



# **Town of Northborough Zoning Bylaw**

**Part 7 of the  
Municipal Code  
April 2009**



# NORTHBOROUGH ZONING BYLAW

Adopted at 2009 Annual Town Meeting

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## CHAPTER 7-02: GENERAL PROVISIONS

### Sections:

- 7-02-010 Authority**
- 7-02-020 Purposes**
- 7-02-030 Applicability**
- 7-02-040 Definitions**

### **7-02-010 Authority.**

The following is the Zoning Bylaw of the Town of Northborough, Massachusetts, and is published in accordance with the provisions of M.G.L. c. 40A.

### **7-02-020 Purposes.**

The purposes of this Zoning Bylaw are to promote the general welfare of the Town of Northborough; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land throughout the town; to provide for adequate light and clean air, and to limit pollution; to preserve the natural, historical, scenic and aesthetic qualities of the town; to encourage preservation of historic land uses and structures; to increase the amenities of the town; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to further the goals and policies of the Northborough Master Plan and other plans as approved and amended from time to time by the Planning Board; and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, M.G.L. c. 40A, as amended, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **7-02-030 Applicability.**

Except as otherwise permitted by law, all buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the town, shall be in conformity with the provisions of this bylaw. No building, structure or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this bylaw shall control.

### **7-02-040 Definitions.**

In this bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The abbreviation

“sq. ft.” shall include square foot or square feet. The word “shall” is mandatory and “may” is permissive or discretionary. The word “and” includes “or” unless the contrary is evident from the text. The word “includes” or “including” shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word “lot” includes “plot”; the word “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.” The words “building,” “structure,” “lot,” or “parcel” shall be construed as being followed by the words “or any portion thereof.” The word “person” includes a firm, association, organization, partnership, company, or corporation, as well as an individual.

Terms and words not defined herein but defined in the Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.

Principal and accessory uses shall be as defined in § 7-05-020, Classification of Uses. In addition, other chapters and sections of this bylaw contain definitions particular to the subject matter for which they have been established. Such chapters and sections include but are not limited to § 7-07-010, Groundwater Protection Overlay District; § 7-09-010, Land Clearing and Grading; § 7-09-040, Signs; § 7-10-040, Wireless Communications Facilities; and § 7-10-050, Adult Uses.

**ACCESSORY STRUCTURE:** A structure located on the same lot as, but detached from, a principal building or use, the use of which is customarily incidental to that of the principal building or use, such as detached garages, utility sheds, gazebos, and swimming pools.

**AGRICULTURE, NONEXEMPT:** Agricultural use of property not exempt under M.G.L. c. 40A, § 3.

**ALTERATIONS:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

**BUILDING:** A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature.

**BUILDING AREA:** The aggregate maximum horizontal cross-sectional area of all buildings on a lot, not including cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces.

**BUILDING COVERAGE:** See LOT COVERAGE.

**BUILDING HEIGHT:** Building height shall be measured as the vertical distance from the average finish grade at the perimeter of the building to the average height of the highest roof plane. Building height shall not include spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.

**BUILDING LINE:** A line through any point of the exterior of the building or structure.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**DEVELOPMENT REVIEW TEAM:** A working group composed of the following department heads or their designees: Building Inspector, Town Planner, Director of Public Works, Town Engineer, and Fire Chief; and may include the Health Agent and a designee of the Design Review Committee as determined by the Building Inspector.

**DWELLING:** A building designed and occupied as the living quarters of one (1) or more families. (See also, § 7-05-020.)

**EARTH REMOVAL:** Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

**EDUCATIONAL USE, NONEXEMPT:** Educational facilities not exempt under M.G.L. c. 40A, § 3, such as a commercial or for-profit educational use.

**ERECT:** To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

**ESSENTIAL SERVICES:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith, but not including wind towers.

**FAMILY:** Any number of individuals living and cooking together on the premises as a single housekeeping unit. For purposes of this bylaw, “family” shall include unrelated individuals with disabilities occupying a group home owned or operated by a public agency or non-profit organization.

**FARM:** A lot or contiguous lots under one ownership devoted primarily to commercial agriculture or horticultural use, including a farm stand and other accessory buildings and structures, vehicles, animals and equipment, on five or more acres of land.

**FARM STAND, NONEXEMPT:** Facility for the sale of produce, wine and dairy products on property not exempt under M.G.L. c. 40A, § 3.

**FLEA MARKET:** A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent profit seeking businesses that require all local permits and licenses.

**FLOOR AREA, GROSS:** The total square feet (sq. ft.) of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. The computation of gross floor area shall include garages and basements with ceiling heights of six (6) feet or more.

**GRADE PLANE:** A reference plane representing the average of finished ground level adjoining a building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

**HAZARDOUS MATERIAL:** Any substance which is listed in, but not limited to, the United States Environmental Protection Agency's priority pollutants as described in section 307(a) of the Clean Water Act, as amended.

**IMPERVIOUS:** Any area impenetrable by surface water. For purposes of this bylaw, impervious includes semi-pervious or semi-porous paving materials.

**ISSUING AUTHORITY:** The board, commission, or officer of the Town authorized to grant a permit or approval under this bylaw.

**JUNK:** Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD OR AUTOMOBILE GRAVEYARD:** The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

**LOT:** A continuous parcel of land with legally definable boundaries.

**LOT AREA:** The horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

**LOT COVERAGE:** The proportion of the area of a lot which is covered by principal and accessory structures. For purposes of calculating lot coverage, the area of an enclosed structure shall be taken as all of the horizontal area within outside walls. The projection of cornices, eaves, and other similar architectural projections shall not be included in the calculation of coverage. Coverage shall include all principal and accessory buildings including dwellings, garages, carports, greenhouses, lath houses, enclosed patios, and equipment and tool sheds. Coverage shall not include areas paved at grade for driveways, walkways, uncovered parking, uncovered or unenclosed swimming pools, walls or fences, covered but unenclosed patios, or structures used for beautification or landscaping such as arbors, trellises, and flagpoles.

**LOT, CORNER:** A lot with two (2) adjacent sides abutting upon streets or other public spaces.

**LOT, DEPTH OF:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**LOT FRONTAGE:** A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred

and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

**LOT LINE:** A line dividing one lot from another, or from a street or any public place.

**LOT WIDTH, MINIMUM:** The required minimum lot frontage extending from the front lot line to the rear building line of the main building on the lot.

**MUNICIPAL FACILITIES:** Facilities owned or operated by the Town of Northborough or the Northborough-Southborough Regional School District.

**NONCONFORMING STRUCTURE:** Any structure which does not conform to the dimensional requirements of this Bylaw, or which is located on a lot which does not comply with the frontage or lot size requirements, which was existing and lawful at the time of the adoption or subsequent amendment of this bylaw.

**NONCONFORMING USE:** A use of a building or land, existing and lawful at the time of the adoption or subsequent amendment of this bylaw, which does not conform to the regulations of the current Zoning Bylaw.

**PROPONENT:** The applicant for a building permit, certificate of zoning compliance, site plan approval, special permit, variance, waiver, or other decision required under this bylaw.

**RETAIL:** Any facility selling goods to consumers regardless of whether it is specifically listed in the Table of Uses.

**SIGN:** See Section 7-09-040 for definition of SIGN and related terms.

**SOLID WASTE DISPOSAL FACILITY:** Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Northborough for processing, handling, treating, and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items, and sludges but not raw sewage, and similar waste items.

**SPECIAL PERMIT:** A permit that may be issued by the special permit granting authority to authorize a use which would not be allowed generally or without restriction throughout any particular zoning district but which, if controlled as to number, area, location, relation to the neighborhood and other characteristics, would not be injurious to the public health, safety, welfare, order, appearance, prosperity, or general welfare. A special permit is not a variance, but it may include a waiver of dimensional and similar requirements incidental to the special permit.

**STREET:** An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**STREET LINE:** The right-of-way line of a street.

**STRUCTURE:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, retaining wall which retains more than four (4) feet of unbalanced fill, tent of one hundred twenty (120) sq. ft. or more and for the use of ten (10) or more persons, reviewing stand, platform, fence six (6) feet or more in height, sign, flagpole, recreational tramway, mast for radio antenna, or the like.

**TEMPORARY STRUCTURE:** A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Schedule of Density and Dimensional Requirements and shall require a permit or a certificate of zoning compliance from the Building Inspector.

**TOXIC MATERIALS:** A combination of pollutants including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation, and assimilation into any organism can cause death, disease, mutations, deficiencies, or malfunctions in such organisms or their offspring.

**USES:** The purpose for which a building or land is arranged or intended for which a building or tract of land is or may be used, occupied or maintained.

**WETLANDS:** Land subject to the provisions of M.G.L. c 131, § 40.

**YARD:** A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and customary yard accessories.

**YARD, FRONT:** A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

**YARD, REAR:** A yard the full width of the lot and situated between the rear lot line and the nearest part of the main building projected to the side line of the lot.

**YARD, SIDE:** A yard situated between the nearest point of the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

## CHAPTER 7-03: ADMINISTRATION AND ENFORCEMENT

### Sections:

- 7-03-010 Building permit**
- 7-03-020 Certificate of zoning compliance**
- 7-03-030 Board of Appeals**
- 7-03-040 Special permit**
- 7-03-050 Site plans**
- 7-03-060 Design review**
- 7-03-070 Fees**
- 7-03-080 Enforcement**
- 7-03-090 Other laws and regulations**
- 7-03-100 Severability**
- 7-03-110 Amendment**

### **7-03-010 Building permit.**

- A. Applications. Application for a permit to erect or alter a building or other structure shall be accompanied by a Disposal Works Construction Permit issued by the Board of Health or a sewer connection permit issued by the Department of Public Works, where applicable; and a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings and structures are to be erected or altered, the existing and intended use of each building or structure and such other information as may be necessary to provide for the administration of this bylaw and the proposed location of the structure. If the structure is a residential unit, the location of the driveway must also be shown.
- B. Special permit. Where a special permit is required under this bylaw, the Building Inspector shall not issue a permit except in accordance with the written decision of the applicable special permit granting authority.
- C. Foundation certification. No superstructure above or on a foundation may be erected until the foundation has been certified by a professional engineer or land surveyor, showing lot line and setback distances from front line, side line and rear line.
- D. Plot plan. A certified plot plan shall be submitted to the Building Inspector for any building or structure, new or addition, or in-ground swimming pool for which a building permit is required. The certified plot plan shall contain information required by the Inspector of Buildings in conformance with the State Building Code and this bylaw. The plan shall be submitted at a time appropriate to the construction as determined by the Building Inspector.

**7-03-020 Certificate of zoning compliance.**

- A. Except as provided below, no land shall be occupied or used, or changed to a different use, and no building or structure hereinafter erected or altered shall be occupied or used, or changed to a different use, unless a certificate of zoning compliance has been issued by the Building Inspector. Such certificate shall state that the structure and use of structure and land comply in every respect with the provisions of this bylaw in effect at the time of issuance, or with the written decision of the permit granting authority or special permit granting authority, as applicable.
- B. A certificate of zoning compliance shall be conditional on the maintenance of full compliance with the provisions of this bylaw in effect at the time of issuance, or with the written decision of the permit granting authority or special permit granting authority, as applicable, and shall become void if such compliance fails.
- C. A certificate of zoning compliance shall not be required for a use listed as an exempt use in chapter 7-05 of this bylaw.

**7-03-030 Board of Appeals.**

- A. Establishment. There is hereby established a Board of Appeals. Membership, appointments and terms of regular and associate members shall be made in accordance with the Town Charter of the Town of Northborough.
- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by M.G.L. c. 40A, c. 40B, and c. 41 and by this bylaw. The Board's powers are as follows:
  - (1) Unless otherwise specified herein, the Board of Appeals shall serve as special permit granting authority and will hear and decide applications for special permits.
  - (2) To hear and decide appeals or petitions for variances from the use, dimensional, or density requirements of this bylaw, with respect to particular land or structures, as set forth in M.G.L. c. 40A, § 10.
  - (3) To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. c. 40A, §§ 8 and 15.
  - (4) To hear and decide comprehensive permits for construction of low or moderate income housing, as set forth in M.G.L. c. 40B, §§ 20-23.
- C. Rules and Regulations. The Board by vote shall establish rules and regulations for its own procedures consistent with the general laws of the Commonwealth pertinent thereto.

**7-03-040 Special permit.**

- A. Procedures. An application for a special permit shall be filed in accordance with the rules and regulations of the applicable special permit granting authority.

- B. Public hearing. The special permit granting authority shall hold a public hearing within sixty-five (65) days of receipt of a complete special permit application, and shall issue a decision no later than ninety (90) days from the date of the public hearing, as provided in M.G.L. c. 40A, § 9. Notification requirements for a public hearing shall be in accordance with M.G.L. c.40A, § 11.
- C. Criteria. Unless otherwise specified herein, special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth elsewhere in this bylaw, the determination shall include consideration of each of the following:
- (1) The proposal is in substantial harmony with the Northborough Master Plan and other plans approved or amended from time to time by the Northborough Planning Board, and with the purposes of this bylaw;
  - (2) The proposed site is an appropriate location for such use;
  - (3) The use as developed will not adversely affect the neighborhood;
  - (4) There will be no nuisance or serious hazard to vehicles or pedestrians;
  - (5) Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
  - (6) The proposed use will conform to any special requirements of the special permit granting authority as stated in its written decision; and
  - (7) The proposal could not reasonably be altered to reduce adverse impacts on the natural environment, to be compatible with historic development patterns of the town, or to preserve historically significant buildings.
- D. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this bylaw. Such conditions may include but shall not be limited to the following:
- (1) Private disposal of refuse or solid waste;
  - (2) Deadline to commence construction;
  - (3) Limitations on signage, number of vehicles or parking spaces, noise, or hours of operation of construction equipment;
  - (4) Requirements pertaining to integrated emergency or alarm systems, maintenance, landscaping, dust control, wastewater disposal or water supply, bond or other performance guarantee; and
  - (5) Term for years with or without automatic renewals, to the extent allowed by law.

- E. Plans. The proponent for a special permit shall submit a plan in conformance with the requirements provided within the rules and regulations of the special permit granting authority.
- F. Regulations. The special permit granting authority may adopt rules and regulations for the administration of this section, provided that such rules and regulations are not inconsistent with the general laws of the Commonwealth.
- G. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval with the Town Clerk, not including such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, § 17.

**7-03-050 Site plans.**

The purposes of site plan approval are to promote public health, safety, welfare by encouraging the laying out of parking, circulation, and buildings in a safe and convenient manner, to ensure that new developments are designed to protect and enhance the visual and environmental qualities of the Town of Northborough, and to provide for an adequate review of development plans which may have significant impacts on traffic, drainage, community services, environmental quality, and community character.

A. Applicability.

- (1) Site plan approval by the Planning Board shall be required for the following uses or activities except where such uses or activities require a special permit:
  - (a) All new construction of any municipal, institutional, commercial, industrial, or multi-family structure or purpose;
  - (b) All nonresidential additions, expansions or reconstruction exceeding 1,000 gross square feet or that would require a total of ten (10) or more parking spaces to serve both existing and new development, or any change of use which would require ten (10) or more additional parking spaces based only on new development;
  - (c) Construction or creation of any new parking lot or the expansion or redesign of an existing parking lot with ten (10) or more parking spaces for a municipal, institutional, commercial, industrial, or multi-family structure or purpose; or
  - (d) Land clearing or grading in accordance with § 7-09-010, except as provided under subsection (2) below.
- (2) A special permit with site plan approval shall be required for any use requiring a special permit, in which case the special permit granting authority shall also act as site plan approval authority. Land clearing and grading activities for a use requiring a special permit shall be incorporated within the special permit with site plan approval.
- (3) Minor site plan review by the Building Inspector and Development Review Team shall be required for the following types of uses or activities:

- (a) Any use or activity listed under subsection 1 or 2 above that does not meet the minimum threshold for site plan approval by the Planning Board or a site plan special permit;
  - (b) Alterations limited to the exterior of a building used or intended to be used for nonresidential purposes;
  - (c) All uses listed in chapter 7-05 for the Downtown Neighborhood District not requiring site plan approval by the Planning Board under subsection 1 above or a site plan special permit under subsection 2 above.
  - (d) Any use or activity requiring minor site plan review under other provisions of this bylaw.
- (4) Exceptions.
- (a) Any activity, construction or installation conducted solely for the purpose of environmental remediation, approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, shall not be subject to this section.
  - (b) New construction or alteration of a detached single-family dwelling or two-family dwelling shall not be subject to this section except when such alteration is associated with any use other than a single-family dwelling or two-family dwelling.

B. Relationship to other permits and approvals.

- (1) No building permit shall be issued for any use or activity requiring site plan approval by the Planning Board unless a site plan has been reviewed and approved therefor, or unless ninety (90) days lapse from the date of submission of a complete site plan application without action by the Planning Board; and no building permit shall be issued for any use or activity requiring a special permit with site plan approval until a special permit has been granted therefor, or unless ninety (90) days lapse from the date of the public hearing without action by the special permit granting authority; and no certificate of occupancy or certificate of zoning compliance shall be issued unless the site is constructed in accordance with the approved site plan.
- (2) Any work done in deviation from an approved site plan shall be a violation of this bylaw unless such deviation is approved in writing by the approval authority or determined by the Building Inspector to be an insubstantial change.

C. Site plan approval; Planning Board.

(1) Procedures.

- (a) An application for a building permit to perform work as set forth in subsection A(1) above shall be accompanied by a site plan approved by the Planning Board.
- (b) Site plan approval submission requirements and procedures, including fees, shall be in accordance with the rules and regulations of the Planning Board.
- (c) The Planning Board shall hold a public project review meeting with the proponent no later than 45 days from the date of submission of the proposed site plan. The Development Review Team and other reviewers shall forward their comments, in writing, to the Planning Board no later than the date of the public meeting.
- (d) The Planning Board's decision to approve, approve with conditions, or deny the site plan shall be by a majority of those present, and shall be in writing.
- (e) If no action is taken within 90 days from the date of submission, the application shall be deemed approved as submitted except where the Planning Board and the proponent have agreed in writing to extend the review period.
- (f) One copy of the approved site plan shall be provided each to the proponent, the Building Inspector, the Department of Public Works, the Police Department, the Fire Department, the Conservation Commission and the Board of Health. One (1) copy of the approved site plan shall remain in the records of the Planning Board.

(2) Decision criteria.

The Planning Board shall approve a site plan if it determines that:

- (a) The site plan meets all applicable requirements of this bylaw;
- (b) Given the location, type and extent of land use proposed by the proponent, the design of building form, building location, egress points, grading, and other elements of the site plan could not reasonably be altered to:
  - [1] Reduce clearing and grading on the site, or reduce the volume of cut and fill, the number of removed trees, the length of removed or altered stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, or threat of air or water pollution,
  - [2] Reduce the risk of groundwater contamination from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances,

- [3] Improve pedestrian, bicycle or vehicular safety, both on the site and egressing from it,
  - [4] Improve access to each structure for fire and other emergency service equipment,
  - [5] Reduce visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned,
  - [6] Achieve greater consistency and compatibility with the surrounding area as to building design or scale, or site design,
  - [7] Reduce glare from headlights, reduce light trespass from luminaires onto adjacent lots or the street, or light overspill into the night sky,
  - [8] Avoid the removal or disruption of historic, traditional or significant structures or architectural elements, and
  - [9] Reduce obstruction of scenic views from publicly accessible locations; and
  - [10] Any variances required from the Zoning Board of Appeals have been granted.
- (3) The Planning Board may, in its approval of a site plan, impose reasonable conditions at the expense of the proponent, including performance guarantees, to promote these objectives. The Planning Board's conditions shall become binding zoning requirements of the project. Noncompliance with the site plan or the conditions placed on said plan by the Planning Board shall be cause for action by the zoning enforcement officer of the Town of Northborough.
- (4) The Planning Board may deny a site plan only if the proponent's submission does not include the specific information required to make the determinations under subsection 2 above.
- (5) Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not commenced, except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the proponent.
- (6) Approval of a site plan shall not substitute for the requirement of obtaining a special permit or other permits or approvals required by this bylaw.
- (7) The Planning Board shall adopt site plan approval administrative rules and regulations consistent with this bylaw and the laws of the Commonwealth.
- (8) Appeal. Any decision of the Building Inspector based on failure to obtain site plan approval or failure to comply with conditions of a site plan approved pursuant to this section may be appealed in accordance with M.G.L. c.40A, §§ 8 and 15.

D. Special permit with site plan approval.

- (1) Procedures. The procedures and timelines for a special permit with site plan approval shall be the same as any other special permit and shall conform to the requirements of M.G.L. c. 40A, § 9, as amended, and the provisions of § 7-03-040. Submission requirements shall be in accordance with the rules and regulations of the special permit granting authority.
- (2) Applications for an Industrial/Office Campus Development shall be submitted in accordance with this section and § 7-10-030.
- (3) Decision criteria. The decision criteria for a special permit with site plan approval shall be as set forth in § 7-03-040 and the site plan approval criteria under subsection C(2) above.
- (4) If the proponent submits a single application for the use requiring a special permit with site plan approval, the special permit granting authority shall review and render a decision on the site plan as part of the special permit process.
- (5) Alternatively, the proponent may apply for the special permit prior to submitting a site plan for review, in which case the special permit granting authority shall act on the special permit application first and a detailed site plan submission thereafter. Approval of a site plan prior to issuance of a building permit shall be a condition of the special permit decision, and the site plan shall conform to any other conditions imposed by the special permit granting authority.
- (6) The Development Review Team shall conduct a technical review of the site plan and submit written comments and recommendations to the special permit granting authority. In the event that the Zoning Board of Appeals is the special permit granting authority, the Planning Board also shall conduct a technical review of the site plan and submit written comments and recommendations to the Zoning Board of Appeals. The comments and recommendations of the Development Review Team and, where applicable, the Planning Board, shall be maintained in the record of the public hearing.
- (7) Appeal. Any decision made by the special permit granting authority pursuant to this section may be appealed in accordance with M.G.L. c.40A, § 17.

E. Performance guarantee. As a condition of site plan approval by the Planning Board or a special permit with site plan approval, the applicable issuing authority may require a performance bond or cash security to be posted with the Town to guarantee completion of site improvements in compliance with the plans submitted and approved hereunder, or for land restoration not having to do with the construction of site improvements. The amount of security shall be determined by an estimate from the proponent's engineer, which may be confirmed or increased by the issuing authority. The Town may use the secured funds for their stated purpose in the event that the proponent does not complete all improvements in a manner satisfactory to the issuing authority, as provided in the approval.

F. Minor site plan review.

(1) Procedures and review standards.

- (a) Applications for minor site plan review shall be in accordance with the site plan submission requirements and procedures on file in the Building Department.
- (b) An application for a building permit to perform work as set forth in subsection A(3) above shall be accompanied by a site plan for review by the Building Inspector in consultation with the Development Review Team. Submissions shall be delivered to the Building Department.
- (c) Within five (5) business days of receiving a complete site plan, the Building Inspector shall distribute copies of the site plan to the Development Review Team.
- (d) Upon receipt of a site plan, the Development Review Team shall conduct a technical review of the plan and prepare comments in writing or by notations on the site plan, or both, within the context of each department's jurisdiction. Site plans shall be reviewed for consistency with zoning, other applicable regulations, and professional standards. Comments shall be made to the Building Inspector within ten (10) business days of each department's receipt of the site plan.
- (e) The Building Inspector shall convene a meeting of the Development Review Team and also may solicit advice from any other Town official or department as he deems necessary in order to make a proper determination.
- (f) Within twenty (20) business days of receiving a site plan, the Building Inspector shall notify the proponent of any approval or conditional approval of the site plan, stating the reasons therefor. The Building Inspector's decision shall consider the comments and recommendations of the Development Review Team and any other Town department or official whose advice was requested.
- (g) One copy of the approved site plan shall be provided each to the proponent, the Planning Department, Town Engineer, Fire Department, the Department of Public Works, and as applicable, the Board of Health. One copy of the approved site plan shall remain in the records of the Building Department.

- (2) Appeals. Any decision of the Building Inspector pursuant to this section may be appealed in accordance with M.G.L. c. 40A, §§ 8 and 15.

**7-03-060 Design review.**

- A. Purpose. The purpose of design review is to preserve historic land uses and structures and to promote architectural and ecological considerations for the betterment of the community. Further, the design review process is intended to provide guidance to the proponent in the development or evaluation of site and building design, to establish principles and standards to guide development, and to promote the following objectives:

- (1) To strengthen the character of Downtown Northborough as the focal point of a prosperous rural New England community and as a destination for shopping, services and government;
- (2) To encourage development that is distinctive and appropriate to locations within other business districts, supportive of the function of the Highway Business District and Business South District as gateways into Northborough, and supportive of the function of the Business East and Business West Districts as neighborhood business areas and as gateways to Downtown Northborough;
- (3) To encourage development within the Downtown Neighborhood District that respects the character of established neighborhoods; and to encourage that more intensive uses, where they occur, draw upon appropriate local or regional models of traditional neighborhood design; and
- (4) To assure that future construction, alterations or additions maintain a relationship to the historic development of the Town through appropriate design.

B. Applicability.

- (1) Design review by the Design Review Committee shall be required as part of site plan approval or a special permit with site plan approval for any of the following:
  - (a) In any business district, new construction or exterior alterations or expansion of any commercial, municipal, institutional or multi-family structure; or
  - (b) In the Downtown Neighborhood District, new construction or exterior alterations or expansion of any multi-family structure or any structure requiring a special permit.
- (2) Nothing in this section shall be construed to conflict with M.G.L. c. 40, § 3, which prohibits the regulation or restriction of the use of materials or methods of construction of structures regulated by the State Building Code. In addition, nothing in this section shall be constructed to conflict with Chapter 1-60, Historic Districts, of the Northborough Town Bylaws. Where there is a conflict between this section and said Chapter 1-60, that latter shall govern.

C. Submission requirements and procedures. The submission requirements and procedures for Design Review shall be in accordance with the Design Review Committee's rules and regulations.

- (1) As a part of the site plan approval or special permit with site plan approval process, the Design Review Committee shall review a proposed project and provide written recommendations to the applicable issuing authority within the review periods prescribed in § 7-03-050. The Design Review Committee may conduct one or more pre-application meetings with the proponent.
- (2) When a proponent applies for a special permit prior to submitting a site plan for review by the special permit granting authority, the Design Review Committee's review shall

occur in conjunction with the special permit granting authority's review of the site plan under § 7-10-050(D). The Design Review Committee shall review such plans in accordance with its design guidelines and any special permit conditions imposed by the special permit granting authority.

- D. Design guidelines. The Design Review Committee shall prepare and adopt design guidelines to assist property owners, proponents, architects and landscape architects with project planning and developing submissions for review under this section. The guidelines shall serve as a supplement to, and shall not be inconsistent with, the site development standards in § 7-09-020. The guidelines shall be on file in the Office of the Town Clerk and the Planning Department.
- E. Appointment of the Design Review Committee.
  - (1) The Planning Board shall appoint a Design Review Committee. Such Committee shall be chaired by a member of the Planning Board and shall additionally consist of four (4) members, as follows:
    - (a) One (1) degreed architect;
    - (b) One (1) degreed landscape architect;
    - (c) One (1) representative nominated by the Chamber of Commerce; and
    - (d) One (1) interested and responsible citizen of the town; or
    - (e) A balance of representation as close as possible to this mix.

**7-03-070 Fees.**

The boards, commissions, or officers having jurisdiction over permits and approvals, variances, certificates of occupancy, or appeals pertaining to this bylaw shall establish and may amend a schedule of fees to be paid by applicants, including but not limited to technical review fees in accordance with M.G.L. c. 44, § 53G and administrative fees. No permit or certificate shall be issued or any other action taken until all required fees have been paid.

**7-03-080 Enforcement.**

- A. General. The Building Inspector shall be charged with the enforcement of this bylaw and shall withhold a permit for the erection, alteration or moving of any building or structure if the building or structure as erected, altered or moved would be in violation of this bylaw; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this bylaw.
- B. Enforcement request. If the Building Inspector is requested in writing to enforce this bylaw against any person allegedly in violation of the same and the Building Inspector declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request.

- C. Penalty for violation. Any person, firm or corporation who violates or refuses to comply with any applicable provision of this bylaw shall be fined a sum not to exceed Three Hundred Dollars (\$300.00) for each such violation. Each day that any violation is permitted to exist after written notification thereof by the Building Inspector/Zoning Enforcement Officer shall constitute a separate offense. The Town shall be the beneficiary of all fines paid, including the costs of prosecuting any legal action if allowable by law.

**7-03-090 Other laws and regulations.**

This bylaw shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other bylaw, rule or regulation of the Town of Northborough; nor shall compliance with any such provision authorize the use of any land or structure in any manner inconsistent with this bylaw, except as required by the general laws.

**7-03-100 Severability.**

The invalidity of any chapter or section of this Part 7 shall not serve to invalidate the other chapters or sections thereof.

**7-03-110 Amendment.**

This Bylaw may be amended or repealed at any Town Meeting of the Town of Northborough as provided by M.G.L. c. 40A, § 5.

