



# TOWN OF NORTHBOROUGH PLANNING DEPARTMENT

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## 2022 ANNUAL TOWN MEETING PROPOSED ZONING-RELATED WARRANT ARTICLES March 21, 2022 DRAFT

### ARTICLE 33: Zoning Bylaw – Section 7-09-040, Signs

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Section 7-09-040 Signs, by deleting the text shown below in strikethrough and adding the text shown below as underlined, or take any action relative thereto.

#### 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 (1) 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 temporary 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) ELECTRONIC MESSAGE CENTER - Any sign that utilizes computer-generated messages or some other electronic means of changing copy.

(11) ERECTING - Any installing, constructing, reconstructing, replacing, relocating, re-lettering, except as specifically provided, extending, altering or otherwise changing of a sign. "Erecting" shall not include repairing or maintaining an existing sign.

(12) EXTERNALLY ILLUMINATED SIGN – a sign which utilizes an external and stationary light source which is shielded and directed solely at the sign.

~~(42)~~ (13) EXTERIOR SIGN - A wall sign, projecting sign or awning sign placed on or about the exterior of any structure.

~~(43)~~ (14) FLAG - ~~See "banner."~~ A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope.

~~(44)~~ (15) FREESTANDING SIGN - A non-movable 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.

(16) GASOLINE CANOPY SIGN - A permanent sign consisting of letters and or logo surrounding the covering structure placed over gasoline pumps.

~~(45)~~ (17) 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.

~~(46)~~ (18) INDIVIDUAL LETTER SIGN - A wall sign consisting of individual letters, mounted to a building surface without any background or frame.

(19) INTERNALLY ILLUMINATED SIGN - A sign that is illuminated by a light source internal to the sign. Internally illuminated signs include signs which utilize translucent panels.

~~(47)~~ (20) 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).

~~(18)~~(21) NEON SIGN - A sign which features exposed glass tubing filled with fluorescent gas.

~~(19)~~(22) OFFICE PARK OR INDUSTRIAL PARK - See “business center.”

~~(20)~~(23) 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.

~~(21)~~(24) PERMANENT SIGN - A sign that is permanently attached to a building or having in-ground supporting structure(s) or braces.

~~(22)~~(25) 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.

~~(23)~~(26) 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.

~~(24)~~(27) REAL ESTATE SIGN - A sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

~~(25)~~(28) ROOF SIGN - A sign attached to or erected wholly upon and over the roof of any building and supported solely on the roof structure; including the lower slope of a gambrel or mansard roof.

~~(26)~~(29) SHOPPING CENTER - See “business center.”

~~(27)~~(30) 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.

~~(28)~~(31) 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 matter 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.

(29)(32) 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.

(30)(33) SUBDIVISION SIGN - A sign to identify the name of the residential subdivision and located on the property of the subdivision.

(34)(34) TEMPORARY SIGN - A sign that is used only temporarily, for a specific length of time, and is not permanently mounted.

(32)(35) 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.

(33)(36) TRAILER SIGN - A sign mounted on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.

(34)(37) 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.~~

(35)(38) 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. Non-Conformity and Compliance.**

(1) No sign shall be erected on the exterior of any building or on any land unless 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.

(4) Any pre-existing nonconforming sign and/or support structure, legally permitted and erected prior to the adoption of this provision, or any amendments thereto, which remains unaltered in any way, may be continued if maintained.

(5) Pre-existing nonconforming signs shall not be enlarged, redesigned, or structurally altered except in conformity with this bylaw.

(6) A pre-existing non-conforming sign which is removed or abandoned for longer than 30 days or destroyed beyond repair shall not be replaced unless it complies with this bylaw.

(7) No use variances are allowed for any signs.

#### 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 roofs, including such a sign affixed to the lower slope of a gambrel or mansard roof, marquees, gasoline canopies, or awnings.

(4) Wind driven, whirling, spinning, flashing, pennants, and moving and animated signs are prohibited.

(5) Signs containing electronic streaming messages are prohibited.

(6) Changeable copy signs that provide a variable message, the content of which is changed manually, are allowed.

