

# **ZONING BYLAWS**

**1995**

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## **ARTICLE I**

### **House Trailer or Mobile Home**

**Section 1.** Not more than one house trailer or mobile home may be kept on any parcel of land. No house trailer or mobile home may be used as living quarters while so located unless a permit is obtained from the Board of Selectmen. Space shall not be leased for trailers or mobile homes. The foregoing shall not prohibit the establishment of a trailer camp under the provisions of Chapter 140 of the General Laws.

**Section 2.** There shall be prohibited from all sections of the Town any further development of mobile home parks, tourist parks and camping grounds containing sites and/or facilities for the parking of recreational vehicles or tents.

## **ARTICLE II**

### **Board of Appeals**

**Section 1.** There is hereby established a Board of Appeals consisting of three (3) members and two (2) associate members to be appointed by the Board of Selectmen as provided in Chapter 40A of the General Laws, which Board shall act in all matters within its jurisdiction under this Bylaw in the manner prescribed in Chapter 40A of the General Laws, and said Board of Appeals shall have the powers and duties as set forth in Chapter 40A of the General Laws.

## **ARTICLE III**

### **Intensity Regulations<sup>1</sup>**

**Deleted.** This Article was amended by Article V. Section 1, et. seq.

## **ARTICLE IV**

### **Multi-Family Type Dwellings**

**Section 1.** There shall be no multi-family type dwellings (apartment houses, condominiums, etc.) built in the Town of East Brookfield. For purposes of this Bylaw, multi-family type dwellings shall include any building constructed with two (2) or more separate residential units.

**Section 2.** This Bylaw shall be enforced by the Board of Selectmen acting in its capacity as the Planning Board.

**Section 3.** If any person and/or business entity shall be found in violation of this Bylaw, that person or business entity shall be fined Fifty (\$50.00) Dollars for each offense. Each day that said offense shall continue shall constitute a separate offense.

**Section 4.** The purpose of this Bylaw is to promote the general welfare, health, safety and community of the inhabitants of the Town of East Brookfield; to protect the community, to promote sound growth, and to encourage more appropriate use of land within the Town.

**Section 5.** This Bylaw does not prohibit the alteration of existing buildings to become multi-family dwellings.

## **ARTICLE V**

### **Amendments to Zoning Regulations Town of East Brookfield**

#### **Section 1. Purpose**

The purpose of this Zoning Bylaw is to provide for the Town of East Brookfield all the protection authorized by the General Laws of the Commonwealth of Massachusetts, Chapter 40A, and any amendments thereof; further, to promote the health, safety, convenience, morals and welfare of the inhabitants of the Town of East Brookfield, to lessen the congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate air and light, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, and to increase the amenities of the municipality.

These Zoning Bylaws shall go into effect upon their acceptance at any Town Meeting, their approval by the Attorney General, and their publication in the manner prescribed by law.

#### **Section 2. Definitions**

For the purpose of this Bylaw, certain terms and words used herein shall be interpreted or defined as follows:

##### ***Accessory Building or Use:***

A use or detached building, which is subordinate to the main use or building, and located on the same lot with the main building or use, the use of which is

customarily incidental to that of the main building or to the use of the land. Where a substantial part of a wall of an accessory building is a part of the wall of the main building, such accessory building shall be counted as a part of the main building in determining site location.

***Boarding or Rooming House:***

A building or premise, other than a hotel, inn, motel, tourist court or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation, not open to transient guests.

***Building:***

A structure having a roof or cover supported by columns or walls for the shelter, support or enclosure of persons, animals or property.

***Building Inspector:***

The inspector of buildings, or other designated authority, or the duly authorized representative, appointed by the Selectmen, and charged with the enforcement of this Bylaw.

***Building Lot:***

A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Bylaw. A building lot shall not include any part of a street which is relied upon to qualify the lot as to frontage.

***Constructed:***

Includes the words "built," "erected," "reconstructed," "altered," "enlarged," "moved," and "placed."

***Coop:***

See "Kennel."

***Dwelling:***

Any building, or part thereof, used in whole or in part for continuous or permanent habitation for one (1) or more persons, but not including trailer or mobile homes, however mounted, or commercial accommodation for transient occupancy. Each dwelling to have one (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the continuous or permanent use of one (1) or more individuals living together as a single housekeeping unit.

***Family:***

One (1) or more persons who live together in one (1) dwelling unit and maintain a common household.

***Floor Area:***

The interior floor area of a dwelling unit, inclusive of basements, stair wells, halls, bathrooms, corridors, attics, walls and partitions.

***Garage, Private:***

Covered space for the housing of motor vehicles, but not for rental of more than two (2) stalls, nor for commercial repair or commercial storage.