## CHAPTER 7-04: ZONING DISTRICTS

### Sections:

- 7-04-010 Classification of districts**
- 7-04-020 Zoning Map established**
- 7-04-030 Floodplain Overlay District; boundaries**
- 7-04-040 Interpretation of Zoning Map; district boundaries**
- 7-04-050 Lots divided by district boundaries**

### **7-04-010 Classification of districts.**

- A. Districts. For the purposes of this bylaw, the Town of Northborough is divided into the following zoning districts:
  - (1) Residential Districts
    - (a) Single-Family Residential
      - [1] Residence A (RA)
      - [2] Residence B (RB)
      - [3] Residence C (RC)
    - (b) General Residential (GR)
    - (c) Main Street Residential (MSR)
    - (d) Downtown Neighborhood (DN)
  - (2) Nonresidential Districts
    - (a) Business Districts
      - [1] Downtown Business (DB)
      - [2] Business East (BE)
      - [3] Business West (BW)
      - [4] Business South (BS)
      - [5] Highway Business (HB)
    - (b) Industrial (I)

B. Overlay Districts. There are hereby established the following overlay districts:

- (1) Groundwater Protection Overlay District (GPOD)
- (2) Floodplain Overlay District (FOD)
- (3) Major Commercial Development Overlay District (MCDOD)
- (4) Residential-Open Space Planning Overlay District (ROPOD)

**7-04-020 Zoning Map established.**

Said districts hereinbefore referred to are located as shown on the zoning map entitled "Zoning Map – Town of Northborough," dated April 2009, as amended, filed in the office of the Town Clerk, which map is hereby incorporated in and made a part of this bylaw.

**7-04-030 Floodplain Overlay District; boundaries.**

- A. The Floodplain Overlay District shall be described by and include all flood hazard areas designated as "Zone A" and "Zone A-1 through A-5" on the Town of Northborough Flood Insurance Rate Maps (FIRM) and the Town of Northborough Flood Boundary and Floodway Maps, dated November 15, 1979 (together, "the Floodplain Maps").
- B. Areas within the Floodplain Overlay District boundaries specified on the Floodplain Maps are not subject to the provisions of the Floodplain Overlay District if their elevation, as determined by a Registered Professional Engineer, exceeds the elevation of the surrounding floodplain as shown on the most recent Floodplain Maps.

**7-04-040 Interpretation of Zoning Map; district boundaries.**

Location of Boundaries. The location of the boundary lines of the districts shown upon the aforesaid zoning map shall be determined as follows:

- A. Boundaries indicated as approximately following the center lines of streets, highways or transmission lines shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following the side lines of streets or highways shall be construed to follow such side lines.
- C. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- D. Boundaries indicated as parallel to or extensions of features such as streets, transmission lines, railroads and watercourses shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

- E. Boundaries indicated as approximately following town limits shall be construed as following the town limits.
- F. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- G. Boundaries indicated as following shorelines shall be construed to follow the mean water level of such shoreline; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.

**7-04-050 Lots divided by district boundaries.**

Where a lot is situated in more than one (1) district, the use regulations that apply in either district shall apply in both districts for a distance of fifty (50) feet on either side of the district boundary, provided that the lot existed at the time the district boundary was drawn and the dimensional regulations of the district in which more than fifty (50) percent of the lot is located shall apply throughout. The Zoning Board of Appeals may grant a special permit to extend the fifty-foot distance to not more than seventy-five (75) feet or to reduce the front yard setback for a business use if the lot frontage is located in a business district.

## CHAPTER 7-05: USE REGULATIONS

### Sections:

- 7-05-010 General provisions**
- 7-05-020 Classification of uses**
- 7-05-030 Table of uses**
- 7-05-040 Environmental performance standards**

### **7-05-010 General provisions.**

- A. No building or structure shall be erected and no building or structure, or land or water area shall be used for any purpose or in any manner except in accordance with this chapter.
- B. No building permit shall be issued for any use that is subject to § 7-03-050 unless a site plan has been reviewed and approved in accordance with the requirements therein.
- C. Signs or other outdoor advertising shall be in accordance with § 7-09-040.
- D. Accessory uses.
  - (1) An accessory use shall be incidental and subordinate to the principal use on the lot.
  - (2) An accessory use shall be located on the same lot as the principal residential or non-residential use to which it is accessory, and shall not alter the character of the premises on which it is located or impair the area proximate to its location.
- E. Business and Industrial Districts.
  - (1) More than one permitted use may be located in a single building.
  - (2) No oil storage tank in any establishment shall exceed a capacity of fifty thousand (50,000) gallons.
- F. Unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative shall not be stored, parked or placed upon any land in the town unless wholly contained within a building or in an area unexposed to the view of the public and abutters or in an area properly approved for the keeping of the same by licensed junk dealers.
- G. Prohibited uses.
  - (1) Any building, use or structure not specifically permitted shall be deemed prohibited.
  - (2) In all zoning districts, no use shall be permitted which would be offensive because of injurious or noxious noise, vibration, smoke, gas, fumes, odors, dust, debris, glare,

radiation, or electrical interference, or other objectionable features, or be hazardous to the town due to fire or explosions or the creation of traffic hazards, or any other cause.

**7-05-020 Classification of uses.**

A. Exempt uses.

- (1) Exempt by statute: Any use that a zoning bylaw may not prohibit or control by requiring a special permit, as set forth in M.G.L. c. 40A, § 3.
- (2) Municipal uses: Use of land or buildings for public purposes by the Town of Northborough or the Northborough-Southborough Regional School District.

B. Residential uses; principal.

- (1) Single-family dwelling, detached: A detached residential dwelling unit designed or intended or used exclusively as a single housekeeping unit for one family, with common cooking and living facilities. Not more than one detached single-family dwelling shall be located on a lot unless the regulations of a given zoning district specifically allow an exception by special permit. As used in this bylaw, single-family dwelling shall not include a mobile home.
- (2) Single-family dwelling, attached, or townhouse: A residential building of at least three (3) but not more than eight (8) single-family attached dwelling units. Each unit shall have its own at-grade access.
- (3) Cottage dwelling: A type of detached single-family dwelling unit allowed by special permit in the Downtown Neighborhood District, designed and intended as a “starter” home for young families or a dwelling unit for senior households.
- (4) Two-family dwelling: A detached residential building designed or intended or used exclusively as the home or residence of two families. A two-family dwelling does not include a detached single-family dwelling with an accessory dwelling.
- (5) Multi-family dwelling: A building designed or intended or used as the home or residence of three or more families, each occupying a separate dwelling unit, living independently of each other and which may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.
- (6) Congregate residence: A residential dwelling designed or intended or used for single-room occupancy, with shared or common areas such as cooking facilities or a living room, and individual rooms that may or may not have complete or partial cooking facilities. In a congregate residence, a room or suite of rooms designed or intended for occupancy by one family shall constitute a unit. The following requirements shall apply to a congregate residence:

- (a) A congregate residence shall be designed to have the appearance of a detached single-family dwelling, with one entrance on the front façade and other entrances on the side or rear;
  - (b) Off-street parking shall be located to the side or rear of the congregate residence, separated from the nearest lot line by a landscaped buffer of at least four feet in width, with evergreen or dense deciduous plantings, walls, fence, or a combination thereof; or in a garage or carport. Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface, and no motor vehicles shall be regularly parked on the premises other than in such a parking space; and
  - (c) No congregate residence shall be located less than thirty (30) feet from any lot line abutting a detached single-family dwelling.
- (7) Assisted living facility: A residence certified by the Executive Office of Elder Affairs, or its successor, under M.G.L. c. 19D to provide room and board and assistance with activities of daily living for three or more adult residents not related by consanguinity or affinity to their care provider, and to collect payments or third-party reimbursements to provide such services. An assisted living facility may include a licensed adult day care center as an accessory use.
- (8) Mobile home: Any vehicle or object designed and constructed or reconstructed or added to by means of accessories or facilities to permit the use and occupancy thereof for human habitation; whether resting on wheels, jacks or other foundations and shall include the type of vehicle commonly known as a mobile home, which shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary foundation for living quarters.
- C. Residential uses; accessory.
- (1) Garage or carport: A garage for non-commercial vehicles, located on the same lot or in the same building as the dwelling unit to which it is accessory.
  - (2) Storage of recreational vehicle: Storage or keeping of one camping, utility or boat trailer not exceeding thirty-three (33) feet in length and eight (8) feet in width, provided it is set back from abutting property lines by the minimum yard setback requirements of the applicable zoning district.
  - (3) Other accessory structure: Barn, greenhouse, swimming pool, shed, gazebo, or other structures clearly accessory and incidental to the principal residential use.
  - (4) Accessory dwelling unit: A dwelling unit subordinate in size and accessory to a detached single-family dwelling, which may be located within or attached to an owner-occupied single-family dwelling, such as in an attached or detached garage or barn.

The following conditions shall apply to an accessory dwelling unit:

- (a) The owners of the dwelling with the accessory unit shall occupy one of the units as their principal residence, except for temporary absences of not more than six months. For the purposes of this bylaw, “owners” shall be one or more individuals holding title to the property, and “principal residence” shall mean the owner’s residence for voting and tax purposes;
  - (b) There shall be not more than one accessory dwelling unit on a lot;
  - (c) The maximum gross floor area of the accessory dwelling unit shall not exceed twenty-five (25) percent of the gross floor area of the existing dwelling or 700 sq. ft., whichever is greater;
  - (d) The accessory dwelling unit shall be designed so as to preserve the appearance of the existing single-family dwelling on the lot. Unless prohibited by the State Building Code, all stairways to second or third stories shall be enclosed within the exterior walls of the dwelling, and any new entrance shall be located on the side or in the rear of the dwelling; and
  - (e) There shall be provided at least one off-street parking space for the accessory dwelling unit in addition to parking for the principal dwelling. Off-street parking shall be located in a garage or carport, or in the driveway.
- (5) Boarding house: An owner-occupied, detached single-family dwelling in which long-term, non-transient lodging, with or without meals, is supplied for compensation to not more than three (3) persons unrelated to the owner; without cooking facilities for the exclusive use of individual occupants. As used in this bylaw, boarding house does not mean or include transient quarters such as a motel, hotel, or bed and breakfast or inn. Any food service provided shall be in compliance with applicable regulations of the Northborough Board of Health.
- (6) Home occupation: An occupation conducted as an accessory use in an owner-occupied detached single-family dwelling or a detached accessory structure, by the resident owner or members of the owner’s family.
- (a) Home occupation is divided into the following classes:
    - [1] Home professional office: Office for the practice of a profession involving a high degree of training in the humanities, science or arts, such as medicine, dentistry, law, architecture, engineering or fine arts.
    - [2] Home personal service: Personal services such as insurance, notary public, real estate broker, dressmaking or tailoring, beauty care, clerical services; or studio for the teaching of fine or domestic arts and crafts; family day care licensed under M.G.L. c. 28A, § 10; home baker or caterer.
    - [3] Home business workshop: Business or shop of a painter, carpenter, electrician or similar construction trade.

- [4] Home hospitality or tourism establishment: Bed and breakfast in an owner-occupied single-family dwelling, with transient overnight lodging of not more than three paying guest rooms and guest meals limited to breakfast prepared in a central kitchen, and no cooking facilities located in individual guest rooms or suites.
- [5] Home specialty retail: Sale of items manufactured on the premises; or the sale of collector's items such as antiques, stamps, coins, and similar items.

(b) The following conditions shall apply to any home occupation:

- [1] Not more than one non-resident shall be employed on the premises except by special permit from the Zoning Board of Appeals;
- [2] Not more than twenty-five (25) percent of the existing gross floor area of the dwelling shall be devoted to the home occupation, including any stock in trade, commodities, or products associated with said use, except by special permit from the Zoning Board of Appeals;
- [3] Except for one sign as permitted in a residential district in § 7-09-040, there shall be no advertising visible from off the lot or display of goods or wares visible from the street;
- [4] No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard;
- [5] There shall be no sale of goods on the premises except when associated with a home personal service or specialty retail occupation; and
- [6] No equipment or process shall be used in the home occupation which creates noise, vibration, odor, fumes, gas, smoke, dust, or electrical disturbance detectable to the normal senses off the lot.

D. Extensive uses.

- (1) Agriculture, on five or more acres of land: exempt under M.G.L. c. 40A, § 3.
- (2) Agriculture, on less than five acres of land: production of agricultural, floricultural or horticultural commodities; the growing and harvesting of forest products upon forest land, and the raising of livestock, including horses, subject to applicable regulations of the Northborough Board of Health, but shall not include the keeping and raising of swine, cattle, or other domesticated animals used for food purposes, or fur-bearing animals.
- (3) Farm stand: A facility for the sale of produce, dairy products or other agricultural, floricultural or horticultural commodities, as defined in M.G.L. c. 40A, § 3.

- (4) Forestry: Cultivating and harvesting of forest products, including the sale of firewood, on five or more acres of land.
- (5) Passive recreation, open space or conservation: Use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state, or water resource or wildlife management programs.
- (6) Golf course: A golf course open to the general public for a per-visit or membership fee, or a private golf course, which may include an accessory club house, swimming, tennis and related recreation facilities, or a retail shop or food service establishment only when clearly subordinate to the principal recreation use.
- (7) Day camp: A lot, tract or parcel of land operated as either a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping, picnicking, boating, fishing, swimming, outdoor games and sports and activities incidental and relating to the foregoing, but not including miniature golf grounds, golf driving ranges, mechanical amusement device, or permanent structures for housing of guests.
- (8) Overnight camp: As for day camp, except that uses and structures for the lodging of guests shall be permitted in locations appropriate for extensive outdoor recreation.

E. Institutional uses.

- (1) Cultural use: A public or non-profit charitable museum for the display of artistic, historic, natural, anthropological, or similar artifacts and materials, an art gallery accessory to a museum, or a library, facility or hall for live performing arts productions (“legitimate theatre”), or similar use.
- (2) Hospital: An acute or chronic care facility with an original license from the Massachusetts Department of Public Health, pursuant to M.G.L. c. 111, § 51, to provide medical, surgical, skilled nursing or rehabilitation services to in-patients or institutionalized persons; or an ambulatory surgery center. Such facility may include ambulatory care and emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, out-patient departments, training, staff offices, and similar adjunct facilities and functions.
- (3) Medical clinic or ambulatory surgery center: An outpatient care facility licensed or approved by the Massachusetts Department of Public Health to provide medical or surgical services. Such facility may include emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, training, staff offices, and similar adjunct facilities and functions, but no in-patient facilities.
- (4) Nursing home: An extended or intermediate care facility licensed by the Department of Public Health under M.G.L. c. 111, § 71 to provide full-time convalescent or chronic care, and may include adult day care .

- (5) Adult day care: A day services program designed to provide assistance with activities of daily living and meet the cognitive, social, physical, and medical needs of elderly clients, and provide temporary relief for their caregivers; certified, licensed, or operated under a contract administered by the Executive Office of Elder Affairs or other state agency authorized under the laws of the Commonwealth.
- (6) Private non-profit club or membership organization: Premises or buildings of a non-profit organization exclusively serving members and their guests for social, recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the use of the club membership and the purposes of such club.
- (7) Rest home: A facility licensed by the Department of Public Health to provide 24-hour supervision and supportive services for individuals who do not routinely need nursing or medical care.

F. Mixed uses.

- (1) Mixed-use development: One or more buildings containing a mix of principal uses, such as business and residential uses, on a single lot. For purposes of this bylaw, mixed-use development includes the sub-classifications listed below.
  - (a) Limited mixed-use building: A single building with a business, professional or medical office and one dwelling unit, not including a home occupation.
  - (b) Artist live/work unit: A dwelling unit combined with a studio, typically in an open floor plan offering large, flexible space for use and occupancy by artists, subject to a deed restriction or other mechanism acceptable to the Planning Board to limit the space to use by artists. "Artist" means a person professionally employed in the visual, performing, literary, design or media arts.
  - (c) Shop for custom work: Manufacture of crafts or custom work to be sold at retail only on the premises.
  - (d) Vertical mixed-use development: A building in which the ground floor facing the street is used primarily for permitted business uses, and other ground-floor and upper-floor space is designed or intended or used for residential or office uses.
  - (e) Horizontal mixed-use development: Two (2) or more buildings on one lot, which provide business uses in building(s) facing the street and residential or office uses above the ground floor or in separate building(s) behind or to the side.
- (2) Farm business: Retail store or restaurant use accessory to an agricultural use on five or more acres of land, where such retail store or restaurant does not otherwise conform to the definition of a farm stand under M.G.L. c. 40A, § 3. Merchandise not produced on the premises shall be companion items intended to be used with (for planting, caring for, displaying, combining with, canning, or preserving) the agricultural or horticultural produce which is produced on the farm, but shall not include farm machinery and equipment except hand tools, building materials, furniture, or other like items. Examples

of companion merchandise include canning jars, pumpkin carving kits, wreath making supplies, floral arranging supplies, potting soil, pots, packaged fertilizer, mulch, peat moss, pruning shears, gardening gloves, Christmas tree decorations.

- (3) Continuing care retirement community: A managed development that provides housing, services and nursing care primarily to persons over 55 years of age; which includes two or more of the following uses: assisted living residence, nursing home or chronic care facility, adult day care facility, or medical offices; and for which there is a legal agreement that assures life care to residents and services appropriate to each type of housing.

G. Business uses.

- (1) Trade.

(a) Retail store: A building for display and sale of merchandise at retail, such as the following, which will serve as illustrations only and are not to be considered exclusive: drug store, newsstand, food store, candy shop, dry goods and notions store, antique store or gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, or an art studio or gallery. As used in this bylaw, retail does not include adult uses as defined in § 7-10-050. A retail store may have one or more vendors within it and may occupy one building or a portion of a building. There shall be no outside storage of materials or finished goods, but outdoor display of merchandise is permitted for any retail use during normal hours of operation, subject to minor site plan review under § 7-03-050(A)(3), within the front yard or within the side yard if the side yard abuts a public right-of-way, provided that:

- [1] Such use is clearly related to the retail use conducted inside the principal building;
- [2] All merchandise shall be located within the confines of the retailer's owned or leased property;
- [3] A minimum width of forty-two (42) inches shall be continuously maintained and unobstructed on the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the approved site plan;
- [4] Outdoor storage or display of merchandise is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
- [5] Such use does not obstruct or otherwise interfere with visibility at intersections; and
- [6] Outdoor display is not intended to be, and shall not be interpreted to include, outdoor storage. No merchandise shall remain outdoors when the business is closed.

- (b) Drive-through retail. A retail store in which merchandise may be purchased at a drive-up service window.
  - (c) Commercial greenhouse: A greenhouse, salesroom or stand for the propagation, storage and sale of nursery or garden products to be sold at retail on the premises. A commercial greenhouse shall be allowed in a residential district only when located on more than five acres of land.
  - (d) Wholesale trade: A business for the sale of commodities in quantity to retailers for resale or for further processing, including associated warehouse or outdoor storage and distribution facilities.
  - (e) Sale of grain, lumber, or construction or garden supplies: A business establishment engaged in the sale of grain, lumber, garden supplies, and related agricultural or construction products inside a building, including the sale and storage of products outside the building as an accessory use.
- (2) Hospitality and food service.
- (a) Bed and breakfast; inn: A building or group of buildings intended to be used or used for transient overnight lodging for not less than four nor more than 24 paying guests, with guest meals typically included in the room charge and limited to breakfast prepared in a central kitchen. No cooking facilities shall be located in individual guest rooms or suites. (See also, home occupation.)
  - (b) Conference center. A facility for formal consultation, discussion and/or education of business employees and associates and may provide for attendees and staff adequate housing, eating and recreational facilities contained within the same building.
  - (c) Hotel or motel: A building or part thereof, or a group of buildings on a single lot, providing transient overnight lodging accommodations and accessory services to the general public, for more than twenty-four (24) paying guests. For a hotel or motel with units equipped with independent cooking facilities, such units shall not be occupied by any guest for more than two (2) continuous months, nor may guests reoccupy any unit within thirty (30) days of a continuous two-month stay or stay more than a combined total of four (4) months in any calendar year, unless such requirements are specifically waived by special permit from the Zoning Board of Appeals. No occupant of such hotel or motel may claim residency at such location.
  - (d) Restaurant: A food service establishment where food is prepared, served and consumed inside a building or on an attached patio or other outdoor seating area on the premises, and provides seating accommodations for all patrons to be served at any one time. A restaurant may include a bar or lounge as an accessory use, or the taking of food and drink from the building as incidental. "Restaurant" does not include an establishment that operates exclusively or principally as a caterer, a food processing establishment, a retail food store or a take-out food service establishment, nor does it include drive-through service.

- (e) Deli, sandwich shop or pizza shop: A food service establishment where food is prepared and sold at retail and may or may not be consumed on the premises, such as a deli or sandwich shop serving sandwiches, soups, salads, pizza or other individually portioned food items on a take-out service basis. It may include a walk-up service window for take-out food service, but not drive-through service.
  - (f) Drive-through food service: A food service establishment in which food prepared and sold at retail may be consumed on the premises or purchased at a drive-up service window.
  - (g) Take-out food service: A food service establishment in which food prepared and sold at retail may be consumed on the premises or purchased from a counter or a walk-up service window and consumed off the premises; but not a drive-through service.
  - (h) Catering service: Provision of prepared food, service staff or equipment to an off-premises location.
- (3) Recreation and entertainment.
- (a) Commercial recreation, indoor: A facility operated as a business, open to the public for a per-visit or membership fee, for indoor recreation purposes such as tennis, racquetball, swimming, ice skating, roller skating or similar activities, including a health club or athletic club, but not including indoor recreation programs operated by the Town of Northborough or its various departments, or by the Northborough-Southborough Regional School District.
  - (b) Commercial recreation, outdoor: A facility operated as a business, open to the public for a per-visit or membership fee, for outdoor recreation purposes such as skiing, swimming, ball games, miniature golf, golf driving range, or similar customary and usual sports or recreation activities, but not including a golf course (see also, extensive uses: golf course).
  - (c) Commercial amusement: A building or any portion thereof used for entertainment or amusement activities, such as a pool hall, bowling alley, video arcade, or cinema or movie theatre, but not including adult uses as defined in § 7-10-050.
- (4) Financial and professional service uses.
- (a) Bank: A bank, loan agency or similar financial institution.
  - (b) Automated teller machine (ATM): A machine that acts as a teller for standard banking transactions such as cash withdrawals, deposits, and checking account balances, regardless of where it is located.
  - (c) Professional or business office: A building, a portion thereof, or a group of buildings intended to be used or used for the performance of professional or clerical duties, including recognized professions such as an attorney, accountant,

architect, engineer or appraiser, and similar professions that require advanced education and training and typically require licensure or certification; but not including a medical or dental office.

- (d) Medical or dental office: A building designed or intended or occupied and used by one or more physicians providing outpatient health care, including dental care, with accessory facilities such as specialty diagnostic services, laboratories, and administrative offices, with no accommodations for overnight stays; not including a hospital, medical clinic or an ambulatory surgery center.
- (5) Services.
- (a) Educational use, non-exempt. An educational use conducted by a for-profit organization, such as a computer training program, a cosmetology school, or a trade school or training program that is not otherwise exempt under M.G.L. c. 40A, § 3.
  - (b) Personal service establishment: An establishment whose primary business relies on customers coming and going on a regular basis and which provides a service directly to the consumer, such as a barber, hairdresser, manicurist, caterer, decorator, dressmaker or tailor, optician, photographer, shoemaker or upholsterer, and similar uses, but not including professional or business office or medical office uses.
  - (c) Postal service: A post office or similar establishment for the delivery and receipt of mail or parcels, but not including a parcel distribution facility.
  - (d) Repair shop: A building used for the repair of appliances, office equipment, bicycles, lawn mowers or similar household or small-business equipment, but not including repair of automobiles, motorcycles or large vehicles or equipment.
- (6) Vehicle sales and service.
- (a) Auto filling or service station: A building or part thereof with not more than three service bays, where the principal activity is the sale of motor vehicle fuel and related products and services, including routine vehicle maintenance services; or a car wash. All maintenance and service, other than minor service and emergency repairs, shall be conducted entirely within a building. No vehicle service station or car wash shall be located within 1,500 feet of another vehicle service station or car wash. An auto filling and service station shall not include a repair shop or body shop.
  - (b) Auto repair shop: Establishment where the principal service is the mechanical repair, excluding body work, of automobiles, motorcycles, trailers, recreational vehicles, farm equipment or similar motor vehicles, not including an auto service station.
  - (c) Auto body shop: Establishment where the principal service is the repair and painting of automobiles, motorcycles, trailers, recreational vehicles, farm

equipment or similar motor vehicles, provided that all but minor repairs shall be conducted entirely within a building.

- (d) Auto sales: Salesroom and related dealership facilities for new motor vehicles, including open-air display for automobiles, boats, motorcycles, farm implements or similar light motor vehicles (maximum 10,000 pound gross vehicle weight and 135-inch wheel base), with sale of used cars as an accessory use.
  - (e) Commercial parking: Parking lot or parking garage open to the public for automobiles and similar light motor vehicles.
- (7) Other business uses.
- (a) Veterinary clinic: A facility for medical or surgical treatment of domestic animals and incidental short-term boarding within a fully enclosed building. A veterinary clinic may include operating facilities, recovery and laboratory facilities incidental thereto.
  - (b) Kennel: Facility for breeding, sale, boarding or training of more than three dogs or other domestic non-farm animals.
  - (c) Funeral home: Undertaking or funeral establishment.
  - (d) Adult uses as defined in § 7-10-050.
  - (e) Commercial storage facility: A building or structure for the storage of goods and materials, which may include a refrigerated storage facility (cold storage) or a warehouse for the storage of wholesale goods and merchandise. Commercial storage shall not include a self-storage facility.
  - (f) Self-storage facility: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods, automobiles, boats or contractor's supplies.

H. Public service or public utility uses.

- (1) Bus stop, sheltered: a structure intended to be used or used as an assembly and waiting area for passengers of common carrier bus, shuttle or regional transit services.
- (2) Public transportation terminal. A structure that serves passengers of a public transportation service upon departure and arrival, including waiting areas, drop-off/pick-up zones, and on-site parking facilities or the storage and repair of vehicles as accessory uses.
- (3) Public service or public utility: Use of land, buildings or other structures by a regulated public service corporation or public utility to provide essential services such as electricity, telephone or similar services, but not including a wireless communication facility.

- (4) Communication tower: Any tower or structure, natural or man-made, existing or erected, used to support one or more antennas, including self-supporting lattice towers, guyed towers, or monopoles, for electromagnetic transmission and/or reception purposes such as radio and television transmission towers, microwave towers, common carrier towers, wireless communications facilities (“WCF”), alternative tower structures and the like; but not including a communication tower used by an amateur radio operator with a written license or permit from the Federal Communications Commission (FCC) to be the control operator of an amateur radio facility.
- (5) Wireless communication facility (WCF): A facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components. A WCF is a transmission and reception substation, not a principal facility for conducting a communications business. See Chapter 7-10.

I. Industrial uses.

- (1) Light manufacturing: Fabrication, processing, packaging, or assembly operations, employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.
- (2) Research and development: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products employing only electric or other substantially noiseless and inoffensive motor power, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.
- (3) Data processing and records storage: An establishment providing business services such as but not limited to payroll processing, financial transactions processing, document preparation, management and operation of computer facilities, or internet service providers.
- (4) Printing and publishing: An establishment engaged in printing newspapers, books, magazines or periodicals, music, and similar products; or producing print, electronic (e.g., CD-ROM, diskette) or internet publications.

- (5) Distribution and transportation uses.
  - (a) Warehouse: Building for the sorting, storage or wholesale marketing of materials, merchandise, products or equipment.
  - (b) Trucking, rail or freight terminal: Facility in which freight brought by truck or rail is assembled or stored for reshipment, or in which tractor or trailer units and other trucks are parked or stored, including accessory facilities for the fueling and repair of trucks parked or stored on the premises.
- (6) Other industrial uses.
  - (a) Natural resource extraction: The process by which soil, sand or gravel is removed from any open pit, borings or any other underground workings and produced for sale, exchange or commercial use or otherwise removed from the site, and all shafts, slopes, drifts or inclines leading thereto and including all buildings, structures and equipment above and below the surface of the ground used in connection with such process. Natural resource extraction shall not be deemed to include exploratory activities, the drilling or boring of wells for the purpose of obtaining water, nor the removal of soil and other related material as necessary to establish another permitted use upon the same site.
  - (b) Fuel storage: A facility with above-ground or underground tanks for the storage of fuel products to be distributed off-site to retail fuel outlets.
  - (c) Contractor's yard: Lumber yard, construction contractor's yard or other open-air establishment for the storage, distribution, or sale at wholesale or retail of materials (but not including salvage materials), merchandise, products or equipment, fabrication of sub-assemblies, or parking of wheeled equipment; provided that all operations shall be such as to confine to the premises disturbing dust, noise, odors, or other objectionable effects and provided further that such use is not hazardous by reason of the potential for fire, explosion, radiation release or other casualty.
  - (d) Heliport: An area of land or water or a structure used or intended to be used for the take-off or landing of a helicopter, which may include auxiliary facilities such as waiting room, hangar, parking, fueling or maintenance facilities.

J. Nonresidential accessory uses.

- (1) General.
  - (a) Any use permitted as a principal use also shall be permitted as an accessory use, provided such use is customarily incidental to the main or principal building or use of the land, as determined by the Building Inspector.
  - (b) Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land.