(7) 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.

(8) "No hunting, fishing, etc.," signs not to exceed one (1) square foot are allowed.

(9) 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.

(10) The location, by street number, for all nonresidential structures shall be included on the freestanding sign. The portion of the area used for the street address shall not exceed fifteen percent (15%) of the allowed square footage and shall not affect the calculation of allowed sign square footage.

(11) Illumination standards for signs with electronic message centers.

(a) Each electronic message center shall be equipped with a light sensing device that automatically adjusts the brightness of the sign as ambient light conditions change.

(b) All electronic message center signs shall contain a default design that will freeze the sign in one (1) position if a malfunction occurs.

(c) No electronic message center sign shall exceed a brightness level of three-tenths (0.3) foot candles above ambient light as measured using a foot candle (Lux) meter at a pre-set distance in accordance with the following procedure:

[1] At least thirty (30) minutes past sunset, record the ambient light while the sign is off or displaying all black copy;

[2] The light meter shall be held five (5) feet above the finished grade as close as practical to a perpendicular plane of the sign;

[3] The meter shall be aimed toward the center of the automatic changeable copy sign;

[4] From the same location, a second reading shall be recorded while the sign is on and not blocked;

[5] If the difference between the measurements is three-tenths (0.3) foot candles or less, the brightness is properly adjusted; otherwise the brightness level must be adjusted to comply with this standard;

[6] The measurement distance shall be determined using the following formula:

$$\text{Measurement Distance} = \sqrt{\text{area of sign in sq. ft.} \times 100}$$

Example: Proposed sign is fifty (50) square feet

$$50 \times 100 = 5,000$$

$$\sqrt{5000} = 70.71' \text{ (use 71')}$$

Therefore the foot candles measurement shall be taken seventy-one (71) feet from the sign.

(12) Electronic Message centers are specifically prohibited in the Downtown Business, Business East, Business West, Business South, and Industrial districts and all residential districts.

(13) Internally illuminated signs are specifically prohibited in Downtown Business.

(14) In addition to the regulations in this section, section 7-09-020 D. (2) shall also apply to signs in the Downtown Business, Business East, Business West, and Business South Districts

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) square feet 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 (6) square feet 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) square feet in area.

(d) Temporary signs not exceeding six (6) square feet 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 internally-illuminated signs shall be permitted except for an agricultural sign. Externally illuminated signs are permitted 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) of this section.~~

G. Signs in business districts.

(1) Type, size and number of signs. There shall not be 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) square feet, 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 an additional sixteen (16) square feet of space for changeable copy message.

[b] Wall sign: one (1) wall sign not to exceed thirty-two (32) square feet in area or two (2) wall signs with a combined total area not to exceed thirty-two (32) square feet.

[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) square foot 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) square feet, 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, and may have an additional twenty (20) square feet of space for 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) square feet 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) square feet.

[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) square foot 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) square feet 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 an additional sixteen (16) square feet of space for changeable-copy message.

[b] Wall sign: one (1) wall sign not to exceed thirty-two (32) square feet in area or two (2) wall signs with a combined total area not to exceed thirty-two (32) square feet.

[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) square foot 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) square feet, 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 and may have an additional twenty-five (25) square feet of space for 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) square feet for each tenant; attached to the wall of the store, or two (2) or more wall signs with a combined total area not exceeding thirty-two (32) square feet.

[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) square foot 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) square feet, 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 an additional fifty (50) square feet of space for changeable-copy message. Electronic message centers may be used as part of a freestanding sign.

[b] Wall sign: one (1) wall sign, size not to exceed one hundred (100) square feet or two (2) wall signs with a combined total area not to exceed one hundred (100) square feet.

[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) square foot 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) square feet, 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 and may have an additional fifty (50) square feet of space for 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]~~[b] Wall sign: one (1) wall sign not to exceed one hundred (100) square feet 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) square feet.

