

TOWN OF NORTH BROOKFIELD

BY-LAWS

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REVISED August 2010

Original by-laws adopted at Annual Town Meeting February 19, 1949
Approved by Attorney General August 9, 1949

CHAPTER I GENERAL PROVISIONS

Section 1. The following provisions shall constitute the General By-Laws of the Town of North Brookfield, which shall be in lieu of all by-laws heretofore in force.

Section 2. The repeal of a by-law shall not thereby have the effect of reviving any by-law theretofore repealed.

Section 3. Words and phrases specifying or naming any officer, board, or committee of the town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the studies of such officer, board, or committee.

Section 4. Whoever violates any of the provisions of these by-laws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine not exceeding three hundred dollars (\$300.00) for each offense.

Section amended at Annual Town Meeting May 11, 1990
Approved by Attorney General September 5, 1990

CHAPTER II TOWN MEETINGS

Section 1. The Annual Town Meeting shall be held on the first Monday of May of each year. The polls shall be opened at 7 o'clock in the morning and shall be closed at 8 o'clock in the evening, for the purpose of election of town officers and for voting upon such other matters as may be voted on for the official ballot. The annual adjourned meeting for the consideration of all other business shall be held on the Friday following at 7:30 o'clock in the evening.

Section amended at Special Town Meeting June 26, 1992
Approved by Attorney General December 21, 1992

Section 2. Notice of every Town Meeting shall be given by posting an attested copy of the warrant therefore in at least two public places in the Town, not less than seven days before the day fixed for the Annual Town Meeting and not less than fourteen days before the day fixed for a Special Town Meeting.

Section 3. At least four days before the Annual Town Meeting, the Town Reports shall be available at such place as the Selectmen shall designate.

Section 4. Ten voters shall constitute a quorum for the transaction of business at any Town Meeting, except at the Annual Town Meeting for the election of officers, the polls may be declared open without a quorum being present.

Section 5. At all Town Meetings only registered voters and persons having official business with the meeting shall be admitted to the main floor of the hall where voting is to take place, and no vote, other than by written ballot, shall be received from any qualified voter in any other part of the hall.

Section 6. No person not a voter of the Town, except a person introduced to speak by a Town official or Town committee interested in the subject matter, shall address a town meeting without consent of the meeting.

Section 7. Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by a vote of the meeting.

Section 8. Any motion, if required by the Moderator or Town Clerk, shall be presented in writing.

Section 9. If a motion is susceptible of division, it shall be divided and the question shall be put separately upon each part thereof, if seven voters so request.

Section 10. There shall be no more than two amendments to a motion.

Section 11. All votes on motions shall be taken in the first instance by a show of hands; if the Moderator be in doubt he may call for a second show of hands and may appoint tellers to count the vote; if the Moderator be still in doubt, or if the vote as declared by the Moderator be questioned by seven or more voters, the vote shall be taken by a "yes" and "no" ballot. Any vote, however, may be taken by ballot in the first instance if a motion to that effect shall have been made and carried by a majority of the voters present, and must be taken by ballot if the vote involves the appropriation of more than ten thousand dollars (\$10,000.00) for any purpose other than annual departmental appropriations or involves the borrowing of money for any amount.

Section amended at Special Town Meeting November 10, 2006

Approved by Attorney General January 11, 2007

Section 12. A motion to reconsider any vote must be made before the adjournment of the meeting at which the vote was taken; and no motion to reconsider any vote shall be made at an adjourned meeting unless the mover of such motion shall have given notice of his intention to move reconsideration by written notice to the Town Clerk within forty-eight (48) hours of the session at which said vote was passed. There shall be no reconsideration of a vote once reconsidered, and when reconsideration shall have been refused by the meeting, the Moderator shall refuse to entertain any motion for further reconsideration.

Section 13. All committees shall report as directed by the Town. If no report is made within a year after its appointment, a committee shall be discharged unless, in the meantime, the Town shall have granted an extension of time.

Section 14. No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefore has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.

Section 15. In all matters not herein provided for, the meetings shall be governed by the rules of Parliamentary Practice as set forth in Town Meeting Time.

Section amended at Annual Town Meeting May 11, 2001
Approved by Attorney General August 31, 2001

Section 16. Any department of the Town of North Brookfield that brings a matter before the voters at any Town Meeting shall have a spokesperson present to address that matter, or no business will be conducted on that matter.

