SIDEWALK SNOW REMOVAL AND BENEFIT ASSESSMENT ORDINANCE

Article IV. Snow and Ice Removal and Maintenance

§192-27 Definitions.

The following words shall, unless the context requires otherwise, be construed and understood as follows:

Sidewalk

shall mean any portion of the street, usually lying on either side thereof, between the curb and the adjacent property line, intended for the use and passage of pedestrians.

Street

shall mean and include avenues, highways, roads, alleys, lanes, bridges and the approaches thereto, and all other public thoroughfares in the town, and shall also mean all that part thereof from property line to property line of the premises abutting thereon.

§192-28 Removal of snow by abutting owners.

Any snow or sleet upon any sidewalk in the town, or any ice upon such sidewalks, shall be cleared or caused to be cleared by the owner of land, building or premises adjoining or fronting upon such sidewalk or connected therewith.

§192-29 Time limit for removal of snow and ice.

The clearance of snow, sleet or ice, as provided for in § 192-28, shall be completed within 24 hours following the cessation of the fall of snow, sleet or rain.

§192-30 Unremovable portion to be made safe.

If snow, sleet or ice cannot be wholly cleared, as provided in § 192-28, the owner shall clear so much thereof as is reasonably possible and provide a passageway for the safe passage of pedestrians, and sprinkle sufficient sand, salt or other proper substance in such quantity over the passageway and keep the same in a safe condition for public travel at all times.

§192-31 Clearing of sidewalks by town; collection of costs.

(a) In addition to any other penalty provided by law, if any owner or occupant fails to comply with the provisions of §§ 192-28, 192-29 and 192-30, the Public Works Department and its employees may clear snow and ice from such sidewalks. The expense of such clearing shall be a lien upon the premises adjoining and abutting on such sidewalks and the Board of Selectmen may cause a certificate of lien therefor to be recorded in the Town Clerk's office.

(b) The expenses of clearing snow and ice by the Public Works Department as provided in Subsection **(a)** of this section and the cost of the lien therefor may be entered in the next succeeding rate bill for taxes against the owner of the premises with the tax assessed upon such premises, and if the expense and the cost of the lien is paid with such taxes, the lien shall be released; and if not so paid, the lien may be foreclosed in the manner herein before provided.

§192-32 Penalty for failure to clear sidewalks.

Any person who violates or refuses or neglects to comply with the provisions of §§ 192-28 through 192-30 shall be issued a citation by the Brookfield Police Department and fined $100 for each violation, and each day of failure to comply with such provisions shall constitute a separate offense.

§192-33 Maintenance of sidewalks by abutting owners required.

Any person owning or occupying any lands in the town abutting or fronting a sidewalk, shall keep such sidewalk, at all times in safe condition and repair for the use of the public and free from obstruction and defects.

§192-34 Repair of sidewalks by town; collection of costs.

(a) If any sidewalk obstruction or defect exists, the Board of Selectmen shall notify the owner, agent or occupant of the abutting premises to remove such obstruction or defect and, if the same are not corrected within 30 days after such notice, the Town may perform the same.

(b) The expense of such removal or correction by the Town shall be a lien upon such abutting property in favor of the Town, which may be continued if a certificate of lien is filed with the Town Clerk and the same may be collected by the Town by any proper form of legal or equitable action including foreclosure in the same manner as for the collection of real estate taxes.

§192-35 Removal of snow, ice and other materials from private property.

A. This section shall be construed to include, but is not limited to, any private owner or lawful possessor of property who demands, orders, directs, instructs, requests or allows any agent(s), employees(s), or independent contractor(s) to remove snow, ice, or debris from private property in such a manner that they are found to have violated Subsection **B** of this section.

B. No person shall, by any manner or method, place or cause to be placed any snow, ice, or debris from any privately owned property onto, or into any street, road, public way or sidewalk of the Town. [Formerly § 192-27]

§192-36 Violations and penalties.

Any person who violates this Article or refuses to or neglects to comply with the same shall be issued a citation by the Brookfield Police Department and fined the sum of $100 for each offense. In case of a continuing violation, each day's continuance thereof shall be deemed a separate offense. [Formerly § 192-28]

§192-37 Liability for snow and ice on public sidewalks.

(a) Pursuant to the provisions of § 7-163a of the Connecticut General Statutes, notwithstanding the provision of § 13a-149 or any other general statute or special act, the Town of Brookfield shall not be liable for any personal injury or property damage caused by the presence of ice or snow on a public sidewalk unless the Town of Brookfield is the owner of and exercises control over land abutting such sidewalk; provided the Town shall be liable for its affirmative acts with respect to such sidewalks.

(b) The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice and snow on such sidewalk abutting his property as the municipality had prior to the effective date of this ordinance and shall be liable for any personal injury or property damage where a breach of said duty is the proximate cause of said injury.

