

**ORIGINAL ZONING BY-LAWS & MAP ACCEPTED MARCH 8,1963  
AMENDED TO DATE-NOVEMBER 21 2008  
ZONING BY-LAW, NORTH BROOKFIELD, MASSACHUSETTS**

**Section 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.

**Section II.** Definitions: In this By-Law certain terms are defined as follows:

A. 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 building.

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

C. 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. 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.

D.1 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 simple fee.

D.2 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. Dwelling. Single Family: A detached building designed and intended for occupancy by a single family whether for year-round or seasonal purposes.

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

G. 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. Shall not include slaughterhouses or the commercial raising of swine or furbearing animals.

H. 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.

H.1 Lot, Rear: A tract of land zoned and used for residential purposes with reduced frontage requirements.

I. 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.

J. 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.

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

L. 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.

1. Limited Residential: A street, which 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.

2. **Secondary Street:** A street which 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.
3. **Primary Street:** A street, which handles or is expected to handle a considerable volume of traffic and provides inter-town access between North Brookfield and adjoining communities.

M. **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.

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

O. **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.

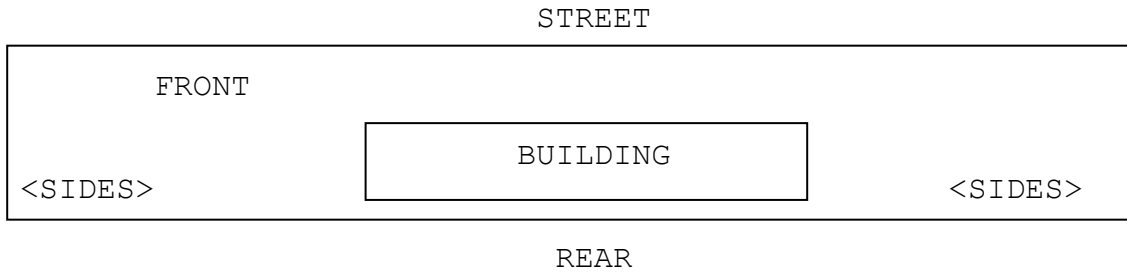
P. **Variance:** An exception allowed by the Board of Appeals in the case of an individual property owner where strict enforcement of this By-Law would create unusual hardship.

Q. **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.

Q.1. **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.

R. 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. Yard: Front, Side, 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.



S.1. Frontage: The distance between the sidelines of a lot measured along a street line.

T. 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.

T.1 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)).

U. 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.

V. Trailer Park: A parcel of land which has been planned and improved for the placement of trailers and mobile homes for nontransient use and is designed to accommodate three or more mobile homes. Subject to Chapter 140 of the General Statutes of Commonwealth.

W. 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.

X. 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.

Y. 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)

Y.1. Tower Height: The height above grade of the fixed portion of the tower, including the maximum height of one complete rotation of the turbine. (Amended STM November 9, 2007)

**Sect. 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 By-Law. (See Table 1 for detailed dimensional requirements for each district.)

Residence Districts:

Minimum Lot Size

	Area	Frontage
R-11 Central Residence	11,000 sq. ft	100 ft.
R-30 Open Residence	30,000 sq. ft	150 ft.

R-66 Rural Residence	66,000 sq. ft.	250 ft.
B-C Central Business	No Minimum	
B-G General Business	25,000 sq.ft	110 ft.

Industrial Districts:

Ind. Industrial	50,000 sq. ft.	220 ft.
-----------------	----------------	---------

North Brookfield Downtown Overlay District

NBDO North Brookfield Downtown Overlay (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 May 7, 2004 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 By law.

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 therefrom 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.

**Sect. 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 for the district in which the use is situated.

A. Residence 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 bases on household size as set forth in the guidelines of D.H.C.D. (Department of Housing and Community Development and the C.B.S.A. (Metro Worcester Core Based Statistical Area). 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 D.H.C.D.

(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 by-law) shall be Grand fathered, 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, sanitarium, 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 by-law, 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.

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 transferal of ownership of the premises.

p. Family day care home, 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.