Section added at Special Town Meeting November 21, 2008
Approved by Attorney General January 20, 2009

CHAPTER III TOWN OFFICERS

Section 1. The Selectmen shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided by law or these by-laws.

Section 2. The Selectmen shall cause each Town officer and department head having custody of Town property to keep and true inventory thereof on file, and each officer and department head shall deliver a copy of said inventory to the Town Accountant at least annually.

CHAPTER IV FINANCE COMMITTEE

Section 1. The Board of Selectmen shall annually appoint a Finance Committee of seven members, or may act as such Finance Committee, and such committee shall have all the powers and duties vested in it by law. Beginning July 1, 1977 the Board of Selectmen shall appoint three members of the Finance Committee for a term of one year; two members for a term of two years; two members for a term of three years; and thereafter members shall appointed for a term of three years. The Board of Selectmen shall also annually appoint one or more alternate members of the Finance Committee, who shall have all of the rights and powers to act on all Finance Committee matters in the absence of a quorum or regular Finance Committee members.

Section amended at Special Town Meeting October 26, 1993

Approved by Attorney General February 23, 1994

CHAPTER V DUTIES OF SELECTMEN

Section 1. The Selectmen shall constitute the Town House Committee.

Section 2. All conveyances of land or interest in land which may hereafter be authorized by vote of the Town, or otherwise, shall be signed by a majority of the Board of Selectmen unless otherwise provided by law or by vote of the Town.

Section 3. The Selectmen shall appoint all Town officers not elected on the ballot.

Section 4. In accordance with the requirements of the Uniform Procurement Act of the General Laws Chapter 30B, the Chairman of the Board of Selectmen shall be designated as the Procurement Officer for the Town of North Brookfield, and shall further have the authority to delegate his power as Procurement Officer to other such employees of the Town as he shall see fit.

Section added at adjourned Annual Town Meeting May 12, 1990

Approved by Attorney General September 5, 1990

Section 5. The Board of Selectmen shall have the authority under Massachusetts General Law, Chapter 40, Section 57, to deny an application, or revoke or suspend a license for non-payment of local taxes, fees, betterments, or other municipal charges.

Section added at adjourned Annual Town Meeting June 21, 1991

Approved by Attorney General October 8, 1991

Section 6. The Board of Selectmen shall appoint a Capital Improvement Planning Committee (CIPC) consisting of five members and two alternates. The CIPC is comprised of a member of the Board of Selectmen, a member of or appointed by the Finance Committee, a member of or appointed by the Planning Board, and two members-at-large along with two alternates appointed by the Board of Selectman. Any vacancies shall be filled in the same manner by the appropriate authority for the balance of the term. Appointment is a two-year term (except in the case of the first year, the two members-at-large only serve one year). The CIPC will elect a chair and secretary and follow public meeting format. The CIPC is responsible for maintaining project improvement information in a historical file for subsequent committees.

The CIPC receives proposed capital improvement projects from town departments and ranks all proposed projects in priority order. The prioritized list of projects is compared to sources of available funds in order to establish a recommended sequence of project funding over a five year horizon. The Committee serves in an advisory capacity to the Board of Selectmen and Finance Committee.

Prior to the Annual Town Meeting the CIPC delivers to the Selectmen a recommended list of projects and capital budget for the next fiscal year along with a capital improvement forecast for the next four fiscal years.

The CIPC will follow schedules which allow for the presentation of the recommended project list and capital budget to the selectmen by March 1st preceding the annual town meeting. In order to accomplish this objective the CIP team will follow the following guidelines:

By November first of each year, all offices, boards, and committees, give to the CIPC, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action for the next five years. Projects submitted directly to the warrant by citizen petition are not subject to direct evaluation by the CIP process. However the CIPC can be called upon to make recommendations concerning impact of projects proposed by citizen petition on the overall town capital improvement program.

Section added at Annual Town Meeting May 11, 2007

Approved by Attorney General July 26, 2007

CHAPTER VI CONTRACTS

Section 1. No Town officer, board, or agent shall make any contract for or on behalf of the Town involving the expenditure of twenty-five thousand dollars (\$25,000.00) or more, except in open competition wherein written bids are called for. No contracts involving the expenditure of twenty-five thousand dollars (\$25,000.00) or more shall be split or divided so as to evade the prohibition of the section. This section shall not apply to a contract for the collection, transportation, receipt, processing, or disposal of solid waste, recyclables or compostable materials.

