1, Table of Dimensional Requirements*, in *Section V. Dimensional Requirements* of the North Brookfield Zoning Bylaws.

8. Parking Requirements:

- a. The base parking standards for the underlying Zoning Districts; R-11 (Central Residence), R-30 (Open Residence), B-C (Central Business), B-G (General Business), shall apply to individual uses in the North Brookfield Downtown Overlay District (See Section VI.1. Parking).
- b. As part of a Special Permit process within this overlay district the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking.
- c. Available innovative parking strategies include but are not limited to:

(1) Shared On-Site Parking

- a) Non-competing Uses: In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to [75%] of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap.
- b) Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to [30%].

(2) Off-Site Parking: Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:

- a) Off-site parking shall be within [two hundred (200)] feet of the property for which it is being requested.
- b) Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to

the Planning Board as a condition of the Special Permit. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Agent that the agreement has been extended.

9. Design Standards: The Design Standards in this section shall be applied to development within the Downtown Overlay District where applicable.

a. Buildings

(1) All buildings may have a principal façade and entry (with operable doors) facing a Street or open space. Buildings may have more than one principal façade and/or entry.

(2) Building finish materials shall be appropriate to traditional New England architectural finishes.

(3) Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls.

(4) New retail buildings may have one of the following features along the front surface at intervals sufficient to provide continuity to pedestrians: awning, marquee, arcade and/or colonnade.

(5) Flat roofs may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet.

(6) Larger buildings with multiple non-residential tenants on the first floor shall articulate the façade in a manner that distinguishes the location of these Tenants through the use of decorative raised or depressed vertical surfaces, variations in acceptable signage, awnings, marquees, colonnades or arcades.

b. Signs

(1) Primary signs shall be flat against the façade, or mounted projecting from the façade.

(2) Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level.

(3) Signs shall be externally lit from the front or have internal lighting.

- (4) Neon, flashing signs, moving signs and roof signs may be used by special permit only.
- (5) Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed upon approval by the Zoning Enforcement Officer.
- (6) Signs shall be made of attractive materials consistent with the character of the Downtown Overlay District.
- (7) Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

c. Site Design

- (1) Parking areas shall be designated by the Planning Board.
- (2) Street level frontage shall be devoted to entrances, shop windows, or other displays.
- (3) Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district.
- (4) Where residential neighborhoods abut commercial, office or mixed-use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features.
- (5) Primary entrances to proposed and existing buildings that are situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 6 feet.
- (6) Adequate access for loading and emergency vehicles shall be maintained on one side of the building where applicable.

10. Severability: If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

F. Floodplain District:

1. Purpose: The purposes of the Floodplain District are to: Ensure public safety through reducing the threats to life and personal injury; Eliminate new hazards to emergency response officials; Prevent the occurrence of public emergencies

resulting from water quality, contamination, and pollution due to flooding; Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; Eliminate costs associated with the response and cleanup of flooding conditions; Reduce damage to public and private property resulting from flooding waters.

2. Establishment/ District Boundaries: The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the North Brookfield Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 5, 1982 as Zone A and A1-30, and the FEMA Flood Boundary & Floodway Map dated July 5, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated January 5, 1982. The FIRM, Flood Boundary & Floodway Map, and FIS report are incorporated herein by reference and are on file with the Town Clerk.

3. Reporting

- a. Floodway Data: In Zones A, [and] A1-30, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. Base Flood Elevation Data: Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- c. Notification of Water Course Alteration: In a riverine situation, the Board of Selectmen shall notify the following of any alteration or relocation of a watercourse:

(1) Adjacent Communities

(2) NFIP State Coordinator

Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 0211402104

(3) NFIP Program Specialist

Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

#### 4. Use Regulations

##### a. Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- (1) Sections of the Massachusetts State Building Code (780 CMR 120) which address floodplain and coastal high hazard areas.
- (2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
- (3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00).
- (4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

##### b. Other Use Regulations

- (1) In Zones A1-30 along watercourses that have a regulatory floodway designated on the North Brookfield FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. Encroachments include, but are not limited to, fill, new construction, substantial improvements to existing structures and other development.
- (2) All subdivision proposals must be designed to assure that:
  - a) Such proposals minimize flood damage
  - b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c) Adequate drainage is provided to reduce exposure to flood hazards.

(3) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

(4) The applicant shall follow a "routing procedure" which will circulate one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineering Consultant, and Building Inspector for comments, which will be considered by the appropriate permitting board prior to issuing applicable, permits.

## 5. Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- b. Forestry and nursery uses.
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.
- d. Conservation of water, plants, wildlife.
- e. Wildlife management areas, foot, bicycle, and/or horse paths.
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- g. Buildings lawfully existing prior to the adoption of these provisions.

## F. Permitted Use- All Districts:

1. Small Energy Systems: The purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

- a. Permitted uses: Small wind energy systems shall be a permitted use in all zoning classifications where structures of any sort are allowed; subject to certain requirements as set forth below.

(1) Tower Height: In district R-11, R-30, Central Business, General Business the tower height shall be limited to 80 feet. For district R-66, Industrial there is no limitation on tower height, except imposed by FAA regulations.

- (2) Set-Back: No part of the Wind system structure except guy wire anchors, may extend closer than 1 ½ times the length of the tower including the turbine to the property boundaries.
- (3) Noise: Small wind turbines shall not exceed 60 DBA, as measured at the closest property boundary in perpetuity. The applicant must provide the Building Inspector with onsite test results performed by a certified or licensed professional of the decibel levels at the closest property boundary, prior to final approval by the Building Inspector.
- (4) Approved wind turbine: Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
- (5) Compliance with MA State Building Code: Building permits for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower base and footings. An Engineered analysis of the tower showing compliance with the MA State Building Code of Massachusetts and certified by a licensed professional engineer shall be submitted. This analysis is frequently supplied by the manufacturer; Wet Stamps shall not be required.
- (6) Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA Regulations, including any necessary approvals for installations close to airports
- (7) Emergency Notification: The local fire department shall be supplied with safety guidelines prior to the issuance of a permit for shutting down the wind energy systems in case of an emergency situation. There shall be emergency guidelines posted in area noted by the Fire Department along with the appropriate fire extinguisher.
- (8) Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (9) Removal Requirement: Any wind turbine facility ceasing to operate within a period of 2 years shall be removed. Cease to operate is defined as not performing the normal functions associated with the wind turbine facility. If all facilities on a wind tower have ceased to operate the tower and all parts of the facility shall also be removed one year from date of notification. The foundation may remain upon approval of the Planning Board.