***Garage, Public:***

Covered space, other than a private garage, available to the public and operated for gain, and which is used for the storage, repair, rental, lubrication, washing, servicing, adjusting or equipping of motor vehicles.

***Home Occupation:***

Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof.

***Hotel, Inn, Motel, Tourist Court or Lodging House:***

A building, or portion thereof, or a group of buildings, on a single lot, intended to be used for the more or less temporary occupancy of individuals who are lodged, with or without meals, and in which major provision for cooking may be made in a central kitchen.

***Kennel, Coop or Pen:***

Accessory building or enclosure for the keeping of domestic pets, animals or birds.

***Loading Space, Off-Street:***

An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or materials, which has access to a street, alley or other appropriate means of ingress and egress.

***Lot:***

See "Building Lot."



***Lot, Corner:***

A lot abutting on two (2) or more streets at their intersection.

***Membership Club:***

A private organization, building or grounds, to specifically include country clubs and fraternities and other organizations to which membership is limited or controlled.

***Two-Family Dwelling:***

A dwelling used or occupied by more than one (1) family.

***Non-Conforming Use:***

A use legally existing at the adoption of this Bylaw, but which does not conform to the requirements for the zone in which it is located.

***Special Permit Granting Authority:***

The Board of Appeals.

***Premises:***

One (1) or more contiguous lots in the same ownership or use, together with all buildings and structures thereon.

***Professional Occupation:***

Any recognized professional occupation, including the office of a doctor, lawyer or dentist.

***Recorded:***

Recorded or registered in the Worcester County Registry of Deeds.

***Sign:***

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product which are visible from a public street or right-of-way and used to attract attention.

***Street:***

A public way or private way either shown on a plan approved in accordance with the subdivision control law or otherwise established or recognized by public authority.

***Street Line:***

The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

***Structure:***

Any construction, erection, assemblage, or other combination of materials upon the land necessitating pilings, footings, or a foundation for attachment to the land.

***Swimming Pool:***

Any structure, whether above or below ground level, that is capable or designed to carry water of a depth of twenty-four (24) inches or more, and/or a surface area of one hundred and fifty (150) square feet or more and including any such structure of any size if equipped with a water recirculating system.

***Tourist Camps or Camp Sites:***

Land used or intended to be used, let, or rented for occupancy by campers, or for occupancy by house trailers, tents, or movable or temporary dwellings, room or sleeping quarters of any kind.

***Trailer or Mobile Home:***

A residence, house car, camp car or any portable or movable vehicle on wheels, skids, or rollers, whether or not structurally anchored to a foundation, and which may be propelled by an attached vehicle or other propelling apparatus, which is used, or may be used, for residential, commercial, hauling, or storage purposes.

***Yard:***

1. Yard, Front:

A yard extending across the full width of the lot and lying between the front lot line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line.

2. Yard, Rear:

A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and rear lot line.

3. Yard, Side:

A yard between the side lot line of the lot and nearest line of the building, and extending from the front yard to the rear yard or, in the absence of either such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.

***Zoning:***

The Bylaws adopted by the Town in accordance with the provisions of the Zoning Act to regulate the use of land, buildings and structures.

***Zoning Administrator:***

The person who may be designated by the Board of Appeals to assume certain of the duties of said Board.

**Section 3. Districts**

***Establishment of Districts:***

For the purpose of this Bylaw, the Town of East Brookfield is hereby divided into the following types of districts:

1. Residential
2. Agricultural-Residential
3. Commercial
4. Industrial
5. Flood Plain

***Location of Districts:***

The location of the districts within the Town of East Brookfield is specified in detail on the map of the Town of East Brookfield, a copy of which, for reference only, accompanies these Bylaws. This map is entitled "Zoning and Building Restriction Plan of the Town of East Brookfield, 1979" and filed with the office of the Town Clerk; which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

### ***Boundaries of Districts:***

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

1. Where a boundary is shown to coincide with a property or lot line and the exact location of said property or lot line is not indicated by means of a figure or otherwise, then the property or lot line shall constitute the district boundary line.
2. Where a boundary is shown upon a street, the line shall be the center line thereof, unless otherwise indicated.
3. Where a boundary is shown outside a street and approximately parallel thereto, it shall be taken as parallel thereto; and where a figure on the map indicates the distance between such line and the street, said distance shall be measured between such line and the exterior line of the street, at right angles thereto.
4. In any case not covered by the other provisions of this paragraph, the location of a district boundary shall be determined by the distance in feet, if given, from other lines or points shown on the map or, if distances are not given, by the scale of the map.
5. Where uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Building Inspector and, if in dispute, decided by the Board of Appeals.