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

B. Central Business Districts:

1. Permitted Uses:

a. Any use permitted under Sect. IV, A, 1 and A, 2 except f, 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. General Business Districts:

##### 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)

E. 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 By-Law. 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 or floodlights which constitute a hazard to pedestrians or vehicular traffic because of the intensity or direction of their illumination.

F. Growth Rate Regulations:

The objective of this Section is to relate the timing of residential development to the Town's ability to provide

adequate services to such development based on the following: 1) The development of a Town Master Plan, 2) The timely implementation of zoning changes and other recommendations deemed to be of high priority in this Master Plan. This provision is limited to the period commencing May 1, 2005 and concluding May 1, 2010.

During this period the town wide rate of development will have an objective of not more than thirty-six (36) dwelling units being created in any single year, and to achieve this through regulating the maximum rate at which individual developments may proceed. (Voted at STM 11/04/05, APP by AG 12/12/05).

The Building Inspector shall issue building permits for construction of new dwelling units in single real estate modules (REM's) and in subdivisions approved after June 1, 1979, only under the following circumstances:

(a) Permit issuance will not result in more than ten (10) dwelling units having been authorized within a twenty-four (24) month period for that and for contiguous sub-divisions or REM's which were in the same ownership as of June 1, 1979.

(b) Permit issuance will not result in more than twenty (20) percent of the dwelling units potentially allowed by each subdivision or REM having been authorized within a twenty-four (24) month period or in more than two (2) permits for each subdivision or REM authorized within a twenty-four (24) month period, whichever is greater.

(c) Permit issuance will not result in more than forty (40) new dwelling units having been authorized on lots in a REM or in a sub-division townwide within a twenty-four (24) month period.

(d) Permit issuance is for a sub-division or a REM lot exempted from these requirements. A lot becomes exempted from these requirements on the date so designated for the lot on a development schedule, if any, which has been approved by the Planning Board and recorded with the sub-division plan or other plan which created the lot. Planning Board approval of a development schedule may be granted provided that (1) the schedule exempts not more than 20% of the potential dwelling units in the sub-division plan, or other plan, within the first two (2) years following definitive plan endorsement or recording of the "sub-division approval not required" plan, (2) in each year thereafter, the schedule adds to the exempted category not

more than ten percent (10%) of the total number of potential dwelling units in the sub-division plan or the "sub-division approval not required" plan, (3) in the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable, and (4) in the opinion of the Planning Board, the development schedule will not place an unreasonable burden on the Town.

A single real estate module is a parcel of land which has been divided into three or more lots since June 1, 1979, where under Chapter 183, Section 6A of the General Laws a plan is required to be recorded in the Registry of Deeds because new boundaries are being created.

#### G. Permitted Use All Districts:

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.

#### H. North Brookfield Downtown Overlay District

##### 1. Purpose:

- a. To build upon the historic development patterns in the existing Town center to create an attractive, walk able neighborhood.
- b. To encourage adaptive reuse of abandoned, vacant or underutilized buildings or structures where appropriate.

- c. To allow for a mix of new land uses that are appropriate to both the needs of the community, and the scale of surrounding neighborhoods.
- d. To maintain a consistently high level of design quality throughout the district.

2. Establishment/District Boundaries:

- a. 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:

- a. The planning board shall serve as the Special Permit Granting Authority for:

- (1) Any use in the Downtown Overlay district.
- (2) 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.
- (3) Any use requiring a special permit pursuant to Section 4. Use Provisions b. Uses by Special Permit of this Downtown Overlay District Bylaw.