Section amended at Annual Town Meeting May 11, 2001
Approved by Attorney General August 31, 2001

Section amended at Annual Town Meeting May 2, 2006
Approved by Attorney General September 19, 2006

Section 2. No officer of the Town, authorized to make any contract or purchase in behalf of the Town shall be personally interested in any contract or purchase in which he or any Board of which he is a member makes in behalf of the Town or any department thereof, except with the permission of the Selectmen.

CHAPTER VII LEGAL AFFAIRS

Section 1. The Selectmen shall be agents of the Town to institute, prosecute, and defend claims, actions, and proceedings to which the Town is a party, or in which the interest of the Town is or may be involved.

Section 2. The Selectmen may at their discretion compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of an amount obligating the Town in an amount in excess of one hundred dollars (\$100.00) shall be made, except as authorized by law, without the consent of the Town Meeting.

Section 3. The Selectmen shall annually in May, appoint a person who is a member of the bar in good standing, to serve as Town Counsel for the term of one year from the first day of June following and until his successor is appointed and enters upon the performance of his duties. They shall likewise fill any vacancy in said office for the unexpired term, and may employ special counsel to assist the said Town Counsel whenever, in their judgment, necessity therefor arises.

Section amended at Special Town Meeting December 18, 1973
Approved by Attorney General February 13, 1974

Section 4. The Town Counsel shall conduct the prosecution, defense, or compromise of claims and proceedings to which the town is a party, and the prosecution of actions or proceedings by or on behalf of any town officer, board, or committee as such; and conduct the defense of any action or proceedings brought against any town officer, board, or committee as such when the Selectmen, having determined that any right or interest of the town are or may be involved therein, shall so request and conduct proceedings brought by or against the Assessors before the Board of Tax Appeals; and assist in the prosecution of complaints for violation of any by-law of the town when requested to do so by the board of officer enforcing the same; to examine and report upon titles to all land to be acquired by the town; and prepare or approve contracts, bonds, deeds and other legal instruments in which the town is a party or in which any right or interest of the town is involved; and appear at any and all hearings on behalf of the town whenever his services may be required; and to advise and act for the town officers, board and committees upon and in legal matters touching the duties of their respective offices.

CHAPTER VIII USE OF PUBLIC WAYS AND PLACES

Section 1. No person shall place or cause to be placed in any of the public streets, or upon any public sidewalk, without first obtaining a written license therefore, any wood, lumber, coal, barrels, or any other obstruction.

Section 2. No person shall sweep or throw or place any rubbish, shells, paper, or other refuse upon, or plow snow onto, any street or sidewalk in the town.

Section amended at Special Town Meeting December 5, 2003

Approved by Attorney General January 6, 2004

Section 3. No person shall coast or slide upon any sidewalk, or upon any streets, or ride or drive any bicycle upon any sidewalk, except at such times and in such places as may be designated by the Selectmen.

Section 4. No person shall throw or place any paper or litter in any of the public fountains of the town, or in any way injure or disfigure the same.

Section 5. No person shall form or conduct any parade in any street, sidewalk, or public way within the town without a written permit signed by the Board of Selectmen.

Section 6. No person shall sell, except in accordance with a permit from the Selectmen, any goods, articles, or merchandise from any stationary vehicle or temporary stand in any street.

Section 7. No person shall place or maintain over any sidewalk any awning, shade, shade frame, canopy, sign or signboard, without a permit from the Board of Selectmen, but no awning, shade, shade frame, canopy, sign or signboard shall be less than seven (7) feet from the ground in the lowest part or extend the line of the sidewalk.

Section 8. In order to preserve peace and good order, no person shall publicly consume any intoxicating liquor in any Town Park, Cemetery, or on a public way in the Town of North Brookfield. Anyone violating this by-law shall be subject to a fine of not more than three hundred dollars (\$300.00) and may be subject to arrest, without a warrant, by a Sheriff, Deputy Sheriff, Town Police Officer, or State Police Officer. The Selectmen may waive enforcement of this section for special purposes.

Section added at Special Town Meeting August 17, 1973
Approved by Attorney General October 25, 1973

Section amended at Special Town Meeting November 2, 1999
Approved by Attorney General January 21, 2000

Section 9. No person shall transport waste matter within Town limits without having a suitable cover to prevent the discard of matter on our roads and by-ways. Violation of this section shall be punished by a fine of three hundred dollars (\$300.00).

