

The Charter

BRAINTREE CODE

Chapter CC

BRAINTREE CHARTER

Chapter 189 of the Acts of 2005

AN ACT ESTABLISHING A MAYOR/TOWN COUNCIL FOR THE TOWN OF BRAINTREE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

ARTICLE 1

Incorporation; Short Title; Definitions**Section 1-1. Incorporation**

The inhabitants of the town of Braintree, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Braintree."

Section 1-2. Short title

This instrument shall be known and may be cited as the Braintree Charter ("Charter").

Section 1-3. Division of powers

The administration of the fiscal, prudential and municipal affairs of Braintree, with the government thereof, shall be vested in an executive/administrative branch headed by a mayor and a legislative branch to consist of a town council. The legislative branch shall never exercise any executive/administrative power, and the executive/administrative branch shall never exercise any legislative power.

Section 1-4. Powers of the Town

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the commonwealth, it is the intention and the purpose of the voters of Braintree through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated in this act.

Section 1-5. Construction

The powers of the town of Braintree under this charter are to be construed liberally in favor of the town, and the specific mention of any particular power is not intended to limit the general powers of the town as stated in section 1-4.

Section 1-6. Intergovernmental relations

Subject only to express limitations in the constitution or general laws of the commonwealth, Braintree may exercise any of its powers or perform any of its functions, and may participate in their financing, jointly or in cooperation, by contract or otherwise, with the commonwealth or any agency or political subdivision of the commonwealth, or with the United States government or any of its agencies.

Section 1-7. Definitions

Unless another meaning is apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

- (a) "Charter," this charter and any adopted amendments to it.
- (b) "Emergency," a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.
- (c) "Full council, full multiple-member body," the entire authorized complement of the town council, school committee or other multiple-member body notwithstanding any vacancy which might exist.

- (d) "general laws," laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities and towns of which Braintree is a member.
- (e) "General Laws", the General Laws of the commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.
- (f) "Initiative measure," a measure proposed by the voters through the initiative process provided under this charter.
- (g) "Local newspaper," a newspaper of general circulation within Braintree, with either a weekly or daily circulation.
- (h) "Majority vote," when used in connection with a meeting of a multiple-member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules.
- (i) "Measure," any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted by the town council or the school committee.
- (j) "Multiple-member body," any board, commission, committee, sub-committee or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the town council or the school committee.
- (k) "Organization or reorganization plan," a plan submitted by the mayor to the town council which proposes a change in the organization of the administrative structure of the town government, or a change in the way in which a municipal service, or services are delivered.
- (l) "Quorum," a majority of all members of a multiple-member body unless some other number is required by law or by ordinance.
- (m) "Referendum measure," a measure adopted by the town council or the school committee that is protested under the referendum procedures of this charter.
- (n) "Town," the town of Braintree.
- (o) "Town agency," any multiple-member body, any department, division or office of the town of Braintree.
- (p) "Town bulletin boards," the bulletin board in the town hall on which the town clerk posts official notices of meetings and upon which other official town notices are posted, and the bulletin boards at any other locations that may be designated town bulletin boards by the town council.
- (q) "Town officer," when used without further qualification or description, a person having charge of an office, or department as defined in section 5, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.
- (r) "Voters," registered voters of the town of Braintree.

ARTICLE 2
Legislative Branch

Section 2-1. Composition, term of office

- (a) **Composition** — There shall be a town council of 9 members which shall exercise the legislative powers of the town. Three of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Six of these members, to be known as district councilors, shall be nominated and elected by and from the voters of each district, 1 district councilor to be elected from each of the 6 districts into which the town is divided, under section 7-5.
- (b) **Term of office** — The term of office for all town councilors shall be for 2 years, beginning on the first business day of January in the year following their election, and until their successors have been qualified.
- (c) **Eligibility** — Any voter shall be eligible to hold the office of councilor-at-large. A district councilor shall at the time of election be a voter of the district from which elected, but, if any district councilor shall during the first 16 months of the term of office remove to another district in the town that office shall be considered vacant and the balance of the unexpired term shall be filled in the manner provided in section 2-11. If the removal occurs after the first 16 months of the term of office, the councilor may continue to serve for the balance of the term for which elected. If a councilor-at-large or a district councilor removes from the town during the term for which elected, the office shall be considered vacant and filled in the manner provided in section 2-11.

Section 2-2. Council President

- (a) **Election and term** — As soon as practicable after the councilors-elect have been qualified following each regular town election, as provided in section 8-10, the members of the town council shall elect from among its members a council president who shall serve during the current term of office.
- (b) **Powers and duties** — The council president shall preside at all meetings of the town council, regulate its proceedings and shall decide all questions of order.

The council president shall appoint all members of all committees of the town council, whether special or standing. The council president shall have the same powers to vote upon all measures coming before the town council as any other member of the town council. The council president shall perform any other duties consistent with the office that may be provided by charter, by ordinance or by other vote of the town council.

- (c) **Council Vice-President** — The members of the town council shall also elect from among its members a council vice-president who shall serve as acting president during the temporary absence or disability of the council president during the current term of office. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of temporary absence or disability.