G. Prohibited Uses- All Districts:

1. The development or operation, on a single recorded lot, of more than one of the principal uses described above is prohibited except where the principal uses are clearly complementary to each other or as specifically provided in the Bylaw. Where retail stores, consumer services, offices, banks or restaurants share a building with common walls in Central or General Business Districts, they shall be considered to be complementary to one another.
2. Trailer parks and trailers.
3. Signs of floodlights that constitute a hazard to pedestrians or vehicular traffic because of the intensity or direction of their illumination.

**V. Dimensional Requirements:**

- A. No land shall hereafter be used, occupied or changed and no building, or structure shall hereafter be erected, altered, moved or used unless it complies with the provision of the Zoning Bylaw set forth in the Table of Dimensional Requirements or is expressly excepted in this or other sections. A lot or parcel of land having an area of frontage of lesser amount than required in the Table shall be considered as coming within the requirements of this section provided it was shown on a plan or described in a deed duly recorded or registered at the time of the adoption of this Bylaw.
- B. To allow for the reasonable use of land, rear lots may be created in residence R-11, residence R-30, residence R-66 zoning districts subject to the following criteria:
  1. The entire lot shall be located in land zones R-11, R-30, and R-66. Any lot which is located in more than one residential district shall satisfy the lot area requirements of the more restrictive (i.e. larger lot size) district. Rear lots may only be used for single family dwellings and their customarily incidental accessory uses.
  2. The frontage of the rear lot shall be on a state road or an accepted town road.
  3. All structures shall be set back from any lot line a minimum of 100 feet.
  4. Only one rear lot may be created from a larger parcel of land; any remaining lots created from the parcel must comply with the larger frontage requirement of the district in which it is located.
  5. Rear lots shall not be further subdivided. The Planning Board shall require that notations be placed on plans and covenants be signed to prohibit further subdivision of the rear lot.

6. A parcel of land existing as of August 19, 1998 that complies with the dimensional requirements for a rear lot in the zoning district in which it is located may submit a plan to the Planning Board for endorsement provided the applicant complies with the other conditions of this section

**Table 3- Dimensional Requirements**

District	Minimum Lot Dimensions		Minimum Yard Dimensions (e)			Minimum Yard Dimensions (e)		Minimum Yard Dimensions (e)
	Area (sq. ft.)	Frontage (feet)	Front (feet)	Side (feet)	Rear (feet)	Stories	Feet	(%)
Residence R-11								
One-family	11,000	100	20	10 (f)	20 (f)	2.5	35	25
R-11 One-family rear lot	55,000	40 (g)	100	100	100	2.5	35	5
Two-Family	16,000	100	30	20 (f)	20 (f)	2.5	35	25
Three-Family	27,000	100	30	20 (f)	20 (f)	2.5	35	25
Four-Family	41,000	100	30	20 (f)	20 (f)	2.5	35	25
All other permitted structures or principal uses	11,000	100	20	10 (f)	20 (f)	2.5	35	25
Residence R-30 (open)	30,000	150	50	15 (f)	30 (f)	2.5	35	20
R-30 rear lot	120,000	40 (g)	100	100	100	2.5	35	5
Residence R-66 (Rural)	66,000	250	60	25 (f)	40 (f)	2.5	35	15
R-66 rear lot	200,000	40 (g)	100	100	100	2.5	35	5
Business BC (Central)	No minimum	30	No minimum	10	30 (f)	3	40	50
Business BG (General)	25,000	110	50	20 (c & f)	40	2.5	35	25
Industrial IND	50,000	220	50	30 c	50	3	50	35

NOTES:

- c. Side yards shall be at least forty (40) feet when adjacent to a residential district.
- d. Height limitations do not apply to chimneys, towers, ventilators, tank silos or ornamental features provided such structures are not used for human habitation.
- e. When a side or rear yard borders on a street, the minimum distance between the street and structure shall equal the distance required for a front yard. When a side or rear yard of a rear lot abuts a street, the minimum distance between the street and any type of building shall be fifty (50) feet.
- f. Detached accessory buildings and garages, when located in rear yards shall be placed at least ten (10) feet from the rear and side lot lines except as provided in (e) above. Buildings 120sf or less can be five (5) feet from rear or side lot lines.
- g. The width of a rear lot may be reduced to not less than twenty (20) feet at any point between the frontage and the dwelling.

## VI. General Regulations:

- A. Nonconforming Uses: The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of the Bylaw may be continued although such structure or use of land does not conform to the provisions of this Bylaw.
1. A nonconforming use of land or of a structure shall not be increased nor shall any major exterior alterations be made except on permit from the Board of Appeals upon finding that the increase or alteration will be less detrimental than the existing nonconforming use to the surrounding neighborhood.
  2. A nonconforming use which has been discontinued for two (2) years shall not be reestablished and all future use shall conform to this Bylaw.
  3. A nonconforming use which has been changed to a more restricted or conforming use shall not revert to its previous use.
- B. Parking:
1. Off-street parking and loading space as required by this Bylaw must be provided to serve all parking demands created by new construction. Whenever there is a change of use or enlargement of a structure which increases the parking and loading requirements for the use or structure, there shall be provided parking and loading spaces required for the entire use or structure.
  2. The parking spaces required in Table 2 shall be provided on the same premises as the activity it services, or when practical difficulties prevent location on site, within two hundred (200) feet on a separate parcel if the parcel is in the same possession either by deed, easement or long-term lease assuring the use of the required parking spaces.
  3. Each parking space shall measure not less than nine (9) feet in width by twenty (20) feet in length, exclusive of drives and maneuvering areas. All commercial and industrial access drives and parking areas shall be limited to asphalt or other hard surface material with spaces designated by painted stripes. The surface shall be graded and drained in such a manner that there will be no free flow of water onto adjacent properties or sidewalks. Parking plans shall be submitted to the Appeals Board and approved prior to construction to insure the proposed layout provides for safe and convenient use by motorists and pedestrians.
  4. Whenever a parking area of four (4) or more spaces is located adjacent to a residence, there shall be provided along the lot line a continuous solid wall fence, or evergreen plantings to prevent direct light from headlights being cast on the adjacent properties.