Section added at Special Town Meeting May 28, 1974
Approved by Attorney General August 27, 1974

Section 10. Temporary Repairs on Private Roads

A. Definitions

Private Road

Any road or street within the Town of North Brookfield that is open to the public but that has not been made a public road by (1) a laying out by the Board of Selectmen and approval of Town Meeting in the manner prescribed by Massachusetts General Laws Chapter 82; (2) prescription; or (3) prior to 1846, a dedication by the owner to public use, permanent and unequivocal coupled with an express or implied acceptance by the public.

Permitted maintenance and temporary repairs

When required by public necessity and/or in the interest of public safety, the Town may perform the following types of maintenance and temporary repairs on approved private roads at a time and in a manner determined by the Highway Superintendent: (a) grading, including the finishing of gravel, fill or other materials as required to properly repair the roadway surface.

Annual Expenditure of Town funds and liability

The annual expenditure of Town funds on any individual private road for the above-listed maintenance and temporary repairs shall not exceed \$925.00 per mile or portion thereof for labor and materials: provided, however, that the Town Meeting may vote to waive this requirement by voting a specific sum of money for a specific repair or repairs to a specifically named and described private road. Neither the Town nor its officers or employees shall be liable on account of any damages resulting from such maintenance and temporary repairs.

List of Approved Private Roads

Town funds shall not be spent on maintenance or temporary repairs on a private road unless the road is expressly approved for such repairs by a vote of the Board of Selectmen. A complete list of approved private roads to which this section applies shall be kept by the Town Clerk. The Highway Superintendent shall, on an annual basis, review said list to be approved by the Board of Selectmen at least 90 calendar days before the start of the fiscal year.

All approved private roads shall be posted with an appropriate sign stating "Danger - Private Road" at the points where they enter upon or unite with an existing public street or road or adjacent Town Line.

Section added at Special Town Meeting May 7, 2010

Approved by Attorney General August 31, 2010

CHAPTER IX POLICE REGULATIONS

Section 1. No person shall play any game in which a ball is used, or shoot with bow and arrow, air gun, or slingshot, or throw stones, snowballs, or any other missiles in any street or sidewalk.

Section 2. No person shall go from house to house within the town begging or soliciting alms or contributions, or magazine or book subscriptions, for any person, cause, or organization without first having his name and address with the Chief of Police. The provisions of this by-law shall not apply to churches or duly recognized charitable and public service organizations.

Section 3. No person shall loiter or continue to stand on any sidewalk or public place in the town so as to obstruct the passage of, or to impede other persons.

Section added at Special Town Meeting May 5, 1969

Approved by Attorney General August 28, 1969

Section 4. No person shall behave himself in a disorderly manner nor use any indecent or profane language or gestures in any public way or place in the town.

Section added at Special Town Meeting May 5, 1969

Approved by Attorney General August 28, 1969

Section 5. It shall be unlawful for any person to place, cause to be placed or to operate any automobile, van or truck on the surface ice of Lake Lashaway (also known as Furnace Pond) except if authorized by the Chief of Police of North Brookfield or East Brookfield, or their respective designee.

Section added at Annual Town Meeting May 11, 1990

Approved by Attorney General September 5, 1990

Section 5A. A violation of Sections 1 through 5 of Chapter IX will result in the following: First offense; warning, Second offense; twenty-five dollar fine (\$25.00), Third offense; fifty dollar fine (\$50.00), Fourth and subsequent offenses; one hundred dollar fine (\$100.00).

Section added at Special Town Meeting May 5, 1995

Approved by Attorney General June 27, 1995

Section 6. Every building, including but not limited to, dwellings, apartment buildings, condominiums, and business establishments shall have affixed thereto a number representing the address of such building.

A. The Board of Selectmen or their designees(s) shall enforce the provisions of this section.

B. It shall be the responsibility of every owner/or occupant of each dwelling, apartment building, condominium, or building within the Town of North Brookfield to place thereon the number of said dwelling, apartment building, condominium, or building as designated by the Board of Assessors.

C. The size, color, location and visibility of said numbers shall be as follows:

1. The minimum height of said numbers shall be three (3) inches in height.

2. In order to be visible from the road, street, or way, the number shall be of contrasting color and shall be reasonably visible to persons or vehicles approaching from either direction upon said road, street, or way.