Section 2-3. Prohibitions

- (a) **Holding other Town office or position** — No member of the town council shall hold any other town office or town employment for which a salary or other emolument is payable from the town treasury. No former member of the town council shall hold any compensated appointed town office or appointed town employment until 1 year after the date on which the former member's service on the town council has terminated.

- (b) Interference with administration — Except for the purpose of inquiries and investigations under section 2-7, the town council and its members shall deal with the officers and employees serving under the mayor, solely through the mayor, and neither the town council nor any member of the town council shall give orders or directions to any such officer or employee, either publicly or privately.

Section 2-4. Compensation, expenses

- (a) Salary — The members of the town council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of town councilors shall be effective unless it shall have been adopted during the first 18 months of the term for which town councilors are elected and unless it provides that the salary increase is to take effect upon the organization of the town government following the next municipal election.
- (b) Expenses — Subject to appropriation and to prior authorization by the town council, the town council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Section 2-5. General powers

Except as otherwise provided by general law or by this charter, all powers of the town shall be vested in the town council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the town by law.

Section 2-6. Exercise of powers; quorum; rules

- (a) Exercise of powers — Except as otherwise provided by general law or by this charter, the legislative powers of the town council may be exercised in a manner determined by it.
- (b) Quorum — The presence of a majority of members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter the affirmative vote of the majority of members shall be required to adopt any ordinance or appropriation order.
- (c) Rules of procedure — The town council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:
 - (i) Regular meetings of the town council shall be held at a time and place fixed by ordinance.
 - (ii) Special meetings of the town council shall be held at the call of the council president, or, at the call of any 4 or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the council president shall be judge, this notice shall be delivered at least 48 weekday hours in advance of the time set for the meeting. A copy of the notice to members shall immediately be posted upon the town bulletin boards.
 - (iii) All sessions of the town council and of every committee or subcommittee of the council, shall at all times be open to the public and to the press, unless another provision is made by law.
 - (iv) A full, accurate, up-to-date account of the proceedings of the town council shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. The minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purpose of the executive

session.

- (v) All business which is to come before the town council shall first be assigned to a standing committee for study and a report with its recommendations to the full council.
- (vi) Any citizen of the town may be recognized and speak to any agenda item discussed at town council meetings.

Section 2-7. Access to information

- (a) In general — The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence. Upon completion of the investigation, a report shall be submitted to the town clerk and the report shall be printed in the annual town report.
- (b) Town officers, members of Town agencies, employees — The town council may require any town officer, member of a town agency or town employee to appear before it to give any information that the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the town council.
- (c) Mayor — The town council may require the mayor to provide specific information to it on any matter within the jurisdiction of the town council. The town council may require the mayor to appear before it, in person, to respond to written questions made available to the mayor at the time the request to attend is made to the mayor to provide specific information on the conduct of any aspect of the business of the town. The mayor may bring to this meeting any assistant, department director or other town officer or employee that the mayor may consider necessary to assist in responding to the questions posed by the town council.
- (d) Notice — The town council shall give not less than 5 days notice to any person it may require to appear before it under this section. The notice shall include specific questions on which the town council seeks information, and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of that person.

Section 2-8. Officers appointed by Town Council

- (a) Town Auditor — The town council shall appoint a town auditor to serve for a term of 3 years and until a successor is chosen and qualified. The town auditor shall conduct, or cause to be conducted, financial and performance audits following government auditing standards as promulgated by the comptroller-general of the United States. The town auditor shall make periodic reports to the town council in such detail and with such frequency as the town council shall, by ordinance, by rule or by other vote, direct. All officials of the town shall cooperate with the town auditor in the performance of this audit function. The town auditor shall have such other powers and duties as may be provided by charter, by ordinance or by other vote of the town council.
- (b) Town Clerk — The town council shall appoint a town clerk to serve for a term of 3 years and until a successor is chosen and qualified. The town clerk shall, with the approval of the town council, appoint an assistant town clerk to serve coterminously with the town clerk. The town clerk shall be the keeper of vital statistics for the town; the custodian of the town seal; shall administer the oath of office to all persons, elected or appointed, to any town office; shall issue such licenses and permits as are required by law to be issued by town clerks; and shall supervise and manage the conduct of all elections and

all other matters relating to elections. The town clerk shall have any other powers and duties that are given to municipal clerks by general law, by this charter, by ordinance or by other vote of the town council.

- (c) Clerk of the Council — The town council shall appoint a clerk of the council to serve for a term of 3 years and until a successor is chosen and qualified. The clerk of the council shall give notice of its meetings to its members and to the public, keep the journal of its proceedings and perform any other duties that may be provided by ordinance or by other vote of the town council.
- (d) Salaries/compensation — The officers appointed or elected by the town council shall receive the salaries or other compensation that may from time to time be provided for these offices, by ordinance.
- (e) Removal/suspension — Any person appointed or elected by the town council may be removed or suspended by the town council by the use of the procedures established in the personnel ordinance for the removal of town employees appointed or elected by the town council.