~~[4]~~[c] 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) square foot 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 fifty-six (56) days per calendar year shall be permitted. The Board of Selectmen may grant an extension of this time period. One (1) exterior *movable sign* shall be limited to fifteen (15) square feet. 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 percent (30%) of the window area of the storefront. To place a temporary sign on property other than that which is being advertised, the applicant must have written permission from the landowner and the Board of Selectmen.

#### **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) square feet.

(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 percent (30%) 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) square feet 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) square feet in area. An additional twenty (20) square feet may be added for changeable copy message. Electronic message centers may be used as part of a freestanding sign.

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) square feet shall be allowed, and the wording may be changed periodically to advertise products raised or grown principally on the premises.

K. Permit not required. The following types of signs do not require a permit from the Building Inspector:

(1) Real estate signs advertising rent, lease or sale are permitted; provided, that:

(a) The sign shall not exceed thirty-two (32) square feet in area.

(b) The sign shall advertise only the premises on which it is located.

(c) The sign shall be removed no more than one (1) week after the completion of the sale or rental.

(2) Construction signs.

(a) The sign shall not exceed thirty-two (32) square feet 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.

(3) Real estate signs advertising an open house event.

(a) The sign shall not exceed six (6) square feet in area.

(b) The sign may be erected on private property provided permission from the property owner has been granted. Upon request by the building inspector, a copy of the letter granting such permission shall be provided to the building inspector.

(c) The sign shall only be erected on the day of the open house and shall be removed at the conclusion of the open house each day. The date of the open house shall be included on the sign.

(4) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, or names of occupants of premises.

(5) Flags and insignia of any government, except when displayed in connection with commercial promotion.

(6) Legal notices, identification information or direction signs erected by governmental bodies.

(7) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

(8) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(9) Noncommercial message. Sign for nonprofit organization; sign or flag which displays no commercial message; “open” and “closed” signs or flags; and/or similar type of sign which is subject to the approval of the Building Inspector.

(10) Historic Signs, Markers and Municipal Plaques. Signs and markers signifying historical importance and municipal plaques shall not be subject to this bylaw and shall be permitted in all use districts without permit.

(4-27-09 ATM, Art. 31; 4-26-10 ATM, Art. 28; 4-28-14 ATM, Art. 41; 4-27-15 ATM, Arts. 44, 45; 4-22-19 ATM, Art. 33.)

**ARTICLE 34: Zoning Bylaw Section 7-05-020, Classification of Uses G. Business Uses (2) Hospitality and Food Service, Section 7-05-020, Classification of uses, I. Industrial Uses, Section 7-05-030, Table of Uses, Table 1, Part B and Section 7-09-030 Off-Street Parking and Loading**

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Sections 7-05-020, 7-05-030 and 7-09-030, by deleting the text shown below in strikethrough and adding the text shown below as underlined, or take any action relative thereto.

Part 1: Definitions



<u>Microbrewery</u>	<u>N</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>PB</u>
<u>Brewery, Distillery, or Winery</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>

Part 3: Off-street parking and loading. Amend Section 7-09-030 B.(2)(b) Commercial uses.

[15] Nanobrewery, Brew Pub, Microbrewery: minimum one (1) space per three (3) seats, plus one (1) space for every two (2) employees on the largest shift.

Part 3: Off-street parking and loading. Amend Section 7-09-030 B.(2)(c) Industrial uses

[6] Nanobrewery, Brew Pub, Microbrewery, Brewery, Distillery, or Winery : minimum one (1) space per three (3) seats, plus one (1) space for every two (2) employees on the largest shift.

**ARTICLE 35: Zoning Bylaw – Section 7-03-080, Enforcement**

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Section 7-03-080 Enforcement, by deleting the text shown below in strikethrough and adding the text shown below as underlined, or take any action relative thereto.

Northborough 7-03-080:

A. General. The Building Inspector, as Zoning Enforcement Officer (ZEO), 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.