- (2) Nonresidential accessory uses also include any of the following:
  - (a) Facilities for training employees of the principal use.
  - (b) Accessory to an industrial use:
    - [1] Restaurant or cafeteria, pharmacy, printing and copying, office supplies or personal services accessory to a permitted use, primarily for the use of employees, provided that all such uses combined shall not exceed 15% of total gross floor area of principal building.
    - [2] Retail outlet accessory to a light manufacturing use.
    - [3] One dwelling unit per industrial establishment, on the same lot as and incidental to a permitted industrial use, occupied by the owner or an employee, such as a watchman's or caretaker's quarters.

**7-05-030 Table of Uses.**

No land, structure or building shall be used except for the purposes permitted in the district as set forth in the Table of Uses (Table 1), unless exempt under M.G.L. c. 40A, § 3 or § 7-05-020 of this bylaw, or where other regulations apply in an overlay district. In the Table of Uses, a use permitted by right is denoted by the letter "Y," and a prohibited use is denoted by the letter "N." A use denoted by the letters "BA" may be allowed by special permit from the Zoning Board of Appeals, and a use denoted by the letters "PB" may be allowed by special permit from the Planning Board. In some cases, a use denoted by the letter "Y" may require a special permit if the use exceeds a certain density or floor area. These uses and the applicable special permit threshold are indicated in footnotes to the Table of Uses.

**Table 1. Table of Uses. Part A. Residential Districts.**

| <b>USES</b>                                   | <b>RA</b> | <b>RB</b> | <b>RC</b> | <b>GR</b> | <b>MSR</b> | <b>DN</b> |
|-----------------------------------------------|-----------|-----------|-----------|-----------|------------|-----------|
| <b>EXEMPT USES</b>                            |           |           |           |           |            |           |
| See § 7-05-020(A)                             | Y         | Y         | Y         | Y         | Y          | Y         |
| <b>RESIDENTIAL USES</b>                       |           |           |           |           |            |           |
| <b>Principal Uses</b>                         |           |           |           |           |            |           |
| Single-family dwelling, detached              | Y         | Y         | Y         | Y         | Y          | Y         |
| Cottage dwelling <sup>1</sup>                 | N         | N         | N         | N         | N          | BA        |
| Single-family dwelling, attached <sup>2</sup> | N         | N         | N         | N         | N          | Y         |
| Two-family dwelling <sup>3</sup>              | N         | N         | BA        | Y         | Y          | Y         |
| Multi-family dwelling <sup>4</sup>            | N         | N         | N         | N         | N          | Y         |
| Congregate residence <sup>5</sup>             | BA        | BA        | BA        | BA        | BA         | BA        |
| Assisted living residence                     | BA        | BA        | BA        | BA        | N          | BA        |
| <b>Accessory Uses</b>                         |           |           |           |           |            |           |
| Garage or carport <sup>6</sup>                | Y         | Y         | Y         | Y         | Y          | Y         |
| Storage of recreational vehicle               | Y         | Y         | Y         | Y         | Y          | Y         |
| Other accessory structure                     | Y         | Y         | Y         | Y         | Y          | Y         |
| Accessory dwelling unit                       | BA        | BA        | Y         | Y         | Y          | Y         |
| Boarding house                                | N         | N         | BA        | BA        | BA         | Y         |

<sup>1</sup> A cottage dwelling shall not exceed 1,600 sq. ft. of gross floor area.

<sup>2</sup> In the Downtown Neighborhood District, the maximum number of single-family attached units on a lot shall be 4 permitted, and 5 to 8 by special permit.

<sup>3</sup> In any residential district, a detached single-family dwelling existing on the effective date of this bylaw may be converted to a two-family dwelling by special permit from the Zoning Board of Appeals.

<sup>4</sup> In the Downtown Neighborhood District, the maximum number of multi-family units on a lot shall be 4 units permitted, and 5 to 8 units by special permit.

<sup>5</sup> In a residential district, no congregate residence shall contain more than 12 units.

<sup>6</sup> Permitted if accessory to a permitted residential use; requires a special permit if accessory to a residential use that requires a special permit. Garage space shall not be provided on a lot for more than three (3) motor vehicles, except that space may be provided in a garage for one (1) additional motor vehicle for each four thousand (4,000) sq. ft. of area by which the lot area exceeds twenty thousand (20,000) sq. ft., up to a maximum of five (5) motor vehicles. Not more than one (1) commercial vehicle shall be stored on such lot.

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| <b>USES</b>                                    | <b>RA</b> | <b>RB</b> | <b>RC</b> | <b>GR</b> | <b>MSR</b> | <b>DN</b> |
|------------------------------------------------|-----------|-----------|-----------|-----------|------------|-----------|
| Home occupation (See § 7-05-020(C)(6))         |           |           |           |           |            |           |
| Home professional office                       | Y         | Y         | Y         | Y         | Y          | Y         |
| Home personal service                          | BA        | BA        | BA        | BA        | BA         | Y         |
| Home business workshop                         | Y         | Y         | Y         | Y         | Y          | Y         |
| Home hospitality or tourism establishment      | BA        | BA        | BA        | BA        | BA         | Y         |
| Home specialty retail                          | N         | N         | N         | N         | BA         | Y         |
| <b>EXTENSIVE USES</b>                          |           |           |           |           |            |           |
| Agriculture on less than 5 acres of land       | Y         | Y         | Y         | Y         | Y          | Y         |
| Farm stand, non-exempt                         | Y         | Y         | Y         | Y         | Y          | Y         |
| Forestry                                       | Y         | Y         | Y         | N         | N          | N         |
| Passive recreation, open space or conservation | Y         | Y         | Y         | Y         | Y          | Y         |
| Golf course                                    | BA        | BA        | N         | N         | N          | N         |
| Day camp or overnight camp                     | BA        | BA        | N         | N         | N          | N         |
| <b>INSTITUTIONAL USES</b>                      |           |           |           |           |            |           |
| Cultural use                                   | N         | N         | N         | BA        | BA         | Y         |
| Nursing home or rest home                      | BA        | BA        | BA        | BA        | N          | N         |
| Adult day care                                 | N         | N         | N         | N         | N          | BA        |
| Non-profit club or membership organization     | BA        | BA        | BA        | BA        | BA         | BA        |
| <b>MIXED USES</b>                              |           |           |           |           |            |           |
| Limited mixed-use building                     | N         | N         | N         | N         | N          | Y         |
| Artist live/work unit                          | N         | N         | N         | N         | N          | Y         |
| Shop for custom work                           | N         | N         | N         | N         | N          | Y         |
| Farm business                                  | BA        | BA        | N         | N         | N          | N         |
| Continuing care retirement community           | BA        | BA        | BA        | BA        | N          | N         |
| <b>BUSINESS USES</b>                           |           |           |           |           |            |           |
| <b>Trade</b>                                   |           |           |           |           |            |           |
| Retail store <sup>7</sup>                      | N         | N         | N         | N         | N          | BA        |
| Art gallery                                    | N         | N         | N         | N         | N          | Y         |

<sup>7</sup> In the Downtown Neighborhood District, no retail establishment shall exceed 2,000 sq. ft. of gross floor area.

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| <b>USES</b>                                                     | <b>RA</b> | <b>RB</b> | <b>RC</b> | <b>GR</b> | <b>MSR</b> | <b>DN</b> |
|-----------------------------------------------------------------|-----------|-----------|-----------|-----------|------------|-----------|
| <b>Hospitality and Food Services</b>                            |           |           |           |           |            |           |
| Bed and breakfast; inn                                          | N         | N         | N         | BA        | BA         | BA        |
| Restaurant, excluding alcoholic beverages                       | N         | N         | N         | N         | N          | BA        |
| Deli, sandwich shop, pizza shop                                 | N         | N         | N         | N         | N          | BA        |
| Catering service                                                | N         | N         | N         | N         | N          | BA        |
| <b>Financial or Professional Services</b>                       |           |           |           |           |            |           |
| Professional or business office                                 | N         | N         | N         | N         | N          | Y         |
| Medical or dental office                                        | N         | N         | N         | BA        | BA         | BA        |
| <b>Services</b>                                                 |           |           |           |           |            |           |
| Personal service establishment                                  | N         | N         | N         | N         | N          | BA        |
| <b>Other Business Uses</b>                                      |           |           |           |           |            |           |
| Kennel                                                          | BA        | N         | N         | N         | N          | N         |
| Funeral home                                                    | N         | N         | BA        | BA        | N          | N         |
| <b>PUBLIC SERVICE OR PUBLIC UTILITY</b>                         |           |           |           |           |            |           |
| Public service or public utility                                | BA        | BA        | BA        | BA        | BA         | BA        |
| Communication tower (including wireless communication facility) | PB        | PB        | PB        | PB        | PB         | PB        |

**Table 1. Table of Uses. Part B. Commercial and Industrial Districts.**

| <b>USES</b>                                   | <b>DB</b> | <b>BE</b> | <b>BW</b> | <b>BS</b> | <b>HB</b> | <b>I</b> |
|-----------------------------------------------|-----------|-----------|-----------|-----------|-----------|----------|
| <b>EXEMPT USES</b>                            |           |           |           |           |           |          |
| See § 7-05-020(A)                             | Y         | Y         | Y         | Y         | Y         | Y        |
| <b>RESIDENTIAL USES</b>                       |           |           |           |           |           |          |
| <b>A. Principal Uses</b>                      |           |           |           |           |           |          |
| Single-family dwelling, attached <sup>8</sup> | BA        | N         | N         | N         | N         | N        |
| Multi-family dwelling <sup>9</sup>            | BA        | BA        | BA        | N         | N         | N        |
| Congregate residence                          | BA        | BA        | BA        | N         | N         | N        |
| Assisted living facility                      | BA        | BA        | BA        | N         | N         | N        |
| <b>B. Accessory Uses</b>                      |           |           |           |           |           |          |
| Accessory dwelling unit                       | BA        | BA        | BA        | N         | N         | N        |
| Boarding house                                | BA        | N         | N         | N         | N         | N        |
| Home occupation                               |           |           |           |           |           |          |
| Home professional office                      | N         | N         | N         | N         | N         | N        |
| Home personal service                         | N         | N         | N         | N         | N         | N        |
| Home business workshop                        | N         | N         | N         | N         | N         | N        |
| Home hospitality or tourism establishment     | N         | N         | N         | N         | N         | N        |
| Home specialty retail                         | N         | N         | N         | N         | N         | N        |
| <b>EXTENSIVE USES</b>                         |           |           |           |           |           |          |
| Golf course                                   | N         | N         | N         | N         | BA        | PB       |
| <b>INSTITUTIONAL USES</b>                     |           |           |           |           |           |          |
| Cultural use                                  | Y         | Y         | Y         | N         | BA        | N        |
| Hospital                                      | N         | N         | N         | N         | N         | PB       |
| Medical clinic or ambulatory surgery center   | N         | N         | BA        | BA        | Y         | Y        |
| Nursing home or rest home                     | BA        | BA        | BA        | N         | BA        | N        |
| Adult day care                                | BA        | BA        | BA        | BA        | BA        | BA       |
| Non-profit club or membership organization    | Y         | Y         | Y         | Y         | BA        | N        |

<sup>8</sup> In the Downtown Business District, the maximum number of single-family attached units on a lot shall be 4 units.

<sup>9</sup> The maximum number of multi-family units on a lot shall be 12 units by special permit in the Downtown Business, Business East, and Business West Districts..

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| <b>USES</b>                                        | <b>DB</b> | <b>BE</b> | <b>BW</b> | <b>BS</b> | <b>HB</b> | <b>I</b> |
|----------------------------------------------------|-----------|-----------|-----------|-----------|-----------|----------|
| <b>MIXED USES</b>                                  |           |           |           |           |           |          |
| Limited mixed-use building                         | Y         | Y         | Y         | BA        | N         | N        |
| Artist live/work unit                              | Y         | BA        | BA        | BA        | N         | N        |
| Shop for custom work                               | Y         | Y         | Y         | BA        | BA        | PB       |
| Vertical mixed-use development                     | Y         | Y         | Y         | BA        | N         | N        |
| Horizontal mixed-use development                   | BA        | BA        | BA        | BA        | N         | N        |
| Farm business                                      | N         | Y         | Y         | N         | N         | N        |
| Continuing care retirement community               | N         | N         | BA        | N         | N         | N        |
| <b>BUSINESS USES</b>                               |           |           |           |           |           |          |
| <b>Trade</b>                                       |           |           |           |           |           |          |
| Retail store <sup>10</sup>                         | Y         | Y         | Y         | Y         | Y         | N        |
| Drive-through retail <sup>11</sup>                 | N         | BA        | BA        | BA        | BA        | N        |
| Art studio or gallery                              | Y         | Y         | Y         | N         | Y         | N        |
| Commercial greenhouse                              | N         | Y         | Y         | BA        | Y         | N        |
| Wholesale trade                                    | N         | N         | BA        | BA        | Y         | Y        |
| Grain, lumber, construction or garden supply sales | N         | N         | BA        | N         | Y         | Y        |
| <b>Hospitality and Food Services</b>               |           |           |           |           |           |          |
| Bed and breakfast; inn                             | Y         | Y         | Y         | BA        | BA        | N        |
| Hotel, motel or conference center                  | BA        | N         | BA        | BA        | Y         | PB       |
| Restaurant, excluding alcoholic beverages          | Y         | Y         | Y         | BA        | Y         | N        |
| Restaurant, including alcoholic beverages          | BA        | BA        | BA        | BA        | Y         | N        |
| Deli, sandwich shop, pizza shop                    | Y         | Y         | Y         | Y         | Y         | N        |
| Drive-through food service                         | N         | BA        | BA        | BA        | BA        | N        |
| Catering service                                   | BA        | Y         | Y         | Y         | Y         | N        |

<sup>10</sup> Retail is subject to the following maximum gross floor area requirements per individual retail establishment: Downtown Business: up to 5,000 sq. ft. permitted, maximum of 15,000 sq. ft. by special permit; Business East, up to 15,000 sq. ft. permitted, maximum of 25,000 sq. ft. by special permit; Business West, up to 15,000 sq. ft. permitted, maximum of 25,000 sq. ft. by special permit; Business South, up to 15,000 sq. ft. permitted, maximum of 50,000 sq. ft. by special permit.

<sup>11</sup> Drive-through retail shall be subject to the same maximum gross floor area requirements that apply to retail.

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| <b>USES</b>                               | <b>DB</b> | <b>BE</b> | <b>BW</b> | <b>BS</b> | <b>HB</b> | <b>I</b> |
|-------------------------------------------|-----------|-----------|-----------|-----------|-----------|----------|
| <b>Recreation and Entertainment</b>       |           |           |           |           |           |          |
| Commercial recreation, indoor             | BA        | BA        | BA        | BA        | BA        | N        |
| Commercial recreation, outdoor            | N         | N         | BA        | N         | BA        | PB       |
| Commercial amusement                      | BA        | BA        | BA        | BA        | BA        | N        |
| <b>Financial or Professional Services</b> |           |           |           |           |           |          |
| Bank                                      | Y         | Y         | Y         | BA        | Y         | N        |
| Automated teller machine <sup>12</sup>    | Y         | Y         | Y         | BA        | Y         | N        |
| Professional or business office           | Y         | Y         | Y         | Y         | Y         | Y        |
| Medical or dental office                  | Y         | Y         | Y         | Y         | Y         | Y        |
| <b>Services</b>                           |           |           |           |           |           |          |
| Personal service establishment            | Y         | Y         | Y         | Y         | Y         | N        |
| Postal service                            | Y         | Y         | Y         | BA        | N         | N        |
| Educational use, non-exempt               | N         | N         | BA        | BA        | N         | PB       |
| Repair shop                               | BA        | Y         | Y         | BA        | Y         | N        |
| <b>Vehicle Sales &amp; Service</b>        |           |           |           |           |           |          |
| Auto filling or service station           | N         | N         | N         | N         | BA        | PB       |
| Auto repair shop                          | N         | BA        | BA        | BA        | BA        | PB       |
| Auto body shop                            | N         | N         | BA        | N         | BA        | PB       |
| Auto sales                                | N         | N         | BA        | N         | BA        | PB       |
| Commercial parking                        | N         | BA        | BA        | N         | BA        | PB       |
| <b>Other Business Uses</b>                |           |           |           |           |           |          |
| Veterinary clinic                         | N         | BA        | BA        | BA        | BA        | N        |
| Kennel                                    | N         | N         | BA        | N         | N         | N        |
| Funeral home                              | BA        | BA        | BA        | N         | N         | N        |
| Adult uses                                | N         | N         | N         | N         | BA        | N        |
| Commercial storage facility               | N         | N         | BA        | BA        | N         | PB       |

<sup>12</sup> In the Downtown Business or Business East District, an ATM shall be located inside a building with other permitted uses, or mounted on an exterior wall of a bank for walk-up or drive-through service. A free-standing or kiosk-style ATM or an ATM mounted on an exterior wall of a building for drive-through service is permitted only in the Business West, Business South (by special permit), or Highway Business District.

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| <b>USES</b>                                                         | <b>DB</b> | <b>BE</b> | <b>BW</b> | <b>BS</b> | <b>HB</b> | <b>I</b> |
|---------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|----------|
| <b>PUBLIC SERVICE OR PUBLIC UTILITY</b>                             |           |           |           |           |           |          |
| Bus stop, sheltered                                                 | BA        | BA        | BA        | BA        | BA        | PB       |
| Public transportation terminal                                      | N         | N         | N         | N         | BA        | PB       |
| Public service or public utility                                    | BA        | BA        | BA        | BA        | BA        | Y        |
| Communication tower (including wireless communication facility)     | PB        | PB        | PB        | PB        | PB        | PB       |
| <b>INDUSTRIAL USES</b>                                              |           |           |           |           |           |          |
| Light manufacturing                                                 | N         | N         | N         | BA        | N         | Y        |
| Research and development                                            | N         | N         | N         | N         | N         | Y        |
| Data processing center and records storage                          | N         | N         | N         | BA        | N         | Y        |
| Printing and publishing                                             | N         | N         | N         | N         | N         | Y        |
| <b>Transportation and Distribution Uses</b>                         |           |           |           |           |           |          |
| Warehouse                                                           | N         | N         | N         | BA        | N         | Y        |
| Trucking, rail or freight facility, or parcel distribution facility | N         | N         | N         | N         | N         | Y        |
| <b>Other Industrial Uses</b>                                        |           |           |           |           |           |          |
| Natural resource extraction                                         | N         | N         | N         | N         | N         | PB       |
| Fuel storage                                                        | N         | N         | N         | N         | N         | PB       |
| Contractor's yard or lumber yard                                    | N         | N         | N         | N         | N         | Y        |
| Heliport                                                            | N         | N         | N         | N         | N         | PB       |
| Accessory uses; see 7-05-020(J)                                     | N         | N         | N         | BA        | N         | Y        |

**7-05-040 Environmental performance standards.**

- A. Purposes. The purpose of this section is to establish minimum environmental performance standards related to the development and use of land in order to promote the public safety, health, and general welfare of the citizens of the Town of Northborough.
- B. Applicability.
- (1) Every use, activity, process or operation located or occurring in an industrial district or an industrial use in any other district shall comply with the performance standards prescribed in this section.
  - (2) Existing uses. No such existing use, activity, process or operation shall be hereafter altered or modified so as to conflict with, or further conflict with, such environmental performance standards. If, as of the date of adoption of this Bylaw, the operations of any lawful existing use violates these environmental performance standards, such operations shall not be varied or changed in any way as to increase the degree of such violations. The operation of any existing conforming use in violation of the performance standards shall not in itself make such use subject to chapter 7-08 of this Bylaw.
- C. Noise. With respect to industrial uses having an impact on residential uses, the sound due to the operations of the facility, measured at the property line of the facility, shall not be increased over the ambient sound level by more than 5 decibels weighted for the "A" scale [dB(A)]. The ambient sound level is the sound from all sources other than the subject facility. The ambient sound measurement (A-weighted sound level) is taken where the offending sound cannot be heard, or with the sound source shut-off. The ambient sound level is the level that is exceeded 90% of the time that the noise measurements are taken. This subsection shall not apply to the following activities:
- (1) Any noise produced by a registered motor vehicle, provided that such vehicle is equipped with all noise-suppression devices required for legal operation under such registration by the laws of the Commonwealth;
  - (2) Parades, public gatherings, or sporting events, for which permits have been issued where required by any federal, state, or local law or regulation;
  - (3) Construction and maintenance activities between 7:00 A.M. and 7:00 P.M.;
  - (4) Emergency police, fire, and ambulance vehicles; or
  - (5) Police, fire, and civil and national defense activities.
- D. Lighting.
- (1) Outdoor lighting for nonresidential uses, such as but not limited to parking lot lighting, security lighting and decorative lighting, shall be shielded or directed away from a residential district.

- (2) Absent evidence to the contrary, outdoor lighting that meets the requirements of §7-09-020(C) and is installed and operated under a site plan approved by the Planning Board or special permit granting authority shall be presumed to comply with these standards.

E. Miscellaneous standards.

- (1) Cinders, fumes, toxic gases, smoke, refuse, or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state and federal regulations governing air, water, and soil pollution.
- (2) No emission of any dirt, dust, fly ash and other forms of particulate matter, or any other air, water, or other pollutants shall exceed the emission levels of state and federal regulations governing air, water, and soil pollution.
- (3) No emission of radioactive material shall exceed the limitations of state and federal regulations governing air, water, and soil pollution.
- (4) All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment as determined by the Northborough Fire Department, and shall be conducted in accordance with permits and licenses issued by the Fire Department and the Board of Selectmen under M.G.L. c. 148, where applicable. Burning of waste materials in the open contrary to state law is prohibited.
- (5) No release of toxic or biohazardous material shall be allowed except in conformance with state and federal regulations and unless all applicable permits therefor have been granted by the appropriate issuing authorities.

F. Compliance.

- (1) The applicant for a special permit for any use subject to the performance standards of this section shall submit a plan and description to the special permit granting authority of all proposed activities; a plan and specifications for the control or restriction of all dangerous and objectionable elements; and an affidavit acknowledging understanding of the applicable standards and agreeing to comply with the same at all times.
- (2) The Building Inspector may require an applicant for a building permit, certificate of occupancy, or certificate of zoning compliance to supply, at the applicant's expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant.
- (3) Compliance with state, federal, and local environmental regulations is the continuing obligation of the property owner and operator. When the Building Inspector suspects a subsequent violation he may, as necessary, obtain expert advice, which if the violation is established, shall be paid for by the violator; or otherwise, by the Town.

## CHAPTER 7-06: DENSITY & DIMENSIONAL REGULATIONS

### Sections:

- 7-06-010** General provisions
- 7-06-020** Table of Density and Dimensional Regulations
- 7-06-030** Supplemental regulations

### **7-06-010** General provisions.

No building or structure in any district shall be built, located or enlarged which does not conform to the minimum requirements of this chapter.

### **7-06-020** Table of Density and Dimensional Regulations.

Density and dimensional regulations shall be in accordance with the Table of Density and Dimensional Regulations (Table 2) and the supplemental regulations in § 7-06-030.

### **7-06-030** Supplemental regulations.

- A. Minimum lot area. In all districts except the Downtown Business (DB) and Downtown Neighborhood (DN) districts, at least fifty (50) percent of the minimum lot area shown in the Table of Density and Dimensional Regulations shall be contiguous upland, exclusive of resource areas subject to M.G.L. c.131, § 40 for reasons other than being subject to flooding. In the DB and DN Districts, one hundred (100) percent of the minimum lot area shall be such contiguous upland.
- B. Lot frontage.
  - (1) Lot frontage shall be measured in a continuous line along the sideline of a street between the points of intersection of the side lot lines with the street. For a corner lot, frontage may be measured either to the point of intersection of the extension of the sideline of the rights-of-way or to the middle of the curve connecting the sideline of the intersecting streets. If a lot has frontage on more than one street, the frontage on one street only shall be used to satisfy the minimum lot frontage requirement.
  - (2) In a residential district, where the radius of the center line of the frontage street is one hundred (100) feet or less, the minimum lot frontage requirement may be reduced to fifty (50) percent of the minimum frontage shown in the Table of Density and Dimensional Regulations.
  - (3) Reduced lot frontage. In all residential districts, a minimum frontage of fifty (50) feet shall be permitted provided that the building lot size shall be not less than one hundred seventy thousand (170,000) sq. ft. and no part of the lot between the front

line of the building and street line shall be less than fifty (50) feet in width. In addition, lots with reduced frontage shall require:

- (a) A separate driveway for each lot unless the Planning Board grants a special permit for a common driveway to serve more than one (1) lot. A common driveway serving more than three (3) lots shall meet the Town of Northborough's minimum road standards. In no case shall more than five (5) lots be served by one (1) common driveway. Design requirements shall meet the standards for common driveways as outlined in 10-36-130 of the Northborough Subdivision Rules and Regulations. Provision for adequate fire protection must be approved by the Fire Chief prior to the issuance of the special permit.
- (b) All common driveways to exit on the frontage street.
- (c) The minimum lot width at the building line to be one hundred (100) feet.
- (d) A minimum setback of thirty (30) feet from all lot lines, including for accessory structures such as a swimming pool.

C. Yard requirements.

(1) General.

- (a) No part of a yard or other open space, off-street parking or loading space, or other accessory space required in connection with any building shall be used to meet the requirements for any other building unless specifically permitted in this bylaw.
- (b) No required yard abutting a public street shall be used for the storage or display or abandonment of merchandise, lumber, building material, equipment, salvable secondhand items, or any type of junk, scrap, trash, rubble, or discarded or abandoned equipment or materials.
- (c) No accessory structure shall be erected in any required front, side, or rear yard or within 10 feet of any principal building, except by special permit from the Zoning Board of Appeals.

(2) Measurement.

- (a) The front yard shall be the distance measured in a straight line between the lot frontage and the nearest point of any building or structure, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required front yard. A lot having frontage on two or more streets shall have two or more front yards, each of which shall comply with the requirements of the front yard provisions. In no case shall any building or structure be located closer to the sideline of a street than the minimum required front yard.

- (b) Side and rear yards shall be the distance measured in a straight line from the nearest point of any building or structure to each side or rear lot line, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required side or rear yard.
- (3) In residential districts:
- (a) In the Single Residence A, B, and C Districts, when a new detached single-family dwelling is proposed on a lot that abuts existing single-family dwellings, the minimum front yard setback for the new dwelling may be the average front yard setback of existing dwellings within two hundred and fifty (250) feet on the same side of the street.
  - (b) Where the side yard setback of an existing residence is less than the minimum required side yard setback requirement, an accessory structure or a structure attached to the residence may be constructed on the same line as the residence.
  - (c) Accessory buildings for nonresidential uses that are related to uses permitted in residential districts and not more than one (1) story in height are permitted on the same lot, provided they meet the front, side and rear setback requirements of this chapter.
  - (d) No portion of a swimming pool shall be located nearer than fifteen (15) feet to the side or rear lot lines nor within the thirty (30) foot front setback line.
  - (e) In the RC, GR, MSR, and DN Districts, for accessory structures commonly called “storage sheds,” “greenhouses,” “cabanas,” “pool equipment sheds,” “gazebos,” and similar uses, the side and rear setbacks shall be five (5) feet provided that the structure does not exceed one hundred twenty (120) sq. ft. in area and one (1) story in height.
- (4) In nonresidential (business and industrial) districts:
- (a) No accessory structure or use shall be established within the front, side or rear yards on a lot, except for driveways and permitted signs. The location of off-street parking shall be in accordance with § 7-09-030.
  - (b) In the Industrial District, the minimum setback along the lot line adjacent to a residential or business district shall be one hundred (100) feet from a residential district and fifty (50) feet from a business district. When the residential zoning district boundary is located in or at a street, the setback may be reduced by the width of the street which is in the residential zone.
- D. Lot coverage shall be as defined in chapter 7-02. In the Downtown Neighborhood District, maximum lot coverage shall not apply to a two-family or multi-family dwelling.

E. Open space.

- (1) No more than fifty (50) percent of the minimum open space for any lot as required in the Table of Density and Dimensional Regulations shall be freshwater wetlands, as defined in the M.G.L. c.131, § 40.
- (2) Open space used to satisfy the requirements of this chapter shall conform to the standards in § 7-09-020(C)(4), as applicable.
- (3) In a business district, the special permit granting authority or site plan approval issuing authority may authorize a reduction in the minimum open space requirement in order to accommodate an increase in parking under § 7-09-030.

F. Maximum Gross Floor Area Ratio (FAR). The maximum FAR requirements in Table 2 may be increased by special permit, as follows:

- (1) In the Downtown Business District, the Zoning Board of Appeals may grant a special permit to increase the maximum FAR to 3.0 for a use that provides all of its required off-street parking below grade or at grade inside the building, with access to the parking from the rear of the building.
- (2) For a mixed-use development in the Business East or Business West District, the Zoning Board of Appeals may grant a special permit to increase the maximum FAR to 1.0 provided that for every 1,000 sq. ft. of nonresidential floor area built above a floor area ratio of 0.85, there shall be an at-least-equal amount of residential floor area provided at the same time and set aside for exclusive residential use. In such cases, the minimum lot area requirement in Table 2, Part B, shall not be used to determine the maximum number of units in a mixed-use development.
- (3) In the Business South District, the Zoning Board of Appeals may grant a special permit to increase the maximum FAR to 0.50 if at least forty (40) percent of the floor area in the proposed building is located above the ground floor and the Board determines that the increase will not be detrimental to the surrounding area.