5. The parking area shall be separated from the street right-of-way by a landscaped strip at least ten (10) feet in width and from other property lines by a landscaped strip at least five (5) feet in width.
6. Parking spaces shall be so arranged as not to permit backing of automobiles onto any street.
7. Entrance on to the street shall not exceed twenty-four (24) feet and no more than two (2) entrances per lot.

Table 4- Off-Street Parking Requirements

Activity	Spaces	Unit of Measurement
Residential		
One and two family	2.0	Unit
Three and four family	2.0	Unit
Elderly Housing	2.0	Unit
Retail Stores and Service Establishments	1.0	250 sq. ft. net floor area;
	1.0	Employee
Hotels, Motels, Tourist Homes, Rooming House, etc etc.	1.0	Rental unit
Fast Food and Drive In Restaurant	1.0	40 sq. ft. gross floor area
Other Eating and Drinking Establishments	1.0	4 persons based on Maximum design capacity
Business, Professional Offices	1.0	400 sq. ft. gross floor area;
	1.0	Employee
Medical, Veterinary or Dental Office	5.0	Doctor or Dentist
Convenience, Grocery Store	1.0	100 sq. ft. gross floor area
Place of Assembly, Theater, Church, etc.	1.0	4 seats
Auto Service Station	1.0	Employee;
	5.0	Service stall
Hospital	1.0	Bed
Nursing and Rest Homes	1.0	5 beds
Funeral Parlor	1.0	4 patron seats;
	1.0	Funeral vehicle;
	1.0	Employee
Wholesale, Warehouse or Trucking Company	1.0	Employee;
	1.0	Company vehicle
Manufacturing or Industrial Use	1.0	1.5 employees on the largest shift;
	1.0	Company vehicle
Clubs and Lodges	1.0	3 person based on maximum capacity
Recreational Uses	1.0	2 person based on maximum capacity

C. Loading:

1. All loading and delivery facilities shall be located either at the side or rear of buildings they are intended to serve, but not closer than ten (10) feet from a public right-of-way and five (5) feet from any other lot line.
2. Each required space shall be at least twelve (12) feet in width, fifty (50) feet in length, and have a vertical clearance of at least fourteen feet (14).
3. One off-street loading space is required for all nonresidential uses with a floor area of at least 10,000 square feet but less than 30,000 square feet. For non-residential uses which have a floor area greater than 30,000 square feet one additional space shall be provided for each additional 30,000 square feet, or fraction thereof.

D. Common Driveways:

1. Common driveways may be allowed by Special Permit from the Planning Board in all zoning districts when deemed in the best interest of the Town under the provisions of M.G.L. Chapter 40A §9 and in accordance with the following provisions:
  - a. Lots to be served by a common drive must meet the minimum dimensional standards of the Zoning Bylaw in effect at the time they were created.
  - b. Common drives may only access the street where the lots served have required legal frontage.
  - c. Minimum width of eighteen feet (18')
  - d. Maximum grade of ten percent (10%), three percent (3%) within 50 feet of the street line.
  - e. Maximum length of five hundred feet (500')
  - f. No closer than 50' to any intersecting way
  - g. Construction: 6" gravel road base, 1 1/2" binder course, 1" top course
  - h. Maximum number of lots that may be served by a common drive is three
  - i. Minimum center line radius of 60'
  - j. Said driveway shall be located entirely within the lots served.

- k. Sight distance at the street shall not be less than 200 ft. unless the existing public road configuration does not allow for the minimum site distance, in which case the Planning Board will consult with the Highway Superintendent for his/her recommendation for a possible resolution.
- l. The deed to lots serviced by a common driveway shall contain a restriction that said driveway shall remain private in perpetuity, no parking will be allowed on the common drive and all roadway maintenance, snowplowing and rubbish collection shall be the landowner's responsibility. A copy of said recorded deeds shall be provided to the Board prior to issuance of a Building Permit for the homes located on said lots.
- m. Private driveways branching off the common drive shall be reviewed and approved in each case by highway, fire and police to ensure emergency vehicle access. This stipulation applies specifically to private drives off a common driveway.
- n. Underground utilities shall be provided on common driveways, unless the Planning Board makes findings in open meeting that underground utilities are not practical due to extreme topographical or environmental constraints and/or safety issues. Above ground utilities shall not be allowed solely for the convenience and/or preference of a petitioner.
- o. The house numbers of the lots serviced by the common driveway shall be clearly posted at both the street and the split in the common driveway. The house numbers shall meet the requirements as defined in Chapter 9 Section C of the North Brookfield Town Bylaws

E. Right to Farm Bylaw:

1. Legislative Purpose and Intent:

The purpose and intent of this Bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations there under including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of North Brookfield restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of North Brookfield by allowing agricultural uses and related activities to function with

minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

## 2. Declaration

The Right to Farm is hereby recognized to exist within the Town of North Brookfield. Agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

## 3. Disclosure Notification

Within 30 days after this Bylaw becomes effective, the Board of Selectmen shall post the following disclosure on the official bulletin board of the Town, the Town website and at any other location at its sole discretion, and make such disclosure available for distribution upon request in the offices of the Board of Selectmen, Board of Assessors, and the Town Clerk:

“It is the policy of the Town of North Brookfield, to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers and occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust, and odors. Buyers or occupants are also informed that the location of property within the Town may be affected by commercial agricultural operations.”