(c) No action to recover damages for personal injury or property damage caused by the presence of ice and snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two (2) years from the date when the injury or damage is first sustained.

Article V. Assessment of Benefits for Sidewalk Improvements

§192-38 Assessment generally.

At any time after the Town of Brookfield, by Town Meeting, Zoning authority approval or by the Board of Selectmen, resolves to or approves the layout or construction of sidewalks, curbs, other improvements and associated amenities (hereinafter "Improvements") in the Town Center District as shown on the Town of Brookfield Zoning Map, the Board of Selectmen may levy benefit assessments upon the lands and buildings in the municipality which, in its judgment, are especially benefitted by the Improvements, and upon the owners of such land and buildings, according to such resolution as the Board of Selectmen may adopt, subject to any right of appeal allowed by law and subject to any exemptions mandated by law.

§192-39 Determination of cost of improvements.

The Board of Selectmen shall ascertain the cost of the Improvements and, in ascertaining the cost, shall take into account all costs of construction, including, but not limited to, the cost of construction, land acquisition, cost connected with financing the project, all engineering and legal expenses related to the project and any other costs or expenses needed to complete the Improvements.

§192-40 Criteria for determination of assessment.

Upon determining the amount to be collected pursuant to the assessment, which amount may be a fraction of, but shall not exceed 50% of, the cost of the Improvements as determined in § 192-39, the Board of Selectmen shall assess the benefits upon the properties the Board of Selectmen determines are benefitted by the Improvements in proportion to the square footage/area of the improvements fronting or bounding the properties to be assessed. The Board of Selectmen may make reasonable allowances whenever, for any reason, the particular situation of any property requires an allowance (e.g. a corner lot).

§192-41 Use of Tax Assessor Maps for measurements.

For the purposes of any measurements required under these ordinances, the maps of the Tax Assessor of the Town of Brookfield shall be deemed applicable and accurate unless shown to be otherwise by a Class A-2 survey certified by a registered Connecticut land surveyor.

§192-42 Authority of Board of Selectmen to provide for installment payments.

The Board of Selectmen may, by resolution, provide for an installment method of payment of any assessment levied hereunder, including the number and duration of payments and the interest rate to be charged. The interest rate shall not exceed the rate of interest the municipality is obligated to pay to finance the project or the Prime Rate of interest plus one (1%) percent if the project is not financed.

§192-43 Benefit assessment enactment procedure.

(a) The Board of Selectmen shall fix in the Assessment of Benefits Resolution the due date of assessments made and the manner in which the assessment shall be paid, whether in full or by installment pursuant to § 192-42.

(b) No assessment shall be made until after a public hearing has been held before the Board of Selectmen at which the owners of all property to be assessed shall have had an opportunity to be heard concerning the proposed assessment. Notice of the time, place and purpose of such hearing shall be published at least 7 days before the date thereof in a newspaper having a general circulation in the Town, and a notice signed by the Town Clerk shall be mailed to each owner of record of any property to be assessed at such owner's address as shown in the latest completed Grand List. A copy of the proposed Assessment of Benefits Resolution shall be on file in the office of the Town Clerk and available for inspection by the public at least 7 days prior to the date of the public hearing.

(c) When the Board of Selectmen has finally determined the amount of the assessment to be levied, the final resolution shall state the street address of the properties to be assessed, the names and addresses of the affected property owners, and the specific assessment amount assessed against each individual property. The final resolution of the Board of Selectmen shall be filed in the offices of the Tax Assessor, Tax Collector and the Town Clerk and the

Town Clerk shall cause the resolution to be published in a newspaper having a general circulation in the town within 14 days after it is filed with the Town Clerk.

§192-44 Delinquent assessments.

(1) Any assessment of benefits or any installment thereof, not paid within 30 days after the due date, shall be delinquent and shall be subject to interest from such due date at the set interest rate. Such interest and costs shall be collectible as part of such assessment.

(2) Any unpaid assessment and any interest due thereon shall constitute a lien upon the real estate against which the assessment was levied from the date of such assessment payment due date. Each such lien may be continued, recorded and released in the manner provided by the General Statutes for continuing, recording and releasing real estate tax liens. Each such lien shall take precedence over all other liens and encumbrances except taxes and may be foreclosed in the same manner as for real estate tax liens. The Tax Collector of the municipality shall collect such assessments, interest and costs in accordance with all provisions of the General Statutes for the collection of real estate taxes, and the Town may recover any such assessment, interest and costs in a civil action against any person liable therefor or by foreclosure in accordance with the General Statutes pertaining to the foreclosure of real estate tax liens.

The provisions of this Ordinance shall become effective on the twenty-first (21) day following its adoption and publication as required by law.

Adopted as amended by the Board of Selectmen of the Town of Brookfield on May 2, 2016 .

Stephen C. Dunn, First Selectman
Sue Slater, Selectman
Martin Flynn, Selectman