G. Building height. Building height shall be as defined in chapter 7-02.

- (1) In the Industrial District, building height may be increased to eighty (80) feet by special permit from the Planning Board, provided that for every foot of height in excess of sixty (60) feet, there shall be added to each yard requirement two (2) corresponding feet of width or depth.
- (2) In a residential district, for any use other than a single-family or two-family dwelling, the maximum building height shall be 36 feet, except that in the Downtown Neighborhood District, the Zoning Board of Appeals may grant a special permit, subject to any conditions the Board deems appropriate, to increase the maximum building height to forty (40) feet provided that the upper story is contained under a pitched roof.

- H. Only one principal building shall be permitted on a lot except as may be allowed by special permit. Where two or more buildings are allowed on the same lot, the minimum separation between them shall be 20 feet.
- I. Building orientation in Single-Family Residential Districts A, B, and C.
- (1) Dwellings shall be oriented to the street wherever possible. However, to allow for solar orientation, a building may be oriented on the lot for maximum solar utilization.
  - (2) If the front of a dwelling faces another parcel of land rather than a street, the front building line shall be at least thirty (30) feet from the lot line.
- J. Supplemental density and dimensional regulations for certain use classes.
- (1) Where vertical or horizontal mixed-use developments or multi-family or townhouse developments are allowed as of right or by special permit in a business district, the minimum lot area shall be determined as follows:
    - (a) In the Downtown Business District, for vertical or horizontal mixed-use developments, 4,000 sq. ft. for the first two units and 2,500 sq. ft. per unit for each unit over two; and for multi-family or townhouse developments, 10,000 sq. ft. for the first two units and 3,500 sq. ft. per unit for each unit over two.
    - (b) In the Business East District, for vertical or horizontal mixed-use developments and multi-family developments, 20,000 sq. ft. for the first two units and 3,500 sq. ft. per unit for each unit over two.
    - (c) In the Business West and Business South Districts, for vertical or horizontal mixed-use developments, 40,000 sq. ft. for the first two units and 5,000 sq. ft. per unit for each unit over two; and for multi-family developments, 20,000 sq. ft. for the first two units and 3,500 sq. ft. per unit for each unit over two.
  - (2) In the Downtown Neighborhood District:
    - (a) For multi-family and townhouse developments, there shall be at least 10,000 sq. ft. of lot area for the first two units and 4,500 sq. ft. per unit for each unit over two.
    - (b) For cottage dwellings, there shall be at least 5,000 sq. ft. of lot area per dwelling.
  - (3) In any district where a congregate residence is allowed as of right or by special permit, the maximum density shall be one unit per 3,000 sq. ft. of lot area.
  - (4) For hotels, motels, and conference centers in any district, the minimum lot area shall be fifteen (15) acres and minimum lot frontage shall be five hundred (500) feet.

K. Lots in two towns.

In the event that a lot is located partially outside of the Town of Northborough, frontage and lot area located outside of the Town of Northborough may be used to satisfy the minimum frontage and lot area requirements of this bylaw, provided that this section shall only apply if: (a) the use on such lot is one of the following: residential; extensive uses such as agricultural, conservation, or recreation; municipal; institutional; or public utility, as defined in § 7-05-020, or (b) if the use is a permitted use on the entirety of the lot whether in the Town of Northborough or another town.

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**Table 2. Table of Density and Dimensional Regulations.<sup>1</sup>**

| District | Minimum Lot Area<br>(sq. ft.) | Minimum Lot Frontage<br>(feet) | Minimum Lot Width<br>(feet) | Minimum Yard Setbacks |      |      | Maximum Front Setback <sup>2</sup> | Maximum Lot Coverage | Maximum FAR | Minimum Open Space | Maximum Height |      |
|----------|-------------------------------|--------------------------------|-----------------------------|-----------------------|------|------|------------------------------------|----------------------|-------------|--------------------|----------------|------|
|          |                               |                                |                             | Front                 | Side | Rear |                                    |                      |             |                    | Stories        | Feet |
| RA       | 80,000                        | 200                            | 200                         | 30                    | 15   | 25   | -                                  | -                    | -           | -                  | -              | -    |
| RB       | 40,000                        | 150                            | 150                         | 30                    | 15   | 25   | -                                  | -                    | -           | -                  | -              | -    |
| RC       | 20,000                        | 100                            | 100                         | 30                    | 15   | 25   | -                                  | -                    | -           | -                  | -              | -    |
| GR       | 15,000                        | 100                            | 100                         | 30                    | 15   | 25   | -                                  | 30%                  | -           | -                  | -              | -    |
| MSR      | 15,000                        | 100                            | 100                         | 30                    | 15   | 25   | -                                  | 30%                  | -           | -                  | -              | -    |
| DN       | 10,000                        | 50                             | None                        | 15                    | 20   | 20   | 30                                 | 30%                  | -           | 20%                | -              | -    |
| DB       | 4,000                         | 50                             | None                        | 6                     | None | None | 20                                 | -                    | 1.50        | 15%                | -              | 45   |
| BE       | 20,000                        | 150                            | None                        | 15                    | 20   | 25   | 25                                 | -                    | 0.85        | 20%                | 3.0            | 45   |
| BW       | 20,000                        | 150                            | None                        | 15                    | 20   | 25   | 25                                 | -                    | 0.85        | 20%                | 3.0            | 45   |
| BS       | 40,000                        | 150                            | None                        | 40                    | 25   | 25   | -                                  | -                    | 0.20        | 25%                | 3.0            | 45   |
| HB       | 40,000                        | 150                            | None                        | 50                    | 25   | 25   | -                                  | -                    | -           | 25%                | -              | -    |
| I        | 60,000                        | 150                            | None                        | 40                    | 20   | 25   | -                                  | 50%                  | 0.80        | 25%                | -              | 60   |

<sup>1</sup> Additional requirements apply in some districts and for some classes of use. See § 7-06-030, Supplemental regulations.

<sup>2</sup> Maximum front setback applies only to new construction.

## CHAPTER 7-07: OVERLAY DISTRICTS

### Sections:

- 7-07-010 Groundwater Protection Overlay District**
- 7-07-020 Floodplain Overlay District**
- 7-07-030 Major Commercial Development Overlay District**
- 7-07-040 Residential-Open Space Planning Overlay District**

### **7-07-010 Groundwater Protection Overlay District.**

- A. The purpose of the Groundwater Protection Overlay District is:
- (1) To protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the town.
  - (2) To preserve and protect present and potential sources of water supply for the public health and safety.
  - (3) To conserve the natural resources of the town.
- B. Definitions. The following definitions apply to specialized words and terms associated with the Groundwater Protection Overlay District:
- (1) **AQUIFER:** A geologic formation, group of geologic formations or part of a geologic formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs. For purposes of this Article, only the unconsolidated water-bearing, predominately glacially formed geologic deposits are addressed.
  - (2) **AREA OF INFLUENCE:** The area which experiences drawdown by a pumping well as plotted on a two-dimensional (map) surface.
  - (3) **CONE-OF-DEPRESSION:** A three-dimensional conical concavity produced in a water table by a pumping well.
  - (4) **EXISTING CONDITIONS:** Conditions as they occur as of the effective date of this chapter (M.G.L. c. 40A, § 6).
  - (5) **GLACIOFLUVIAL:** Pertaining to an unconsolidated geologic deposit, which was, formed by or in association with glacial meltwater streams, typically resulting in the deposition of sand and gravel-sized particles.
  - (6) **GLACIOFLUVIAL/LACUSTRINE:** Pertaining to an unconsolidated geologic deposit which was formed by or in association with the transition zone where glacial meltwater streams flowed into a glacial lake environment, typically resulting in the

deposition of sand, silt and clay-sized particles in a fining downward sequence. References to such deposits within this Article refer to the more coarse-grained sediments such as would be associated with a delta.

- (7) **GLACIOLACUSTRINE:** Pertaining to an unconsolidated geologic deposit which was formed by or in association with a glacial lake environment, typically resulting in the deposition of sand, silt and clay-sized particles. References to such deposits within this Article refer to the fine-grained sediments such as would be associated with lake bottom deposits.
- (8) **GROUNDWATER:** The subsurface water present in aquifers and recharge areas.
- (9) **IMPERVIOUS SURFACE:** Material on the ground that prevents surface water from infiltrating into the soil and underlying groundwater system; impermeable.
- (10) **LEACHABLE WASTES:** Waste materials, including solid wastes, sludge and agricultural wastes, that are capable of releasing waterborne contaminants to the surrounding environment.
- (11) **MINING OF LAND:** The removal of geologic materials, such as topsoil, sand and gravel metallic ores or bedrock.
- (12) **PRIMARY RECHARGE AREAS:** Areas that collect precipitation or surface water and directly transmit it to aquifers or areas of pumping influence.
- (13) **PROCESS WASTES:** Nondomestic, nontoxic, nonhazardous liquid or solid waste by-products associated with the manufacture or preparation of a product, including but not limited to hardware, dry goods, foodstuffs and printed material.
- (14) **RECHARGE:** The processes involved in the absorption and addition of water to the zone of saturation; also, the amount of water added.
- (15) **RECHARGE AREA:** An area in which water is absorbed that eventually reaches the zone of saturation in one (1) or more aquifers.
- (16) **SANITARY WASTE:** Wastewaters arising from ordinary domestic water use, as from toilets, sinks and bathing facilities, and containing such concentrations and types of pollutants as to be considered normal wastes. For purposes of this Article, all references to disposable volume(s) of "sanitary wastes" refer to design standards as outlined in Title V of the State Environmental Code (310 CMR 15.00).
- (17) **SATURATED THICKNESS:** The depth of the saturated zone.
- (18) **SATURATED ZONE:** The subsurface zone occurring below the water table where the soil pores are filled with water and the moisture content equals the porosity.
- (19) **SOLID WASTES:** Any discarded solid material, putrescible or nonputrescible, consisting of all combustible and noncombustible solid material, including but not limited to garbage and rubbish.

- (20) **TOXIC OR HAZARDOUS MATERIALS:** Any substance or mixture of such physical, chemical or infectious characteristics as to pose an actual or potential hazard to water supplies or other hazard to human health if such substance or mixture were discharged to land or waters of this town. "Toxic or hazardous materials" include, without limitation, organic chemicals, petroleum, heavy metals, radioactive or infectious wastes, acids and alkalines, and include products such as pesticides, herbicides, solvents and thinners. Partial listings of hazardous substances include: M.G.L. c. 21C, the Massachusetts Hazardous Waste Regulations (310 CMR 30.00) and 314 CMR 3.16.
- (21) **WETLANDS:** As defined by M.G.L. c. 131, § 40.

C. Establishment and delineation.

- (1) For the purpose of these districts, there are hereby established within the town certain aquifer protection areas consisting of aquifers, areas of influence and recharge areas. These areas are determined by standard geologic and hydrologic investigations, which may include drilling observation wells, utilizing existing boring data and stratigraphic profiles, conducting seismic surveys or other geophysical techniques, performing pumping tests, water sampling, geologic mapping and computer modeling.
- (2) The boundaries of these districts are delineated on a map at a scale of one (1) inch equals one thousand (1,000) feet, entitled "Zoning Map - Town of Northborough, Massachusetts," on file in the office of the Town Clerk. These boundaries reflect the best hydrogeologic information available as of the date of this map. In the event of a discrepancy between the map and the criteria of Areas 1, 2 and 3 below, the map shall control.
- (3) Where a Groundwater Protection District boundary line divides a lot in single or common ownership at the time such district is established, a use authorized on the less restricted portion of such lot may be extended into the more restricted portion but in no case for more than fifty (50) feet over the established line, subject to a special permit from the special permit granting authority for said extension shall be required in accordance with D(3) of this chapter.
- (4) Where the bounds as delineated are in dispute, the town or landowner(s) may engage a professional geologist, hydrogeologist or engineer trained and experienced in hydrogeology to determine more accurately the location and extent of the aquifer or recharge protection areas. Amendments to the district boundaries shall only occur per the requirements of M.G.L. c. 40A, § 5.
- (5) The special permit granting authority shall be the Zoning Board of Appeals, except that for wireless communication facilities applications or any applications in the Industrial District, the special permit granting authority shall be the Planning Board. The special permit granting authority shall hear and act upon all cases of appeal and petitions for special permits which are brought under this chapter. The special permit granting authority shall, within five (5) business days of receipt of application of filing, forward to the Groundwater Advisory Committee [consisting of one (1)

member each or one designee each from the Board of Selectmen, Conservation Commission, Board of Health, Planning Board, and Water/Sewer Commission] five (5) copies of said application or filing. Within sixty-five (65) days of receipt of application or filing, the special permit granting authority shall hold a public hearing. Within twenty-one (21) days following the public hearing, the Groundwater Advisory Committee shall report its findings and recommendations to the special permit granting authority. The special permit granting authority shall render its decision within ninety (90) days of the public hearing.

- (6) The Groundwater Protection Overlay Districts include the aquifer's significant areas of recharge consisting of:
- (a) Area 1. Area of influence of all existing municipal wells within the town, confirmed by long-term pump test or by stabilized water levels after maximum duration pumping/primary recharge area.
    - [1] The cones-of-depression and respective areas of influence and recharge generated by the municipal wells after at least ninety (90) days of continuous pumping at their respective rated capacities or after long-term pumping at their currently utilized capacities (may be based upon computer modeling).
  - (b) Area 2. Potential water supply area/primary recharge area.
    - [1] Glaciofluvial and/or glaciofluvial/lacustrine deposits with forty (40) feet or greater of saturated thickness.
  - (c) Area 3. Primary recharge area.
    - [1] Glaciofluvial, glaciofluvial/lacustrine and/or glaciolacustrine deposits with less than forty (40) feet of saturated thickness and upgradient of Areas 1 and/or 2.

D. Use regulations.

The Groundwater Protection Overlay Districts shall be considered as overlying other zoning districts. Any uses permitted in the portions of the underlying districts shall be permitted, subject to all the provisions of this district. Uses not specifically permitted in this chapter (subsection 1 or 3 of this section) shall be prohibited. Where all uses allowed in the underlying district would not be allowed by the overlying Groundwater Protection District, those uses allowed in the Groundwater Protection District shall prevail. Within the Groundwater Protection Overlay Districts, these regulations shall apply:

- (1) The following uses are permitted within the Groundwater Protection Overlay Districts, provided that all necessary permits, orders or approvals required by local, state or federal law shall have been obtained, and when permitted by the underlying zoning district:

(a) Area 1.

- [1] Conservation of soil, water, plants and wildlife.
- [2] Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
- [3] Landings; foot-, bicycle and/or horse paths; and bridges.
- [4] Proper operation and maintenance of existing dams, splashboards and other water control, supply and conservation devices.
- [5] Agricultural uses: pasture, grazing, hay, gardening, nursery, conservation, forestry and harvesting of crops, provided that fertilizers, herbicides, pesticides and other leachable materials are not stored outdoors or in any manner which would permit leakage thereof. The appropriateness of the management practices shall be governed by the United States Department of Agriculture or Soil Conservation Service, the Cooperative Extension Service or Massachusetts Department of Food and Agricultural guidelines use regulations.
- [6] Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
- [7] Residential development of single-family dwellings on lots of at least eighty thousand (80,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%), such determination to be made by the Building Department in conjunction with the Town Engineer.
- [8] Agricultural, religious, educational and public services as exempted by M.G.L. c. 40A, § 3.

(b) Area 2.

- [1] All uses permitted in Area 1 and the following uses to the extent permitted in the underlying district.
- [2] Residential development of single-family dwellings on lots of at least forty thousand (40,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%), such

determination to be made by the Building Department in conjunction with the Town Engineer.

(c) Area 3.

- [1] All uses permitted in Areas 1 and 2 above and the following uses to the extent permitted in the underlying district.
- [2] Residential development of single family dwellings as allowed in the underlying district, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%), such determination to be made by the Building Department in conjunction with the Town Engineer.
- [3] Commercial development limited to retail shopping, business or professional office on lots of at least twenty thousand (20,000) sq. ft. in area, such that the impervious cover of the building lot is increased over existing conditions by no more than forty percent (40%), the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to one hundred ten (110) gallons per day per ten thousand (10,000) sq. ft. of lot area.

(2) The following uses are prohibited:

(a) Area 1.

- [1] Land uses resulting in the disposal of any waste material, solid or liquid, other than domestic sanitary wastes.
- [2] Any use (except agricultural, religious, educational and public services as exempted by M.G.L. c. 40A, § 3) involving the sale, storage or transportation of fuel, oil or gasoline, other than a maximum of three hundred (300) gallons of domestic home heating oil.
- [3] Uses (except agricultural, religious, educational and public services as exempted by M.G.L. c. 40A, § 3) which, as part of normal operating or maintenance procedures, would involve the application, transfer, storage or use of toxic or hazardous materials in quantities greater than normal household use.
- [4] The commercial mining of land.
- [5] Dumping of snow brought in from outside Area 1.

- [6] Storage of road salt or deicing chemicals in quantities greater than normal residential use.
  - [7] Automotive and boat service and repair shops, junk- and salvage yards.
  - [8] Anything prohibited in Areas 2 and 3.
- (b) Areas 2 and 3.
- [1] Disposal of solid wastes, other than brush and stumps.
  - [2] The on-site disposal of liquid or leachable wastes other than sanitary domestic wastes or innocuous process wastes.
  - [3] Uncovered storage of road salt or deicing chemicals.
  - [4] The commercial mining of land to an elevation of less than ten (10) feet above the maximum high-water table as established by a monitoring program of groundwater levels in observation wells installed at the owner's expense by a professional geologist, hydrogeologist or engineer in the proposed location of mining.
  - [5] Any activity (except agricultural, religious, educational and public services as exempted by M.G.L. c. 40A, § 3) which involves as a principal or accessory use the manufacture, storage, application, transportation and/or disposal of toxic or hazardous materials where such activity would involve outside storage, on-site waste disposal or uncontrolled drainage facilities which would allow discharge to surface or ground waters.
- (3) The following uses are permitted only under the terms of a special permit issued by the special permit granting authority, are subject to subsection B (1) and (2) above and must conform to provisions of the underlying zoning district:
- (a) Area 1.
    - [1] Expansion of existing nonconforming uses to the extent allowed by the underlying district. The special permit granting authority shall not grant such approval unless it shall find that such expansion shall not be substantially more detrimental to the water supply than the existing use. In no case shall such permit be issued for a prohibited use.
    - [2] Two-family and multifamily residential development on lots of at least eighty thousand (80,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing

conditions by no more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to fifty-five (55) gallons per day per ten thousand (10,000) sq. ft. of lot area.

- [3] Cluster development, such that developed density over the entire parcel does not exceed one (1) dwelling unit per eighty thousand (80,000) sq. ft. of area, increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%).
- [4] In industrial zones, a change in the use of the building shall require a special permit unless a determination is made by the Inspector of Buildings/Zoning Enforcement Officer, Town Engineer and Town Planner finding that such change in use of the building is not more detrimental to the water supply. In the event a special permit is required, the special permit granting authority shall not grant such approval unless it shall find that such change in use shall not be detrimental to the water supply.

(b) Area 2.

- [1] Expansion of existing nonconforming uses to the extent allowed by the underlying district. The special permit granting authority shall not grant such approval unless it shall find that such expansion shall not be substantially more detrimental to the water supply than the existing use. In no case shall such permit be issued for a prohibited use.
- [2] Two-family and multifamily residential development on lots of at least forty thousand (40,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to one hundred ten (110) gallons per day per ten thousand (10,000) sq. ft. of lot area.
- [3] Cluster development, such that developed density over the entire parcel does not exceed one (1) dwelling unit per forty thousand (40,000) sq. ft. of area, increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%).
- [4] Commercial development limited to retail shopping, business or professional office on lots of at least forty thousand (40,000) sq. ft. in

area where sewage disposal is on-site and lots of at least twenty thousand (20,000) sq. ft. where sewage disposal is via municipal sewerage, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%), the impervious cover of the building lot is increased over existing conditions by no more than forty percent (40%) or there is no restriction of lot coverage beyond that provided by underlying zoning where proponent can demonstrate and certify that runoff waters leaving the developed site via surface flow will not violate Class B water quality standards (314 CMR 4.00) and runoff waters leaving the site via groundwater recharge will not violate Class I groundwater quality standards (314 CMR 6.00), and any on-site sewage disposal is less than or equal to one hundred ten (110) gallons per day per ten thousand (10,000) sq. ft. of lot area.

- [5] Industrial development on lots of at least sixty thousand (60,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%), the impervious cover of the building lot is increased over existing conditions by no more than forty percent (40%) or the lot coverage does not exceed that amount of lot coverage permitted by underlying zoning where proponent can demonstrate and certify, except to the extent of naturally occurring pH and temperature components of surface water quality and groundwater quality standards, that runoff waters leaving the developed site via surface flow will not cause a violation of Class B water quality standards (314 CMR 4.00) and runoff waters leaving the site via groundwater recharge will not cause a violation of Class I groundwater quality standards (314 CMR 6.00), and any on-site sewage disposal is less than or equal to one hundred ten (110) gallons per day per ten thousand (10,000) sq. ft. of lot area and any water supply developed on-site shall not diminish the total safe yield of any Town of Northborough water supply.
- [6] Commercial or industrial activities which involve as accessory uses the manufacture, storage, application, transportation and/or disposal of toxic or hazardous materials, provided that there shall be no on-site disposal of any waste or process materials, no outside storage of toxic or hazardous materials, contained drainage facilities in areas of potential spillage or release, adequate contingency plans in case of spillage or release and approved routing of suppliers and haulers of any toxic or hazardous materials to or from the state. The proponent for a building or occupancy permit must demonstrate and certify on an annual basis to the Building Department and Board of Health that all applicable federal, state and Town of Northborough licenses, permits and standards for the handling, use, storage and disposal of any regulated materials have been obtained or met.

[7] In industrial zones, a change in the use of the building shall require a special permit unless a determination is made by the Inspector of Buildings/Zoning Enforcement Officer, Town Engineer and Town Planner finding that such change in use of the building is not more detrimental to the water supply. In the event a special permit is required, the special permit granting authority shall not grant such approval unless it shall find that such change in use shall not be detrimental to the water supply.

(c) Area 3.

[1] Expansion of existing nonconforming uses to the extent allowed by the underlying district. The special permit granting authority shall not grant such approval unless it shall find that such expansion shall not be substantially more detrimental to the water supply than the existing use. In no case shall such permit be issued for a prohibited use.

[2] Any use involving on-site disposal of process wastes.

[3] Commercial development as allowed per underlying zoning, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%), the impervious cover of the building lot is increased over existing conditions by no more than forty percent (40%) or there is no restriction of lot coverage beyond that provided by underlying zoning where proponent can demonstrate and certify that runoff waters leaving the developed site via surface flow will not violate Class B water quality standards (314 CMR 4.00) and runoff waters leaving the site via groundwater recharge will not violate Class I groundwater quality standards (314 CMR 6.00), and any on-site sewage disposal is less than or equal to two hundred twenty (220) gallons per ten thousand (10,000) sq. ft. of lot area.

[4] Industrial development on lots of at least sixty thousand (60,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%), the impervious cover of the building lot is increased over existing conditions by no more than forty percent (40%) or the lot coverage does not exceed that amount of lot coverage permitted by underlying zoning where proponent can demonstrate and certify, except to the extent of naturally occurring pH and temperature components of surface water quality and groundwater quality standards, that runoff waters leaving the developed site via surface flow will not cause a violation of Class B water quality standards (314 CMR 4.00) and runoff waters leaving the site via groundwater recharge will not cause a violation of Class I groundwater quality standards (314 CMR 6.00), and on-site sewage disposal is less than or equal to two hundred twenty (220) gallons per day per ten

thousand (10,000) sq. ft. of lot area and any water supply developed on-site shall not diminish total safe yield of any Town of Northborough water supply.

- [5] Commercial or industrial activities which involve as accessory uses the manufacture, storage, application, transportation and/or disposal of toxic or hazardous materials, provided that there shall be no on-site disposal of any waste or process materials, no outside storage of toxic or hazardous materials, controlled/contained drainage facilities in areas of potential spillage or release, adequate contingency plans in case of spillage or release and approved routing of suppliers and haulers of any toxic or hazardous materials to or from the site. The proponent for a building or occupancy permit must demonstrate on an annual basis to the Building Department and Board of Health that all applicable federal, state and Town of Northborough licenses, permits and standards for the handling, use, storage and disposal of any regulated materials have been obtained or met.
  - [6] Two-family and multifamily residential development on lots of at least twenty thousand (20,000) sq. ft. in area, such that the increase in postdevelopment net runoff volume shall not exceed existing conditions by more than fifteen percent (15%) or such that the impervious cover of the building lot is increased over existing conditions by no more than fifteen percent (15%) and any on-site sewage disposal is less than or equal to two hundred twenty (220) gallons per day per ten thousand (10,000) sq. ft. of lot area.
  - [7] In industrial zones, a change in the use of the building shall require a special permit unless a determination is made by the Inspector of Buildings/Zoning Enforcement Officer, Town Engineer and Town Planner finding that such change in use of the building is not more detrimental to the water supply. In the event a special permit is required, the special permit granting authority shall not grant such approval unless it shall find that such change in use shall not be detrimental to the water supply.
- (4) Procedures for issuance of special permit.
- (a) Each application for a special permit shall include:
    - [1] A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/ facilities from vandalism, corrosion and leakage and to provide for control of spills.
    - [2] A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods.

- [3] Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system or any wastewater treatment system over fifteen thousand (15,000) gallons' per day capacity.
  - [4] For underground storage of toxic or hazardous materials, evidence of qualified professional supervision of system design and installation.
  - [5] Analysis by a technically qualified expert certifying that the quality and supply of the underlying groundwater resources will not be degraded to the point whereby a hazard to public health or ecological damage results.
- (b) Each application for a special permit shall be filed with the Town Clerk for transmittal to the special permit granting authority and shall be accompanied by nine (9) copies of the plan [minimum scale of one (1) inch equal to one hundred (100) feet]. Such special permit shall be granted if the special permit granting authority determines that the intent of this chapter as well as its specific criteria are met. In making such determination, special permit granting authority shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed.
  - (c) Upon receipt of the special permit application, the Town Clerk shall transmit one (1) copy each to the Board of Selectmen, Conservation Commission, Planning Board, Board of Health and Water and Sewer Commissioners (Groundwater Advisory Committee) for their written recommendations. Failure to respond in writing to the clerk of the special permit granting authority within twenty-one (21) days following public hearing shall indicate approval by said board or committee.
  - (d) The special permit granting authority shall hold a hearing, in conformity with the provisions of M.G.L. c. 40A, § 9, within sixty-five (65) days after the filing of the application with the special permit granting authority and after the review of the aforementioned town bodies. Notice of the public hearing shall be given by publication and posting and by first-class mailings to parties in interest, as defined in M.G.L. c. 40A, § 11. The decision of the special permit granting authority and any modification or renewal thereof shall be filed with the Town Clerk within ninety (90) days following the close of the public hearing. Failure of the special permit granting authority to act within ninety (90) days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said § 11.
  - (e) After notice and public hearing and after coordinating, clarifying and weighing the comments and recommendations of the Groundwater Advisory Committee, the special permit granting authority may grant such a special permit, provided that it finds that the proposed use:

- [1] Meets the purpose and intent of this chapter and will not derogate from the purpose of the Groundwater Protection Overlay Districts.
- [2] Will not, during construction or thereafter, impair ambient groundwater quality or reduce existing recharge capacity beyond that allowed per this chapter.
- [3] Will not adversely affect the quality or the yield of an existing or potential water supply.

**7-07-020 Floodplain Overlay District.**

A. General provisions.

- (1) The purpose of the Floodplain Overlay District is to preserve and maintain the groundwater table; to protect the public health and safety and persons and property against the hazards of floodwater inundation; to protect and preserve wildlife habitat; and to protect the community against costs which may be incurred when unsuitable development occurs in swamps, marshes, along watercourses and in areas subject to floods.
- (2) The Floodplain Overlay District shall be considered as overlying other districts. All uses permitted in the Floodplain Overlay District shall conform to uses permitted in the underlying district.
- (3) In the Floodplain Overlay District, there shall be no land filling or dumping and no new construction or extension of existing structures except as provided below, and for all areas designated as floodways, any proposed encroachment in a floodway is prohibited unless certification by a registered professional engineer or architect is provided by the proponent, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

B. Prohibited uses. Except as provided in subsection C and D below, all new construction and encroachments including, grading, filling, excavating, substantial improvements and other development is prohibited unless:

- (1) A technical evaluation by a Registered Professional Engineer demonstrates that the new construction or encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge; and
- (2) It is otherwise allowed by a special permit from the Zoning Board of Appeals under subsection D.

C. Permitted uses.

- (1) Maintenance and repair of existing structures and improvement of existing structures, provided that any such improvement is either within the existing structure or above the base flood elevation;

- (2) Maintenance, repair and replacement of existing structures in a driveway or private way or in an associated easement. Structures referred to herein are banks, walls, culverts, bridges or similar structures;
- (3) Any woodland, grassland, wetland, agricultural, horticultural or recreational use of land or water not requiring filling, including parking facilities requiring no permanent structures. Alteration or extension of preexisting nonconforming structures (see chapter 7-08) shall be designed, placed and constructed to offer a minimum obstruction to the flow of water and shall be firmly anchored to prevent floating away.
- (4) Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection.
- (5) Driveways across floodplain areas are to be designed so that the existing elevations are not altered in such a way as to decrease the flood control potential of the area or interfere with the flow of water.