Section 2-9. Ordinances and other measures

- (a) Emergency ordinances — No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property. No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to the ordinance, separately voted upon and receiving the affirmative vote of 6 or more members of the town council. Emergency ordinances shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted under this section is passed extending it, or unless a measure passed under this section has extended it.
- (b) Measures, in general — The town council may pass a measure through all of its stages at any 1 meeting, except proposed ordinances, appropriation orders and loan authorizations, if no member of the town council shall object; but, if any single member objects, a vote on the measure shall be postponed to the next meeting of the town council. On the first occasion that the question of adopting any measure is put to the town council, except an emergency measure as defined in section 2-9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the town council. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.
- (c) Publication — Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances under section 2-9(a), shall be published once in full in a local newspaper, and in any additional manner as may be provided by ordinance, at least 10 days before its final passage. After final passage it shall be posted on the town bulletin board and otherwise published as may be required by ordinance. Whenever a proposed ordinance or codification of ordinances or other measure would exceed in length 10 column inches of ordinary newspaper notice print, then, in lieu of publication in a local newspaper, the document may be published and made available at the office of the town clerk in booklet or pamphlet form at least 10 days before its final passage, and this publication shall be considered sufficient notice. Whenever the town council provides for publication in a booklet or pamphlet in lieu of the newspaper publication, it shall, at least 10 days before final passage, prepare and publish in a local newspaper a general summary of the proposed ordinance, or ordinances, and a notice stating the times and places at which copies of the booklet or pamphlet may be obtained by the public.

Section 2-10. Council review of certain appointments

The mayor shall submit to the town council the name of each person the mayor desires to appoint to any town office, as a department director, or as a member of a multiple-member body, but not including any position that is subject to the civil service law. The town council shall refer each name that is submitted to it to a standing committee of the town council which shall investigate each candidate for appointment and may make a report, with recommendations, to the full town council not less than 7 nor more than 21 days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the town council, to give any information relevant to the appointment that the committee, or the town council, may require.

Appointments made by the mayor shall become effective on the thirtieth day after the date on which notice of the proposed appointment was filed with the clerk of the council, unless 6 members of the town council shall within those 30 days vote to reject the appointment, or unless the town council has sooner voted to affirm the appointment. The question on rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in section 2-9(b) of this charter.

Section 2-11. Filling of vacancies

- (a) Councilor-at-Large — If a vacancy shall occur in the office of councilor-at-large during the first 18 months of the term for which councilors are elected, the vacancy shall be filled in descending order of votes received by the candidate for the office of councilor-at-large at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person received votes equal to at least 30 per cent of the vote total received by the person receiving the largest number of votes for the office of councilor-at-large at the regular town election. The town clerk shall certify this candidate to the office of councilor-at-large to serve for the balance of the then unexpired term. If a vacancy shall occur in the office of councilor-at-large during the last 6 months of the term for which councilors-at-large are elected, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for the office of councilor-at-large, and who is not then serving as a member of the town council. This person shall immediately be certified and shall serve for the last 2 months of the current term in addition to the term for which the person was elected.
- (b) District Councilor — If a vacancy shall occur in the office of district councilor it shall be filled in the same manner as provided in section 2-11(a) for the office of councilor-at-large except that the list shall be of the candidates for the office of district councilor in the district in which the vacancy occurs. However, if there be no candidate on that list who remains eligible and willing to serve, the next highest ranking candidate from among the candidates for election to the council at large who is a resident of the district in which the vacancy exists, shall be certified and shall serve until the next regular town election if that candidate remains a resident of the district, is willing to serve as a district councilor and received votes in the district equal to at least 30 per cent of the vote total received by the person receiving the largest number of votes for the office of district councilor at the regular town election. The town clerk shall certify that candidate to the office of district councilor to serve for the balance of the then unexpired term.
- (c) Filling of vacancies by Town Council — Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in section 2-11(a) or (b), the vacancy shall be filled by the remaining members of the town council.

Persons elected to fill a vacancy by the town council shall serve only until the next regular town

election.

ARTICLE 3
Executive Branch

Section 3-1. Mayor: qualifications; term of office; compensation

- (a) Mayor, qualifications — The chief executive officer of the town shall be a mayor, elected by and from the voters of the town at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office, nor shall the mayor be engaged in any other business, occupation or profession during the period of service as mayor.
- (b) Term of office — The term of office of the mayor shall be 4 years beginning on the first business day of January following the regular town election at which elected and until a successor is qualified.
- (c) Compensation — The town council shall, by ordinance, establish an annual salary for the mayor. No ordinance altering the salary of the mayor shall be effective unless it shall have been adopted in the first 18 months of the term for which councilors are elected and unless it provides that the salary is to become effective in January of the year following the next regular town election.
- (d) Expenses — Subject to appropriation, the mayor shall be entitled to reimbursement of the actual and necessary expenses incurred in the performance of the duties of the office.
- (e) Prohibitions — The mayor shall hold no other town office or town employment for which a salary or other emolument is payable from the town treasury. No former mayor shall hold any compensated appointed town office or town employment until 1 year after the date on which the former mayor's term of office has terminated.