~~Original 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 (14) days of receipt of such request.~~

B. Enforcement request. If the Building Inspector shall be informed, by written request, that any provision of this Zoning Bylaw or of any permit or decision (issued by the Building Inspector, the Special Permit Granting Authority or Board of Appeals) or decree thereunder has been, is being, or is likely to be violated, then the Building Inspector shall make or cause to be made an investigation of the facts, including an inspection of the property where the violation may exist, and, if he finds any violation, then the Building Inspector shall, within fourteen (14) days, give notice in writing to the owner of the property or his duly authorized agent and to the occupant of

the property, and shall order that any violation shall immediately cease and may also order corrective action.

If the Building Inspector determines that there is no violation, he shall give written notice of his decision, and reasons therefor, to the party requesting such enforcement or action within fourteen (14) days after the 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 or any of the conditions under which a permit is issued by the Building Inspector, or any decision rendered by the Special Permit Granting Authority or Board of Appeals under the provisions of this bylaw shall be fined a sum not to exceed three hundred dollars (\$300.00) for each such violation. This bylaw may be enforced by the non-criminal disposition method under MGL C. 40, § 21D, as set forth in section 1-04-020 of the Town Code, in which case the penalties shall be as follows: first violation - \$50, second violation - \$100, third and subsequent violations - \$300. Each day that a violation exists shall constitute a separate offense ~~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 and penalties paid, including the costs of prosecuting any legal action if allowable by law.

D. If, after such notice and order, such violation continues, or if any owner, agent or occupant fails to obey any lawful order of the Building Inspector with respect to any violation or any use contrary to the provisions of this Zoning Bylaw, the Building Inspector may revoke any permit issued for the occupancy of the premises, may make complaint to the Superior Court or any court of competent jurisdiction for an injunction or order restraining the further use of the premises, and may take such other action as is necessary to enforce the provisions of this Zoning Bylaw.

#### **ARTICLE 36: Zoning Bylaw – Section 7-03-030 and 7-050-010.A Use Variances**

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Sections 7-03-030 and 7-05-010.A by deleting the text shown below in strikethrough, and adding the text shown as underlined, or take any action relative thereto.

7-03-030 Board of Appeals.

B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by MGL 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 MGL C. 40A, § 10. Use variances are prohibited.

7-05-10 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. Use variances are prohibited.

**ARTICLE 37: Zoning Bylaw – Re-Zoning 37 South Street**

To see if the Town will vote to amend the Northborough Zoning Map by removing the land located at and known as 37 South Street, Assessors’ Map 63 Parcel 175, from the General Residential (GR) zoning district and placing it in the Downtown Business (DB) zoning district, or take any action relative thereto.

(INSERT MAP)

**ARTICLE 38: Zoning Bylaw – Section 7-03-050, Site Plans A.(4) Exceptions**

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Section 7-03-050, Site Plans A.(4) Exceptions, by deleting the text shown in strikethrough, or take any action relative thereto.

A.(4)(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.~~

**ARTICLE 39: Zoning Bylaw – Section 7-10-060, Distribution and Transportation Uses (Warehouses and Trucking, rail or freight terminal)**

To see if the Town will vote to amend the Town’s Zoning Bylaw by adding a new Section 7-10-060, Temporary Moratorium on Distribution and Transportation Uses, that would provide as follows, and further, to amend the Table of Contents to add Section 7-10-060, “Temporary Moratorium on Distribution and Transportation Uses”, or take any action relative thereto

SECTION 7-10-060 – Temporary Moratorium on Distribution and Transportation Uses

A) Purpose. The Town of Northborough has recently seen a significant increase in tractor trailer traffic due to numerous distribution facilities/warehouses being constructed and occupied. This is becoming a traffic/safety hazard that affects the Town as a whole. There is an identifiable

community need to establish long-term zoning regulations to ensure that such uses will be consistent with the Town's long term planning interests. The Town hereby adopts a temporary moratorium on the use of land for such purposes, as set forth below, and on the issuance of special permits or building permits in connection with the same, so as to allow the Town sufficient time to address the effects of such structures and uses in the Town and to enact or amend bylaw related thereto.

B) Definitions. Warehouse: Building for the sorting, storage or wholesale marketing of materials, merchandise, products or equipment

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.

C) Temporary Moratorium.