## 4. Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, Notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board will forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and

facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

## 5. Livestock Fencing

Livestock kept on parcels used for farming shall be contained within the farm parcel. Any person operating a farm subject to this bylaw shall provide and continually maintain adequate fencing to prevent livestock from trespassing onto and damaging the property of others.

Violations of the provision shall be reported to the Police, who shall refer the fence inspection to the Agricultural Commission and Fence Viewer. Upon finding that fencing is either missing, in disrepair or broken, the Agricultural Commission and Fence Viewer shall provide their findings in writing to the Police Department. The farmer shall repair the deficient fence as needed to prevent a repeat occurrence.

Broken fencing caused by acts of nature, wildlife or loud noises such as fireworks spooking livestock are not considered reasons for invoking this part of the bylaw.

An affected farmer shall have the right to appeal any finding under this section to the Zoning Board of Appeals within 20 days of receipt of notice of the Selectmen's decision.

## 6. Severability Clause

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of North Brookfield hereby declares the provisions of this Bylaw to be severable.

## F. Commercial Solar Energy Bylaw:

### 1. Purpose:

The purpose of this bylaw is to promote the development of solar energy facilities by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such energy facilities, to protect public safety, to minimize impacts on scenic, natural and historic resources of North Brookfield, and to provide adequate financial assurance for the eventual decommissioning of such energy facilities.

## 2. Applicability

This bylaw applies to all ground-mounted solar energy facilities and to physical modifications that materially alter the type, configuration, or size of these facilities or related equipment. Ground-mounted solar energy facilities on municipal and school district properties are permitted in all districts upon site plan approval from the Planning Board. Solar facilities for the primary purpose of agriculture are exempt from this bylaw pursuant to MGL c. 40A, §3. Solar facilities for one and two family dwellings are also exempt from this bylaw.

The total number of commercial solar facilities in North Brookfield shall be limited to fourteen (14). Facilities constructed prior to this bylaw are counted in this total. Municipal solar facilities are not counted in this total.

Table 5- Commercial Solar Energy Zoning Restrictions

Facility Type	District					
	R-11	R-30	R-66	BC	BG	IND
Small Commercial Solar Energy Facility	N	N	SP	Y	Y	Y
Large Commercial Solar Energy Facility	N	N	SP	Y	Y	Y
Renewable/Alternative Energy R&D Facility	N	N	SP	Y	Y	Y
Renewable/Alternative Energy Manufacturing Facility	N	N	SP	Y	Y	Y
SP: Special Permit						

## 3. General Requirements

- a. **Site Plan Review:** All solar energy facilities, except for those explicitly exempted pursuant to Section IV.G.2 shall undergo site plan review by the Planning Board prior to construction, installation, or modification as provided in this section.
- b. **Required Documents:** In addition to the submission requirements in the Planning Board's Site Plan Review Regulations, the applicant shall provide the following documents:

- (1) Plans and drawings of the solar energy facility signed and stamped by a Professional Engineer licensed to practice in Massachusetts showing the proposed layout of the system
  - (2) An electrical diagram detailing the solar energy facility, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
  - (3) Technical specifications of the major system components, including the solar arrays, mounting system, and inverter
  - (4) A glare analysis and proposed mitigation, if any, to minimize the impact of glare on affected properties
  - (5) The name, address, and contact information of the owner, proposed installer, and operator
  - (6) Proof of actual or proposed control of access ways and the project site sufficient to allow for installation and use of the proposed facility
  - (7) An operation and maintenance plan
  - (8) Proof of liability insurance
  - (9) Financial surety that satisfies Subsection 5.D. of this Bylaw
- c. Operation & Maintenance Plan: The applicant shall submit a plan for the operation and maintenance of the solar energy facility, which shall include measures for maintaining safe access, storm water controls, and general procedures for operating and maintaining the energy facility.
- d. Utility Notification: The applicant shall submit evidence satisfactory to the Planning Board that he has informed the utility company in writing of his intent to install a solar energy facility and that the utility company has responded in writing to the interconnection notice. Off-grid systems are exempt from this requirement.
- e. Dimension and Density Requirements
- (1) Setbacks: Ground-mounted solar energy facilities shall have a setback from front, side and rear property lines and public ways of at least One Hundred Feet (100') in Residential districts and Fifty Feet (50') in Business and Industrial districts. Twenty Percent (20%) of a parcels total square footage may be used for a solar facility.

- (2) Natural Buffer for Large Solar Projects: The site plan shall provide a natural vegetative buffer of One Hundred Feet (100') between a large solar energy facility and a property in residential use, including houses across a street. If the applicant establishes, to the satisfaction of the Planning Board, that the visual buffer would have a detrimental effect on the ability to generate power, the Planning Board may grant a waiver from this requirement.
- (3) Appurtenant Structures: All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall be subject to reasonable regulations concerning bulk and height, setbacks, parking, building coverage, and vegetative screening to avoid adverse impacts on the neighborhood or abutting properties.

f. Design Standards

- (1) Lighting: Lighting shall be limited to that required for safety and operational purposes, and shall not be intrusive in any way on abutting properties. Lighting shall incorporate full cut-off fixtures to reduce light pollution.
- (2) Signage: The solar energy facility shall have one sign not exceeding thirty-two (32) square feet in area. Such sign shall identify the operator and provide a 24-hour emergency contact telephone number. Solar energy facilities shall not display any advertising except for reasonable identification of the manufacturer or operator of the facility. The site may have a secondary sign not exceeding sixteen (16) sq. ft. in area providing educational information about the facility and the benefits of renewable energy
- (3) Utility Connections: The applicant shall place all wiring from the solar energy facility underground, except in extraordinary circumstances where the Planning Board finds that soil conditions, shape, and topography of the site make such wiring unfeasible.
- (4) Screening: Where a commercial solar facility abuts one or more residences and/or public ways, a landscape architectural plan by a registered landscape architect shall be provided for review and Planning Board approval. The plan's objective shall be to minimize, to the greatest extent possible, the visual impact of the facility. The plan shall show how through the use of mature plantings of trees and other vegetation, berms, fencing with vegetation, land contouring and strategic placement of solar modules and appurtenant structures, the facility will be screened from view of abutting residences and public ways during all seasons of the year, so that the visual impact is negligible to all affected properties.