Section 3-2. Executive powers; enforcement of ordinances

The executive powers of the town shall be vested solely in the mayor, and may be exercised by the mayor either personally or through the several town agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances and other orders for the government of the town to be enforced and shall cause a record of all official acts of the executive branch of the town government to be kept. The mayor shall exercise a general supervision and direction over all town agencies, unless otherwise provided by law, by the charter or by ordinance. Each town agency shall furnish to the mayor, immediately upon request, any information, materials or otherwise that the mayor may request and that the needs of the office of mayor and the interest of the town may require. The mayor shall supervise, direct and be responsible for the efficient administration of all town activities and functions placed under the control of the mayor by law, by this charter, by ordinance or otherwise. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the town of Braintree and for this purpose shall have authority, consistent with law, to call together for consultation, conference and discussion at reasonable times all persons serving the town, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise. The mayor shall be, by virtue of the office, a member of every multiple-member body of the town, with the exception of the school committee on which the mayor shall serve as the seventh voting member. The mayor shall have a right, as an ex officio member, to attend any meeting of any multiple-member body of the town, at any time, including executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

Section 3-3. Appointments by the Mayor

The mayor shall appoint, subject to the review of the appointments by the town council under section 2-10, all town officers, department directors and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only persons serving under the school committee, the Thayer Public Library Trustees, the Municipal Lighting Board, and persons serving under the town council. Except as may otherwise be required by the civil service law, appointments made by the mayor shall be for indefinite terms. All persons categorized as department directors shall, subject to the consent of the mayor, appoint all assistants, subordinates and other employees of the agency for which that person is responsible. All appointments and promotions made by the mayor shall be made on the basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

Section 3-4. Removal or suspension of certain officials

- (a) Town officers and department directors — The mayor may, in writing, remove or suspend any town officer appointed by the mayor by filing a written statement with the town clerk, setting forth in detail the specific reasons for the removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the town officer. The town officer may make a written reply by filing a reply statement with the town clerk, within 10 days after the date the statement of the mayor has been filed, but this reply shall have no effect upon the removal or suspension unless the mayor shall so determine. The decision of the mayor in suspending or removing a town officer shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for this suspension or removal solely in the mayor. The removal shall take effect 30 days after the date of filing in the office of the town clerk the notice of removal by the mayor.
- (b) Other Town employees — Unless some other procedure is specified in a collective bargaining agreement or by civil service law, a department director may suspend or remove any assistant, subordinate or other employee of the agency for which that person is responsible under the procedures established for suspension and removal in the personnel ordinance. The decision of the department director to suspend or remove any assistant, subordinate or other employee shall be subject to review by the mayor. A person for whom a department director has determined a suspension or removal is appropriate may seek review of this determination by the mayor by filing a petition for review, in the office of the mayor, in writing, within 10 days after receipt of notice of this determination. The review by the mayor shall follow the procedures established for suspension and removal in the personnel ordinance. The decision of the mayor shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for this suspension or removal solely in the mayor. Nothing in this section shall be construed to be a bar to any other review that may be provided by law.

Section 3-5. Temporary appointments to Town offices

Whenever a vacancy, either temporary or permanent, occurs in a town office and the needs of the town require that the office be filled, the mayor may designate the head of another town agency or a town officer or town employee, or some other person to perform the duties of the office on a temporary basis until the position can be filled as otherwise provided by law, by the charter or by ordinance. The mayor shall file a certificate in substantially the following form, with the town clerk, whenever a person is designated under this section:

I designate (name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that this person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the town of Braintree.

(signed)

Mayor

Persons serving as temporary officers under the authority of this section shall have only those powers of the office essential to the performance of the duties of the office during the period of this temporary appointment. No temporary appointment shall be for more than 90 days, and not more than one 30-day extension of a temporary appointment may be made when a permanent vacancy exists in the office.

Section 3-6. Communications; special meetings

- (a) Communications to the Town Council — Within 12 weeks after the start of each fiscal year the mayor shall submit to the town council and make available for public distribution a complete report on the financial and administrative activities of the town for the preceding fiscal year. The mayor shall, from time to time throughout the year, by written communications, recommend to the town council for its consideration such measures as, in the judgment of the mayor, the needs of the town require. The mayor shall, from time to time throughout the year by written communications, keep the town council fully informed of the financial and administrative condition of the town and shall specifically indicate in these reports any fiscal, financial or administrative problems of the town.
- (b) Special meetings of the Town Council — The mayor may at any time call a special meeting of the town council, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the town council. This notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least 48 weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted on the town bulletin board.

Section 3-7. Approval of Mayor, exception (veto)

Every order, ordinance, resolution or vote adopted or passed by the town council relative to the affairs of the town, except memorial resolutions, the selection of town officers by the town council and any matters relating to the internal affairs of the town council, shall be presented to the mayor for approval. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure the mayor shall return the measure, with the specific reason or reasons for such disapproval attached to it, in writing, to the town council. The town council shall enter the objections of the mayor on its records, and, not sooner than 10 days, nor later than 30 days after the date of its return to the town council, shall again consider the same measure. If the town council, notwithstanding the disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a two-thirds vote of the full council, it shall then be considered in force, notwithstanding the failure of the mayor to approve it. If the mayor has neither signed a measure nor returned it to the town council within 10 days after the date it was presented to the mayor, the measure shall be considered approved and in force.