3. The number shall be affixed to the front door as reasonably as possible.

4. If the dwelling, apartment building, condominium, or building is distant from the road, street, or way so that the numbers are not clearly visible and identifiable from the road, street, or way, then the numbers shall be affixed to a post, mailbox, or other appropriate place at the entrance of the driveway leading to the dwelling, apartment building, condominium, or building.

D. Each new dwelling, apartment building, condominium, or building shall be identified in accordance with this section before a Certificate of Use and Occupancy is issued therefore.

E. Penalty: The penalty for any violation of this section shall be fifty dollars (\$50.00). Upon notice of violation, an owner shall correct each violation within thirty (30) days, each thirty (30) day period of noncompliance shall be deemed a separate offense.

F. This section shall take effect as of ninety (90) days after its adoption.
Section added at adjourned Annual Town Meeting June 25, 1993
Approved by Attorney General November 11, 1993

CHAPTER X MISCELLANEOUS

Section 1. Within forty-eight (48) hours after being notified in writing by the officers in charge of the Fire Department that rubbish, ashes, or other waste matters has been permitted to accumulate upon property owned or occupied by the person notified, to an extent liable to cause fire or to spread fire, said owner or occupant shall cause to be removed such rubbish, ashes or waste matter.

Section 2. Any Town Officer or Board having charge or any personal property, or material, and not required for Town purposes, may, with the approval of the Selectmen, sell the same to an amount not exceeding three hundred dollars (\$300.00) in any one year.

Section 3. The Selectmen shall annually appoint an Inspector of Wires in accordance with the provisions of Chapter 166, Section 32, of the General Laws. The Selectmen shall have authority to adopt rules and regulations relative to wires and wiring and to establish fees of the Wire Inspector for inspection and installation. Such rules and regulations upon adoption and publication by the Selectmen, shall be enforced by the Inspector of Wires. Whoever violates any such rule and regulation shall forfeit and pay a fine not exceeding three hundred dollars (\$300.00) for each offense.

Section added at Annual Town Meeting March 9, 1951
Approved by Attorney General August 17, 1951

Section 4. There shall be an appointment of a Gas Inspector, in compliance of Chapter 737 of the Acts of 1960, and Chapter 25, Section 3-0 of the Massachusetts General Laws.

Section added at Annual Town Meeting March 6, 1964
Approved by Attorney General May 13, 1964

Section 5. Building permits expire six (6) months from issuance unless construction has begun or the permit is renewed by the issuing authority.

Section added at Annual Town Meeting March 16, 1973
Approved by Attorney General June 29, 1973

Section 6. During construction or repair of driveway entrances, all drainage areas must be kept free and clear of obstruction. No person shall in any way obstruct any public drain, catch basin, drain pipe, or culvert so as to interfere with its free operation.

Section added at Annual Town Meeting March 16, 1973
Approved by Attorney General June 29, 1973

Section 7. No person, except holders of licenses granted under Section 58, Chapter 140 of the General Laws, issued by the Board of Selectmen, shall keep or permit to be kept on his premises, more than one (1) unused or unregistered motor vehicle within one hundred (100) feet of a public way or within fifty (50) feet of a property line, unless authorized to do so by a permit issued by the Board of Selectmen. Each day, after notification in which unregistered vehicles are kept on any premises in the Town in violation of the by-law, shall be a separate offense. The penalty for violation of this by-law shall be not less than three hundred dollars. (\$300.00)

Section added at Annual Town Meeting March 11, 1966
Approved by Attorney General March 23, 1966

Section 8. Recycling Bylaw

1. Purpose

In order to protect its environment and resources, to preserve the remaining capacity of its solid waste facility and to provide for the proper disposal of solid waste, the Town hereby establishes a program of recycling in conjunction with the operation of its regular solid waste disposal facility (the "facility").

2. Scope

All residents, schools, and businesses of the Town shall separate recyclable items by group as designated in section 3 below (the "recyclables") from non-recyclable waste. Such recyclables shall be deposited at a designated area at the facility.

3. Recyclables

Recyclables shall be separated into the following groups:

Group A: All unbroken, non-ceramic glass bottles and jars

Group B: Newspapers, specifically excluding glossy magazines and waste paper

Group C: Metal food cans

Group D: Heavy metals, including, but not limited to, boilers, copper pipe, radiators and aluminum siding, specifically excluding items included under Group E

Group E: White metal goods, including, but not limited to, washing machines, dryers, hot water heaters, and stoves

Group F: Corrugated Cardboard

Group G: Plastics #1 PET and Plastics #2 HDPE

Additional groups, or additions to existing groups, may be added by the Board of Health.