- g. **Emergency Services:** The operator shall provide a copy of the operation and maintenance plan, electrical schematic, and site plan to the North Brookfield Fire Chief and Police Chief. The operator shall cooperate with local emergency services in developing an emergency response plan; this plan shall be reviewed annually with local emergency officials and revised as necessary. All means of shutting down the solar energy facility shall be clearly marked. The premises shall identify a qualified contact person to provide assistance during an emergency; the operator shall change the contact information immediately and so notify the North Brookfield Fire Chief and Police Chief whenever there is a change in the contact person.

#### 4. Monitoring and Maintenance

- a. **Maintenance:** The operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The operator shall be responsible for maintaining access for emergency vehicles that is determined to be adequate by the North Brookfield Fire Chief, Police Chief, and any other local emergency services, and for maintaining adequate access for any maintenance equipment. No herbicides or synthetic chemicals may be used to control vegetation within and immediately adjacent to any fenced solar facility.
- b. **Modifications:** After issuance of the Building Permit, any material modification to the facility requires approval of the Planning Board unless exempt under this bylaw. The operator may apply to the Planning Board for a determination as to whether a proposed modification is material.

#### 5. Discontinuance, Decommissioning, Abandonment and Removal

- a. **Removal Requirements:** Any solar energy facility that has reached the end of its useful life or has been discontinued, decommissioned, or abandoned, as defined below in Section IV.G. 5. c. shall be removed. The owner or operator shall physically remove the facility within one hundred fifty (150) days after the date of discontinued or abandoned operations or decommissioning in compliance with the requirements of the Building Inspector. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations or decommissioning and submit the plans for removal. A decommissioning plan shall be submitted to the Planning Board/Building Inspector at the time of application and shall be approved before special permit/building permit is issued.

- b. Removal: Removal shall consist of physical removal of all of the equipment from the site, including, but not limited to, the solar arrays, structures, equipment, security barriers, and electrical transmission lines. The concrete foundation of all solar module support structures shall be fully removed from the ground.

At the property owner's discretion, if trees were harvested to construct solar facility, the same area shall be replanted with similar tree species at the density that will sustain itself and minimize erosion that were originally present. If cropland has been developed, then this area shall be seeded with grasses that the same as those that were originally present. If both types of vegetation are involved, then the existing proportion of each before solar construction shall be provided. All plantings shall be according to USDA best management practices.

- c. Abandonment: Absent notice to the Planning Board, as provided above in Section IV.G.5.a. of a proposed date of discontinuance or decommissioning or written notice requesting an extension due to extenuating circumstances, the solar facility shall be considered abandoned when it fails to operate or operations are discontinued for more than one year without the written consent of the Planning Board. If the owner or operator fails to remove the energy facility in accordance with the requirements of Section IV.G.5.b. within one hundred fifty (150) days of abandonment or discontinuance or the proposed date of decommissioning, the Town may, to the extent it is otherwise duly authorized by law, enter the property and physically remove the facility.
- d. Financial Surety: The proposed form of surety shall be submitted to the Planning Board/Building Inspector at time of application and shall be approved before special permit/building permit is issued. The amount of the surety purchased shall reflect the size of the approved solar facility. Prior to commencing construction of the facility, the applicant shall provide a form of surety, either through a cash deposit, bond or otherwise, in an amount determined by the Planning Board to cover the cost of removal and site restoration. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer in agreement with the planning board consulting engineer. The amount shall include an escalator for calculating increased removal costs due to inflation. Applicant shall provide annual evidence of surety by January 20<sup>th</sup> of each year to the Planning Board.

## G. Site Plan Review

### 1. Purpose and Intent

This section of the North Brookfield Zoning Bylaw is enacted under the authority of M.G.L. Chapter 40A to protect the health, safety, convenience and general welfare of

the inhabitants of the Town of North Brookfield. Site Plan Review regulates the development of structures and sites in a manner that considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- a. The balancing of landowners rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g. noise, smoke, fumes, dust, odor, glare, storm water runoff, etc).
- b. The convenience and safety of vehicular and pedestrian movement -within the site, and in relation to adjacent areas or roads.
- c. The adequacy of parking, loading facilities, drainage and methods of waste disposal to protect from pollution of surface or groundwater.
- d. The protection of historic and natural environmental features on the site under review, and in adjacent areas.

## 2. Projects Requiring Site Plan Review

No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building shall be given and no existing use shall be expanded except in conformity with a site plan approved by the Planning Board. Site Plan Review shall also be required for the resumption of any use permitted by this Bylaw that is discontinued for more than two (2) years. "Expansion" shall include a proposed total increase in floor space and/or lot coverage of twenty-five percent (25%) or more within any 10-year period, or the introduction of new materials or processes not previously associated with the existing use. Site plan approval is required for proposals for the following uses:

- a. Commercial and retail
- b. Industrial
- c. General and professional office
- d. Multifamily dwellings
- e. Municipal, institutional and utility purposes
- f. Fraternal or recreational purposes

### 3. Exemptions from Site Plan Review

Site Plan Review shall not be required for:

The construction or enlargement of any single family or two family dwelling, or building accessory to such dwelling.

The construction or alteration of any building used exclusively for agriculture, horticulture, or floriculture.

Construction, expansion or alteration providing for not more than two hundred (200) sq. ft. total floor area after construction.

The Planning Board may waive Site Plan Review where the nature of the proposed construction, alteration or use is such as to have minimal effect on any of the standards or criteria provided for hereafter in this section when measured against existing conditions of the site.

The Planning Board may also in any particular case, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this Site Plan Review, waive strict compliance with the specific provisions of this bylaw.