Notwithstanding any other provision in the Town of Northborough Zoning Bylaw to the contrary, no special permit or building permit may be issued for the construction or permitting of any Distribution or Transportation Use, as set forth in Section 7-05-020 Classification of uses, until after May 1, 2023. The purpose of this temporary moratorium is to allow sufficient time for the Town to engage in a planning process to address the effects of such structures and uses in the Town and to enact or amend bylaws related thereto in a manner consistent with sound land use planning goals and objectives.

As part of the moratorium a Warehouse, Traffic and Trucking Committee will be formed by the Planning Board to study these uses and structures and report its findings and recommendations to the Planning Board. The scope of the review may include, but is not limited to:

- a. Traffic impact studies
- b. Trip generation analysis by classification
- c. Development of definitions to better align with current day e-commerce terms and trends
- d. E-commerce zoning best practices
- e. Changes to site plan review and approval process
- f. Traffic mitigation agreements
- g. Truck and van restriction zones
- h. Off-site parking of delivery vehicles
- i. Requirement for delivery vehicles to be registered in same municipality to capture excise tax
- j. Monitoring post-occupancy studies for corrective action
- k. Technological innovations such as drones and autonomous vehicle deliveries.
- l. Fiscal Impact
- m. Environmental Impact

The composition of the committee will be one (1) Planning Board representative, one (1) Board of Selectmen representative and three (3) residents selected by the Planning Board. The committee will be formed within 30 days of adoption of the moratorium provided for herein and must report back to the Planning Board and any other related boards by January 1, 2023 to give the Planning Board and any other board time to work on changes or amendments to article for the 2023 Town Meeting.

**ARTICLE 40: Zoning Bylaw – Section 7-05-020, Classification of Uses. I, Industrial Uses, (5) Distribution and Transportation Uses, Section 7-05-030, Table of Uses, Table of Uses, Part B Commercial and Industrial Districts**

Part 1.

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Section 7-05-020 Classification of uses, I. Industrial uses, (5) Distribution and transportation uses, by deleting the text shown in strikethrough and adding the text shown as underlined, or take any action relative thereto.

(5) Distribution and transportation uses.

(a) Warehouse: Building for the sorting, storage or wholesale marketing of materials, merchandise, products or equipment ~~where goods, products or materials are received, stored on site, and primarily distributed to a single or narrow group of retailers, wholesalers, and/or business clients. This use is not intended to include Fulfillment Center.~~

(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.

(c) Fulfillment Center: A building and related facilities where goods or products sold via direct customer order (whether by internet, telephone, or mail order) by a single entity or a single entity and its affiliated sellers are received and stored on-site temporarily for the purpose of delivery direct to consumer destinations. Such facilities may include automated systems, office space and a pick and pack area to be used for sorting and packaging goods and products for delivery from available, on-site inventory.

(d) Package/Freight Delivery Facility: A building and related facilities where packages and/or freight from multiple sellers of such items is received and stored on-site temporarily for the purpose of delivery to a destination specified by the seller. This use is not intended to include Fulfillment Center or Warehouse with Distribution.

(e) Delivery Station: A building and related facilities where goods or products sold via direct customer order (whether by internet, telephone, or mail order) are prepared for ‘last-mile’ delivery to

customers who are typically located within a tightly defined radius of the station. This use is not intended to include Fulfillment Center.

Part 2.

To see if the Town will vote to amend Section 7-05-030, Table of Uses, Table of Uses, Part B. Commercial and Industrial Districts by deleting the text shown in strikethrough and adding the text shown as underlined, or take any action relative thereto.

<b>Distribution and Transportation Uses</b>						
	<b>DB</b>	<b>BE</b>	<b>BW</b>	<b>BS</b>	<b>HB</b>	<b>I</b>
<b>Warehouse</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>BA</b>	<b>N</b>	<b>PB</b>
<b>Trucking, rail or freight facility, <del>or parcel distribution facility</del></b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>PB</b>
<b><u>Fulfillment Center</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>
<b><u>Package/Freight Delivery Facility</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>
<b><u>Delivery Station</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>

**ARTICLE 41: Zoning Bylaw – Section 7-07-020, Floodplain Overlay District**

To see if the Town will vote to amend Part 7 of the Northborough Town Code, the Northborough Zoning Bylaw, Sections 7-07-020 by deleting the text shown below in strikethrough and adding the text shown below as underlined, or take any action relative thereto.