D. Uses permitted by special permit.

- (1) Buildings and sheds accessory to the uses described in subsection C, and driveways and roads are permitted on approval of the Zoning Board of Appeals in accordance with § 7-03-040. In hearing such applications, the Zoning Board of Appeals shall consider the following, in addition to any other factors it deems pertinent:
  - (a) Any such building, structure, driveway or road shall be designed, placed and constructed so as to offer a minimum obstruction to the flow of water; and said building or structure shall be firmly anchored to prevent floating away.
  - (b) Such structure shall not be used for sustained human occupancy.
  - (c) Such structure shall be designed to protect against damage from inundation by floodwaters, equipment or materials stored therein.
  - (d) There shall be no practical alternative means of access, and the Town Engineer has certified that the said driveway or road, if constructed, shall not endanger the health, safety or welfare of the public.
  - (e) The proponent has obtained any existing flood elevation data, and it has been reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood proofing requirements of the State Building Code.
  - (f) No application approval by the Zoning Board of Appeals shall be considered to supersede the requirements of M.G.L. c. 131, § 40 (Wetlands Protection Act).

- (2) If any land in the Floodplain Overlay District is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for any use which would otherwise be permitted if such land were not, by operation of this section, in the Floodplain Overlay District, and said Board finds that the use of such land for any such use will not interfere with the general purpose for which the Floodplain Overlay District has been established and will not be detrimental to the public health, safety or welfare, the Zoning Board of Appeals may, after a public hearing with due notice, issue a special permit for any such use.
- (3) Any other bylaw or regulation to the contrary notwithstanding, no construction shall be permitted within the Floodplain Overlay District unless the Zoning Board of Appeals determines that all utilities are located, elevated and constructed so as to minimize or eliminate flood damage and that the methods of disposal for sewage, refuse and other wastes and for providing drainage are adequate to reduce flood hazards.
- (4) If a special permit is granted, the Zoning Board of Appeals shall impose such conditions and safeguards as public safety, welfare and convenience may require. Upon completion of any authorized work, an as-built plan, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, of all improvements in the Floodplain Overlay District shall be submitted to the Building Inspector and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been flood proofed and the finished grades of all disturbed areas.

**7-07-030 Major Commercial Development Overlay District.**

- A. Purposes. The purposes of the Major Commercial Development Overlay District (MCDOD) are to provide options for large-scale commercial development in areas suitable for commercial uses but zoned for industrial uses.
- B. Applicability. The MCDOD is an overlay district superimposed on land in the IA district in the vicinity of the Southwest Connector, as shown on the Zoning Map-Town of Northborough.
- C. Relationship to existing zoning. In the MCDOD, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the MCDOD shall apply, and by filing an application for a special permit, site plan review or building permit under this § 7-07-030, the owner shall be deemed to accept and agree to them. Where the provisions of the MCDOD are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

D. Use regulations.

- (1) Permitted uses. The following uses shall be permitted in the MCDOD, subject to site plan approval under § 7-03-050:
  - (a) One retail store, up to 25,000 sq. ft. of gross floor area.
  - (b) Restaurant, excluding alcoholic beverages.
  - (c) Personal service establishment.
  - (d) Deli, sandwich shop, or pizza shop.
  - (e) Professional or business office.
  - (f) Uses accessory to a permitted principal use, as regulated by 7-05-020(J).
- (2) Uses allowed by special permit. The Zoning Board of Appeals shall serve as special permit granting authority and may grant a special permit, subject to any conditions it may require, for any of the following uses:
  - (a) One retail store exceeding 25,000 sq. ft. of gross floor area, or two or more retail stores on the same lot.
  - (b) Restaurant, including alcoholic beverages.
  - (c) Hotel, motel, or conference center.
  - (d) Commercial recreation, indoor.
  - (e) Commercial amusement.
  - (f) Bank or automated teller machine.
  - (g) Auto filling or service station.
  - (h) Bus stop, sheltered.
  - (i) Uses accessory to a principal use allowed by special permit, as regulated by § 7-05-020(J).

E. Density and dimensional regulations. The density and dimensional requirements that apply in the Highway Business District shall apply in the MCDOD.

F. Other requirements.

- (1) All development in the MCDOD shall comply with all applicable site development standards in § 7-09-020.

- (2) All uses in the MCDOD shall comply with the off-street parking and loading regulations in § 7-09-030.
  - (3) Signs in the MCDOD shall comply with provisions that apply to the Highway Business District in § 7-09-040.
- G. Special permits. The Zoning Board of Appeals may grant a special permit for any use listed under subsection D(2) above, or a special permit with site plan approval for a development in the MCDOD, subject to any conditions it deems appropriate, upon finding that the proposal meets the criteria for approval in § 7-03-030 and where applicable, § 7-03-050, and the following additional criteria:
- (1) The proposed development will not result in insufficient domestic water pressure or fire flows in off-site locations, based upon review by the Department of Public Works or an outside consultant of a water system impacts analysis submitted by the proponent;
  - (2) Major street intersections and roads within a minimum radius of two (2) miles of the boundary of the development will provide sufficient capacity to accommodate current and projected future traffic in a safe and efficient manner;
  - (3) Major street intersections affected by the proposed development which currently operate at an acceptable level of service (LOS), defined as LOS “D” or better, will continue to operate under such conditions or better upon completion and occupancy of the project, as determined by an independent review of a traffic impacts analysis submitted by the proponent;
  - (4) Adequate traffic improvements are either in place or, as a condition of the special permit, will be required to be constructed and completed prior to or subsequent to the issuance of any certificate of occupancy for any portion of the project in order to satisfy the criteria under (2) and (3) above; and
  - (5) The proposed development will provide a positive fiscal impact on the town, defined as a development that generates more local revenue than the total cost to the town to provide municipal services to the development, as determined by an independent review of an economic and fiscal impact analysis submitted by the proponent.

**7-07-040 Residential-Open Space Planning Overlay District.**

- A. Purposes. The purposes of the Residential-Open Space Planning Overlay District (ROPOD) are to encourage the preservation of open space by providing for a range of residential uses in exchange for a substantial amount of protected land; to provide flexibility in the development of land in an environmentally sensitive area; to assure that the Town has sufficient information to evaluate the impacts of proposed developments; and to encourage innovative concepts for developments that are subject to fewer predetermined requirements and provide more community benefits than those associated with development under the provisions of the underlying zoning.

- B. Applicability. The ROPOD is an overlay district superimposed upon land located in the Residence B district in the vicinity of the Southwest Connector, as shown on the Zoning Map-Town of Northborough. Within the ROPOD, a tract of land as defined below may be placed in a Planned Residential Development District (PRDD) by a two-thirds vote of town meeting, in accordance with M.G.L. c. 40A, § 5. Each PRDD shall be numbered sequentially, such as PRDD-1, PRDD-2, and so forth. Unless land in the ROPOD is placed within a PRDD and a property owner chooses to develop land in accordance with the provisions of a PRDD, the use, density and dimensional regulations shall be those in effect in the underlying Residence B district. In the event that a proponent wishes to develop in accordance with the regulations of a PRDD, the rules and regulations of the PRDD as approved by town meeting shall apply, and by filing an application for a special permit, site plan approval, or building permit under this § 7-07-040, the owner shall be deemed to accept and agree to them.

A tract of land may be placed in a PRDD if it meets all of the following minimum requirements, unless waived or altered by town meeting vote:

- (1) The proposed site is located within the ROPOD;
  - (2) The proposed site contains at least forty (40) acres of land;
  - (3) The proposed site has at least two hundred (200) feet of frontage on a street as defined in § 7-02-040; and
  - (4) The Planning Board has conducted a public hearing on the land owner's proposed concept plan for the site in accordance with the procedures of this section and M.G.L. c. 40A, § 5.
- C. Use regulations. The owner of a qualifying tract of land may propose a PRDD with any of the following uses, which shall be subject to the grant of a special permit from the Planning Board.
- (1) Detached single-family dwelling.
  - (2) Attached single-family dwelling or townhouse.
  - (3) Multi-family dwelling.
  - (4) Assisted living residence.
  - (5) Continuing care retirement community.
  - (6) The following accessory residential uses:
    - (a) Garage or carport accessory to dwellings requiring a special permit.
    - (b) Other accessory structure.
  - (7) Passive recreation, open space, or conservation.

- (8) Other uses approved at the time of town meeting approval of the PRDD.
- D. Concept plan. A land owner seeking to place property in a PRDD shall submit a concept plan to the Planning Board for review as provided in subsection E below. The concept plan shall contain a written submission and plans and drawings. The purpose of the concept plan is to identify and describe all of the use, density and dimensional, and other requirements and restrictions that shall apply to development in a proposed PRDD, to the extent that such requirements differ from the requirements governing development in the underlying district. The contents of the concept plan, as may be revised by the owner during the Planning Board's review process, shall become binding provisions for development in the PRDD upon town meeting's approval of the PRDD.
- (1) Written submission. The narrative submission shall include all of the following information:
- (a) A description of the site, including assessor's parcel identification number(s), total area in sq. ft., and total developable area in sq. ft.;
  - (b) The specific uses proposed for inclusion in the PRDD, which may be any of the uses listed under subsection C above;
  - (c) The specific density and dimensional provisions proposed for the PRDD, including provisions for each type of dimensional requirement in §7-06-020 and the following additional requirements:
    - [1] Maximum number of dwelling units to be constructed in the PRDD,
    - [2] Maximum ratio of gross floor area of all buildings and structures to the total developable area of the site, and
    - [3] Maximum ratio of impervious surfaces to the total developable area of the site;
  - (d) The proposed maximum number of off-street parking and loading spaces, and the proposed number of parking spaces per dwelling unit by unit type;
  - (e) A traffic analysis prepared by a certified professional traffic operations engineer registered as a professional engineer in the Commonwealth of Massachusetts, including:
    - [1] Traffic counts on existing streets that provide access to the proposed PRDD, showing data for average daily traffic (ADT) and a.m. and p.m. peak periods,
    - [2] Intersection turning movement counts at intersections most likely to be affected by development in the proposed PRDD,

- [3] An inventory of roadway characteristics, such as but not limited to the width of existing streets that provide access to proposed PRDD and the presence or absence of public sidewalks on those streets,
  - [4] Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and typical one hour off-peak trip generation, based on the most recent edition of the Institute of Traffic Engineers, Trip Generation,
  - [5] The estimated distribution of new trips by approach streets,
  - [6] The effect of additional PRDD-generated traffic on the level of service (LOS) on each approach street and at intersections likely to be affected by the proposed development, and
  - [7] Estimated off-street parking and loading requirements and time of peak accumulation;
- (f) An analysis of the environmental impacts of development in the proposed PRDD, in general terms, considering wetlands, surface water and groundwater resources, wildlife habitat, air quality, and scenic views;
  - (g) An analysis of the public benefits of the proposed PRDD, such as but not limited to the amount of open space to be preserved, the inclusion of affordable housing, the sustainable design elements of the proposed concept plan, the amount of tax revenue to be generated by development in the PRDD compared with the Town's cost to provide municipal and school services to the development, or other benefits as may be applicable to a particular site or project;
  - (h) A complete, specific list and description of all provisions in this bylaw with which the proposed PRDD will not comply, which list shall not be limited to the use and dimensional regulations of the underlying district;
  - (i) A current list of all abutters within 300 feet of the boundaries of the proposed PRDD, as certified by the assessor's office; and
  - (j) Any additional specifications the owner wishes to propose for the PRDD, which specifications shall be binding to the same extent as the required specifications described above;
- (2) Plans and drawings. The concept plan submission shall include the following plans and drawings:
    - (a) A map showing the boundaries of the proposed PRDD, with dimensions, together with identification of adjacent streets and other information needed to understand the location of the proposed district;

- (b) A plan or plans showing the information required for an open space-residential development special permit under §7-10-010(J)(4), as applicable, and the following additional requirements:
  - [1] Preliminary building plans, showing building types and their approximate locations, and floor plans and typical elevations to scale, for all proposed buildings and structures,
  - [2] Existing and proposed utilities, including water mains, fire hydrants, sanitary sewers, and storm drains adjacent to the land or to which the proposed development will be connected,
  - [3] The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space,
  - [4] The yard setback in feet for buildings and parking lots from lot lines and where applicable, a zoning district boundary;
- (c) Any additional drawings which the land owner wishes to include for the proposed PRDD, provided that such additional drawings shall be binding to the same extent as the required drawings.

E. Concept plan submission procedures.

- (1) The proponent wishing to place land in a PRDD is encouraged to meet with the Planning Board prior to submitting a concept plan. The purpose of the pre-submission meeting is to solicit guidance from the Planning Board about the scope and level of detail to be shown in the concept plan.
- (2) The proponent shall submit thirteen (13) complete copies of the concept plan to the Town Clerk at least twenty-one (21) days before the date of the Planning Board hearing concerning a duly filed petition to place the tract of land in a PRDD. The proponent shall distribute a complete copy of the concept plan to each of the Town Clerk, Board of Selectmen, Planning Board (5 copies), Town Planner, Town Engineer, DPW Director, Board of Health Agent, Police Department, and Fire Department.
- (3) Once submitted to the Planning Board, the concept plan shall not be amended except in accordance with this section. A concept plan may be amended in writing, signed by the proponent, if filed with the Town Clerk and the Planning Board at least five (5) days before the date of the town meeting at which the PRDD is to be considered, provided that such amendment has been approved by the Planning Board, as evidenced by certification of the same by the clerk of the Planning Board, as shown on the concept plan amendment.
- (4) The Planning Board will approve an amendment only if it finds that there is good cause for the proposed change and that the change is not inconsistent with information presented at the Planning Board public hearing. The concept plan may

also be amended by town meeting, if determined by the town moderator to be within the scope of the article.

- F. Concept plan public hearing. The Planning Board shall hold a public hearing about the proposed creation of a PRDD in accordance with M.G.L. c. 40A, § 5. The public hearing notice shall be in accordance with M.G.L. c. 40A, s. 5 and in a form approved by the Planning Board. At minimum, the notice shall contain a description of the concept plan in a form sufficient for the public to understand the proposed PRDD, and shall identify the locations at which complete copies of the concept plan may be inspected prior to town meeting. The proponent shall pay the cost of providing complete copies of the concept plan for placement in said locations, and for publication of the public hearing notice.
- G. Town meeting. The concept plan shall be presented to town meeting and shall be identified specifically in any motion to establish the PRDD.
- H. Special permit with site plan approval. The Planning Board may grant a special permit with site plan approval for the development of land within the PRDD, subject to any conditions it may require. The following procedures and decision criteria shall apply in the PRDD.
  - (1) Application. The application for a special permit with site plan approval shall be filed with the Planning Board under § 7-03-050. The application shall include a copy of the concept plan approved by town meeting, and shall be in accordance with the rules and regulations of the Planning Board. The site plan submission shall contain sufficient information for the Planning Board to render a decision under § 7-03-050 and subsection (3) below. No application shall be deemed complete without payment of fees by the proponent as determined by the Planning Board.
  - (2) Public hearing. The Planning Board shall hold a public hearing in accordance with M.G.L. c.40A, §§ 9 and 11, and § 7-03-040 of this bylaw. The public hearing notice shall contain a description of the site plan sufficient for the public to understand the proposed development and identify locations at which the special permit application may be reviewed.
  - (3) Decision. The Planning Board shall grant a special permit if it determines that the definitive site plan submission:
    - (a) Is consistent with the concept plan approved as part of the vote to establish the PRDD at town meeting, in that the definitive plan does not exceed the density and dimensional requirements and other restrictions included in the concept plan, or contain any uses other than the uses presented in the concept plan, or provide less than the minimum common open space presented in the concept plan;
    - (b) Provides for a suitable development in harmony with the general purposes and intent of this bylaw and not detrimental to the neighborhood or to the town, and which meets the requirements of § 7-03-050 for a special permit with site plan approval, including without limitation the decision criteria set forth in § 7-03-050(C)(2);

- (c) Provides that any land shown in the approved concept plan as permanent open space shall be conveyed in accordance with M.G.L. c. 40A, § 9, provided that if the land is conveyed to an entity other than the town, the town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit; and
- (d) Satisfies the following additional design standards and criteria:
  - [1] Insofar as practicable, the site shall be preserved in its natural state by minimizing tree and soil removal, and manmade features such as stone walls shall be maintained with minimal alteration or disruption;
  - [2] The development shall maintain or enhance the character and appearance of the town. Awareness of the existence of a development, particularly a higher-density development, shall be minimized by screening views of the development from nearby streets or single-family neighborhoods by the effective use of existing land forms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting;
  - [3] Wherever possible, the common open space shall be contiguous and linked as a unit, and linked to other existing open space;
  - [4] Without specifying any particular architectural style, the scale, massing and detailing of buildings should be compatible with other buildings prevalent in the neighborhood. Where a multi-family development is located adjacent to a neighborhood of single-family dwellings, the massing scheme and selection of exterior materials for buildings shall be complementary to a single-family neighborhood;
  - [5] The disturbance, removal or substantial alteration of buildings of historic or architectural significance shall be minimized;
  - [6] Buildings shall be located harmoniously with the land form, vegetation and other natural features of the site, effectively for solar and wind orientation for energy conservation, and advantageously for views from the building while minimizing intrusion on views from other buildings;
  - [7] Buildings and their adjoining grounds shall permit safe, efficient access and operation by public safety personnel and equipment;
  - [8] Where applicable, the development shall provide sufficient traffic mitigation to maintain or improve the existing level of service on nearby roadways and intersections affected by the development, as determined by the Planning Board based on its review of the traffic analysis;

- [9] Where applicable, improved access to, or the development of additional links or connectors, shall be made to existing public facilities and services such as conservation areas, recreation facilities, sidewalks or bicycle paths, streets, transportation systems, or utility systems;
  - [10] The development provides for an internal system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, where feasible;.
  - [11] The location of intersections with primary and secondary streets shall be such as to minimize traffic congestion;
  - [12] Utilities shall be underground or as inconspicuous as possible; and
  - [13] Facilities such as storage, refuse disposal, utility buildings, and structures for recreational activates shall be located and screened to minimize visibility from public ways and adjacent residential areas.
- I. Special permit and site plan revisions. Changes involving uses not permitted by the concept plan approved by town meeting or which are not substantially consistent with that plan, or which are otherwise not permitted by this section, may be made only by revision of the concept plan and approval by a two-thirds vote of town meeting.
- J. Use variances. No use variances shall be granted in the ROPOD or within that portion of the Residence B District included within the ROPOD.

## CHAPTER 7-08: NONCONFORMING USES AND STRUCTURES

### Sections:

- 7-08-010**    **Applicability**
- 7-08-020**    **Special permit required**
- 7-08-030**    **Variance required**
- 7-08-040**    **Nonconforming single-family and two-family structures**
- 7-08-050**    **Non-use for two or more years**
- 7-08-060**    **Reconstruction after catastrophe or demolition**
- 7-08-070**    **Reversion to nonconformity**

### **7-08-010**        **Applicability.**

- A.    This bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. c. 40A, § 5 at which this bylaw or any relevant part thereof was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished except as authorized hereunder.
- B.    Construction or operations under a building or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of not less than six (6) months after the issuance of the permit and, in cases involving construction, unless construction is continued through to completion as continuously and expeditiously as is reasonable.

### **7-08-020**        **Special permit required.**

- A.    The Zoning Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood, and in making such determination the Zoning Board of Appeals shall consider whether the proposed use is different in character or in its effect on the neighborhood or on property in the vicinity. The Zoning Board of Appeals may consider the following types of changes to nonconforming uses:
  - (1)    Change or substantial extension of the use;
  - (2)    Change from one nonconforming use to another nonconforming use.
- B.    The Zoning Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and in making

such determination the Zoning Board of Appeals shall consider whether the proposed use is different in character or in its effect on the neighborhood or on property in the vicinity.

**7-08-030 Variance required.**

Except as provided in § 7-08-020, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require a variance; provided however, that the extension of an exterior wall at or along the same nonconforming distance within a required setback, may be approved by special permit from the Zoning Board of Appeals.

**7-08-040 Nonconforming single-family and two-family residential structures.**

- A. Nonconforming single-family and two-family residential structures may be reconstructed, extended, altered, or structurally changed as a matter of right if such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure and there is no change in use of the structure, in which case the Building Inspector may issue a building permit and an application to the Zoning Board of Appeals need not be made. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:
- (1) Alteration to a structure located on a lot with nonconforming area, provided that the structure and any alterations thereto comply with all current setbacks, building height, and building coverage requirements.
  - (2) Alteration of a structure on a lot with nonconforming area in the Groundwater Protection Overlay District, provided that the structure and any alterations thereto comply with all current setbacks and building height requirements of the underlying district and impervious cover does not increase by more than fifteen percent (15%) over existing conditions.
  - (3) Alteration to a structure located on a lot with nonconforming frontage, provided that the structure and any alterations thereto comply with all current setbacks, building coverage, and building height requirements.
  - (4) Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, building coverage and building height requirements.
  - (5) When an existing residence does not meet the minimum required side yard setback, an attached or accessory structure may be constructed on the same line as the existing residence.
  - (6) The gross floor area of the proposed reconstruction, extension or alteration does not exceed fifty (50) percent of the existing gross floor area.

For any proposed reconstruction, extension, or alteration other than as provided under subsection A above, application shall be made to the Zoning Board of Appeals for a determination whether such reconstruction, extension, or alteration will increase the nonconforming nature of said structure. If the Zoning Board of Appeals determines that such reconstruction, extension, or alteration will increase the nonconforming nature of said structure, the Zoning Board of Appeals may grant a special permit to allow such reconstruction, extension, or alteration provided that it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. In the event that the Zoning Board of Appeals determines that such reconstruction, extension, or alteration will not increase the nonconforming nature of said structure, the property owner may apply for a building permit without a special permit.

**7-08-050 Non-use for two or more years.**

A nonconforming use or structure that has not been used for a period of two or more years shall lose its protected status and be subject to all of the provisions of this bylaw.

**7-08-060 Reconstruction after catastrophe or demolition.**

A. A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

- (1) Reconstruction of said premises shall commence within two years after such catastrophe or demolition, except that the Zoning Board of Appeals may grant an extension of time where strict adherence to this section would cause undue hardship or because construction has not commenced within two years due to circumstances beyond the proponent's control.
- (2) Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in volume or area as the original nonconforming structure.
- (3) In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Zoning Board of Appeals prior to such demolition, except as provided in (4) below.
- (4) Structures destroyed by catastrophe may be rebuilt in a different location on the same lot as long as the new location meets all applicable dimensional requirements of this bylaw for the zoning district in which the structure is located.

**7-08-070 Reversion to nonconformity.**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## CHAPTER 7-09: DEVELOPMENT REGULATIONS

### Sections:

- 7-09-010 Land clearing and grading**
- 7-09-020 Site design standards**
- 7-09-030 Off-street parking and loading**
- 7-09-040 Signs**

### **7-09-010 Land clearing and grading.**

#### A. Purposes. The purposes of this section are to:

- (1) Protect the health, safety and property of residents of the Town of Northborough by regulating clearing and grading activities associated with land development, preserving existing trees and vegetation, preventing erosion and sedimentation of wetlands, ponds and other water bodies, controlling storm water runoff, minimizing fragmentation of wildlife habitat and loss of vegetation;
- (2) Limit land clearing and alteration of natural topography prior to development review;
- (3) Protect specimen trees and significant forest communities from damage or removal during site development;
- (4) Protect water quality of adjacent wetlands and surface water bodies;
- (5) Encourage the use of Best Management Practices that prevent and reduce nonpoint source of pollutants;
- (6) Encourage land development and site planning practices that preserve the Town's scenic features without preventing the reasonable development of land;
- (7) Protect archaeological and/or historic resources.

#### B. Applicability.

- (1) Except as provided in subsection (2) below, this section shall apply to any clearing or grading of more than 20,000 sq. ft. of land, or in increments such that the total land area of abutting property within the control of any person graded in a twelve (12) month period will exceed 20,000 sq. ft. No person shall commence any grading or clearing as defined herein without first obtaining site plan approval by the Planning Board or, where applicable, a special permit with site plan approval by the Zoning Board of Appeals or the Planning Board under § 7-03-050.

- (2) Exemptions. The section shall not apply to the following activities:
- (a) Agricultural uses exempt under M.G.L. c. 40A, § 3;
  - (b) Clearing and grading in conjunction with construction of residential buildings or accessory structures if the land area to be cleared or graded is less than 20,000 sq. ft.;
  - (c) Removal of hazardous trees, as defined in this bylaw;
  - (d) Routine maintenance of vegetation and removal of dead or diseased limbs and/or trees necessary to maintain the health of cultivated plants, to contain noxious weeds and/or vines, or to remedy a potential fire or health hazard or threat to public safety, when carried out by the Town of Northborough or by any agency of the Commonwealth or the federal government;
  - (e) Maintenance of public and private streets and utilities within Town-approved roadway layouts and recorded easements;
  - (f) Construction or installation of public utilities;
  - (g) Activities conducted under an earth removal permit issued by the Town of Northborough or an Order of Conditions issued by the Northborough Conservation Commission.
- C. Submission requirements. When a land clearing and grading proposal requires site plan approval under § 7-03-050(A)(1), the submission requirements shall be in accordance with the rules and regulations of the Planning Board. For land clearing and grading requiring a special permit with site plan approval under § 7-03-050(A)(2), the submission requirements shall be in accordance with the rules and regulations of the applicable special permit granting authority. Site plan submissions shall include sufficient information for the Planning Board or special permit granting authority to determine that the proposed land clearing and grading complies, or will comply, with the provisions of this § 7-09-010.
- D. Review standards. The proponent shall demonstrate compliance with the following standards in the clearing or grading of the site:
- (1) Minimize site alteration and land clearing: site and/or building design shall preserve natural topography outside the development footprint to reduce unnecessary land disturbance and to preserve natural drainage channels on the site. Roots shall be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utility installation shall be utilized wherever feasible to protect root systems of trees.
  - (2) Protect wildlife habitat: Activities covered by this section shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site. This standard shall apply only to a site that the Natural Heritage and Endangered Species Program (NHESP) (a) has determined to include Priority Habitat, as documented in the Natural Heritage Atlas, or (b) has delineated as Significant Habitat, prior to the date of submission to the Planning Board.

- (3) Protect understory vegetation: Understory vegetation beneath the drip line of preserved trees shall also be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.
- (4) Employ proper site management techniques during construction:
  - (a) BMPs shall be employed to avoid detrimental impacts to existing vegetation, soil compaction, and damage to root systems, and
  - (b) The extent of a site exposed at any one time shall be limited through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.
- (5) Protect the site during construction through adequate erosion and sedimentation controls:
  - (a) Temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as are necessary may be required by the Planning Board to intercept and divert surface water runoff. Runoff flow shall not be routed through areas of protected vegetation or revegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed to BMPs such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of 2:1.
  - (b) Erosion and sedimentation controls shall be constructed in accordance with the most current edition of the Department of Environmental Protection's Erosion and Sediment Control Guidelines for Urban and Suburban Areas.
  - (c) Erosion control measures shall include the use of erosion control matting, mulches and/or temporary or permanent cover crops. Mulch areas damaged from heavy rainfalls, severe storms and construction activity shall be repaired immediately.
  - (d) Erosion control matting or mulch shall be anchored where plantings are on areas subject to mulch removal by wind or water flows or where side slopes are steeper than 2:1 or exceed 10 feet in height. During the months of October through March when seeding and sodding may be impractical, anchored mulch may be applied with the approval of the Planning Board or applicable special permit granting authority.
  - (e) Runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands or similar systems covered with natural vegetation. Runoff shall not be

discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are not feasible. All such basins and wells shall be preceded by oil, grease, and sediment traps. The inlets of all catch basins shall be fitted with filter fabric during the entire construction process to minimize siltation or such basins shall be designed as temporary siltation basins with provisions made for final cleaning.

- (f) The proponent shall be required to conduct weekly inspections of all erosion and sedimentation control measures on the site to ensure that they are properly functioning as well as to conduct inspections after severe storm events.
- (6) Revegetate the site immediately after grading:
  - (a) Proper revegetation techniques shall be employed using native (non-invasive) plant species, proper seedbed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading.
  - (b) A minimum of four inches of topsoil shall be placed on all disturbed surfaces that are proposed to be planted unless the Town Engineer recommends a different standard in written comments to the Planning Board or applicable special permit granting authority.
  - (c) Finished grade shall be no higher than the trunk flare(s) of trees to be retained. If a grade change of six inches or more at the base of the tree is proposed, a retaining wall or tree well may be required.

E. Monitoring and inspections.

- (1) Prior to commencement of construction, the proponent, land owner, contractor and construction crew, Director of Public Works, Town Engineer, Building Inspector and site engineer shall conduct a meeting to review the proposed construction phasing and number and timing of site inspections.
- (2) Initial site inspection of erosion and sedimentation controls and placement of tree protection measures shall occur after installation of barriers around preserved areas and construction of all structural erosion and sedimentation controls, but before any clearing or grading has begun.
- (3) Routine inspections of preserved areas and erosion and sedimentation controls shall be made at varying intervals depending on the extent of site alteration and frequency and intensity of rainfall.
- (4) Effective stabilization of revegetated areas must be approved by the Town Engineer before erosion and sedimentation controls are removed. The Town Engineer shall complete an inspection prior to removal of temporary erosion and sedimentation controls.

- (5) Upon completion of the work, the applicant shall submit an as-built plan. The as-built plan shall include, at a minimum and as applicable to the project, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. The drainage system shall also be certified by a Professional Engineer stating the drainage system was built substantially in accordance with the design and will perform as designed. Upon approval by the Town Engineer, one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system. The as-built plan shall be based on the 1988 NGVD vertical datum.