4: Administration and Enforcement

A: The provision of this Recycling By-Law shall be administered and enforced by the Board of Health. The Board of Health shall promulgate regulations to effectuate this recycling program within ninety (90) days of the adoption of this by-law.

B. In addition to any enforcement procedures and penalties available to the Board of Health for violations of its regulations, the Board of Health may revoke the solid waste disposal permit of any resident, school and/or business violating the provisions of this by-law or the regulations promulgated thereunder by the Board of Health. Such revocation may take place only after a hearing held by the Board of Health of which the permit-holder is given at least seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address of the permit-holder as such address is set forth on the permit application.

5. Removal Prohibited

It shall be unlawful for any person to remove any recyclables from the curbside or designated areas of the facility without prior written authorization from the Board of Health.

6. Haulers

Only waste haulers possessing a valid permit from the Board of Health for the handling of recyclables may haul recyclables to the facility.

Section added at Annual Town Meeting May 10, 1991

Approved by Attorney General October 8, 1991

Section amended at Special Town Meeting November 2, 1999

Approved by Attorney General January 21, 2000

Section 9. Noncriminal Disposition

Any person taking cognizance of a violation of a specific by-law, rule, or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of the notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department, or by any person authorized by such commanding officer, department, or head to the offender's last known address, within fifteen (15) days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this by-law and MGL Chapter 40, Section 21D shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear.

Any person notified to appear before the clerk of a district court as hereinafter provided may so appear and confess the offense charged, either personally or through a duly authorized agent, or by mailing to the Town Clerk together with the notice such specific sum of money not exceeding three hundred dollars (\$300.00) as the town shall fix as penalty for violation of the by-law, rule, or regulation. Such payment shall if mailed be made only by postal note, money order, or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the District Court Clerk of such payment, and the receipt by the District Court Clerk of such notification shall operate as a final disposition of the case. An appearance under this by-law shall not be deemed to be a criminal proceeding.

The notice to appear provided for herein shall be printed in such form as the Chief Justice of the district courts shall prescribe.

Section added at Special Town Meeting June 26, 1992
Approved by Attorney General December 21, 1992

Section 10. Enforcement of Sewer Regulations

Sewer Regulations duly adopted by the Board of Sewer Commissioners pursuant to MGL Chapter 83, Section 10 are enforceable under the Town of North Brookfield By-Laws, Chapter X Miscellaneous, Section 9. Noncriminal Disposition. The enforcement agent authorized to issue tickets for violations under this section shall be the Superintendent of Sewers. Any person who violates any provision of the Town's Sewer Use Regulations shall be subject to a fine in the amount of three hundred dollars (\$300.00) per violation. Each day or

portion thereof shall constitute a separate offense, and each violation shall constitute a separate offense.

Section added at Special Town Meeting November 2, 1999

Approved by Attorney General January 21, 2000

Section 11. Board of Health Regulations

Board of Health Regulations duly adopted by the Board of Health pursuant to MGL Chapter 111, Section 6 are enforceable under the Town of North Brookfield By-Laws, Chapter X Miscellaneous, Section 9. Non Criminal Disposition. The enforcement agent authorized to issue tickets for violations under this section shall be the Board of Health members or its Agents. Any person who violates any provision of the Town's Board of Health Regulations shall be subject to a fine as stated in the Board of Health Regulations. Each day or portion thereof shall constitute a separate offense, and each violation shall constitute a separate offense.

Section added at Annual Town Meeting May 11, 2001

Approved by Attorney General August 31, 2001

Section 12. Enforcement of Water Use Restrictions/Regulations

The North Brookfield Water Use Restrictions/Regulations duly adopted pursuant to MGL c41, s69B, and Water Regulations enacted thereunder by the Board of Water Commissioners, are enforceable under the Town of North Brookfield By-Laws, Chapter X Miscellaneous, Section 9. Non Criminal Disposition. The enforcement agent authorized to issue tickets for violations under this section shall be the Board of Water Commissioners or the Superintendent of the Water Department. Any person who violates any provision of the Town's Water Use Restrictions/Regulations shall be subject to the penalties described in the Water Use Restrictions/Regulations. Each day or portion thereof shall constitute a separate offense, and each violation shall constitute a separate offense.