### 4. Site Plan and Supporting Material Requirements

Site plans shall be prepared by a registered professional engineer, land surveyor, architect, and/or landscape architect (as necessitated by the size and detail required), on standard 24" X 36" sheets, at a scale of one inch equals twenty feet (1"=20'), or other such scale adequate to show all details required by the Site Plan Review regulations.

The site plan shall include the following data, plans, and supporting materials. The amount of information submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, with notations explaining the reasons for any omissions.

- a. Name of the project, boundaries, and locus maps showing the site's location in town at a scale adequate to show sufficient detail, date, north arrow, scale of the plan, and Three (3) signature lines for Planning Board approval.
- b. Name and address of the owner of record, applicant, and seals of the engineer, surveyor, architect or landscape architect.

- c. Names and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.
- d. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within one hundred (100) feet of the site. All minimum dimensional requirements in the underlying district and setback requirements shall also be shown on the plan.
- e. The locations and use of all existing and proposed buildings and structures within the development tract. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future expansions and alterations within the next ten (10) years, if possible.
- f. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details for all waste disposal containers shall also be shown.
- g. The location, height, and intensity of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties shall also be shown.
- h. The location, height, size, materials, and design of all proposed signage.
- i. The location of all present and proposed utility systems including:
  - (1) Sewage or septic system
  - (2) Water supply system and hydrant location
  - (3) Telephone, cable and electrical systems
  - (4) Storm drainage system including existing and proposed drains, culverts, catch basins, headwalls, end holes, manholes, and drainage swales
  - (5) Location of any existing or proposed underground storage tanks
  - (6) The Planning Board may also request soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments.
- j. Plans to prevent the pollution of surface water or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable. Storm water management calculations and designs shall be in accordance with

the Storm Water Management Guidelines issued by the Department of Environmental Protection (DEP).

- k. Existing and proposed topography at a two (2) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one hundred (100) year flood plain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
- l. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
- m. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the site plan and locus map.
- n. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
  - (1) The projected number of motor vehicle trips to enter or leave the site, estimated daily and peak hour traffic levels
  - (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
  - (3) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities
- o. For new construction or alterations to any existing building a table containing the following information must be included:
  - (1) Area of building to be used for a particular use such as retail operation, office, storage, etc.
  - (2) Maximum number of employees
  - (3) Maximum seating capacity, where applicable
  - (4) Number of parking spaces existing and required for intended use

- p. Architectural elevation plans at a scale adequate to show required detail for all exterior facades of the proposed structures (and/or existing facades, plus additions) showing design features and indicating the type and color of materials to be used.
- q. Information on the location, size and type of parking loading storage and service areas; and parking calculation based on the requirements for off-street parking and loading in Section VI. B of this Bylaw.
- r. The Planning Board may require the applicant to submit a Community and Fiscal Impact Assessment (including the methodology used) that shall address the following:
  - (1) Projections of cost arising from increased demands on public services and infrastructure
  - (2) Projections of increased tax revenue, employment (construction and permanent), and value of public infrastructure to be provided
  - (3) Projections of the proposed impacts of the development on the values of adjoining properties
  - (4) Evaluation of the relation of the proposed new or altered structure to the surrounding community in terms of character and intensity of use (e.g., scale, materials, color, setbacks, roof and cornice lines, and other major design elements); and the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties
  - (5) Identification of impacts on significant historical properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development
  - (6) Evaluation of the proposed project's consistency or compatibility with existing local and regional plans
  - (7) A copy of all permits, approvals, variances, and applications applied for and obtained for the project and property including an application for public sewer and water connection permits.
- s. Waivers may be granted for any of the site plan requirements only if it is determined that:

(1) Literal compliance is impractical due to the nature of the proposed use  
(2) The location, size, width, depth, shape, or grade of the lot makes compliance impossible

(3) Such waiver would be in the public interest; and/or

(4) Such waiver would not sacrifice the protection of natural features. Applicants seeking waivers will submit a formal request for waiver of particular requirements along with the site plan application.

5. Procedures:

a. Submission

An applicant for Site Plan Review under this Bylaw shall file with the Planning Board, at a regularly scheduled meeting, four (4) copies of the site plan and Four (4) copies of all required written materials. The Planning Board shall acknowledge receipt of these plans by endorsing them by signature and the date of receipt. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file.

b. Reasonable Fees

A filing fee of \$2.00 per \$1,000 of construction value, as reported by the proponent and approved by the Board, with a minimum of \$200, will be required at the time of submission. The applicant must also submit a check covering the cost of the legal ad and the certified mailings at the time of submission.

For all developments requiring site plan review, the applicant will be responsible for all reasonable fees or costs incurred in reviewing such plans. The Planning Board is authorized to retain a registered professional engineer, architect, landscape architect, attorney, or other professional consultant to review and advise the Board on any or all aspects of the site plan.

A charge as noted below will be deducted from the filing fee to cover costs for administration and staff review of the site plan, all billings received from the Town's consultants will be deducted from the filing fee. If the billings exceed the amount of the filing fee, the Town will bill the applicant for the difference. All bills must be paid prior to issuance of approval. If monies are left after all fees and billings are paid, any excess funds will be returned to the applicant.