**7-09-020 Site design standards.**

- A. Purposes. The purposes of this section are to:
  - (1) Provide adequate consideration for the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety, particularly with regard to abutters, and to the suitability of a proposed use on a site;
  - (2) To promote consistency in site plan approval and special permit with site plan approval decisions under § 7-03-050; and
  - (3) To provide a framework for design review by the Design Review Committee under § 7-03-060, where applicable.
- B. Applicability. This section shall apply to any use or activity that is subject to site plan approval or a special permit with site plan approval under § 7-02-050. Where a special permit is required under this section, the special permit granting authority shall be the board with authority to grant site plan approval or a special permit with site plan approval, as applicable.
- C. General requirements for nonresidential and multi-family uses. In any zoning district, the following site standards shall apply to any business, industrial, institutional, or multi-family use that is subject to § 7-03-050.
  - (1) Stormwater runoff. Site design shall comply with the Town of Northborough chapter 4-12 Illicit Discharges to the Municipal Storm Drain System.
  - (2) Outdoor lighting. In the area of the new construction or addition, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties. Except for low-level intensity pedestrian lighting with a height of less than eight (8) feet, all outdoor lighting shall be designed and located so that the luminaire has an angle of cutoff less than seventy-six degrees (76°) and a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site.

- (3) Common driveway. A common driveway may serve two (2) or more lots used for business or industrial use, provided that the common driveway is no wider than twenty-four (24) feet at any point where it crosses required open space or any parking setback area required under § 7-09-030. The common driveway shall not be located or designed to derogate from the intent of this section.
- (4) Open space. The following standards shall apply to the minimum open space required under § 7-06-020 and to areas used to satisfy the minimum landscaped buffer requirements identified in subsection (5) below.
  - (a) Open space areas shall be kept free of encroachment by all buildings, structures, storage areas, parking and interior drives, except for a driveway to gain access from the street.
  - (b) Any landscaping on open space shall be designed to enhance the visual impact of the use upon the lot and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements herein.
  - (c) Open space landscaping shall be maintained as open planted areas and used to ensure buffers between properties; minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs; and minimize the impact of the use of the property on land and water resources.
  - (d) Open space areas may be used for stormwater management practices not inconsistent with the purposes of this section, such as but not limited to bioretention cells, filter strips, wet swales or stormwater wetlands.
- (5) Landscaped buffer requirements.
  - (a) A landscaped buffer shall be required between abutting uses. The buffer shall be planted with grass, shrubs, or trees or a combination thereof, in accordance with the site plan approval authority's rules and regulations and this section.

[1] For any business use abutting a residential district or a lot with an existing residential use, a landscaped buffer of at least twenty-five (25) feet in width shall be required along the lot line between the business use and the adjacent residential district or residential use. This requirement shall not apply to residential uses located within a mixed-use development under chapter 7-05, Use Regulations. However, a landscaped buffer conforming to this section shall be required between a mixed-use development and an abutting residential district or existing residential uses. As part of the site plan approval process under § 7-03-050, the Planning Board or applicable special permit granting authority may approve a reduction in landscaped buffer width on a lot in the Downtown Business District if the proponent demonstrates that an alternative landscaping plan will meet the intent of this section.

- [2] For any industrial use abutting a residential district or a lot with an existing residential use, an open space area of at least fifty (50) feet in depth shall be required to mitigate the impacts of the industrial use on the abutting residential district or use.
  - [3] For any business or industrial use abutting another business or industrial use, an open space area of up to twenty (20) feet in depth may be required, except in the Downtown Business District.
  - [4] For any multi-family use abutting the Residence A, Residence B, Residence C, or General Residential District, a landscaped open space area of not less than twenty-five (25) feet in depth shall be required along the lot line between the multi-family use and the single-family residential district. When a multi-family use abuts an existing detached single-family or two-family dwelling in the Main Street Residential or Downtown Neighborhood District, there shall be a landscaped open space area of not less than twenty-five (25) feet in depth along the boundary(ies) of the lot abutting the single-family or two-family dwelling.
- (b) If there is not an adequate amount of buffer area to landscape, the site plan approval authority may approve a reduced buffer area or a fence as an alternative, except that chain link fencing is explicitly prohibited.
  - (c) Landscaping, fencing or other screening shall be maintained in a manner that achieves the purposes of this section. In any area designated as open space or landscaped buffer on an approved site plan, the owner of the property shall replace any tree or shrub that dies within one (1) growing season. Replacement trees or shrubs shall be of similar type and size to species approved as part of the original site plan submission. Where fencing is used for screening, the fence shall be maintained in good working order or replaced as necessary.
  - (d) Exposed storage areas, machinery, garbage dumpsters, service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods approved by the site plan approval authority.
- D. Additional standards for business uses. New construction or substantial alteration of existing nonresidential buildings in the Downtown Business District, the Business East District, Business West District, Business South District, or the Downtown Neighborhood District shall conform to the following standards. Where any of the standards in this section conflict with section (C) above, this section shall govern.
- (1) Building placement and orientation.
    - (a) The front façade of a new building and the building's principal entry shall be oriented toward the street. For a development with more than one building on a single lot or a development with multiple lots, buildings located to the rear

- of a site shall face the access road that serves them. Where appropriate, however, a building may be oriented around a courtyard or respond in design to a prominent feature, such as a corner location, subject to review by the Design Review Committee and approval by the Planning Board or special permit granting authority, as applicable.
- (b) The proponent shall give full attention to the treatment of sidewalks, landscaping, parking areas and the building wall at the front, rear and sides. The main features of the architectural treatment of a building's front façade, including the materials used, shall be continued around all sides of the building that are visible from a street or a pedestrian plaza.
  - (c) Buildings, structures, fences, lighting, and fixtures on each site shall be placed so as to not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.
  - (d) Buildings shall be designed to avoid unarticulated and monotonous building facades and window placements, regular spacings, and building placements that will be viewed from the street as continuous or blank walls.
- (2) Signs. In addition to the requirements of § 7-09-040, the following shall apply to signs in the Downtown Business, Business East, Business West, and Business South Districts:
- (a) Signage shall relate in size, scale, color and overall design to the general character of its location and to the specific context in which it is to be placed.
  - (b) Wherever possible, signs shall be integrated with the building's architecture and aligned to pedestrians on sidewalks, such as blade signs, single signs hung below canopies, or small signs on canopies or awnings.
  - (c) For any building occupied or to be occupied by two or more businesses, the proponent shall submit a master signage plan as part of the application for site plan approval or a special permit with site plan approval, as applicable. Said plan shall be reviewed by the Design Review Committee, which shall make recommendations to the Planning Board or applicable special permit granting authority.
- (3) Lighting. The proponent shall provide outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, arranged to minimize glare, to not shine beyond the perimeter of the site, and to prevent light pollution. Wherever feasible, lighting of sidewalks or pedestrian walkways shall be from storefronts, canopies or awnings.
- (4) Location of open space. At least fifty (50) percent of the minimum required open space under § 7-06-020 shall be located in front of or beside the principal building(s) facing the street. The requirement of this section may be waived in the Downtown Business District if the proponent provides an alternative site layout that provides

equivalent aesthetic and pedestrian benefits, as determined by the Planning Board or special permit granting authority.

(5) Landscaping.

(a) Landscaping shall be composed of non-invasive, drought-resistant plantings that may include trees, flowers, shrubs, succulents and ornamental grasses. High-water use turf shall not exceed twenty (20) percent of all landscaped areas or open space on the site.

(b) Visual relief from buildings and hard materials shall be accomplished with landscape treatments such as shrubs, trees, flower boxes and other greenery around buildings or in recessed places.

E. Additional standards in the Downtown Neighborhood District. This section applies to new multi-family construction or substantial alteration of existing multi-family structures, or to any residential use requiring a special permit in the Downtown Neighborhood District under chapter 7-05. Where any of the standards in this section conflict with section (C) above, this section shall govern.

(1) Basic design principles.

(a) The front façade and main entrance of a principal building shall face the street and must be clearly articulated through the use of architectural detailing. For lots with more than one principal building, at least one such building shall conform to this subsection.

(b) The front entrance to a residence shall be defined by at least one of the following: a porch of at least six feet in width and depth, pent roof, roof overhang, hooded front door, or similar architectural elements.

(c) Rooflines shall be pitched or gabled, and overhanging eaves shall be provided wherever possible. However, a flat roof structure shall be permitted if it is capped by an articulated parapet design that acts as a structural expression of the building façade and its materials.

(2) Garages. Any garage, carport, or other accessory structure, attached or detached, shall be set back from the foremost façade of the principal building facing the front property line by a minimum of 10 feet. This requirement may be waived by the site plan approval authority if physical or other constraints on the lot make it infeasible to comply. A garage located under a building is prohibited unless the garage entrance is on the side or rear of the building and does not face a street.

(3) Landscaping. The minimum open space required under § 7-06-020 shall consist of land in its natural state or landscaped areas, and shall not include buildings or areas for parking, storage or display. Not more than fifty (50) percent of the minimum open space required under § 7-06-020 shall be located behind the principal building(s) on the lot.

- (4) Off-street parking.
  - (a) Off-street parking spaces may be located in an attached or detached garage, in a dedicated parking area on the lot, or stacked within the driveway serving the property. When the parking spaces are located outside, the area used for parking shall be graded and drained so as to prevent surface water accumulation within the parking area and to prevent surface water runoff to an adjoining property or the public way.
  - (b) No off-street parking shall be located within the minimum front yard setback, in front of any principal building or within the open space required under § 7-06-020 except by special permit from the Zoning Board of Appeals.
  - (c) There shall be a landscaped buffer of not less than four feet between any driveway and the nearest side lot line, and no paved surface areas and no off-street parking shall be permitted within the landscaped buffer. The landscaped buffer shall count toward the minimum open space requirement under § 7-06-020.

**7-09-030 Off-street parking and loading.**

A. Applicability.

- (1) No building or structure constructed after the effective date of this chapter shall be used or changed to a greater category of parking demand, as determined by subsection B below, except in accordance with this section.
- (2) This section shall be administered by the applicable site plan approval authority or the special permit granting authority authorized to issue a special permit with site plan approval under § 7-03-050.
  - (a) Where a special permit is required under this section, the special permit decision shall be made by the special permit granting authority under § 7-03-050(A)(2) unless the proposed project is not otherwise subject to § 7-03-050(A)(2), in which case the special permit granting authority shall be the Planning Board.
  - (b) Where this section provides for modifications or waivers not requiring a special permit, the Planning Board shall act on such requests as the issuing authority for site plan approval under § 7-03-050(A)(1), except that for a project subject to § 7-03-050(A)(2), the board with authority to grant a special permit with site plan approval shall be the issuing authority for such requests.
- (3) This section shall not apply to:
  - (a) Any building, structure or use of land that was existing or lawfully begun or for which a permit was issued prior to the effective date of this bylaw, except

that any change in use to a greater category of parking demand shall be subject to this section.

- (b) Any existing building or structure that has been damaged or destroyed by fire or other disaster, and reconstructed to the same size or lesser size as previously existed, except that any change in use of the reconstructed building to a greater category of parking demand shall be subject to this section.
- (4) No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the number required by this section, except by special permit.

B. Off-street parking and loading regulations.

- (1) Dimensional standards.
  - (a) An off-street parking space or parking stall is an all-weather, surfaced area having a width of not less than nine (9) feet and a length of not less than eighteen (18) feet for angle parking or twenty-two (22) feet for parallel parking. The required length shall be measured on an axis parallel with the vehicle after it is parked. The required areas, other than those serving one- and two-family dwellings, shall be exclusive of driveways and shall be permanently reserved for the temporary parking of one automobile, and shall be connected with a street or public right-of-way by an all-weather surfaced driveway. In the case of single-family and two-family dwellings, all-weather surfaces shall not be required.
  - (b) In parking lots containing more than fifty (50) parking spaces, ten (10) percent of the required parking spaces may be designed for small-car or motorcycle use. Small-car parking spaces shall be not less than eight feet in width nor less than sixteen (16) feet in length. Motorcycle spaces shall be not less than four (4) feet in width nor less than eight (8) feet in length. Spaces designed for small-car or motorcycle use shall be grouped in one or more contiguous areas and identified by appropriate signage
- (2) Parking and loading space requirements. The minimum number of off-street parking and loading spaces shall be as set forth below. Where fractional spaces result, the minimum number of spaces shall be the next highest whole number. For certain uses, a maximum number also applies. Off-street parking requirements for a use not specifically listed in this subsection shall be as specified by the Building Inspector based on a listed use of similar characteristics of parking demand generation.
  - (a) Residential uses.
    - [1] Single-family home, two-family home, cottage dwelling, townhouse or senior housing development: minimum 2 spaces per dwelling unit.

- [2] Multi-family dwelling: minimum 1 space per studio unit; 1.5 spaces per one-bedroom unit; and 2 spaces per unit with two or more bedrooms; plus ten (10) percent additional spaces for visitor parking.
  - [3] Assisted living facility: minimum 0.5 spaces per unit, plus 1 space per employee on each shift.
  - [4] Nursing home: minimum 1 space for each 4 patient beds, plus 1 space for each 2 employees on the largest shift.
  - [5] Congregate residence: minimum 1 space per unit, plus visitor parking equal to fifteen (15) percent of the total number of parking spaces for the units.
  - [6] Accessory dwelling unit: minimum 1 space in addition to spaces required for principal residence.
  - [7] Home occupation: As required for the particular occupation and use, to be determined by the Building Inspector, in addition to required spaces for the dwelling unit.
- (b) Commercial uses. The minimum number of off-street parking spaces listed below shall be in addition to space for storage of trucks or other vehicles used in connection with a business.
- [1] Restaurant, bar: minimum 1 space per four seats, plus 1 space for every two employees on the largest shift.
  - [2] Retail store: minimum 3 spaces per 1,000 sq. ft. for the first 10,000 sq. ft. gross floor area, 2.5 spaces per 1,000 sq. ft. for 10,001-12,500 sq. ft. gross floor area, and 2 spaces per 1,000 sq. ft. for gross floor area over 12,500; maximum 1 space per 200 sq. ft. gross floor area. Where a single parking area contains more than 400 parking spaces intended to serve more than one retail establishment, the total number of off-street parking spaces required in excess of 400 may be reduced by twenty-five (25) percent.
  - [3] Professional or business office: minimum 1 space per 400 sq. ft. gross floor area.
  - [4] Personal or business service establishment; medical office or medical clinic; bank or other financial institution: minimum 1 space per 250 sq. ft. gross floor area.
  - [5] Hotel or motel: minimum 1 space per sleeping room, and 1 space for every 3 employees on the largest shift. For hotel or motel with conference and/or restaurant space, add 1 per 200 sq. ft. of restaurant and function room floor area combined.

- [6] Place of assembly with fixed seating, such as a church, stadium, assembly hall: minimum 1 space for every four seats or, when benches are used, 1 space per eight lineal feet of bench.
  - [7] Library, museum: minimum 1 space per 250 sq. ft. of public floor area.
  - [8] All other places of public assembly: minimum 1 space for every five occupants as determined by the State Building Code.
  - [9] Theatre, cinema: minimum 1 space for every three seats for single-screen theatres; for theaters with more than one screen, 1 space for every five seats.
  - [10] Hospital: minimum 1 space for each two beds plus 1 space for each 2 employees on the largest shift.
  - [11] Funeral home: minimum 1 space per 60 sq. ft. of public floor area.
  - [12] Bowling alley: minimum 3 spaces per each alley.
  - [13] Other commercial uses: minimum shall be the greater of 1 space per three employees or 1 space per 300 sq. ft. gross floor area.
- (c) Industrial uses. The minimum number of off-street parking spaces listed below shall be in addition to space for storage of trucks or other vehicles used in connection with a business.
- [1] Office for administrative, executive, professional, medical sales and other similar uses, the normal operation of which does not involve retailing activities on the premises: minimum 1 space per 300 sq. ft. gross floor area, maximum 1 space per 200 sq. ft. gross floor area.
  - [2] Laboratory for scientific, industrial research, research & development, or biomedical research & technology: minimum 1 space per 400 sq. ft. gross floor area; maximum 1 per 300 sq. ft. gross floor area.
  - [3] Wholesale warehouse, truck freight terminal or storage warehouse: minimum 1 space per 1,500 sq. ft. gross floor area; maximum 1 space per 1,000 sq. ft. gross floor area.
  - [4] Light industrial use, including manufacturing, storage, processing, fabrication, packaging and assembly; printing or publishing facility; data processing center; or public utility building or structure: minimum 1 per 500 sq. ft. gross floor area; maximum of 1 per 300 sq. ft. of gross floor area.

- [5] Industrial park services: Restaurant: minimum 1 space per 3 seats plus 1 for every 2 employees on shift of greatest employment; bank: minimum 1 space per 250 sq. ft. gross floor area and maximum of 1 space per 200 sq. ft. gross floor area.
- (d) Mixed uses.
  - [1] For mixed uses in an individual building with up to 5,000 sq. ft. of gross floor area or a parcel of land used for two or more principal uses that fall into different classes of use, i.e., uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except where it can be demonstrated to the special permit granting authority under § 7-10-050 that the parking need for the uses occurs at different times.
  - [2] For buildings of more than 5,000 sq. ft. of gross floor area with several distinct principal uses, such as a small shopping center or a retail building with upper-story offices, the total amount of required parking may be reduced by twenty-five (25) percent for each additional 5,000 sq. ft. of floor area.
- (e) Off-street loading spaces.
  - [1] Retail store, service establishment: minimum 1 berth for each 5,000 to 10,000 sq. ft. gross floor area; 1 additional berth for each additional 15,000 sq. ft. or nearest multiple thereof.
  - [2] Office buildings, research facilities and similar uses: minimum 1 berth for each 8,000 to 20,000 sq. ft. gross floor area; 1 additional berth for each 40,000 additional sq. ft. or major fraction thereof.
  - [3] Industrial uses. No use of premises shall be permitted and no building or structure shall be erected or enlarged without adequate off-street loading facilities located on the same lot as the building or use to be served. An area of at least 400 sq. ft. of appropriate dimensions, exclusive of drives and maneuvering space, shall be considered one (1) off-street loading bay. One such bay shall be provided for each loading door.
- (3) Reserve parking spaces. The site plan approval authority may authorize a reduction in the number of off-street parking spaces required under this section, subject to the following conditions:
  - (a) The decrease is not more than thirty (30) percent of the total number of spaces required under subsection (2) above. The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.

- (b) The proposed decrease in the number of required spaces will not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and does not derogate the intent and purpose of this chapter.
  - (c) The reserve parking spaces shall be properly designed as an integral part of the overall parking development
  - (d) In no case shall any reserve parking spaces be located within areas counted as buffer, parking setback or open space.
  - (e) If, after one (1) year from the date of issuance of a certificate of occupancy, the Building Inspector or site plan approval authority finds that all or any of the increased reserve spaces are needed, the site plan approval authority may require that all or any portion of the spaces identified as increased reserve spaces on the site plan be constructed within a reasonable time period, as specified by the site plan approval authority. A written notice shall be sent to the proponent at least seven (7) days before the matter is next discussed at a meeting of the site plan approval authority.
- (4) Increase in parking spaces. The site plan approval authority may require an increase in the number of parking spaces required under subsection (2), provided that:
- (a) The increase in the number of parking spaces is no more than twenty (20) percent of the total number of parking spaces required under subsection (2).
  - (b) Any such increase in the number of required parking spaces shall be based upon the special nature of a use or building.
  - (c) The increased number of parking space shall be labeled "Increased Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within an area counted as buffer or parking setback. The proponent shall not be required to construct any of the spaces labeled as "Increased Reserve Parking" for at least one (1) year following the issuance of a certificate of occupancy or certificate of zoning compliance. Where the increased reserve parking area is required and the proponent has otherwise provided the number of parking spaces required under subsection (2), the area of land reserved for the increased number of parking spaces may be deducted from the minimum open space required under § 7-06-020.
- (5) Special regulations for the Downtown Business District.
- (a) The minimum number of parking spaces for any nonresidential or mixed-use development shall be seventy-five (75) percent of the minimum number required under subsection (2) above.
  - (b) For a building in which at least forty (40) percent of the total gross floor area is on the second story or higher, the required number of parking spaces shall be 80% of the number that is derived under subsection (2) above.

- (c) The applicable special permit granting authority may grant a special permit to allow use of parking facilities not on the same lot, provided the special permit granting authority determines that proper provision is made to insure pedestrian, bicycle and vehicular traffic safety and that the purposes of this section are met.
  - (d) Personal convenience services, studios and art galleries that are located on the ground floor of a multi-story building and do not exceed 750 sq. ft. of floor space are exempt from off-street parking space requirements. Only one such exemption shall be provided per parcel.
  - (e) For the number of parking spaces determined under subsection (2) above, the special permit granting authority may grant a special permit to locate up to one hundred (100) percent of such parking on a different lot than the lot with the building or use served by such parking, provided the special permit granting authority determines that such an arrangement is superior to on-site parking and/or furthers the Town of Northborough's downtown planning objectives. All such arrangements shall be presented by the proponent in writing, reviewed by the town's legal counsel and approved by the special permit granting authority, and recorded with the property deed.
  - (f) Off-street loading spaces are not required for uses that do not exceed 3,000 sq. ft. of floor space.
- C. Off-street parking design standards. The following design standards shall apply in the Downtown Business, Business East, Business West, Business South, and Downtown Neighborhood Districts to all uses except detached single-family or two-family dwellings, and shall be addressed in any plans submitted under § 7-03-050. Where physical constraints on a site make it infeasible to comply with any standard in this section, the proponent may request a modification or waiver and propose an alternative design. In such cases, it shall be the proponent's burden to demonstrate that it is infeasible to comply and that the proposed alternative meets the intent of the standard for which a waiver has been requested.
- (1) Access driveways and interior circulation.
    - (a) For parking areas containing fewer than five (5) spaces, the minimum width of access drives shall be ten (10) feet wide for one-way use and 18 feet wide for two-way use. For facilities containing five (5) or more spaces, the minimum width of access drives shall be twelve (12) feet for one-way use and twenty (20) feet for two-way use, and the maximum width shall be sixteen (16) feet for one-way use and twenty-four (24) feet for two-way use. The maximum width of such driveways at the property line shall be twenty-four (24) feet. The minimum curb radius shall be fifteen (15) feet. The issuing authority may approve a modification of these width and radius requirements to facilitate traffic flow and safety. Each lot may have one access driveway through its frontage. One additional access driveway for one-way traffic may be provided for each two hundred (200) feet of frontage, and all such additional access driveways shall be at least two hundred (200) feet apart measured from the centerline of each access driveway.

- (b) Access drives shall occupy not more than twenty-five (25) percent of the frontage of a parcel that has one hundred (100) feet or more of frontage nor more than forty (40) percent of the frontage of a parcel that has less than 100 feet of frontage except by special permit from the applicable special permit granting authority.
  - (c) Access drives shall be located so as to provide for safe access and egress to the parcel being served. No portion of an access drive at the street line shall be closer than seventy-five (75) feet to an intersection, except in the Downtown Business District, where such distance shall be a minimum of thirty-five (35) feet.
  - (d) Wherever feasible, access drives shall be designed to minimize curb cuts on existing public ways. Subject to approval by the issuing authority, shared access to two or more adjoining parcels may be provided through one or more of the following methods: (a) a cul-de-sac or loop road or common driveway shared by adjacent lots or premises, (b) joint and cross access between the lot and adjacent uses, (c) an existing side or rear street, (d) a cul-de-sac or loop road shared by adjacent lots or premises.
  - (e) Where a curb cut permit is required from the Massachusetts Highway Department, the location, width and number of access driveways and the construction thereof shall conform to the Massachusetts Highway Department (MassHighway) standards. The proponent shall make every reasonable effort to comply with the above requirements and those of MassHighway.
- (2) Location, design and construction of off-street parking.
- (a) Off-street parking spaces shall be located behind or beside the principal structure on the lot. No parking shall be located closer to the front lot line than the front line of the principal structure. However, the applicable special permit granting authority may grant a special permit to locate up to fifteen (15) percent of the required off-street parking spaces in front of a principal structure, except in the Downtown Business District, and may also authorize a change in any maximum front yard setback where necessary to accommodate such parking. In granting a special permit, the special permit granting authority may impose design, surface treatment, landscaping, lighting and other requirements to mitigate the visual impact of parking areas on views from the road, and may regulate the location of the remaining parking to achieve the purposes of this section.
  - (b) Except for parking within an enclosed structure, e.g., a parking garage, no parking space shall be located within eight feet of a building wall. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.
  - (c) Each required off-street parking or loading space shall have adequate access to a street, either directly or via an access drive.

- (d) Except for shared parking approved under subsection (3) below, required off-street parking spaces shall be located on the same lot as the building or use they serve.
  - (e) All required parking spaces shall be marked by painted lines, curbs or other means to indicate individual spaces. Signs or markers painted or provided and maintained in good condition shall be used as necessary to assure efficient traffic flow within the lot.
  - (f) Land in a residential district shall not be used for off-street parking accessory to or to service a structure or use in a business or industrial District, except by special permit from the Zoning Board of Appeals.
- (3) Shared parking. The applicable special permit granting authority may grant a special permit for shared parking facilities, i.e., off-street parking serving more than one use or more than one property, subject to the requirements herein.
- (a) A reciprocal agreement shall be executed by all parties in order to ensure the long-term joint use of shared parking, and the agreement shall be acceptable to the special permit granting authority.
  - (b) Uses sharing the parking facility shall be located not more than five hundred (500) feet from the closest parking space.
  - (c) The special permit granting authority shall base its special permit decision on the following criteria:
    - [1] The hours of operation of the uses involved;
    - [2] The number of spaces required for each individual use under this section;
    - [3] The degree to which vehicles occupying a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week; and
    - [4] The degree to which the proponent's proposal promotes and accommodates other means of transportation to access the site, such as pedestrian or bicycle facilities.
    - [5] In the event that any shared parking arrangement approved hereunder is discontinued or any associated conditions change, such as but not limited to any change in the use of such property(ies) to a greater category of parking demand, the proponent shall notify the special permit granting authority within fifteen (15) days. It shall be the proponent's responsibility to comply with all applicable provisions of this section within sixty (60) days of the date of notification to the special permit granting authority or the date on which such notification should have occurred, or to request an amendment to the

special permit in order to provide for an alternative shared parking arrangement.

- (d) The special permit granting authority may require the proponent to provide a parking study with all information deemed necessary to render a decision.
- (4) Landscaping and screening requirements.
- (a) Buffer areas.
    - [1] Parking facilities with more than five (5) parking spaces shall be bordered on all sides, except for required access drives, with a buffer strip at least ten (10) feet in width, containing landscaping of sufficient density and height to provide effective screening for parked vehicles. However, where adjacent parcels agree to share a common parking area under subsection (c) above, the issuing authority may approve eliminating the minimum buffer on all common property lines.
    - [2] Trees planted in the buffer area shall be at least six (6) feet in height and not less than two (2) inches in trunk diameter immediately after planting, and shall consist of non-invasive, drought-resistant species. The issuing authority may approve the use of a fence, wall or other non-living structure to achieve the purpose of this buffer, provided it is determined to be a more effective and suitable buffer than could be provided with living materials.
    - [3] For vegetated swales located within a buffer area, the issuing authority may approve alternative buffer dimensions and buffer design standards than those specified above.
    - [4] Wherever possible, existing natural vegetation and landforms shall be protected and incorporated into the buffer area.
    - [5] The buffer area may be counted toward the minimum open space requirement under the dimensional regulations of the applicable zoning district under § 7-06-020 and toward the minimum landscaped buffer requirements in § 7-09-020.
- (5) Interior landscaping.
- (a) To separate parking areas from abutting streets, to provide areas for snow disposal, to break up expanses of vehicles and paved areas, and to provide beautification of parking facilities, at least ten (10) percent of the paved area of a parking facility with more than thirty (30) parking spaces shall be landscaped open space. Such open space shall consist of the part or parts of a lot designed to improve the visual environment, and shall not include lot area used for parking or access drives or any other impermeable areas.

- (b) At least one tree shall be provided for every ten (10) parking stalls in a parking facility, as follows:
  - [1] Trees shall be at least two (2) inches in trunk diameter at the time of planting and shall be a non-invasive species characterized by moderate growth.
  - [2] Trees shall be located in planting beds of at least six (6) feet in diameter. To the extent possible, tree plantings should be located in continuous islands six (6) feet or more in width.
  - [3] The issuing authority may authorize shrubbery and other plantings instead of trees if it can be shown to the issuing authority's satisfaction that the planting of trees is impractical.
- (c) To preserve landscaped open space from damage by parking cars and snow removal operations, bumper overhang areas shall be provided with permeable ground cover that will not be damaged by bumpers or vehicle drippings, and all landscaped open space shall be provided with suitable curbing.
- (d) The issuing authority may approve modifications to the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells. The number, dimensions and landscaping specifications for bioretention cells shall be determined by the issuing authority during its review of a proposed drainage plan under § 7-03-050.
- (6) Lighting. Adequate lighting shall be provided in lots of more than ten (10) spaces if off-street parking spaces are to be used at night. Minimum security lighting must be provided in all lots serving other than single-family and two-family dwellings. All lighting shall be effectively shielded and shall be installed and/or aimed so as to shield nearby public or private streets and neighboring properties from direct glare light radiation, or light pollution which may create a safety hazard or a nuisance.
- D. Off-street parking design standards for industrial uses. Any industrial use shall conform to the requirements of subsections C(4), C(5) and C(6) of this section.
- E. Pedestrian accommodation. The following requirements shall apply to all nonresidential uses or mixed-use developments in the Downtown Business, Business East, Business West, and Business South Districts.
  - (1) Parking facilities shall incorporate clearly defined pedestrian connections between parking spaces and building entrances. Such connections shall be integrated into the internal landscaping whenever possible.
  - (2) Continuous internal pedestrian walkways shall be provided from the sidewalk, parking lot, public right-of-way or interior access road to the public entrance of all principal buildings on a site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to building and store entry points, and

shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length.