Section 3-8. Temporary absence of the Mayor

- (a) Acting Mayor — Whenever, by reason of sickness, absence from the town or other cause, the mayor,

shall by his own decision, or by unanimous vote of the town council, be unable to perform the duties of the office for a period of more than 10 successive days, the president of the town council shall be the acting mayor. In the event of the absence or disability of the president of the town council, the vice president of the town council shall serve as acting mayor. In the event of the absence or disability of the vice president of the town council, the town council shall elect an acting mayor from its ranks.

The mayor shall, by a letter filed with the town council and a copy filed with the town clerk, designate a qualified town officer or town employee to serve as acting mayor during the temporary absence of the mayor for periods of 10 successive days or less and to serve only when the needs of the town require and only to the extent necessary under the then circumstances.

- (b) **Powers of Acting Mayor** — The acting mayor shall have only those powers of the mayor that are essential to the conduct of the business of the town in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make any permanent appointment or removal from town service unless the disability of the mayor shall extend beyond 60 days nor shall an acting mayor approve or disapprove of any measure adopted by the town council unless the time within which the mayor must act would expire before the return of the mayor. During any period in which any member of the town council is serving as acting mayor, that councilor shall not vote as a member of the town council.

Section 3-9. Delegation of authority by Mayor

The mayor may authorize any subordinate officer or employee of the town to exercise any power or perform any function or any duty which is assigned by this charter, or otherwise, to the mayor, and the mayor may rescind or revoke any authorizations previously made, but all acts performed under any delegation of authority during this period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the power of appointment to town office or employment or to sign or return measures approved by the town council.

Section 3-10. Vacancy in office of Mayor

- (a) **Special election** — If a vacancy in the office of mayor occurs during the first 3 years of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the town council shall immediately, in the manner provided in section 7-1, order a special election to be held not less than 95 nor more than 100 days after the date the vacancy is created, to fill that vacancy for the balance of the then unexpired term. If a regular town election is to be held within 120 days after the date the vacancy is created, a special election need not be held and the position shall be filled by vote at the regular town election.
- (b) **Council election** — If a vacancy in the office of mayor occurs in the fourth year of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the town council shall become the mayor. Upon the qualification of the president of the town council as the mayor, under this section, a vacancy shall exist in that council seat on the town council and shall be filled in the manner provided in section 2-11. A council president serving as mayor under this subsection shall not be subject to the restrictions contained in the third sentence of section 3-1(a), nor shall such person be entitled to have the words "candidate for re-election" printed against their name on the election ballot.
- (c) **Powers, term of office** — The mayor elected under Section 3-10(a) or (b) shall have all the powers of the mayor. A person elected under subsection (a), above, shall serve for the balance of the term unexpired at the time of election to the office. A person chosen under subsection (b), above, shall

serve until the time of the next regular town election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

ARTICLE 4
School Department

Section 4-1. School Committee

- (a) Composition, term of office — There shall be a school committee which shall consist of 7 members. Six of these members shall be nominated and elected by and from the voters of the town at large. The mayor shall serve, by virtue of office, as the seventh member of the school committee with all of the same powers and duties as the members elected by the voters as school committee members.
- (b) Term of office — The term of office for the 6 school committee members elected by the voters shall be for 4 years each, beginning on the first business day of January in the year following their election, and until their successors have been qualified. The terms of office shall be so arranged that 3 terms shall be filled at each regular town election.
- (c) Eligibility — A school committee member shall at the time of election be a voter. If a school committee member removes from the town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in section 4-6.

Section 4-2. School Committee chair

- (a) Election and term — As soon as practicable after the school committee members-elect have been qualified following each regular town election, under section 8-10, the school committee shall organize by electing 1 of the persons elected to the office of school committee member to serve as school committee chair and 1 of the persons elected to the office of school committee member to serve as school committee vice-chair until the next regular town election.
- (b) Powers and duties — The school committee chair shall preside at all meetings of the school committee, regulate its proceedings and shall decide all questions of order. The school committee chair shall appoint all members of all committees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the school committee.

Section 4-3. Prohibitions

No member of the school committee shall hold any school department office for which a salary or other emolument is payable from the town treasury. No former member of the school committee shall hold any compensated school department office until 1 year after the date on which the member's service on the school committee has terminated.

Section 4-4. Compensation, expenses

- (a) Salary — The members of the school committee shall not receive a salary for their services.
- (b) Expenses — Subject to appropriation and to prior authorization by the school committee, the school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Section 4-5. School Committee powers and duties

The school committee shall have all powers which are conferred on school committees by general laws and any additional powers and duties that may be provided by the charter, by ordinance, or otherwise and are not inconsistent with the grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

- 1) To appoint a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in section 59 of chapter 71 of the General Laws;
- 2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be considered necessary or desirable;
- 3) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the town council. The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds, but the town council may, by ordinance, provide for the establishment of a central municipal maintenance department which may, subject to the approval of the school committee, include maintenance of school buildings and grounds.

Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of the new, remodeled or renovated school building is delegated.

Section 4-6. Filling of vacancies

- (a) Runner-up to succeed to office — If a vacancy shall occur in the office of school committee member, the vacancy shall be filled in descending order of votes received by the candidate for the office of school committee member at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person received votes equal to at least 60 per cent of the vote total received by the person receiving the largest number of votes for the office of school committee member at that election. The town clerk shall certify this candidate to the office of school committee member to serve for the balance of the then unexpired term, but, if the vacancy occurs during the first 18 months of the term for which school committee members are elected, the person so chosen shall serve only until the next regular town election at which election the remainder of the term shall be filled by the voters. Persons serving as school committee members, not elected by the voters, shall not be entitled to have the words "candidate for reelection" printed against their names on the ensuing election ballot.

If a vacancy shall occur in the office of school committee member during the last 6 months of the term, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for the office of school committee member and who is not then serving as a member of the school committee. That person shall immediately be certified and shall serve for the last 2 months of the concluding term in addition to the term for which that person was elected.

- (b) Filling of vacancies by School Committee — Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in section 4-6(a), the vacancy shall be filled by the remaining members of the school committee. Persons

appointed to fill a vacancy by the school committee shall serve only until the next regular town election at which time the vacancy shall be filled by the voters and the person elected to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as school committee members, not elected by the voters, shall not be entitled to have the words "candidate for reelection" printed against their names on the ensuing election ballot.

ARTICLE 5
Administrative Organization

Section 5-1. Organization of Town agencies

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished only through an organization, or reorganization, plan filed by the mayor. No organization plan may originate with the town council. The mayor may, subject only to express prohibitions in a general law, or this charter, propose to reorganize, consolidate or abolish any town agency, in whole or in part; or establish any new town agencies that the mayor considers necessary, but no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless this charter specifically so provides. The mayor may from time to time prepare and submit to the town council plans of organization or reorganization that establish operating divisions for the orderly, efficient or convenient conduct of the business of the town. Every organization or reorganization plan submitted by the mayor under this provision shall contain a proposed ordinance which sets out, in detail, the amendments, insertions, revisions, repeals or otherwise of existing ordinances that may be necessary to accomplish the desired reorganization. The reorganization plan and proposed ordinance shall be accompanied by a message of the mayor that explains the benefits expected to ensue.

Whenever the mayor proposes such a plan, the town council shall give notice by publication in a local newspaper and hold 1 or more public hearings on the proposal. The notice in the local newspaper shall describe the scope of the proposal, the time and place at which the public hearing will be held, not less than 7 nor more than 14 days after the publication. An organization or reorganization plan shall become effective at the expiration of 60 days after the date the proposal is submitted to the town council unless the town council shall, by a majority vote, within that period vote to disapprove the plan. The town council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

Section 5-2. Merit principle

All appointments and promotions of town officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability. The town council may, in any ordinance establishing a salary for an office or position of employment, establish minimum qualifications a candidate must possess in order to qualify for appointment to the office or position of employment.

Section 5-3. Department of Public Works

- (a) Establishment, scope — There shall be a department of public works responsible for the performance of all public works related functions and activities of the town. The department of public works shall assume all of the duties and responsibilities related to public works activities which, before the adoption of the charter, were performed by or under the authority of the department of public works. The department of public works shall perform all of the public works related functions which are associated with the following boards, departments and offices or which are now or may from time to time by general or special law be vested in such boards, departments and offices: engineering department, highway department, cemetery department, water and sewer department, tree warden, and the recycling committee, and it may have such additional powers, duties and responsibilities with respect to public works related functions and activities as may from time to time be provided by ordinance. **[Amended 1-10-2009 by c. 482 of the Acts of 2008]**

Notwithstanding any provision of this section to the contrary, the mayor may, under section 5-1, divide the powers and duties of the department of public works into 2 or more departments.

- (b) Director of Public Works — The department of public works shall be under the direct control and supervision of a director of public works who shall be appointed by and who shall be responsible to the mayor. The director of public works shall serve for an indefinite term. The director of public works shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of public works shall be responsible for the supervision and coordination of all activities of the department of public works under state statutes, town ordinances, administrative code and rules and regulations.

Section 5-4. Department of Municipal Finance

- (a) Establishment, scope — There shall be a department of municipal finance responsible for the performance of all of the fiscal and financial activities of the town. The department of municipal finance shall be responsible for the coordination of all of the duties and responsibilities related to fiscal and financial activities which are performed by or under the authority of the town accountant, the treasurer, the collector of taxes, the trust fund commissioners, the board of assessors, the finance committee, and the MIS department, and it may have such additional powers, duties and responsibilities with respect to fiscal and financial-related functions and activities as may from time to time be provided by ordinance.
- (b) Director of Municipal Finance — The department of municipal finance shall be under the direct control and supervision of a director of municipal finance who shall be appointed by and who shall be responsible to the mayor. The director of municipal finance shall serve for an indefinite term. The director of municipal finance shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of municipal finance shall be responsible for the supervision and coordination of all activities of the department of municipal finance under state statutes, town ordinances, administrative code and rules and regulations. The director of municipal finance shall serve, ex officio, as the mayor may from time to time specify, as the treasurer, or the collector of taxes.