Table 6- Site Plan Review Admin Fees

<b>Project Size/Type</b>	<b>Staff Review Fee</b>	<b>Administrati on Fee</b>
New—under 30,000 s.f.	\$200	\$50
New — 30,000-100,000 s.f	\$350	\$50
New — 100,000+	\$500	\$50
Existing— change of use/redevelopment	\$200	\$50

c. Review by Other Boards

After reviewing the application for completeness and determining that the site plan requirements have been met, the Planning Board shall transmit to the Conservation Commission, Board of Health, Board of Assessors, Building Inspector, Board of Appeals, Selectmen, Fire and Police Departments, Town Planner, Town Engineer, and other boards as deemed necessary, one copy of the site plan. Said boards and departments shall submit recommendations in writing to the Planning Board within twenty-one (21) days for as-of-right development and within forty-five (45) days for special permit developments. Such recommendations may concern:

- (1) The adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development
- (2) The effects of the projected impacts of the proposed development
- (3) The recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development

Failure of other boards and departments to submit recommendations within the

allotted time shall be interpreted as non-opposition to the submitted site plan.

d. Decision

For proposals not requiring special permit, the Planning Board shall deliver its decision in writing to the Building Inspector within sixty (60) days after determining that the application is complete, to allow the issuance of a building permit. For proposals also requiring special permits, the Planning Board shall hold a public hearing within sixty-five (65) days of receipt of an application and shall take final action within ninety (90) days from the time of hearing, as provided in M.G.L. Chapter 40A, § 9 and 11. The Planning Board's final action, rendered in writing, shall consist of either:

- (1) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this Bylaw
- (2) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this Bylaw; or
- (3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Board which will ensure that the project meets the Standards for Review.
- (4) The time for review of said application may be extended by written concurrence of both the Board and the applicant, and shall be placed on file in the Office of the Town Clerk.

e. Standards for Review

The Planning Board shall review the site plan and supporting materials, taking into consideration the reasonable fulfillment of the objectives listed below. Detailed design guidelines and performance standards shall be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

- (1) Legal: Conformance with the provisions of the Bylaws of the Town, the General Laws of Massachusetts, and all applicable rules and regulations of local, state and federal agencies.
- (2) Traffic: Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

- (3) Parking provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
- (4) Town Services: Reasonable demands placed on Town services and infrastructure.
- (5) Pollution Control: Adequacy of methods for sewage and refuse disposal, hazardous substances, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
- (6) Nuisances: Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare storm water runoff, etc.
- (7) Existing vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required special attention shall be given to planting of replacement trees.
- (8) Betterments: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space and agricultural land.
- (9) Town Character: The setback areas and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape.
- (10) In determining whether the proposed project meets the standards of Site Plan Review, the Planning Board may seek input from abutters, which may include a public hearing.

f. Modification to Approved Site Plans

- (1) In the event a modification is made to an approved site plan, the applicant shall submit to the Planning Board a written description of the proposed modifications and Four (4) copies of the revised plan showing such modification. Modified site instances will be subject to the same review and hearing procedures as was the original filing.
- (2) However, for small and insignificant modifications, the Planning Board shall determine that the particular modification does not warrant an additional

public hearing. Such a determination shall be made only after a written request and four (4) copies of the plan showing the modifications have been submitted to and reviewed by the Planning Board. A determination that the modification does not require a public hearing shall be made by the Planning Board within twenty-one (21) days of receipt of the written request and plans. A copy of the determination and revised plans shall be filed with the Building Inspector. Failure to act within twenty-one (21) days on the request for determination shall be deemed as approval.

g. Permit Expiration and Extension

- (1) Any Site Plan Approval issued under this section shall lapse after two (2) years if a substantial use thereof has not commenced, except for good cause.
- (2) The Board may grant extensions of the permit for up to two (2) years at a time with good cause. Extensions must be requested prior to the expiration of the original permit. Requests must elaborate on the "good cause" that prevented the applicant from utilizing the permit. Facts presented must demonstrate the applicant's clear intent and attempt to utilize the permit during the original permit period in order to be granted an extension.

h. Enforcement

The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any permit or license when work is not performed as required.

H. Registered Marijuana Dispensary/Cultivation Locations

1. Purpose

To provide for the placement of Registered Marijuana Dispensary (RMD)/cultivation locations, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L., c. 94C App. 1-1 -, also known as Chapter 369 of the Acts of 2012, in locations suitable for lawful medical marijuana facilities and to minimize adverse impact of RMD/cultivation locations on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMD/cultivation locations.

2. Applicability

- a. All RMD/cultivation locations shall comply with the regulations promulgated by the Massachusetts Department of Public Health (DPH) 105 CMR 725.000

Implementation of an Act for the Humanitarian Medical Use of Marijuana, effective May 24, 2013, and any subsequent amendments thereto.

b. The town reserves the right to require provisions in the DPH Regulations for which the state granted waivers and/or exemptions to the applicant for RMD/cultivation locations. Such compliance requirements shall be based on the on the provisions of Section 8.3.3. (as to special permit) and Section 8.4. (as to site plan review)

### 3. Location

a. Retail Dispensary: Allowed in Industrial District by special permit

b. Cultivation Center: Allowed in Districts by right if applicant comes under G.L., c. 40A, Section 3, otherwise only in Industrial District.

c. RMD/cultivation locations- that include retail, processing and cultivation are allowed in Industrial District by special permit.

d. Cultivation with agricultural processing: Allowed in all Districts by right if applicant is eligible for protection under Section 4.1.3(b) and G.L. c. 40A, § 3. Any cultivation within a building will require a special permit.

e. RMD/cultivation locations may not be located within 500 (five hundred) feet of an elementary school, middle school, high school, public library, child care facility, public park, youth center, or similar facility in which minors commonly congregate and said facility is in existence on the date Section VI.H, is effective. The 500 foot distance is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD/cultivation locations.

### 4. Procedure for Submittal

a. The Planning Board shall be the Special Permit Granting Authority (SPGA) for RMD/cultivation locations Special Permit in accordance with G.L. c 40A, Section 3. Siting shall be by Special Permit and Site Plan Review as provided in Section 8.4 of the Town of North Brookfield Zoning Bylaw.

b. Criteria in granting any special permit, the Planning Board shall assure that the proposed use:

1) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger or fire or explosion or other reasons

2) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.

3) Will be operated with reasonable regard for order and sightlines.

4) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

c. It is recommended that a concept plan showing the proposed use be submitted to the Planning Board for review and discussion prior to the filing for Site Plan Review.

d. The provisions of Section 8.3.3. (as to Special Permits) and Section 8.4. (as to Site Plan Review) shall apply and filing may be simultaneous.

e. A special permit granted under this Section shall have a term limited to the

duration of the applicant's ownership of the premises as a RMD/cultivation location and so long as the RMD/cultivation location is registered by the DPH. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section.

f. Setbacks and Buffer strips: Cultivation facilities located within the Industrial District shall be surrounded by a buffer strip which shall be one hundred (100) feet in depth unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip. In all other districts existing setbacks will apply for retail distributions facilities without any cultivation component, which are allowed within the Industrial Districts only, existing setbacks will apply.

g. Design Standards: In addition to requirements contained elsewhere in this Bylaw, Section 4.6.5. design standards shall be applicable to RMD/cultivation locations. The applicant shall meet all requirements of the Industrial District or DPH guidelines, whichever are more restrictive.

#### 5. Waivers

The Planning Board may waive any of the conditional standards within this Section VI.H, provided that such waiver will not derogate from the intent of the Section. The use shall not generate outside odors from marijuana use or production of marijuana products.

#### 6. Security

a. All security measures are subject to approval by the North Brookfield Fire and Police Chiefs.

b. An Armed Security Plan shall be required for all RMD/cultivation locations and such Plan is subject to approval by the North Brookfield Fire and Police Chiefs and submitted to the Planning Board.

c. RMD/cultivation locations shall be open to inspection by the North Brookfield Fire Department, Police Department, Building Inspector and Board of Health with twenty-four (24) hours' notice of request for such inspection to be made by the Town Department or Official. A property contact shall be available to such Town Department or official twenty-four hours a day, seven days a week.

#### 7. Documentation

The Planning Board shall be provided with all decisions or approvals, denials or other substantive actions by DPH regarding the RMD/cultivation locations and all submittals of information between the applicant or RMD/cultivation locations and DPH.

And by adding the following to Section IV, Use Regulations, Table 2, Uses By District, Registered Marijuana Dispensary/cultivation locations

And by adding Section IV, Use Regulations, D, Industrial District, 1. Permitted Uses, and a new subsection "i" to provide

i. Registered Marijuana Dispensary/cultivation locations. See Section VI, H.

And by adding to Section VII, Administration, B. Board of Appeals, 2. Special Permits,

a new second paragraph to provide:

Notwithstanding the provisions of this Section VII, B. 2., the Planning Board shall be the special permit granting authority for a Registered Marijuana Dispensary under Section VI, General Regulations, H.

## **VII. Administration:**

- A. **Enforcement:** The Building Inspector shall enforce this Bylaw. No building or structure shall be erected, altered or moved and no major use of land or of a building or use of trailer for dwelling purposes shall be commenced or changed unless a permit has been issued by the Building Inspector. If the Building Inspector is requested in writing to enforce the Zoning Bylaw and he declines to act he shall notify in writing the party requesting such enforcement of any action or refusal to act and the reason therefore within fourteen (14) days of the request.
- B. **Board of Appeals:** There is hereby established a Board of Appeals of three members and two associate members to be appointed by the Selectmen, as provided in Chapter 40A of the General Laws, which shall act on all matter within its jurisdiction under the provisions of this Bylaw as prescribed in Chapter 40A. The Board of Appeals shall have the following powers:

1. **Appeals:**

To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provision of Chapter 40A of the General Laws, by the Regional Planning Agency in whose area the owner is situated, or by any person including an officer or board of the town, or of an abutting town aggrieved by an order or decision of the inspector of buildings, or other administrative official in violation of any provision of Chapter 40A, General Laws or of this Bylaw.

2. **Special Permits:**

To grant a special permit for an exception as provided by Sections of this Bylaw when it shall have found that the use involved will not be detrimental to the established or future character of the neighborhood and town and subject to appropriate conditions or safeguards if deemed necessary. Any application filed with the Board of Appeals shall be referred upon its receipt by the Board of Appeals to the Planning Board for a written report and recommendation relative thereto as provided by General Laws, Chapter 41, and Chapter 40A . The Planning Board shall make its report to the Board of Appeals by the date of the public hearing as to the

application. Failure to make recommendations within thirty-five (35) days of receipt of a special permit application by the Planning Board shall be deemed lack of opposition thereto. For all other applications, the Planning Board shall receive a copy of application materials from the Board of Appeals at least twenty-one (21) days before the public hearing. The Board of Appeals shall hold a public hearing within sixty-five (65) days of submission of an application for a special permit with notice as specified in Chapter 40A, shall act upon such applications within ninety (90) days following such Public Hearing and shall issue to the applicant forthwith a copy of its decision. A Special Permit granted by the Board of Appeals shall lapse within two (2) years from the date of the granting thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of construction, if construction has not begun within such time except for good cause (Amended STM November 9, 2007).

Notwithstanding the provisions of this Section VII, B. 2., the Planning Board shall be the special permit granting authority for a Registered Marijuana Dispensary under Section VI, General Regulations, H.

3. An informational public hearing is required for all uses permitted in the Downtown Overlay District, but not permitted in the underlying district.

#### Variances:

To authorize upon appeals or upon petition in cases where a particular use is sought for which no permit is required after Public Hearings with notice as specified in Chapter 40A with respect to a particular parcel of land or to an existing building thereon a variance from the terms of the applicable zoning Bylaw where owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or Bylaw would involve substantial hardship, financial or otherwise to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or Bylaw but not otherwise. Before taking final action on a variance the matter shall be referred to the Planning Board which shall, within ten (10) days, have an opportunity to report its recommendations in writing to the Board of Appeals. The decision of the Board shall be made within seventy-five (75) days after the date of the filing of an appeal, application or petition and a copy of such decision shall forthwith be issued to appellant, applicant or petitioner. Failure by the Board to act within said seventy five (75) days shall be deemed to be the grant of the relief, application or petition

sought, subject to applicable judicial review as provided for in Chapter 40 A of the General Laws. If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance they shall lapse, and may be re-established only after notice of a new hearing pursuant to this section.

- C. Amendment: This Bylaw may be amended from time to time at an annual or special Town Meeting as provided in Section 6 of Chapter 40A of the General Laws.