### ***Lots in Two Districts:***

Where a district boundary line divides a lot existing at the time such boundary is established and the major portion of said lot is in a less restricted district, the regulations relating to that district may be considered as extending to such portion of said lot as is not more than thirty (30) feet within the more restricted district.

## **Section 4. Use Regulations**

No building or structure shall be constructed, and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for any of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by Special Permit in said district and so authorized.

***Permitted Uses—Residential District:***

1. Detached one-family dwelling or two-family dwelling. A two-family dwelling must have an additional 15,000 square feet beyond the required minimum lot size in each district.<sup>2</sup>
2. Religious, educational or municipal use.
3. Renting of rooms or furnishing of board for not more than four (4) persons in a dwelling regularly occupied for residential purposes.
4. Accessory use customarily incidental to a permitted main use on the same premises including, but not limited to, the following:
  - a. Use of a room or rooms in a dwelling for customary home occupations conducted by resident occupants, such as dressmaking, candy making, or for the practice by a resident of a recognized profession.
  - b. Display of a non self-illuminated sign pertaining to a permitted use with a total area of not more than five (5) square feet.
5. Agriculture, floriculture or horticulture, but only as permitted by State Law.

The following use or uses may be permitted upon the grant of a Special Permit by the Zoning Board of Appeals:<sup>3</sup>

1. Private club not conducted for profit.

***Permitted Uses—Agricultural-Residential District:***

1. Any use permitted in a Residential District.
2. Hospital, sanitarium or convalescent home.
3. Farm or nursery, including the display and sale of natural products, the major portion of which is raised in the Town.
4. Accessory uses to the above.
5. The raising of livestock for commercial purposes, except as limited by other applicable statutes.
6. Soil, gravel, loam and sand removal, subject to General Bylaw restrictions.

The following use or uses may be permitted upon the grant of a Special Permit by the Zoning Board of Appeals:<sup>4</sup>

1. Open-air theatre.

***Permitted Uses—Commercial District:***

1. Any use permitted in an Agricultural-Residential District.
2. Office, bank, newspaper or job printing establishment.
3. Hotel, motel, restaurant.
4. Any wholesale or retail business, warehousing or distributing center, service or public utility.<sup>5</sup>
5. Motor vehicle service station, repair shop, storage garage or salesroom.

The following use or uses may be permitted upon the grant of a Special Permit by the Zoning Board of Appeals:<sup>6</sup>

1. Place of amusement or assembly.
2. Club conducted for profit.
3. Precision machining facility with sufficient parking area provided to accommodate the users of the premises.<sup>7</sup>
4. Manufacturing, assembly and research laboratory.<sup>8</sup>

***Permitted Uses—Industrial District:***

1. Any use permitted in a Commercial District.
2. Any manufacturing or industrial use, including processing, fabrication and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire.

The following use or uses may be permitted upon the grant of a Special Permit by the Zoning Board of Appeals:<sup>9</sup>

1. Auto dismantling or used parts yard.
2. Junk yard.

***Permitted Uses—Flood Plain District:***

Lands deemed subject to seasonal or periodic flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof. Uses permitted in other districts may be authorized after a finding by the Board of Appeals, after a hearing with due given notice, that said use will not endanger the health or safety of the occupants thereof.

***Existing Use:***

This Bylaw shall not apply to existing use of any building or structure, or of any land, to the extent of that use at the time of the adoption of this Bylaw.

***Non-Conforming Use:***

1. The lawful use of any structure or land existing at the time of any subsequent amendment to this Bylaw may be continued, although such structure or use does not conform with the provisions of this Bylaw.
2. A non-conforming use or structure may not be improved if such improvement exceeds fifty (50) percent of the fair market value, or increase the floor space by thirty (30) percent or more of such use or structure at the time of the original change, or pre-existing non-conforming structures or uses may be extended or altered when the Board of Appeals makes a finding as designated by the Bylaw that such change, extension or alteration is not substantially more detrimental than the existing non-conforming use is to the neighborhood.
3. No non-conforming structure, with the exception of a dwelling damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired or rebuilt except in conformity with this Bylaw.
4. A non-conforming use which has been abandoned for a period of two (2) years shall not be re-established, and any future use shall be in conformance with this Bylaw.
5. When a non-conforming use is changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

***Prohibited Uses:***

No building or structure shall be erected or used, and no lot shall be occupied, for any of the following purposes:

1. Any use, trade, business or process which is noxious or offensive by reason of gas, odor, dust, smoke, vibration, illumination or noises, or which constitutes a public hazard because of fire, explosion or otherwise.<sup>10</sup>
2. Land fills or disposal sites for any materials.
3. Recycling or storage of medical waste, hazardous waste or nuclear waste, except for such temporary storage as is permitted by law for such waste which is a by-product of the principal operation of the facility of the owner or occupant. It is the intent of the paragraph to prohibit the use of the land for medical, hazardous or nuclear waste recycling plants or disposal facilities.
4. Container terminal for loading/off-loading of trailer and/or containers including piggyback containers to or from rail cars and storage of piggyback containers and trailers thereof, and direct transfer off of or onto trucks for shipment outside of the zone aforementioned above. This is not intended to preclude normal business shipment by truck or by rail to any warehouse or other building that may be located on the premise.