- (4) 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. Use Provisions:

- a. Permitted Uses such as but not limited to:

- (1) Mixed use development

- (2) Cafes
- (3) Professional Offices
- (4) Financial Institutions such as but not limited to
  - (a) Banks
  - (b) Mortgage Companies
- (5) Small Scale Retail Establishments (<4,000 square feet)
- (6) Personal Services such as but not limited to.
  - (a) Dry Cleaners
  - (b) Beauty Salons
  - (c) Tailor
  - (d) Printing, photocopying, photo processing
  - (e) Photography Studios

b. Uses by Special Permit:

The following uses are allowed with the issuance of a Special Permit from the Planning Board:

- (1) Entertainment uses such as but not limited to
  - (a) Movie Theaters (1 or 2 screens)
- (2) Indoor recreation (i.e. arcade, bowling alley, etc.)
- (3) Outdoor Markets such as but not limited to Farmers' Market, Flea Market, etc.
- (4) Bed and Breakfast, Boarding Houses
- (5) Restaurants

c. Prohibited Uses

The following uses are prohibited in the North Brookfield Downtown Overlay District:

- (1) Retail operations with more than 2,000 square feet of gross floor area on any individual floor.
- (2) Drive-through operations
- (3) Adult Entertainment

5. 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.

6. 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.

7. Design Standards:

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

(1) Buildings

(a) 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.

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

(c) 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.

- (d) 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.
  - (e) 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.
  - (f) 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.
- (2) Signs
- (a) Primary signs shall be flat against the façade, or mounted projecting from the façade.
  - (b) Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level.
  - (c) Signs shall be externally lit from the front or have internal lighting.
  - (d) Neon, flashing signs, moving signs and roof signs may be used by special permit only.
  - (e) Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed upon approval by the Zoning Enforcement Officer.
  - (f) Signs shall be made of attractive materials consistent with the character of the Downtown Overlay District.
  - (g) Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

(3) Site Design

- (a) Parking areas shall be designated by the Planning Board.
- (b) Street level frontage shall be devoted to entrances, shop windows or other displays.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) Adequate access for loading and emergency vehicles shall be maintained on one side of the building where applicable.

8. 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.

**Sect. V. Dimensional Requirements: (see Table 1)**

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 By-Law 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 By-Law.

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.

A parcel of land existing as of August 19, 1998 which 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 1  
TABLE OF DIMENSIONAL REQUIREMENTS**

District	Minimum Lot Dimensions		Minimum Yard Dimensions (e)			Maximum Height of Buildings (d)		Maximum Lot Coverage by Structures
	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 B-C (Central)	No minimum	No minimum	No minimum	No minimum	30 (f)	3	40	50
Business B-G (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 five (5) feet from the rear and side lot lines except as provided in (e) above.
- 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.

**Sect 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 By-Law may be continued although such structure or use of land does not conform with the provisions of this By-Law.

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 non conforming use to the surrounding neighborhood.

2. A nonconforming use which has been discontinued for two (2) years shall not be re-established and all future use shall conform with this By-Law.

3. A nonconforming use which has been changed to a more restricted or conforming use shall not revert to its previous use .

B. Parking, Off-Street, and Loading Requirements Off-street parking and loading spaces as required by this By-Law 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.

1. Parking:

a. 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.

b. 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.

c. 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.

d. 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.

e. Parking spaces shall be so arranged as not to permit backing of automobiles onto any street.

f. Entrance on to the street shall not exceed twenty-four (24) feet and no more than two (2) entrances per lot.

**TABLE 2**  
**Off-Street Parking Requirements**

Activity	Spaces Per	Unit of Measurement
Residential	2.0	
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, plus Employee
Hotels, Motels, Tourist Homes, Rooming House, 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 a 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 plus
	4.0	service stall
Hospital	1.0	bed
Nursing and Rest Homes	1.0	5 beds
Funeral Parlor	1.0	4 patron seats plus
	1.0	funeral vehicle plus
	1.0	employee
Wholesale, Warehouse or Trucking Company	1.0	employee plus
	1.0	company vehicle
Manufacturing or Industrial Use	1.0	1.5 employees on the largest shift, plus
	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

## 2. Loading:

a. 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.

b. 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).

c. One off-street loading space is required for all non-residential 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.

## **Sect. VII. Administration:**

A. Enforcement: This By-Law shall be enforced by the Building Inspector. 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 By-law 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 By-Law 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 own 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 By-Law.

2. Special Permits: To grant a special permit for an exception as provided by Sections of this By-Law 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)

3. 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 by-law 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 By-Law 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 By-Law 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 By-Law 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.