Section added at Annual Town Meeting May 10, 2002

Approved by Attorney General June 28, 2002

CHAPTER XI DOG CONTROL LAW

Section 1. Definition of terms

As used in this By-Law, unless the context otherwise indicates:

- A. "Dog" shall mean all animals of canine species, both male and female.
- B. "Owner" shall mean any person or persons, firm, corporation or association owning, keeping or harboring a dog as herein defined.
- C. "Public Nuisance" shall mean any dog found to be not on the premises of the owner of such dog or on the premises of another person with the knowledge and express permission of such other person except:
 - 1. If such dog is under the restraint and control of a person competent to restrain and control said dog so that it will not be a threat to public

safety. The mere muzzling of such a dog shall not satisfy the requirements of this bylaw.

D. "Restraint" shall mean under control of and obedient of the commands of the owner or keeper.

Section 2. Permitting a dog to become a public nuisance

A. No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town of North Brookfield at any time.

B. Waste removal and disposal

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of in a sanitary manner any feces left by such dog on any sidewalk, street, park, cemetery, schoolyard or other public area, or on any private property that is neither owned nor occupied by said person, unless the owner of said private property has given his or her consent.

No person who owns, possesses or controls a dog shall appear with such dog on any sidewalk, street, park, cemetery, schoolyard, public area or private property of another without the means to remove any dog feces.

This provision shall not apply to any guide dog or service dog accompanying a person with a disability who, by reason of said disability, is physically unable to comply with the requirements of this provision.

This provision may be enforced by the Animal Control Officer or any Town police officer.

Section amended at Special Town Meeting November 21, 2008

Approved by Attorney General January 20, 2009

Section 3. Licensing

The dog licensing year begins on April first of every year, with licenses expiring on March thirty-first.

Dog owners who license after June first or are found in violation of such licensing shall pay a penalty charge of five dollars (\$5.00) to the Town of North Brookfield. This penalty charge shall be in addition to the regular licensing fees charged by the Town of North Brookfield.

Dog owners who license after September first or are found in violation of such licensing shall pay a penalty of twenty-five dollars (\$25.00) to the Town of North Brookfield. This penalty charge shall be in addition to the regular licensing fees charged by the Town of North Brookfield.

No license fee shall be charged for a dog certified for use in assisting the handicapped. Documentation may be required to prove that the dog has been trained to provide assistance to the handicapped.

No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, or removal from the Town of North Brookfield.

If a dog is impounded by the Animal Control/Dog Officer, the licensing fee will be collected by the Animal Control/Dog Officer prior to releasing the dog to its owner, as required by law. The license will then be mailed to the owner whereupon the owner will immediately attach said license to the dog's collar.

When the Town seeks remedy through the District Court against a dog owner who has failed to license by the end of the prior calendar year, said owner shall be charged an additional twenty-five dollars (\$25.00) fee for court costs and handling of said case.

Section amended at Special Town Meeting June 20, 2003

Approved by Attorney General August 22, 2003

Section 4. Impounding

It shall be the duty of the Animal Control/Dog Officer to investigate complaints concerning any dogs which are alleged to be in violation of this by-law, and to apprehend any dog found by him/her to be a public nuisance and impound such dog in a suitable place or to order the owner thereof to restrain said dog.

Any dog which has been impounded and has not been redeemed by the owner within ten (10) days shall be disposed of as provided by Massachusetts General Laws Chapter 140, Section 151A, and any amendments thereto. All dogs adopted from the Town of North Brookfield Shelter shall be neutered or spayed within sixty (60) days at the owner's expense,. A neuter/spay fee of fifteen dollars (\$15.00) will be charged to the new owner and held for sixty (60) days. At the end of the sixty (60) days, if the new owner provides proof of neutering or spaying, the fifteen dollars (\$15.00) fee will be refunded. All unclaimed deposits shall be deposited in an account and used for a spay program as deemed appropriated by the Animal Control/Dog Officer This neuter/spay fee is in addition to any other adoption fees as deemed appropriate by the Animal Control/Dog Officer and the Town of North Brookfield to recover the cost of housing and placing the dog.