#### **Section 5. Regulations for Lot Area**

##### ***Lot Area, Width, Coverage, Set Backs and Height Limit:***

- Lot Area: No building shall be erected on a lot containing less than the number of square feet in area specified below.
- Lot Width: No building shall be erected on a lot containing less than the number of feet specified below, measured along the street right-of-way line.
- Coverage: All buildings including accessory structures, shall not cover more than the percentage specified of the lot area.
- Set Backs: Each building shall be set back from the front (street) side and rear lot lines the specified number of feet.
- Height Limit: No building shall exceed the specified number of feet, measured from the highest point of the building to the finished grade.



District	Min. Lot Size (sq.ft.)	Min. Lot Frontage (feet)	Max. % of Coverage	Set Backs			Max. Height (feet)
				Front	Side	Rear	
Residential	30,000	150	30	25	20	25	36
Agricultural- Residential	43,560 <sup>11</sup>	150	30	40	30	40	50
Commercial	30,000	150	50	20	20	10	50
Industrial	100,000	200	60	150	30	30	50

Set Backs: Each building shall be set back from the front (street) side and rear lot lines the specified number of feet subject to the provisions that on individual lots in existence at the time of this Amendment to the Zoning Bylaws, said side yard requirements may be reduced upon the issuance of a Special Permit by the Special Permit Granting Authority under the provisions of Section Seven (7).

***Corner Clearance:***

Notwithstanding the other provisions of this Bylaw, no building shall be erected within the triangular area formed by the lines of intersecting streets and a line joining points on such lines thirty (30) feet distant from their point of intersection (or, in the case of a rounded corner, the point of intersection of their tangents), and no structure, other than a building, no foliage, shrubbery, or other plantings, and no open display, storage or other open use which would interfere with traffic visibility across the corner, shall be established or maintained within said triangular area.

***Modifications to Dimensional Requirements:***

1. No lot within the Town shall be so divided as to create an undersized lot nor shall any property lines be redrawn so as to create a lot not conforming to these Bylaws.
2. A corner lot shall maintain front yard requirements for each street frontage: at least one of the remaining yards shall be a rear yard. Each

corner lot on a public way shall have the minimum frontage requirement along the existing public way, exclusive of any proposed corner radii.

3. Nothing herein shall prevent the projection of steps, stoops, eaves, cornices, window sills, chimneys or belt courses into any required yard.
4. Whenever a Commercial or Industrial use is to be located in a Commercial or Industrial District abutting a Residential or Agricultural-Residential District, or abutting an existing dwelling<sup>12</sup> the Commercial or Industrial abutter shall be required to provide a twenty (20) foot wide strip in addition to the requirements specified in Section Five (5) at the side and the rear in the yard so abutting. The abutting twenty (20) foot area shall be planted and screened in a way which visually separates the two abutting uses, unless so waived by the abutters.

***Area of Lot:***

1. No lot shall be changed or reduced in area or shape so that it does not conform to the provisions of this Bylaw, except that any single lot or parcel on which two (2) or more dwellings were standing at the time of the adoption of this Bylaw may be divided into separate lots, conforming as nearly as possible to this Bylaw, on each of which one of such dwelling remains standing, provided that each lot has at least twenty (20) feet of frontage on a public way.
2. Certain previously recorded or approved lots having an area or frontage of lesser amount than required by this Bylaw may be built upon under the conditions set forth in Chapter 40A, General Laws.

**Section 6. General Regulations**

***Off-Street Parking and Loading Spaces:***

An off-street parking space having an area of not less than two hundred (200) square feet per vehicle, exclusive of passageways and driveways appurtenant thereto and giving access thereto shall be provided on the same lot or another lot within a radius of not more than three hundred (300) feet from the lot to which it is appurtenant, in accordance with the following schedule:

1. Dwelling—one (1) space per family.
2. Tourist home, hotel, motel—one (1) space for each employee and guest sleeping room.