- (3) Crosswalks shall be clearly recognizable through the use of raised, textured or color treatments in order to aid pedestrians in crossing traffic within the lot.
  - (4) Where there exists along an exterior side or rear wall an entrance or exit normally used by the general public (not limited to fire doors and loading areas), such entrance or exit shall be provided with a paved walk with a seven (7) inch high safety curb extending at least six feet along the building on either side of such entrance or exit.
  - (5) In any location not served with a public sidewalk, any building, structure or use of land required to provide more than thirty (30) off-street parking spaces under subsection B(2) above shall provide a sidewalk at least five (5) feet in width along the frontage of the parcel, located between the principal structure facing the street and the right-of-way line of any existing, proposed, paper, public, or private street, or state highway.
  - (6) A continuous landscaped strip not less than five (5) feet wide shall be located between the sidewalk and right-of-way line of the street in order to create a sense of enclosure for pedestrians. The issuing authority may approve a reduction in width of the landscaped strip in order to accommodate both a wide sidewalk and landscaping within the front yard setback.
  - (7) Trees to be planted within the landscaped strip shall be a minimum of 2 1/2 inches in caliper six feet above grade, be a non-invasive species of canopy or shade tree, tolerant of future site conditions and reach an ultimate height of at least 30 feet. There shall be at least one such tree per twenty-five (25) linear feet of frontage, and shrubs or bushes at a minimum ratio of twelve (12) per tree. Where feasible and appropriate, canopy and ornamental trees, shrubs, planters and groundcover shall be arranged in groupings that reduce the optical width of the road. However, no landscaping treatments shall be permitted to obstruct clear sight distance.
  - (8) Bituminous concrete or concrete paving is prohibited within the landscaped strip except for driveways and sidewalks.
  - (9) By special permit from the Zoning Board of Appeals, the proponent may satisfy the requirements of this subsection through payment of a fee in lieu of sidewalks or landscaping to the Town of Northborough according to a fee schedule established by the Planning Board, with such funds to be deposited in an off-street parking, pedestrian and bicycle facilities fund.
- F. Bicycle accommodation. In any zoning district, the following requirements shall apply to all uses except single-family or two-family dwellings unless waived or modified by the issuing authority.

- (1) Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any new building that results in the need for additional vehicular parking facilities, as follows:
  - (a) Multi-family dwelling: minimum of 1 bicycle parking space or locker for each two (2) dwelling units or portion thereof, for up to ten (10) units; and 1 bicycle space per four (4) dwelling units thereafter.
  - (b) All other uses: minimum of 1 bicycle parking space for every 10 vehicular parking spaces required under subsection B(2) above, for up to fifty (50) spaces; and 1 bicycle parking space for every twenty (20) vehicle parking spaces thereafter.
  - (c) In all cases where bicycle parking is required, a minimum of two (2) and a maximum of fifty (50) bicycle parking spaces shall be provided.
  - (d) A maximum of two (2) required vehicle parking spaces may be used for bicycle parking spaces.
- (2) Minimum design standards.
  - (a) Accessory off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the user may lock a bicycle.
  - (b) Structures that require a user-supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).
  - (c) All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location.
  - (d) The surfacing of such facilities shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitted provided that edging materials, such as landscape timbers are used so that the bicycle parking area is clearly demarcated and the rock material is contained.
  - (e) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance or physical barrier, such as curbs, wheel stops, poles or other similar features.
  - (f) Adequate maneuvering space shall be provided.
  - (g) Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, the bicycle parking shall be placed within fifty (50) feet of building entrances and in well-lit areas.

- (h) When automobile parking spaces are provided in a structure, the same percentage of required bicycle parking spaces shall be located inside the structure or shall be located in other areas protected from the weather.

G. Modifications and waivers.

- (1) The issuing authority may approve modifications or waivers of the requirements of this section for compelling reasons of safety, aesthetics, site design or environmental impact.
- (2) Where this section requires a special permit for approval of a requested modification or waiver, the special permit granting authority's decision shall be consistent with (1) above and the special permit granting criteria in § 7-02-040.
- (3) Parking space requirements may be modified when one or more of the following conditions are met to the satisfaction of the issuing authority:
  - (a) Peak parking needs generated by on-site uses occur at different times.
  - (b) A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.
  - (c) A parking management plan approved by the issuing authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. The issuing authority may require periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan.

**7-09-040 Signs.**

- A. Purpose. Signs are a necessary means of communicating information. Since signs are intended to be seen, they attract attention and are one of the most visible and apparent aspects of a town's character. They tend to produce a lasting impression on residents and visitors, and they provide an indication of the commercial health of a business area and a town as a whole. Simplicity in design and restrained use of signs are necessary to prevent a sign overload, which creates clutter and is as confusing as no signs at all.
- B. Definitions. For the purpose of this section, the following terms shall have the following meanings:
  - (1) AGRICULTURAL SIGN: A sign which may have wording that may be changed periodically to advertise products raised or grown principally on the premises.
  - (2) AWNING SIGN: A permanent sign which is affixed to or consists of a permanent or retractable awning or marquee permanently mounted to the exterior surface of a building.

- (3) **BANNER SIGN:** A sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered "banners" for the purpose of this section.
- (4) **BILLBOARD SIGN:** A sign which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold or offered on a lot other than the lot on which the sign is erected.
- (5) **BUSINESS CENTER:** Any aggregation of three (3) or more business or industrial tenants which share a common parking area.
- (6) **CONSTRUCTION SIGN:** A sign identifying the proposed building, the owner or intended occupant and the contractor, architect and engineers. A construction sign for more than a single lot will be considered to be a "subdivision sign."
- (7) **DIRECTIONAL OR INFORMATIONAL SIGN:** A sign which is necessary for the safety and direction of vehicular or pedestrian traffic.
- (8) **DIRECTORY SIGN:** A sign listing the name and location of the occupants of a site or building.
- (9) **DISPLAY AREA:** See "sign area."
- (10) **ERECTING:** Any installing, constructing, reconstructing, replacing, relocating, relettering, except as specifically provided, extending, altering or otherwise changing of a sign. "Erecting" shall not include repairing or maintaining an existing sign.
- (11) **EXTERIOR SIGN:** A wall sign, projecting sign or awning sign placed on or about the exterior of any structure.
- (12) **FLAG:** See "banner."
- (13) **FREESTANDING SIGN:** A nonmovable sign not affixed to any building but constructed in a permanently fixed location of the ground with its own support structure, including a monument sign, and displaying a sign face on not more than two (2) sides.
- (14) **GASOLINE PUMP SIGN:** The standard type of gasoline pump bearing thereon in the usual size and form the name or type of gasoline and the price thereof.
- (15) **INDIVIDUAL LETTER SIGN:** A wall sign consisting of individual letters mounted to a building surface without any background or frame.
- (16) **MOVABLE SIGN:** Any sign not permanently attached to the ground or to a building or permanent structure, which is designed to be portable, such as an A-frame, H-frame, T-frame, banner or flag, trailer sign placed on the surface of the ground,

temporarily staked into the ground or a sign attached to a motor vehicle (registered or unregistered).

- (17) NEON SIGN: A sign which features exposed glass tubing filled with fluorescent gas.
- (18) OFFICE PARK OR INDUSTRIAL PARK: See “business center.”
- (19) PENNANT SIGN: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- (20) PERMANENT SIGN: A sign that is permanently attached to a building or having in-ground supporting structure(s) or braces.
- (21) POLITICAL SIGN: A sign designated to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, county or local election.
- (22) PROJECTING SIGN: A sign which is permanently affixed to the exterior surface of a building or structure with the display area positioned perpendicular to the wall to which the sign is mounted.
- (23) REAL ESTATE SIGN: A sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (24) ROOF SIGN: A sign attached to or erected wholly upon and over the roof of any building and supported solely on the roof structure.
- (25) SHOPPING CENTER: See “business center.”
- (26) SIGN: Any words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.
- (27) SIGN AREA: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Where sign faces are placed back-to-back and face in opposite directions, the sign area shall be defined as the area of one (1) face of the sign.
- (28) SPECIAL EVENT SIGN: A sign, which is to be portable, to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business or similar event. Such sign shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature.

- (29) SUBDIVISION SIGN: A sign to identify the name of the residential subdivision and located on the property of the subdivision.
- (30) TEMPORARY SIGN: A sign that is used only temporarily, for a specific length of time, and is not permanently mounted.
- (31) TENANT: As used in this section, “tenant” means a business or other establishment occupying space within a building under an agreement with the owner, or the owner-occupant of the building.
- (32) TRAILER SIGN: A sign mounted on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.
- (33) WALL SIGN: A sign which is painted or otherwise permanently affixed to a vertical exterior surface of a building or structure with the display area positioned parallel with the wall to which the sign is mounted, and including such a sign affixed to a parapet or to the lower slope of a gambrel or mansard roof.
- (34) WINDOW SIGN: A sign, picture, symbol or message that is placed inside a window, drawn, painted or etched on the window pane or glass or otherwise attached in or on a window and visible from the exterior of the window, not including any part of a customary window display of merchandise or other product.

C. Sign permits.

- (1) No sign shall be erected on the exterior of any building or on any land unless and until the Building Inspector has issued a sign permit. Application for a sign permit shall be on the form prescribed by the Building Inspector and shall include such information and drawings as the Building Inspector requires.
- (2) All signs erected hereunder shall be erected in the exact location and manner described in the permit.
- (3) The re-lettering of a sign shall be equivalent to the erecting of a sign, except when the original wording is reproduced.

D. Basic requirements.

- (1) The only signs allowed in the Town of Northborough are signs that advertise, call attention to or indicate the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or that advertise the property itself or any part thereof as for sale or rent and which contain no other matter.
- (2) Billboards and similar signs are specifically prohibited.
- (3) No sign shall be part of or attached to marquees or awnings.
- (4) Flashing, moving and animated signs are prohibited.

- (5) No sign may be illuminated between 12:00 midnight and 6:00 a.m. except signs identifying police or fire stations or essential public services.
- (6) "No hunting, fishing, etc.," signs not to exceed one (1) square foot are allowed.
- (7) Construction, erection and location of all freestanding signs shall be subject to the approval of the Building Inspector. No freestanding signs shall be erected if they create a safety hazard to vehicular or pedestrian traffic, in the opinion of the Building Inspector.

E. Construction and maintenance of signs.

- (1) All signs shall be constructed of durable and weatherproof material. They shall be maintained in safe structural condition and good visual appearance at all times, and no sign shall be left in a dangerous or defective state. The Building Inspector shall have the authority to inspect any sign and order the owner to paint, repair or remove a sign which constitutes a hazard or a nuisance due to improper or illegal installation, dilapidation, obsolescence or inadequate maintenance.
- (2) No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted, posted or otherwise securely affixed to a substantial intermediate removable surface, and such surface shall be securely affixed to the wall of the building. However, the foregoing shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediate surface, and the manner of affixing the sign to the intermediate surface and of the intermediate surface to the wall of the building, shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public. Notwithstanding the foregoing, signs may be painted or posted on the interior surface of any wall, including windows and doors.

F. Signs in residential districts.

- (1) The following signs are permitted in the Residence A, Residence B, Residence C, General Residential, Main Street Residential, and Downtown Neighborhood Districts:
  - (a) One (1) wall sign or freestanding sign which does not exceed two (2) sq. ft. in area, having the name of the occupant or designation of any authorized occupation permitted in the district, or both, shall be permitted.
  - (b) One (1) wall sign, freestanding sign or temporary sign which does not exceed six sq. ft. in area, advertising the rental, lease or sale of the premises, shall be permitted; provided, however, that such sign shall be removed within seven (7) days of the rental, lease or sale of the premises.
  - (c) Bulletin board accessory to a public or semi-public use, a school, hospital or place of worship or assembly, not exceeding ten (10) sq. ft. in area.

- (d) Temporary signs not exceeding six (6) sq. ft. in area may be erected to warn against contagious diseases, to warn against danger or to ensure silence where serious illness exists.
- (2) No sign shall be located over eight (8) feet from the ground to the top of the sign if attached to a building, or over six (6) feet from the ground to the top of any free-standing sign.
- (3) In a residential district, no illuminated signs shall be permitted except when associated with an allowed nonresidential use or a lawfully pre-existing nonconforming business use. Lighting of signs for nonresidential uses shall comply with subsection (D)(5) above.

G. Signs in business districts.

- (1) Type, size and number of signs. There shall be not more than the following on each lot:

- (a) Downtown Business District:

- [1] Lot with one (1) or two (2) tenants:

- [a] Freestanding sign: one (1) freestanding sign; size not to exceed thirty-two (32) sq. ft., height not to exceed ten (10) feet as measured from the ground to the highest point of the sign or twelve (12) feet to the top of the sign structure. The freestanding sign shall indicate the name(s) of tenant(s) of the facility, in a fixed manner, and may have space for changeable copy message.
- [b] Wall sign: one (1) wall sign not to exceed thirty-two (32) sq. ft. in area or two (2) wall signs with a combined total area not to exceed thirty-two (32) sq. ft.
- [c] Directory sign: one (1) directory of the tenants of the building, affixed to the exterior wall. The area of the directory sign shall not exceed one (1) sq. ft. for each tenant of the building.

- [2] Lot with three (3) or more tenants.

- [a] Freestanding sign: one (1) freestanding sign for each ten (10) tenants; size not to exceed forty (40) sq. ft., height not to exceed ten (10) feet as measured from the ground to the highest point of the sign or twelve (12) feet to the top of the sign structure. The freestanding sign shall indicate the name of the facility in a fixed manner, and may include space for listing of individual tenants or changeable copy message. When more than one (1) freestanding sign on a lot, there

shall be not less than fifty (50) feet between signs and no sign shall be located so as to obstruct the viewing of any other sign.

- [b] Wall sign: one (1) wall sign not to exceed thirty-two (32) sq. ft. for each tenant, attached to the wall of the store, or two (2) wall signs with a combined total area not exceeding thirty-two (32) sq. ft.
- [c] Directory sign: one (1) directory of the tenants affixed to the exterior wall of the building. Such directory sign shall not exceed an area determined on the basis of one (1) sq. ft. for each tenant of the building.

(b) Business East, Business West, and Business South Districts.

[1] Lot with one (1) or two (2) tenants.

- [a] Freestanding sign: one (1) freestanding sign, size not to exceed thirty-two (32) sq. ft. in area, height not to exceed ten (10) feet as measured from the ground to the highest point of the sign or twelve (12) feet to the top of the sign structure. The freestanding sign shall indicate the name(s) of the tenant(s), in a fixed manner, and may have space for changeable-copy message.
- [b] Wall sign: one (1) wall sign not to exceed thirty-two (32) sq. ft. in area or two (2) wall signs with a combined total area not to exceed thirty-two (32) sq. ft.
- [c] Directory sign: one (1) directory of the tenants of the facility, affixed to the exterior wall. Such directory sign shall not exceed an area determined on the basis of one (1) sq. ft. for each tenant of the building.

[2] Lot with three (3) or more tenants.

- [a] Freestanding sign: one (1) freestanding sign for each ten (10) tenants located on the lot; size not to exceed fifty (50) sq. ft., height not to exceed ten (10) feet as measured from the ground to the highest point of the sign or twelve (12) feet to the top of the sign structure. The freestanding sign shall indicate the name of the facility in a fixed manner and may have space for listings of individual tenants or changeable-copy message. When there is more than one (1) freestanding sign on a lot, there shall be not less than fifty (50) feet between signs, and no sign shall be located to obstruct the viewing of any other sign.

- [b] Wall sign: one (1) wall sign not to exceed thirty-two (32) sq. ft. for each tenant, attached to the wall of the store, or two (2) wall signs with a combined total area not exceeding thirty-two (32) sq. ft.
  - [c] Directory sign: one (1) directory of the tenants of the building affixed to the exterior wall of the building. Such directory sign shall not exceed an area determined on the basis of one (1) sq. ft. for each tenant of the building.
- (c) Highway Business District.
- [1] Lot with one (1) or two (2) tenants.
    - [a] Freestanding sign. Not more than one (1) freestanding sign, size not to exceed one hundred (100) sq. ft., height not to exceed twenty (20) feet as measured from the ground to the highest point of the sign. The freestanding sign shall indicate the name(s) of the tenant(s), in a fixed manner, and may have space for changeable-copy message.
    - [b] Wall sign: one (1) wall sign, size not to exceed one hundred (100) sq. ft. or two (2) wall signs with a combined total area not to exceed one hundred (100) sq. ft.
    - [c] Directory sign: one (1) directory of the tenants of the building affixed to the exterior wall. Such directory sign shall not exceed an area determined on the basis of one (1) sq. ft. for each tenant of the building.
  - [2] Lot with three (3) or more tenants.
    - [a] Freestanding sign. Not more than one (1) freestanding sign for each ten (10) tenants located on the lot; size not to exceed one hundred (100) sq. ft., height not to exceed twenty (20) feet as measured from the ground to the highest point of the sign. The freestanding sign shall indicate the name of the facility in a fixed manner and may have space for listings of individual tenants or changeable-copy message. When there is more than one (1) freestanding sign on a lot, there shall be not less than fifty (50) feet between signs, and no sign shall be located to obstruct the viewing of any other sign.
  - [3] Wall sign: one (1) wall sign not to exceed one hundred (100) sq. ft. for each tenant, attached to the wall of the store, or two (2) wall signs with a combined total area not exceeding one hundred (100) sq. ft.
  - [4] Directory sign. There may be not more than one (1) directory of the tenants of the building affixed to the exterior wall of the building.

Such directory sign shall not exceed an area determined on the basis of one (1) sq. ft. for each occupant or tenant of the building.

- (2) Location.
  - (a) A freestanding sign shall be permitted only when erected on the property which is advertised, and no portion of the sign shall be located within the airspace above any other abutting property.
  - (b) A wall sign attached to a building shall be securely affixed to one (1) of the walls of the building. The sign shall not project beyond the face of any other wall of the building or above the top of the wall to which it is attached, nor shall it be located on the roof of any building. In the case of a sign parallel to the wall, the sign shall not project more than twelve (12) inches. In the case of a sign perpendicular to the wall, the sign shall not project more than six (6) feet from the face of the wall to which it is attached. If the sign is attached to a parapet, it shall not exceed the height of the parapet.
  - (c) In no case shall any sign or part thereof project over a property line or over a public way.
- (3) Temporary signs. Signs for the purpose of announcing a special day or event and not to exist more than forty-five (45) days per calendar year shall be permitted. One (1) exterior movable sign shall be limited to fifteen (15) sq. ft. One (1) temporary sign shall be permitted for each freestanding sign as permitted by this section. Temporary signs shall be placed a minimum distance of thirty (30) feet apart from each other. Temporary signs affixed to the inside of a window shall not exceed thirty (30) percent of the window area of the storefront.

H. Signs in the Industrial District.

- (1) Signs shall be allowed that advertise the name of the firm or goods or services available or manufactured on the premises, provided that:
  - (a) No sign shall project over a street or way used by the public.
  - (b) The total area of all signs shall not exceed two hundred (200) sq. ft.
  - (c) No sign shall move or flash or be designed to attract the eye by intermittent or repeated motions.
  - (d) No sign shall be illuminated by exposed neon or fluorescent tubes.
  - (e) No sign shall constitute a hazard to vehicular traffic by the direction of and amount of its illumination
  - (f) The length of the sign shall not exceed thirty (30) percent of the total width of the wall to which it is attached.

- (g) All lettering is to be open and the height of the letters shall be limited to eight (8) feet.
    - (h) Such signs shall be attached and parallel to a building wall or roof, and the top of the sign shall not project higher than forty-two (42) inches above the main cornice line of the building or extend beyond the end of the building or project more than twenty-four (24) inches out from the building wall.
  - (2) No more than two (2) directional signs may be erected in any required front yard, and each shall be limited to four (4) sq. ft. in area.
  - (3) Freestanding signs. Freestanding signs shall not exceed twenty (20) feet in height measured from the ground to the highest point of the sign or sign structure, and shall not exceed forty-two (42) sq. ft. in area.
- I. Auto filling or service stations. The standard type of gasoline pump bearing thereon in usual size and form the name or type of gasoline and the price thereof shall not be deemed to be in violation of this chapter.
- J. Agricultural signs. One (1) sign not to exceed thirty-two (32) sq. ft. shall be allowed, and the wording may be changed periodically to advertise products raised or grown principally on the premises.
- K. Special signs.
  - (1) Real estate signs advertising rent, lease or sale are permitted, provided that:
    - (a) The sign shall not exceed thirty-two (32) sq. ft. in area.
    - (b) The sign shall advertise only the premises on which it is located.
    - (c) The sign shall be removed promptly after the completion of the sale or rental.
  - (2) Construction signs.
    - (a) The sign shall not exceed thirty-two (32) sq. ft. in area.
    - (b) The sign shall be maintained on the premises during construction and shall be removed upon completion of the construction or issuance of a certificate of occupancy and use, whichever occurs first.
- L. Permit not required. The following types of signs do not require a permit from the Building Inspector:
  - (1) Signs not exceeding one (1) sq. ft. in area and bearing only property numbers, post box numbers, or names of occupants of premises.
  - (2) Flags and insignia of any government, except when displayed in connection with commercial promotion.

- (3) Legal notices, identification information or direction signs erected by governmental bodies.
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (6) Noncommercial message. Sign for non-profit organization; sign which displays no commercial message; "open" and "closed" signs; and/or similar type of sign which is subject to the approval of the Building Inspector.

## CHAPTER 7-10: SPECIAL REGULATIONS

### Sections:

- 7-10-010 Open space-residential design**
- 7-10-020 Common driveways**
- 7-10-030 Industrial/office campus development**
- 7-10-040 Wireless communications facilities**
- 7-10-050 Adult uses**

### **7-10-010 Open space-residential design.**

- A. Purposes. The purposes of open space-residential design (OSRD) are to protect open space, agricultural and forestry land, viewsheds, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources; to protect the value of real property; encourage creative, environmentally sensitive design as the preferred form of residential development; and to encourage more efficient development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision.
- B. Applicability. In the Residence A or Residence B District, the Planning Board may grant a special permit for an OSRD that includes two or more detached single-family dwelling units.
- C. Reserved.
- D. Permitted uses. An OSRD may include the following uses:
  - (1) Detached single-family dwelling.
  - (2) Open space, conservation or recreation areas, including trails for walking, hiking, cross country skiing, horseback riding, picnicking and wildlife observation.
  - (3) Agricultural, equestrian and horticultural uses.
  - (4) Accessory recreational amenities for residents of the OSRD, such as a tennis court or playground.
- E. Dimensional regulations.
  - (1) The maximum number of dwelling units in an OSRD shall be determined in accordance with section F below.
  - (2) The Planning Board may waive the minimum lot dimensional requirements that normally apply to lots in the Residence A or Residence B District in order to maximize the open space area or facilitate a desired arrangement of buildings and

other amenities, and may permit more than one dwelling on a lot in an OSRD, except as follows:

- (a) Lots having reduced area or frontage shall not have frontage on a street other than a street within the OSRD unless the Planning Board makes a written determination that such reduced lot(s) or frontage on other streets will further the goals of this section.
- (b) Dwelling units in an OSRD shall be separated from abutting residential lots by an open space buffer of at least fifty (50) feet.
- (c) Unless waived by the Planning Board, all other dimensional requirements of the applicable zoning district shall apply.

F. Base maximum number of dwelling units. The base maximum number of dwelling units allowed in an OSRD shall be determined in accordance with the following formula:

|                                                              |                                           |                                 |                           |
|--------------------------------------------------------------|-------------------------------------------|---------------------------------|---------------------------|
| Total Number<br>Dwelling Units<br>= 1.50 X                   | Total Site Area (in sq. ft.) <i>minus</i> | (.5 X Wetlands)<br><i>Minus</i> | (.1 X Total Site<br>Area) |
| Zoning District Minimum Lot Area (sq. ft.); See Chapter 7-06 |                                           |                                 |                           |

The proponent shall have the burden of proof with respect to the calculation of wetlands on the site.

G. Common open space requirement. The OSRD must provide at least thirty-five (35) percent of the total area of the site as common open space to be protected in perpetuity. The common open space shall have no structures, parking, private yards, patios, sanitary waste disposal facilities or gardens restricted for the exclusive or principal use by the occupants of individual dwelling units. The common open space shall not be further subdivided, and a notation to this effect shall be placed on the plan of record, which shall be recorded at the Registry of Deeds. The following standards apply to the common open space in an OSRD:

- (1) Use, shape and location.
  - (a) Common open space shall be functional for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses.
  - (b) To the maximum extent feasible, the open space shall be undisturbed, unaltered and left in its natural or existing condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area. Not more than ten percent (10%) of the open space may be covered by gravel roadways, pavement or structures accessory to the dedicated use or uses of the open space. However, principal or accessory structures and access roads essential to an agricultural use are exempt from this limitation.
  - (c) The percentage of open space that includes wetlands normally shall not exceed the percentage of the site that includes wetlands. However, the

common open space may include a larger percentage of wetlands if the Planning Board determines that such inclusion promotes the purposes of this section.

- (d) Wherever feasible, the common open space shall be contiguous and linked as a unit, and linked to other existing open space.
  - (e) Underground utilities providing shared or common benefits to residents of the OSRD site may be located within the common open space.
  - (f) Existing or proposed utility easements shall not be counted as common open space unless approved by the Planning Board.
- (2) Ownership. Any proposed common open space within an OSRD shall be conveyed in accordance with the provisions of M.G.L. c. 40A, § 9. In any case where the common open space is not conveyed to the Town, a restriction enforceable by the Town by its Conservation Commission or other board under M.G.L. c. 184, §§ 31-32 shall be recorded providing that such land shall be kept in perpetuity in an open or natural state, and the Board of Selectmen is hereby authorized to accept such restrictions if the Conservation Commission declines to do so in any instance. Wherever possible, existing trails shall be kept open for limited recreational use.

H. Pre-submission meeting. Proponents are encouraged to meet with the Planning Board prior to applying for a special permit. The purposes of a pre-application review are to minimize the proponent's costs for engineering and other technical experts and to solicit guidance from the Planning Board at the earliest possible stage in the planning and permitting process. At the request and expense of the proponent, the Planning Board may engage technical experts to review the informal plans of the proponent and to facilitate submittal of a formal application for an OSRD special permit.

I. Design process. At the time of the application for a special permit under subsection J below, the proponent shall demonstrate to the Planning Board that the following design process was carried out by a registered landscape architect and considered by the proponent in determining the layout of proposed streets, house lots, and open space.

- (1) Site analysis. The first step in the design process is to identify the natural, scenic and cultural features on the site and surrounding it, to analyze the design implications of these features, and to evaluate the site in its larger context by identifying physical, cultural and transportation connections to surrounding land uses and activities. Wherever possible, site and context features shall include areas identified by the Planning Board during the pre-submission meeting.
- (2) Open space. The second step in the design process is to identify the open space to be preserved on the site. The open space should include the most sensitive and noteworthy resources of the site, be contiguous, and where appropriate, serve to extend neighborhood open space networks.
- (3) Development envelope. The third step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a

delineation of private yards, public and private streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. To the maximum extent feasible, the proposed area of disturbance shall consist of land outside the areas identified under (1) above. The location of dwelling units should account for proximity to common open space and other amenities, including community buildings for use by residents of the development. Toward this end, the number of dwelling units with direct access to the amenities of the development should be maximized.

- (4) Lot and easement lines. The fourth step is to identify the approximate location of lot and easement lines, where applicable.