Any animal given up by the owner or unclaimed shall be disposed of at the discretion of the Animal Control/Dog Officer. The owner at the time of surrender to the Animal Control/Dog Officer, or after ten (10) days from pickup of unclaimed animals shall give up all rights of ownership of said animal. The Town of North Brookfield and the Animal Control/Dog Officer shall be released of any liability in regards to said animal.

If such dog so impounded has upon it the name and address of said owner thereof, or if the name of said owner is otherwise known, then the Animal Control/Dog Officer shall immediately notify the owner, and if the owner is not known then no notice shall be necessary.

The owner of any dog so impounded may reclaim such dog upon the reimbursement of the Animal Control/Dog Officer of his expenses for maintaining said dog while impounded. In any event, the Animal Control/Dog Officer shall not charge more than ten dollars (\$10.00) per dog for reimbursement of said expenses for each twenty-four (24) hours or any part thereof that the dog is held by him, plus thirty dollars (\$30.00) as the initial handling fee for handling such dog. However, it is provided that if the dog is not licensed, a license as required by the Town of North Brookfield shall be obtained before the Animal Control/Dog Officer releases said dog to any person.

Section amended at Special Town Meeting June 20, 2003

Approved by Attorney General August 22, 2003

Section 5. Penalty

Any owner or keeper found in violation of any Animal Control By-Law shall be subject to fines according to the following schedule:

First Offense - \$25.00

Each subsequent offense within a calendar year - \$30.00. These fines are at the discretion of the Animal Control/Dog Officer and Police Department.

Section 6. Disposition of funds

Such funds collected pursuant to the provisions of this by-law by the Animal Control/Dog Officer shall be accounted for and paid over to the Town Treasurer. The Animal Control/Dog Officer does not accept cash.

Section 7. Inhumane treatment of animals

Any person found or suspected of abuse, neglect, or other forms of cruelty will be reported to the MSPCA, Animal Rescue League, or other suitable agency for further investigation.

Section amended at Annual Town Meeting May 7, 1999

Approved by Attorney General September 20, 1999

Section 8. Rabies control

All dogs and cats owned by a resident of the Town of North Brookfield shall be properly vaccinated in accordance with Massachusetts General Laws Chapter 140 Section 145B. Unvaccinated dogs and cats acquired or moved into the Town of North Brookfield shall be vaccinated within sixty (60) days or upon reaching the age of six (6) months, whichever occurs first.

Those dog owners found in violation of the rabies requirement of Massachusetts General Laws Chapter 140, Section 145B, shall, at the owner's expense, have

their dogs properly vaccinated by a licensed veterinarian within ten (10) days of said violation and will receive a fine of twenty-five dollars (\$25.00).

Any dog without current proof of rabies vaccination that is impounded by the Animal Control/Dog Officer will be vaccinated at the owner's expense prior to release by the Animal Control/Dog Officer.

Any animal that is quarantined and requires vaccination shall be vaccinated at the owner's expense. Notification of such vaccination shall be sent to the Animal Inspector within ten (10) days of said vaccination.

Any dog or cat that is not currently vaccinated that bites or scratches any person shall be confined in an approved, adequate boarding facility for a period of not less than ten (10) days, at the owner's expense.

Any dog or cat that is currently vaccinated that bites or scratches any person shall be confined at the home of the owner for a period of not less than ten (10) days.

Any veterinarian bills incurred for vaccinating or preparing any animal for rabies testing shall be at the owner's expense.

Any owner or keeper moving an animal subject to quarantine shall notify the Board of Health in writing prior to moving the animal. The Town of North Brookfield shall be given the name, address, and phone number as to where the animal is going to be housed.

Any owner or keeper of any animal in the Town of North Brookfield who has received written notice of quarantine and does not comply with said quarantine order, or if the quarantined animal is found outside the approved enclosure of its owner or keeper and not under his/her immediate care, shall be subject to an immediate order to destroy or order to be housed at an approved boarding facility at the owner's expense.

It shall be the duty of the Animal Inspector to investigate and enforce the provisions of this by-law, and to give written notice to the Board of Health, Animal Control/Dog Officer and the animal owner in regards to all quarantines.

Section 9. Effective date

This by-law shall become effective upon its passage and approval by the Attorney General of the Commonwealth of Massachusetts. In the event that any section of the by-law is ruled to be invalid by a jury of competent jurisdiction, it will not invalidate the remaining sections.

Chapter replaced at Annual Town Meeting May 8, 1998

Approved by Attorney General August 5, 1998