3. Restaurant, café, tavern—one (1) space for each fifty (50) sq.ft. of public floor space.
4. Theatre, auditorium, church or place of assembly—one (1) space for every ten (10) seats.
5. Retail store—one (1) space for every two hundred (200) sq.ft. of floor space used for sale or display of merchandise.
6. Office—one (1) space for every five hundred (500) sq.ft. of floor space.
7. Industrial building—one (1) space for every two (2) employees.
8. Every hospital, institution, hotel, retail store, office building, wholesale house or industrial building, or addition thereto, on the premises shall permanently maintain not less than one (1) loading space ten (10) feet in width, thirty (30) feet in length and fourteen (14) feet vertical clearance, and additional loading spaces, as required to prevent on-street loading.

Access to roadways from parking areas shall conform with regulations established by the Police Department, appealable to the Board of Appeals.

Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed under this section shall be determined, in each case, by the Building Inspector based on Planning Board decisions appealable to the Board of Appeals, who shall consider all factors entering into the parking needs of such use.

***Signs:***

Any sign hereafter erected or maintained shall conform with the provisions of this or any other Bylaw or regulation of the Town or the Commonwealth of Massachusetts relating thereto.

The following signs and no other shall be permitted in the Zoning District as noted:

	Residential	Agricultural- Residential	Commercial	Industrial
Total Area of Permanent Signs	5 sq.ft.	20 sq.ft.	50 sq.ft.	50 sq.ft.
Number of Signs Permitted	1 per premise	Max. of 1 per 200 lineal ft. of frontage	3 per premise	3 per premise
Total Area of Temporary Signs	12 sq.ft.	20 sq.ft.	50 sq.ft.	50 sq.ft.
Number of Signs Permitted	as above	as above	as above	as above

No Commercial or Industrial use shall maintain more than six (6) signs within the limits of the Town of East Brookfield, of which no more than three (3) may be located on the property itself. These controls, however, do not apply to signs on the property which are each less than ten (10) square feet in area and limited to designating entrances, exits and parking areas.

***General Restrictions on Signs:***

The following shall apply to all permitted sign uses:

1. No sign shall be located or illuminated so that it will cause danger to traffic on a street by obscuring the view. No sign shall be erected within the lines of any street.
2. No sign shall be of a flashing or animated type.
3. No red or green illuminated signs shall be located within two hundred (200) feet of a traffic signal.
4. No permanent sign shall be erected or maintained so as to extend more than fifteen (15) inches over a public sidewalk and shall be not less than eight (8) feet above the sidewalk.
5. Every sign attached to a building shall conform to the height limit and set back regulations applicable to building in the zoning district in which such

sign is located. No free-standing sign shall exceed twenty-five (25) feet in height in any zoning district.

6. Permits for temporary signs will be issued for a period of thirty (30) days and not more than six (6) permits will be issued per calendar year for the same premises.<sup>13</sup>

## **Section 7. Administration**

### ***Enforcement:***

This Bylaw shall be enforced by the Selectmen or a Building Inspector appointed by them. No structure shall be built or altered and no use of land or structure shall be begun or changed without a permit having been issued by the Building Inspector. Any person violating any of the provisions of this Bylaw may be fined not more than One Hundred (\$100.00) Dollars for each offense. Each day that such violation continues shall constitute a separate offense.

The Building Inspector shall issue no permit for the erection or alteration of any structure, or part thereof, the plans, specifications and intended use of which are not in all respects in conformity with the provisions of this Bylaw. With each application for a permit to build or alter, there shall be filed a plan showing the lot and the location of the structure thereon.

Construction or operations under a building or special permit must commence within a period of six (6) months from the date of the permit, and must continue towards completion in as continuous and expeditious a manner as reasonable.

Nothing herein contained shall affect any permit issued, or any structure lawfully begun, before notice of hearing before the Planning Board has been given or before issuance of the Warrant for the Town Meeting at which this Bylaw is adopted, whichever comes first, provided that construction work under such permit is commenced within six (6) months after its issue and the work, whether begun under such permit or otherwise lawfully begun, proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.

### ***The Board of Appeals shall have the following powers:***

1. To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official or board of the Town, or by any person aggrieved by an order or decision of the

Selectmen or other Administrative Official in violation of any provision of Chapter 40A of the General Laws, or of this Bylaw.

2. Application for Special Permits for the use of land or structures may be made to the Board of Appeals. The Board of Appeals may authorize the issuance of said Permits after a public hearing in accordance with Chapter 40A, Sections 4, 9 and 17, provided that:
  - a. Such use is not detrimental to the permitted uses in the zone in which it is located.
  - b. The nature of the operations shall be such that it will not be hazardous or create any danger to public health or safety.
  - c. The use shall be consistent, insofar as practicable, with future development of the area.
  - d. Provision for roads and parking areas shall be laid out so as to prevent traffic hazards and nuisances.
  - e. The location, nature and height of structures, walls, fences, and landscaping shall be such that the use will not adversely hinder or discourage the appropriate development of adjacent land or affect the character of the zone in which it is located.
  - f. The Board of Appeals may authorize on appeal, or upon petition, in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing structure thereon a variance from the terms of this Bylaw where, owing to conditions especially affecting such parcel or such structure but not affecting the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise to the applicant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this Bylaw but not otherwise.