Section 5-5. Department of Planning and Community Development

- (a) Establishment, scope — There shall be a department of planning and community development responsible for the coordination of all the planning and development-related activities of the town. The department of planning and community development shall be responsible for the coordination of all of the duties and responsibilities related to planning and development activities which are performed by or under the authority of the planning board, the conservation commission, the board of health, the community preservation committee, the economic development commission, the historic commission, and the zoning board of appeals, and it may have such additional powers, duties and responsibilities with respect to the coordination of planning and development-related functions and activities as may from time to time be provided by ordinance. Such ordinance may include in its scope the coordination of all land acquisition and land management proposals, economic development planning, community development block grants, the preparation of a comprehensive or master plan and maintenance of a centralized source of records, reports, statistical data and other planning and development-related materials.

- (b) Director of Planning and Community Development — The department of planning and community development shall be under the direct control and supervision of a director of planning and community development who shall be appointed by and who shall be responsible to the mayor. The director of planning and community development shall serve for an indefinite term. The director of planning and community development shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of planning and community development shall be responsible for the supervision and coordination of all activities of the department of planning and community development in accordance with state statutes, town ordinances, and rules and regulations.

Section 5-6. Department of Human Resources

- (a) Establishment, scope — There shall be a department of human resources which shall be responsible for all personnel and employee-related functions and activities of the town government and its administration. The department of human resources shall assume all of the duties and responsibilities related to human resources activities which, before the adoption of the charter, were performed by or under the authority of the board of selectmen, town accountant, the treasurer, the collector of taxes, the personnel board and department, the disabilities commission, the retirement board, veteran's affairs, and the heads of town agencies, and it may have such additional powers, duties and responsibilities with respect to human resources-related functions and activities as the town may from time to time provide by ordinance.
- (b) Director of Human Resources — The department of human resources shall be headed by a director of human resources who shall be appointed by and responsible to the mayor. The director of human resources shall serve for an indefinite term. The director of human resources shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of human resources shall be responsible for the supervision and coordination of all activities of the department of human resources in accordance with state statutes, town ordinances, and rules and regulations.

Section 5-7. Department of Municipal Licenses and Inspections

- (a) Establishment, scope — There shall be a department of municipal licenses and inspections which shall be responsible for the coordination of all licensing and inspection functions performed by any town officer, employee or agent. The department of municipal licenses and inspections shall be responsible for the coordination of all of the licensing and inspection functions conducted by the town, including but not limited to:
 - (i) those required under the zoning, wetlands protection, historic districts or any other town ordinance;
 - (ii) the provisions of the code of Massachusetts regulations relating to buildings, electrical wiring, plumbing, gas fitting, sanitation, wetlands, fire protection and fire safety, hazardous materials;
 - (iii) local regulations adopted by the board of health, conservation commission, historic commission, planning board or any other town agency, under any other title, performing any of the duties of any such multiple-member body;
 - (iv) every other local inspection as may be otherwise authorized or conducted, and
 - (v) the licensing functions as provided in chapter 138 and 140 of the General Laws and including responsibilities with respect to the coordination of municipal licensing and inspection functions

as the town may from time to time provide, by ordinance, and which may include the maintenance of all records relating to inspections in a central place through a common index, a single application process which would indicate all inspections which might be necessary for a particular project and provide for a consolidated, coordinated review and processing of each such application.

- (b) Director of Municipal Licenses and Inspections — The department of municipal licenses and inspections shall be under the direct control and supervision of a director of municipal licenses and inspections who shall be appointed by and who shall be responsible to the mayor. The director of municipal licenses and inspections shall serve for an indefinite term. The director of municipal licenses and inspections shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of municipal licenses and inspections shall be responsible for the supervision and coordination of all activities of the department of municipal licenses and inspections under state statutes, town ordinances, and rules and regulations. The director of municipal licenses and inspections shall, in addition to the coordination of responsibilities assigned by this provision, also perform the duties of building inspector or of any other position within the department as the mayor may from time to time specify.
- (c) Board of License Commissioners — There shall be a board of license commissioners, which shall have the following responsibilities:
 - (i) the power to issue licenses for innholders or common victualers;
 - (ii) the powers of a licensing board appointed under section 4 of chapter 138 of the General Laws;
 - (iii) the licensing authority for the purposes of chapter 138 and chapter 140 of the General Laws;
 - (iv) all of the other powers with respect to licenses which before the adoption of the charter were exercised by the board of selectmen;
 - (v) the granting of licenses relating to alcoholic beverages under chapter 138 of the General Laws, and
 - (vi) the granting of those licenses under chapter 140 of the General Laws which are not, by that chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under those chapters.