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.~~

1) The purposes of the Floodplain Overlay District are to:

a) Ensure public safety through reducing the threats to life and personal injury

b) Eliminate new hazards to emergency response officials

c) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding

- d) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- e) Eliminate costs associated with the response and cleanup of flooding conditions
- f) Reduce damage to public and private property resulting from flooding waters
- 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) The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Northborough designated as Zone A, AE, AH, or AO on the Worcester County Flood Insurance Rate Map (FIRM) dated July 16, 2014 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Planning Board, Conservation Commission and the Town Engineer.
- 4) The Town of Northborough hereby designates the position of Building Inspector/Zoning Enforcement Officer to be the official Floodplain Administrator for the Town of Northborough.
- 5) The Town of Northborough requires a permit for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities (consistent with and to the extent permitted by G.L. c. 40A, §3), fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- 6) The Town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the Floodplain Overlay District. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.
- 7) 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.
- 8) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether

permitted by right or by special permit, must be in compliance with MGL C. 131, § 40 and with the following:

- a) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas;
- b) Wetlands Protection Regulations, Department of Environmental Protection (DEP);
- c) Inland Wetlands Restriction, DEP; and
- d) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP.

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

9) Variances to Building Code floodplain standards

The Town of Northborough will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the Town's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.

10) Variances from the Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these requirements of the Floodplain Overlay District must meet the requirements set out by State law and may only be granted if:

- 1) Good and sufficient cause and exceptional non-financial hardship exist;
- 2) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- 3) The variance is the minimum action necessary to afford relief.

11) All subdivision proposals must be designed to assure that:

- a) Such proposals minimize flood damage;
- b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- c) Adequate drainage is provided to reduce exposure to flood hazards.

~~11) Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.~~

- 12) In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 13) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on Northborough's FIRM Map encroachments are prohibited, including fill, new construction, substantial improvements, and other development, are prohibited within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 14) In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- 15) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- 16) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser. ~~within unnumbered A zones.~~ The proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- 17) In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- 18) Notification of Watercourse Alteration. In a riverine situation, the ~~Town Engineer~~ Building Inspector/Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:
  - a) Adjacent communities;
  - b) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104;
  - c) NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.
- 19) Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, bylaws or codes.

20) Disclaimer of liability

The degree of flood protection required by this bylaw is considered reasonable by the Town but does not imply total flood protection.

21) Severability

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

22) Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.)

Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief

99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

B. Definitions

1) General Definitions

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved, in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code – International Building Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:



a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;

or

d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior  
or

(2) Directly by the Secretary of the Interior in states without approved programs.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, bylaw, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck;  
and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH. [Base Code – International Building Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance of a building permit for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code – International Building Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by Massachusetts in 9th Edition of State Building Code]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

## 2) Flood Zone definitions

ZONE A means an area of special flood hazard without water surface elevations determined.

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined.

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

~~B.~~C. Prohibited uses. Except as provided in subsections (~~€D~~) and (~~ƆE~~) of this section, all new construction and encroachments including grading, filling, excavating, substantial improvements and other development are 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 (~~EƆ~~) of this section.

~~€.~~D. 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.~~

(1) 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.

(2) 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.

(3) 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.

(4) 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.

~~B.~~ E. Uses permitted by special permit.

1) Buildings and sheds accessory to the uses described in subsection (~~D€~~) of this section, and driveways and roads are permitted on approval of the Zoning Board of Appeals in accordance with Section 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 MGL C. 131, § 40 (Wetlands Protection Act) or the Massachusetts State Building Code (780 CMR).
- 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 user, provided written approval from FEMA verifying the parcel does not belong in the Floodplain Overlay District is submitted with any application for a special permit.
  - 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 floodproofed and the finished grades of all disturbed areas.