***Amendment:***

This Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Section 5, Chapter 40A of the General Laws.

***Separability:***

Provisions of this Bylaw are separable and the invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

**Section 8. Site Plan Review<sup>14</sup>**

***Purpose:***

The purpose of this Section is to provide for a comprehensive review of site plans for those uses and structures that may have significant impact on adjacent properties, the Town's character, infrastructure, environment and quality of life.

In any zoning district, any new use, or any expansion of an existing use, that results in 5000 square feet of new floor area, or 40,000 square feet of new land area devoted to a use, except those uses exempted below, shall require site plan review by the Planning Board prior to the submittal of a building permit application to the Building Inspector.

***Exemptions:***

1. Site Plan Review shall not be required for the construction or enlargement of any single-family or two-family dwelling under 5000 square feet or any residential development requiring approval of a Definitive Plan by the Planning Board.
2. The construction or alteration of any structure to be used primarily for agricultural purposes, home occupations, or any public building or uses of the Town of East Brookfield.

***Site Plan Review Procedure:***

1. Filing: An applicant for Site Plan Review shall file with the Planning Board, at a regularly scheduled meeting, ten (10) copies of the site plan

and any supporting documents. The applicant shall also file a copy of the site plan with the Town Clerk.

2. Submission Requirements: Site plans shall be prepared by a registered professional engineer, architect or landscape architect at a scale of 1"=40' on standard 24"x 36" sheets (or another scale or size previously approved by the Planning Board) and shall contain the following information:
  - a. Name of the project, property boundaries, location map, date, North arrow and scale, and the name and address of the owner and registered engineer, architect or landscape architect who prepared the plan;
  - b. The location of all existing and proposed buildings and structures within the development including dimensions, height and floor area;
  - c. The zoning district of the site and the required zoning setback lines on the property;
  - d. The location of all existing and proposed roads, railroads, driveways, parking and loading areas, sidewalks, fences and walls, and the number of parking and loading spaces provided;
  - e. The location, height, size and design of all property signage and lighting fixtures;
  - f. Proposed landscaping, including the size and type of plant materials;
  - g. The location of existing and proposed utility systems, including water supply, sewer or septic system, storm drainage system and other utilities;
  - h. Existing and proposed topography at two (2) foot contour intervals, including natural features, water courses, wetlands and the 100-year flood plain;
  - i. The location where earth removal or filling is proposed and the volume of material to be moved;
  - j. Elevations for all exterior façades or the proposed structure including the type and color of materials to be used;



- k. A traffic impact report for any non-residential development having 200 or more parking spaces or that will generate 1000 or more new vehicle trips per day.
- 3. Plan Review: The Planning Board shall refer copies of the site plan to the Board of Health, Conservation Commission, Building Inspector, Water Department, Highway Superintendent and other boards or officials as deemed necessary. These parties shall have forty-five (45) days in which to review and comment on the plan. Failure to submit written comments within forty-five (45) days shall be interpreted as lack of opposition to the approval of the site plan.
- 4. Review Fees: The Planning Board is authorized to retain a professional engineer, architect, landscape architect or other professional consultant to advise the Board on any and all aspects of the site plan. The fee shall be paid by the applicant at the time of the plan submission. The Planning Board shall charge a fee which accurately reflects the cost of reviewing site plans and regulations regarding the use of outside consultants.
- 5. Decision: The Planning Board shall deliver its written decision to the Building Inspector within ninety (90) days of the receipt of the site plan application. This time limit may be extended by written agreement between the applicant and the Planning Board. Failure of the Planning Board to take final action within ninety (90) days, or extended time, shall be deemed to be approval of the application. The Planning Board's final action shall consist of either:
  - a. Disapproval of the site plan if the applicant fails to furnish adequate information required by the Bylaw.
  - b. Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Board which will insure that the site plan meets the standards of the Bylaw. Any plan approved will expire in three (3) years. Yearly extensions may be given by the Planning Board as long as the applicant moves forward with due diligence.
  - c. Disapproval of the site plan, in extreme circumstances where, despite best efforts, no form of reasonable conditions can be devised to satisfy problems with the plan.

***Site Plans Also Requiring a Special Permit:***

In cases where a development requires site plan review by the Planning Board and a special permit from the Board of Appeals, the applicant shall file site plan and special permit applications concurrently with the appropriate Board. Applications and public hearing fees shall be paid to the Board of Appeals and Site Plan Review fees shall be paid to the Planning Board. The Planning Board shall review and take action on the site plan and shall submit a report with recommendations to the Board of Appeals within forty-five (45) days of the receipt of the application. The Board of Appeals shall consider the Planning Board's recommendations and conditions in its Special Permit Decision, or shall state in the Decision the reasons why such recommendations or conditions were not followed.