J. Special permit procedures.

- (1) General. The special permit application, review and decision procedures shall be in accordance with this section and § 7-03-040, and M.G.L. c. 40A, § 9. Where a development requires a special permit under this section and any other section of this bylaw, the special permit applications may be combined into a single submission and the Planning Board may grant a single special permit that addresses all applicable requirements.
- (2) Application requirements. The special permit application shall include an OSRD concept plan and a yield analysis in accordance with the requirements herein. The size, form, number and contents of the required plans and any supplemental information shall be in accordance with Planning Board regulations.
- (3) Sources of data. The concept plan and yield analysis may be prepared from existing data such as deed information, USGS topographical maps, FEMA floodplain maps, assessor's maps, orthophotos, soil maps or soil conservation survey, Department of Environmental Protection (DEP) Wetlands Conservancy Program maps or other wetland maps as may be on file with the Northborough Conservation Commission, or federal, state or local maps of wildlife habitat and supporting landscapes. While it is not necessary to verify all site constraints prior to preparing a Concept Plan, they should be represented as accurately as possible in order to avoid significant changes to the Concept Plan in subsequent applications for approval of a site plan or a subdivision plan. The proponent shall bear the risk of any such changes.
- (4) Required information for OSRD concept plan. The concept plan shall be a schematic representation of the proposed OSRD, with sufficient detail about existing and proposed conditions to enable the Planning Board to understand the nature, scope and impacts of the project being proposed and to be able to respond to the proponent's proposals in an informed manner. The concept plan shall include scaled drawings prepared by a registered landscape architect. The concept plan shall incorporate the OSRD design process outlined in subsection I above and account for the minimum design standards of subsection L below. At minimum, the concept plan shall provide the following information:
  - (a) The location of the proposed development;

- (b) The size of the proposed site in acres;
  - (c) An existing conditions inventory and an analysis of site and context features identified during the OSRD Design Process;
  - (d) The total number and approximate locations of the proposed buildings, dwelling units and/or lots, and the approximate size of each in sq. ft.;
  - (e) The acreage and proposed use(s) of permanent open space;
  - (f) A statement on the disposition or manner of ownership of the proposed open space;
  - (g) The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space;
  - (h) The approximate location of proposed roadways;
  - (i) A general description of how drainage and wastewater will be handled, including a soils statement and the general area of the site to be used for stormwater management facilities;
  - (j) A general description of the proponent's plans for site improvements, including mitigation of noise, odor or visual impacts arising from the operation of a package treatment plant, where applicable; and
  - (k) Sufficient detail of the proposed area(s) of disturbance and built and natural features to enable the Planning Board to make the required determinations under subsection G below.
- (5) Yield analysis. The proponent shall submit a yield analysis based on the formula for base maximum number of units in subsection F above. The purpose of the yield analysis is to demonstrate the maximum number of lots that could be developed on the site under a conventional plan and the maximum number of units that may be permitted in an OSRD. The total number of lots in the OSRD shall be determined by the Planning Board, based upon its review and determination of the proponent's yield analysis.
- (6) Site alterations. After a OSRD special permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the tract of land proposed for a OSRD until the application has been reviewed and approved or denied as provided by these regulations.

(7) Decision.

(a) The Planning Board may grant a special permit for an OSRD with any conditions, safeguards, and limitations necessary to ensure compliance with this section, only upon finding that:

[1] The conceptual design and layout of the proposed OSRD is superior to a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient provision of streets, utilities and other public services, and providing a high degree of design quality;

[2] The OSRD provides for a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;

[3] The OSRD furthers the purposes of this section.

(b) The Planning Board may deny a special permit upon finding that the application does not provide sufficient information or does not comply with the provisions of this bylaw; or that the site is not suitable for an OSRD and would be more appropriate for a conventional subdivision plan, which finding shall be set forth in detail in a written decision.

(c) Effect of special permit approval. Approval of a special permit under this section shall not be considered approval for any construction. The special permit is a preliminary approval, intended to give guidance to the proponent for the development of an OSRD definitive plan, and to determine whether the proponent's submittal meets the objectives of this section. Any subsequent application for an OSRD definitive plan shall comply with all material aspects and conditions of the special permit granted hereunder.

K. Definitive plan procedures. Following issuance of a special permit for an OSRD, the proponent is eligible to submit an OSRD definitive plan to the Planning Board. The definitive plan shall be a site plan submitted to the Planning Board in accordance with § 7-03-050. An OSRD that involves a subdivision of land must be submitted to the Planning Board for approval under the Planning Board's subdivision rules and regulations.

(1) The Planning Board may approve a definitive plan that substantially complies with the special permit granted under subsection J above and meets all of the following additional requirements for common facilities, operations and maintenance:

(a) Each unit and the OSRD as a whole shall be served by a privately owned and maintained on-site sewage disposal or treatment systems. An approved on-site sewage disposal or treatment system serving more than one dwelling unit may be located on land owned in common by the owners of the residential units in the OSRD, subject to requirements of the Northborough Board of Health and Title 5 of the Massachusetts Environmental Code or approved in

accordance with the requirements of Department of Environmental Protection Groundwater Discharge Permit Program.

- (b) To ensure that common open space and common facilities will be maintained properly, each OSRD shall have a residents association in the form of a corporation, non-profit organization, or trust, established in accordance with appropriate state law by a suitable legal instrument or instruments properly recorded at the registry of deeds or registry district of the Land Court. As part of the definitive plan submission, the proponent shall supply copies of such proposed instruments to the Planning Board.
- (2) The Planning Board may conditionally approve an OSRD definitive plan that does not substantially comply with the special permit. A conditional approval shall identify where the plan does not substantially comply with the special permit, identify the changes to the special permit required to bring the plan into compliance with the special permit, and require the special permit to be amended within a specified time. The public hearing on the application to amend the special permit shall be limited to the significant changes identified in the Planning Board's conditional approval.
- (3) The Planning Board may disapprove a definitive plan for failure to comply with the special permit or for failure to meet the OSRD design standards in subsection L below. The definitive plan will be considered not to comply with the special permit if the Planning Board determines that any of the following conditions exist:
  - (a) Any increase in the number of buildings or dwelling units;
  - (b) A significant decrease in acres of common open space; or
  - (c) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation.
- L. Minimum design standards. An OSRD definitive plan shall address the following design standards and any supplemental design regulations or guidelines adopted by the Planning Board under subsection N.
  - (1) Landscape preservation. Insofar as practicable, an OSRD shall preserve the landscape in its natural state by minimizing tree removal and grade changes. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. The location and orientation of individual building sites shall be such as to maintain maximum natural topography and limit the removal of trees with four inches or more of diameter at breast height (dbh). Topography, viewsheds, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as elements that can be changed to follow a particular development scheme.
  - (2) Roadway design. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to

minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

- (3) Cultural resources. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized.
  - (4) Architectural design. In scale, massing, height, exterior materials and roofline articulation, residential buildings in an OSRD shall be compatible with surrounding residential areas.
  - (5) Buffer areas. An OSRD that abuts an existing residential use shall provide a buffer area of at least one hundred (100) feet to the property line of adjacent homes. Within the buffer area, no vegetation will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the OSRD, except that roads or driveways necessary for access and egress to and from the site may cross such buffers. The Planning Board may waive buffer requirements when it determines that a smaller buffer will suffice to accomplish the objectives of this section. The Planning Board may also approve the inclusion of buffer area within the area provided as common open space.
  - (6) Drainage. The Planning Board shall encourage and may require the use of non-structural stormwater management techniques, such as swales, and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.
  - (7) Common/shared driveways. A common or shared driveway shall serve not more than four single-family dwelling units unless the Planning Board determines that a common driveway serving more than four units will further the purposes of this section.
  - (8) Pedestrian circulation. Where appropriate, walkways shall be provided within the OSRD to link residences with parking areas, recreation facilities and open space, and adjacent land uses.
- M. Incentive for additional open space. For each additional ten (10) percent of the site (over and above the required 35 percent) set aside as common open space, the Planning Board may authorize an increase in the number of dwelling units, provided that the total number of additional units shall not exceed twenty-five (25) percent of the base maximum number of dwelling units determined in accordance with subsection F above.
- N. OSRD regulations and design guidelines. The Planning Board may adopt rules, regulations and guidelines to administer this section, following a public hearing.

**7-10-020 Common driveways.**

- A. Common driveways may be allowed by special permit by the Planning Board, subject to the requirements of this section.
- (1) For a common driveway serving up to two (2) lots:
    - (a) The centerline intersection with the street centerline shall not be less than 60 degrees;
    - (b) A minimum cleared width of twelve (12) feet shall be maintained over its entire length;
    - (c) A minimum roadway surface of four (4) inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed; and
    - (d) The driveway shall be located entirely within the boundaries of the lots being served by the driveway.
  - (2) A common driveway serving three (3) or more lots shall conform to the minimum road construction standards in the Northborough Rules and Regulations of Subdivision Control.
  - (3) Proposed documents shall be submitted to the Planning Board demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

**7-10-030 Industrial/office campus development.**

- A. Purposes. The purposes of industrial/office campus development (IOCD) are to encourage planned campus park developments in the Industrial District through the use of master plans that are designed for compatibility with nearby residential or commercial areas; to provide a project review process for business parks that will be constructed in phases; to encourage economic growth in the Town of Northborough through high-quality industrial and office development; to establish regulations and guidelines that accomplish the foregoing objectives while minimizing adverse impacts on the natural features of a proposed site and the town's water resources; and to encourage nonresidential mixed-use developments for research and development, manufacturing, offices, and administrative and support facilities.
- B. Applicability. Any nonresidential development involving five or more acres of land in the Industrial District may be considered for IOCD approval. An IOCD shall be allowed only upon issuance of an IOCD master plan special permit in accordance with the provisions of this section, § 7-02-040 and § 7-02-050.

- C. Use regulations. Any use allowed as of right in the Industrial District shall be allowed as of right in an IOCD, and any use allowed by special permit shall also require a special permit to be included in an IOCD.
- D. Design and performance standards. The intent of the IOCD is to provide for development in accordance with master plans that meet the following standards:
- (1) Overall unity of site design and attention to the public realm, including coordinated patterns for streets, ways and pedestrian paths; distributed open space, appropriate landscaping; aesthetic harmony of features including building architecture, street furniture, pedestrian amenities and signage.
  - (2) Preservation and integration of open spaces, wetlands, mature trees and other features of environmental significance into the design of the site.
  - (3) Drainage systems that protect and appropriately employ open spaces and wetlands, utilizing Best Management Practices (BMPs) and other measures to manage stormwater runoff in accordance with the Town of Northborough's stormwater management regulations and applicable regulations of the Massachusetts Department of Environmental Protection (DEP).
  - (4) Underground utilities shall be used, except for existing above ground electric and telephone lines.
  - (5) Mitigation of the adverse effects of development on traffic circulation and street capacity; air quality; noise (including that generated by traffic); stormwater runoff on adjacent and downstream surface water bodies; flooding, erosion, sedimentation, changes in water tables; wildlife, wildlife habitat, rare or endangered plant or animal species; water supply, including adverse impacts on aquifers and the public water distribution system; and adverse effects of sewage disposal on ground water, aquifers, surface water and, where applicable, the municipal sewer system.
  - (6) Compatibility with uses of abutting properties, including aesthetic compatibility; or appropriate separation and buffers from such abutting property by plantings or terrain.
  - (7) Availability of public services and impacts on municipal services, including but not limited to police and fire services, public road maintenance, traffic control and solid waste disposal.
  - (8) Costs and benefits to the Town of Northborough, showing net benefits.
  - (9) Facilities for meeting transportation needs, and planning for control and reduction of vehicle trips by means such as ride sharing, car pooling or use of vans or shuttles.
  - (10) Organizational and management arrangements and documents pursuant to which the master plan will be implemented and common facilities will be maintained, including provisions for architectural review and control, enforcement of applicable restrictions, and the planning with respect to transportation.

E. Procedures.

- (1) IOCD master plan special permit. Application requirements, including fees, shall be in accordance with the rules and regulations of the Planning Board and the following requirements.
  - (a) The master plan submission shall contain the necessary plans, information, data and documents to indicate the anticipated scope and intensity of development, size and location of structures, layout of streets and ways, and impacts on the environment, municipal services and traffic, and shall conform with the design criteria and guidelines in this section to the maximum feasible extent. An IOCD special permit approved by the Planning Board under this section shall govern the development of the tract of land included therein, and shall be a public record.
  - (b) The Planning Board shall hold a public hearing on an IOCD application no later than 65 days from the date of submission. Notice of the hearing shall be in accordance with M.G.L. c. 40A, § 11. Review authorities shall forward their comments, in writing, to the Planning Board no later than the date of the public hearing.
  - (c) No later than 90 days from the close of the public hearing, the Planning Board shall grant a special permit for the master plan as proposed, or approve it with conditions, or deny the proponent's submission. If no action is taken within 90 days, the application shall be deemed approved as submitted except where the Planning Board and the proponent have agreed in writing to an extension.
- (2) Special permit decision criteria. The Planning Board shall grant special permit for an IOCD only upon its determination that:
  - (a) The master plan meets all applicable requirements of this section and § 7-02-040;
  - (b) Given the location, type and extent of land use proposed by the proponent, building location, egress points, anticipated grading, and other elements of the master plan could not reasonably be altered to address the criteria in § 7-02-050C(2), where applicable;
  - (c) Any variances required from the Zoning Board of Appeals have been granted.

- F. IOCD master plan amendments. The proponent may propose to amend, modify or supplement an IOCD master plan from time to time in order to bring the plan into conformity with changed circumstances, ongoing development in an IOCD, and information disclosed through detailed study and engineering of particular development sites within the IOCD. The Planning Board may approve such amendments and may in its discretion hold a public hearing, with notice given as set forth above, if it deems the proposed modification and supplementation to be substantial.

- G. Lapse. An IOCD Master Plan Special Permit shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, no later than two years following the filing of the special permit approval with the Town Clerk, including such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, § 17. Such approval may, for good cause, be extended in writing by the Planning Board upon written request of the proponent. For purposes of this section, “substantial use” shall mean the issuance of at least one building permit for a use included in the IOCD.
- H. Project plan submissions and procedures.
- (1) Prior to application for a building permit for a use permitted in an IOCD, the proponent shall submit a project plan to the Planning Board.
  - (2) For project plans submitted under an approved Master Plan, application requirements, review and decision procedures shall be in accordance with site plan approval under § 7-02-050(A)(1), except as follows.
    - (a) In addition to meeting the requirements of § 7-03-050, the proponent shall provide written statements that the project for which a building permit is sought complies with (a) the master plan special permit, (b) the uses permitted within an IOCD and (c) all requirements of this section, and shall provide such plans, information, analyses, computations and other data as are reasonably necessary to document such statements.
    - (b) If no action is taken on a project plan within sixty (60) days, the application shall be deemed approved as submitted except where the Planning Board and the proponent have agreed in writing to extend the review period.
  - (3) Where applicable, the proponent shall submit for endorsement of an approval not required plan or approval of a subdivision plan, if required, in accordance with the Planning Board’s subdivision regulations.
- I. Signs. Signs in an IOCD shall be in accordance with § 7-09-040 and this section. Where a conflict exists between this section and § 7-09-040, this section shall govern.
- (1) At each public street entrance an IOCD, a sign shall be permitted to identify the development as a whole. No such sign shall exceed three hundred (300) sq. ft. in size nor eight (8) feet in height, nor be located less than twenty (20) feet from the street line.
  - (2) At an appropriate location within an IOCD, a directory map shall be permitted to identify organizations and enterprises. With the approval of the Planning Board additional directory signs may be permitted. No such sign shall exceed three hundred (300) sq. ft. in size nor twelve (12) feet in height, nor shall any lettering thereon exceed eight (8) inches in height. If such sign includes a locator map, at least two adjacent parking spaces shall be provided.
  - (3) Each principal building shall be permitted to have one identifying sign designating the names and/or logos of the organizations or enterprises occupying the same. No

such sign shall exceed three hundred (300) sq. ft. in size nor twelve (12) feet in height, nor be pole mounted, but may be located in front of the building or mounted thereon.

- (4) Traffic direction and control signs are permitted when required or authorized by state and local officials with jurisdiction over such signs. Temporary signs are permitted to identify construction, financing, sale, leasing or pending tenancy with respect to buildings, or the occurrence of a special event, a hazard or a restriction or limitation of access or use.
  - (5) No signs shall be moving or flashing, but may be illuminated by non-flashing, non-blinking lights.
- J. Regulations. To implement this § 7-10-030, the Planning Board may adopt regulations consistent with the provisions herein, further specifying and defining submission requirements and procedures, fees, design guidelines, and procedures.

**7-10-040 Wireless communications facilities.**

A. Purpose and intent.

The purpose of this section is to minimize adverse impacts of communication structures, monopoles, buildings and appurtenances on adjacent properties and residential neighborhoods; and to protect, to the maximum extent practicable, the rural character and aesthetic qualities of the Town of Northborough, the property values of the community and safety of the citizens. This section is promulgated under the authority of M.G.L. c. 40A, the Home Rule Amendment of the Massachusetts Constitution and the 1996 Telecommunications Act, 47 U.S.C. sec. 332(c)(7)(A). A wireless communication facility shall not be placed, constructed or modified except in accordance with the provisions of this bylaw.

B. Applicability.

Unless exempted in accordance with subsection H of this section, any Wireless Communications Facility (WCF) as defined hereunder shall require a special permit from the Planning Board.

C. Definitions. Where used in this section, the following terms shall have the following meanings:

- (1) **WIRELESS COMMUNICATIONS FACILITY:** A wireless communications facility (“WCF”) shall mean a facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components.

- (2) **COMMUNICATION BUILDING:** Any building utilized primarily for the installation and operation of equipment for generating or receiving electromagnetic radiation and which is accessory to a communication structure.
- (3) **COMMUNICATION STRUCTURE:** Any structure intended to support equipment used for the transmission and/or reception of electromagnetic radiation, including communication monopolies, antennas, wiring or other devices attached thereto. Such a structure shall not include a lattice tower.
- (4) **COMMUNICATION MONOPOLE:** Any cylindrical pole intended to support equipment used for the transmission and reception of electromagnetic radiation including antennas, wiring or other devices attached thereto.
- (5) **LATTICE TOWER:** A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- (6) **MOUNT:** The structure or surface, upon which antennas are mounted, including the following four (4) types of mounts.
  - (a) **Roof-mounted:** Mounted on the roof of a building.
  - (b) **Side-mounted:** Mounted on the side of a building.
  - (c) **Ground-mounted:** Mounted on the ground.
  - (d) **Interior-mounted:** Mounted within a building such that the WCF is not visible from the exterior of the building/structure.
- (7) **RADIOFREQUENCY (Rf) ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.
- (8) **RADIOFREQUENCY RADIATION (RFR):** The emissions from WCFs.

D. Application process.

Every special permit application for a WCF shall be made under the provisions of § 7-03-050 and filed on the applicable application form available from the Planning Board. Site plan approval by the Planning Board is also required for all co-locations and all mounted WCFs.

- (1) An application for a special permit for a WCF may be approved provided that a proponent satisfies the requirements of this section and § 7-03-050.
- (2) Applications for special permits shall be denied if the proponent cannot fulfill or address the requirements of this section to the satisfaction of the Planning Board.
- (3) When considering an application for a new WCF, the Planning Board shall place great emphasis on the proximity of the WCF to residential dwellings and its impact on these residences.

- (4) A locus plan at a scale of 1"=100' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings, and all buildings within five hundred (500) feet of the WCF. Such plan shall also include an engineer's certification stating that all property lines of the lot on which the WCF is proposed to be located are not within 1000' of any school property line.
- (5) The following information shall be prepared by one or more professional engineers:
  - (a) A description, including illustrations and photographs, of the monopole and the technical, economic and other reasons for the proposed location, height and design.
  - (b) Confirmation that the monopole complies with, or is exempt from all applicable Federal and State standards.
  - (c) A description of the capacity of the monopole including the number and type of panels, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.
- (6) Material describing a specific plan for a balloon or similar test, including the date and time, as well as a rain date and time shall be submitted with the application. The Planning Board shall approve the plan and specify the manner by which the proponent shall give notice to the public.
- (7) In addition to the filing fees, the proponent shall pay any additional cost of retaining professional services if such services are deemed necessary by the Planning Board.
- (8) Any special permit granted under this section shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. c. 40A, sec. 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

E. General requirements.

- (1) No WCF shall be placed, constructed or modified except in compliance with this Zoning Bylaw.
- (2) All WCFs shall be co-located, to the maximum extent practicable and technologically feasible, with one or more WCFs for which a special permit has been previously granted and whose height, location and characteristics meet the needs of the proposed new WCF. The proponent shall demonstrate to the Planning Board that it has made a reasonable effort to co-locate the proposed WCF upon an existing structure or WCF.
- (3) All new wireless communication monopoles or support structures shall be designed and constructed, to the maximum extent practicable with existing technology and with height limits set forth in this chapter, for co-location of antennas and other

necessary facilities for at least three (3) other wireless communication providers, and shall offer space to all other providers at market rates. Any special permit granted for a new WCF under this section shall be conditioned upon the written agreement of the WCF operator to allow the co-location of at least three other wireless communication providers on commercially reasonable terms. If co-location facilities are not installed at the time of construction of the WCF, then, at the time of any addition of a co-located facility, the holder of the special permit and the new provider shall notify the Planning Board and the Building Inspector that the installation has occurred and certify that the installation has been performed in accordance with the special permit for the WCF.

- (4) In descending order of zoning district preference, a WCF shall be located in the Industrial District; the Business West, Business East, Business South, and Highway Business District; the Residence A, Residence B, and Residence C District; and the Downtown Business, General Residential, Main Street Residential, and Downtown Neighborhood District.
- (5) Any proponent not proposing to locate their WCF in the Industrial District shall demonstrate why it is not feasible for the WCF to be co-located with an existing WCF or to be located in the Industrial District, and any other district having preference over the proposed location.
- (6) No WCF shall contain more than one monopole, tower or other structure for elevating an antenna or dish. No more than one WCF, except co-locators, shall be constructed on one lot. In no event shall any WCF be located closer than one mile to any other such WCF, unless the proponent can show that no existing space on the existing WCF can be leased or procured.
- (7) The maximum height of the WCF, measured from the mean finished ground level shall not exceed 125 feet in the Industrial, Highway Business, Business South, Business West, or Business East District and shall not exceed 75 feet in the Downtown Business, General Residential, Main Street Residential, Residence C, Residence B, Residence A, or Downtown Neighborhood District. The Planning Board may waive such requirement in exceptional circumstances to allow a greater height where such action is in the public interest and is not inconsistent with the purpose and intent of the Zoning Bylaw.
- (8) In the Industrial, Highway Business, Business South, Business West, Business East, and Downtown Business District, the setbacks for the WCF shall be: a minimum of one and a half (1 ½) times the height of the monopole. The WCF shall also be 500 feet from the lot line of the nearest residential structure. Said distance shall be measured from the base of the WCF to the lot line of the nearest residential use. The Planning Board may waive such requirement in exceptional circumstances to allow a lesser setback where such action is in the public interest and is not inconsistent with the purpose and intent of the Zoning Bylaw.
- (9) In residential districts, the setbacks shall be a minimum of four times the maximum height of the WCF from the nearest lot line, but not less than 500 feet as measured from the base of the WCF to the nearest residential structure. The Planning Board

may waive such requirement in exceptional circumstances to allow a lesser setback where such action is in the public interest and is not inconsistent with the purpose and intent of this bylaw.

- (10) The property line of a WCF shall be a minimum of 1000 feet from any school property line.
- (11) All structures associated with a WCF shall be removed within one (1) year of the cessation of said use.
- (12) RFR measurement: After the WCF is operational, the proponent shall submit to the Planning Board and the Building Inspector, within 90 days of beginning operations, and at annual intervals, existing measurements of RFR from the WCF. All annual reports shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC regulations. Testing shall be done for all freestanding facilities and all mounted facilities. The RFR shall not exceed FCC regulations.
- (13) Noise measurement: After the WCF is operational, the proponent shall submit to the Planning Board and the Building Inspector, within 90 days of beginning of operations, and at annual intervals, existing measurements of noise from the WCF. All annual reports shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed by an acoustical engineer, stating that noise measurements are accurate. Testing shall be done for all freestanding facilities and all mounted facilities.
- (14) As a condition for any special permit for the placement, construction or modification of a WCF, the proponent shall provide a bond, in a form acceptable to the Planning Board, or shall place into escrow a sum of money sufficient to cover the costs of removing the WCF from the subject property and, furthermore, said funds shall be held by the Town Treasurer or an independent escrow agent to be appointed by the carrier and the Planning Board. The amount of the surety shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. The proponent shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the WCF when the WCF has been abandoned or discontinued.

A WCF shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was constructed for a period of one year or more. Once abandonment or discontinuance has occurred, the proponent shall remove the WCF from the subject property within ninety days. In the event that the proponent fails to remove the WCF, the Town shall give notice to the proponent and, if appropriate, the independent escrow agent that the WCF shall be removed forthwith and the Town or the escrow agent, after affording written notice seven days in advance to the proponent, shall remove the WCF.

The special permit shall further state that, in the event the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover the difference in cost.

- (15) The proponent shall provide to the Planning Board a contact for emergencies and said contact person and phone number and the owner of the WCF and phone number shall be posted on the fence surrounding the WCF.
- (16) A qualified independent structural engineer shall perform a structural safety inspection of the WCF at least every two years and shall deliver a copy of said reports to the Town Engineer on July 1. All structural safety deficiencies noted in any such report shall be remedied and the Town Engineer notified by the structural engineer within sixty days of the date of the report.

F. Design provisions. Design provisions for each WCF shall include, but are not limited to:

- (1) No new WCF shall be placed or constructed that uses a lattice-type construction which requires three or more legs or guy wire supports or both.
- (2) Except as provided herein, every WCF shall comply with all applicable signage regulations set forth in the Zoning Bylaw. Notwithstanding any other regulation, however, no WCF shall place any signage above the height of ten (10) feet as measured from the ground to the highest point of the sign or 12 feet to the top of the sign structure.
- (3) All monopoles, antennae, antennae support structures and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures of the surrounding environment. Such structures shall be constructed out of nonreflective materials.
- (4) Every building mounted WCF shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that match and/or blend with those of the building.
- (5) The related unmanned equipment and/or building, per carrier, shall not contain more than 200 sq. ft. of gross floor area or be more than ten (10) feet in height.
- (6) There shall be a minimum of one (1) parking space for each WCF, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.
- (7) Every WCF shall be protected against unauthorized climbing or other access by the public. The fencing shall be compatible with the scenic character of the Town and shall not be constructed of barbed wire or razor wire.
- (8) WCFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.

- (9) Proponents shall submit eight (8) view lines shown in a one (1) mile radius from the site, beginning at true North and continuing clock-wise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five (5) feet above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the WCF in place.
- (10) Landscape plans submitted with the application shall identify all existing vegetation, shall indicate which vegetation is to be removed or altered, and shall show all proposed new vegetation and other landscape treatments.
- (11) Every WCF shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and structures and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or landscape.

G. Environmental standards.

- (1) No hazardous waste shall be discharged on the site of any WCF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- (2) Ground-mounted equipment for a WCF shall not generate noise in such concentrations and of such duration as to:
  - (a) Be greater than 50 dB at any audible frequency measured at the WCF property line;
  - (b) Be injurious, or be on the basis of current information, potentially injurious to human or animal life, to vegetation, or to property; or
  - (c) Unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.

H. Exemptions.

- (1) The following types of WCFs are exempt from the requirements of this Chapter 7-40, but must comply with all other applicable requirements of the Zoning Bylaw:
  - (a) A television antenna or satellite dish which is accessory to a use permitted as of right in a business or residential district, provided such use does not include the provision of wireless communications services for a fee. Such antenna or dish must be:(1.) less than 2 meters in diameter; and (2.) not visible from any neighboring property or public way.

- (b) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC provided that the tower is not used or licensed for any commercial purposes
- (2) The following types of WCFs shall not require a special permit, but shall comply with all other requirements of this section and shall require Planning Board site plan approval in accordance with the provisions of § 7-10-050(A)(1).
  - (a) An interior-mounted WCF installed wholly within and not protruding from the interior space of an existing building or structure, excluding buildings used for residential use.
  - (b) A roof-mounted WCF installed on the roof of an existing building, providing no part of the WCF extends more than ten (10) feet above the existing roof and the roof of such building is at a higher elevation than any other building within one thousand (1,000) feet.
  - (c) A side-mounted WCF not projecting above the height of the existing building and not extending by more than 18 inches out from the face of the building to which it is attached.

**7-10-050 Adult uses.**

A. Purpose and intent.

This bylaw is enacted pursuant to M.G.L, c. 40A § 9A in order to serve the compelling interests of the Town in preventing the clustering and concentration of adult entertainment enterprises because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect on generating crime and blight.

B. Definitions. The term “adult uses” shall include and be defined as follows:

- (1) **ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, computer compact disks, computer disks or diskettes, or coin-operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "sexual conduct" as that term is defined in M.G.L. c. 272, § 31, “sexual devices” or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.
- (2) **ADULT LIVE ENTERTAINMENT ESTABLISHMENT:** any establishment which displays live entertainment which is distinguished or characterized by its emphasis

depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

- (3) **ADULT MOTION PICTURE THEATER:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating 'sexual conduct" as defined in M.G.L. c. 272, § 31, for observation by patrons therein.
- (4) **ADULT MINI MOTION PICTURE THEATER:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to 'sexual conduct" as defined in M.G.L. c. 272, § 31, for observation by patrons therein.
- (5) **SUBSTANTIAL OR SIGNIFICANT PORTION** shall mean at least that portion of:
  - (a) Retail sales accounting for at least twenty-five percent of gross sales; or
  - (b) Merchandise accounting for at least twenty-five percent of total merchandise available for sales; or
  - (c) Shelf space and display space which when combined is in excess of eighty (80) sq. ft.

C. Special permit standards for adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment.

- (1) The Zoning Board of Appeals shall not grant a special permit for an adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment unless all of the following conditions are satisfied:
  - (a) No adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment shall be located less than one thousand (1,000) feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, or another adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment. The 1,000 feet distance shall be measured from all property lines of the proposed adult use.
  - (b) No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult bookstore, adult video store, adult paraphernalia store or adult motion picture theatre, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

- (c) No special permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, § 63, or M.G.L. c. 272, § 28.
- (2) Signs for adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre and adult live entertainment establishment shall conform to the requirements of § 7-09-040(G)(1)(b) for the Business East, Business West, and Business South Districts.
- (3) Any special permit granted under this section shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. c. 40A, § 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.