***Standards for Approval:***

The Planning Board shall consider the following criteria when acting on a site plan:

- a. The use complies with all the provisions of the East Brookfield Zoning Bylaws;
- b. The use will not materially endanger or constitute a hazard to public health and safety;
- c. The use will not create undue traffic congestion or unduly impair pedestrian safety;
- d. Sufficient off-street parking exists or will be provided to serve the use;
- e. The use can be adequately served by water and other necessary utilities or, if these are unavailable, that they will be brought in to the site at the owner's expense; or, the Planning Board is satisfied that the proposed alternatives will comply with all applicable regulations;
- f. The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and street, nor will it result in pollution or degradation to surface water or groundwater;
- g. The use will not result in any undue disturbance to adjoining property owners or the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.

***Site Plan Conditions:***

The Planning Board shall impose conditions, safeguards and limitations on the time and use as may be appropriate for the protection of the natural environment, the neighborhood and the Town. Such conditions shall be imposed in writing in the Site Plan Approval Decision and shall be enforced by an agent of the Planning Board. The applicant may be required to post a bond, or other security, in an amount satisfactory to the Planning Board for compliance with these conditions. The procedure for reducing or releasing the security shall be the same as those in the Planning Board's Subdivision Rules & Regulations.

**Section 9. Groundwater Protection District<sup>15</sup>*****Purpose:***

The purposes of the Groundwater Protection District are:

1. To promote the health, safety and general welfare of the Town by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of East Brookfield;
2. To preserve and protect existing and potential sources of drinking water supplies, including wetlands, filtration areas and groundwater storage areas;
3. To conserve the natural resources of the Town; and
4. To prevent temporary and permanent contamination of the environment.

***Scope of Authority:***

The Groundwater Protection District is an overlay district and shall be superimposed on other zoning districts established by this Bylaw. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings, and new or expanded uses. Applicable activities or uses which fall within the Groundwater Protection District must comply with the requirements of this District as well as with the underlying zoning. Uses that are prohibited in the underlying districts shall not be permitted in the Groundwater Protection District.

***Definitions:***

**Impervious Surface:** Materials or structures on, above or below the ground that do not allow precipitation or surface water to penetrate directly into the soil.

**Hazardous Waste:** A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the Regulations of the Massachusetts Hazardous Waste Management Act, MGL c.21C.

**Mining:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores or bedrock.

**Toxic or Hazardous Material:** Any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of East Brookfield. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids or alkalis and all substances defined as Toxic or Hazardous under MGL c.21C and 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**Zone I:** The protective radius required around a public water supply well or wellfield; for purposes of this Bylaw, the required radius is four hundred feet (400').

**Zone II:** That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend up-gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide in contact with till or bedrock, or a recharge boundary).

***Establishment and Delineation of Groundwater District:***

The Groundwater Protection District includes the Zones I and II for the Brookfield and East Brookfield municipal wells. These areas are delineated on a map entitled "Groundwater Protection District." This map is hereby made a part of the Zoning Bylaws and is on file in the Office of the Town Clerk.

***Resolution of Disputes:***

Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s), the Town may engage a professional hydrogeologist to determine more accurately the location and extent of a Zone II and charge the owner(s) for all or part of the cost of the investigation.

***Permitted Uses:***

Unless prohibited or restricted by the regulations of the Groundwater Protection District or other state or local regulations, uses or activities permitted in the underlying district are controlled by the requirements of the underlying district.

***Prohibited Uses:***

The following uses are prohibited within the Groundwater Protection District:

1. Landfills and open dumps as defined in 310 CMR 19.006.
2. Landfilling of sludge or septage as defined in 310 CMR 32.05.
3. Automobile graveyards or junkyards as defined in MGL c.140B, §1.
4. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 (Title V) to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, provided that:
  - a. the replacement or repair of a system that will not result in an increase in design capacity over the original design, or the design capacity of 310 CMR 15.00 (Title V), whichever is greater, shall be exempted; and
  - b. increases in the capacity of individual sewage disposal systems in existence on the date of passage of this Bylaw shall be exempted.
5. Disposal works that are subject to 314 CMR 5.00 (Groundwater Discharge Program) except the following:
  - a. the replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system;

- b. the replacement of existing subsurface sewage disposal system with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system;
  - c. treatment works approved by the Massachusetts DEP designed for the treatment of contaminated ground or surface waters; and
  - d. sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Massachusetts DEP's satisfaction both that these problems are attributable to current septic systems and that there will be a net improvement in water quality.
- 6. Facilities that generate, treat, store or dispose of hazardous materials or waste that are subject to MGL c.21C and 310 CMR 30.00, and hazardous materials subject to MGL c.21E and 310 CMR 40.00, except the following:
  - a. very small quantity generators as defined under 310 CMR 30.00;
  - b. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
  - c. waste oil retention facilities required by MGL c.21, §52A;
  - d. treatment works approved by the Massachusetts DEP and designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

***Restricted Uses:***

The following uses are prohibited within the Groundwater Protection District unless designed in accordance with the specified performance standards:

- 1. Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- 2. Storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

3. Storage of commercial fertilizers as defined in MGL c.128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
4. Storage of animal manure, unless such storage is covered or contained, or in accordance with the specifications of the United States Soil Conservation Service.
5. Storage of hazardous materials, as defined in MGL c.21E, unless in a free-standing container within a building or in a free-standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity.
6. The removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United State Geological Survey), unless the substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark, and except for excavations for the construction of building foundations or the installation of utility works.
7. Storage of liquid petroleum products of any kind, except those incidental to:
  - a. normal household use and outdoor maintenance or the heating of a structure;
  - b. waste oil retention facilities required by MGL c.21, §52A;
  - c. emergency generators required by statute, rule or regulation;
  - d. treatment works approved by the Massachusetts DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

provided that such storage listed in items a. through d. above is either in a free-standing container within a building or in a free-standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity.

8. Any use that will render impervious more than 15% or 2500 square feet of any lot, whichever is greater. A system for groundwater recharge must be

provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner. Plans for such systems shall be reviewed and approved by the Planning Board using the Site Plan Review Procedure in Section 8 of the Zoning Bylaws.

***Enforcement and Remediation:***

Written notice of any violations of this Section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the nature of the violation, and may also identify the actions necessary to remove or remedy the violations, preventive measures required for avoiding future violations and a schedule of compliance. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises.





## Footnotes

<sup>1</sup> ARTICLE III—Intensity Regulations. This Article was amended by Article V, Section 1, et. seq., adopted at the Special Town Meeting held February 12, 1979. Prior to the amendment, Intensity Regulations were as follows:

District	Minimum Lot Dimension		Minimum Yard Dimensions (in feet)			Maximum % Coverage (Including Accessory Buildings)
	Sq. Ft.	Feet of Frontage	Front	Side	Rear	
Areas served by Town water	22,500	125	25	10	25	30
Areas not Served by Town Water	25,000	125	40	40	40	20

<sup>2</sup> This Amendment was adopted at the Special Town Meeting held July 23, 1979. Prior to the Amendment, this Section read as follows: 1. Detached one-family dwelling. Two-family dwelling.

<sup>3</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986. Prior to the Amendment, this Section read as follows: The following use or uses may be permitted by the Board of Appeals in accordance with the regulations appearing in Section Five (5) of this Bylaw.

<sup>4</sup> Ibid.

<sup>5</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986. Prior to the Amendment, this Section read as follows: Any wholesale or retail business, warehousing or distribution center including light assembly, research laboratory, service or public utility not involving manufacture on the premises, except of products the major portion of which is sold on the premises by the producer to the consumer.

<sup>6</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986. Prior to the Amendment, this Section read as follows: The following use or uses may be permitted by the Board of Appeals in accordance with the regulations appearing in Section Five (5) of this Bylaw.

<sup>7</sup> This Amendment was adopted at the Special Town Meeting held July 23, 1979. Prior to the Amendment, this Section contained only: 1. Place of amusement or assembly; 2. Club conducted for profit.

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- <sup>8</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986.
- <sup>9</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986. Prior to the Amendment, this Section read as follows: The following use or uses may be permitted by the Board of Appeals in accordance with the regulations appearing in Section Five (5) of this Bylaw.
- <sup>10</sup> This Amendment was adopted at the Special Town Meeting held November 30, 1992, by the additions of Prohibited Uses numbered 2-4.
- <sup>11</sup> This Amendment was adopted at the Special Town Meeting held July 23, 1979. Prior to the Amendment, the minimum lot size (sq.ft.) was 30,000 for Agriculture-Residential District.
- <sup>12</sup> This Amendment was adopted at the Special Town Meeting held July 23, 1979, by the addition of the words "or abutting an existing dwelling."
- <sup>13</sup> This Amendment was adopted at the Special Town Meeting held February 10, 1986.
- <sup>14</sup> This Amendment was adopted at the Special Town Meeting held November 30, 1992.
- <sup>15</sup> This Amendment was adopted at the Annual Town Meeting held May 2, 1994.