The town clerk, the building inspector, the director of public health, the fire chief and the chief of police (or persons performing similar duties under any other title) shall serve by virtue of their offices, and without additional compensation as the members of the board of license commissioners. The town clerk shall serve as chair of the board of license commissioners.

Section 5-8. Other departments

The council on aging, the fair housing committee, the police department, the fire department, park department and the town solicitor shall be responsible to the mayor.

There shall be a parks and recreation commission consisting of 7 residents appointed by the mayor. Said commission shall advise the mayor on the operation and maintenance of and policies pertaining to parks, playgrounds, school athletic facilities, the golf course and recreational programs. **[Amended 1-10-2009 by c. 482 of the Acts of 2008]**

ARTICLE 6

Finance and Fiscal Procedures**Section 6-1. Fiscal year**

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

Section 6-2. School Committee budget

- (a) **Public hearing** — At least 21 days before the meeting at which the school committee is scheduled to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget and the reasons for those changes. It shall further indicate the times and places at which complete copies of its draft proposed budget are available for examination by the public, and the date, time and place, not less than 7 nor more than 14 days following such publication, when a public hearing will be held by the school committee on the proposed budget. The school committee shall not take its final vote on its proposed budget until all persons who desire to be heard concerning the budget proposal have had a reasonable opportunity to be heard.
- (b) **Submission to Mayor** — The proposed budget adopted by the school committee shall be submitted to the mayor at least 21 days before the date the mayor is required to submit a proposed town budget to the town council, to allow the mayor sufficient time within which to consider the effect the school department's requested appropriation will have upon the total town operating budget the mayor is required to submit to the town council under this article. The action of the school committee in adopting the proposed budget; following the public hearing, shall be summarized and the results of a roll call vote taken on each amendment to the proposed budget as may be offered shall be recorded.

Section 6-3. Submission of budget and budget message

Not later than 60 days before the start of the town's fiscal year, the mayor shall submit to the town council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The mayor shall simultaneously provide for the publication in a local newspaper of a notice and a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for these changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget for the town are available for examination by the public.

Section 6-4. Budget message

The budget message of the mayor shall explain the budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues together with the reasons for these changes, summarize the town's debt position and include other material that the mayor considers desirable, or that may be required by the provisions of a town ordinance.

Section 6-5. The budget

The proposed operating budget shall provide a complete financial plan for all town funds and town activities for the ensuing fiscal year. Except as may otherwise be required by general law, or this charter,

it shall be in the form that the mayor considers desirable or that a town ordinance may require. In the presentation of the budget, the mayor shall use modern concepts of fiscal presentation so as to furnish an optimum level of information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and from all other sources and all proposed expenditures, including debt service, for the fiscal year. The budget shall be arranged to show the actual income and expenditures for the previous fiscal year and the estimated income and expenditures for the current and ensuing fiscal years and shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency and position, in terms of work programs, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each capital expenditure;
- (3) The relationship of each proposed capital expenditure to the capital improvement program required to be submitted under section 6-10; and
- (4) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Section 6-6. Action on the budget

- (a) Public hearing — Immediately upon its receipt of the proposed operating budget, the town council shall provide for the publication in a local newspaper of a notice stating the time and place, not less than 7 nor more than 14 days following the publication, at which it will hold a public hearing on the proposed operating budget as submitted by the mayor. To enable the voters of Braintree to be as fully informed as possible on the items contained in the proposed budget and on the legislative activities of the town council, the public hearing on the mayor's proposed budget shall be held in the form of a town meeting. The council president shall preside at each such meeting.
- (b) Review — The town council shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each agency in connection with its review and consideration. The town council may require the mayor, or any other town agency, to furnish such additional information as it may consider necessary to assist in its review and consideration of the proposed operating budget.
- (c) Action by Town Council — The town council shall adopt the budget, with or without amendments, within 45 days after the day the proposed budget was received. In amending the budget, the town council may delete or decrease any programs or amounts except expenditures required by law, or for debt service, but, the town council shall have no authority to add programs or increase amounts. If the town council fails to take any action with respect to any item in the proposed budget within 45 days after the date of its receipt of the proposed budget, that amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

Section 6-7. Supplementary budgets, other appropriations

Whenever the mayor shall submit to the town council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual operating budget or for an item, or items, not included in the annual operating budget as adopted, the town council shall not act upon the request until it has (1) given notice by publication in a local newspaper of the request, and (2) held a public hearing concerning the request. The publication of the notice and the public hearing shall be in conformity with

section 6-6 concerning the proposed annual operating budget.

Section 6-8. Allotments

On or before August first of each year, or within 10 days after the approval by the town council and the mayor of the annual appropriation order for the fiscal year, whichever shall occur later, the town officials in charge of departments or agencies including the superintendent of schools for the school department, shall submit to the director of municipal finance, with a copy to the town clerk, in a form that the director of municipal finance may prescribe, an allotment schedule of the appropriations of all personnel categories included in the budget, indicating the amounts to be expended by the department or agency for those purposes during each of the fiscal quarters of the fiscal year, or such shorter time periods as the mayor or director of municipal finance, may prescribe. Whenever the director of municipal finance determines that any department or agency including the school department, will exhaust or has exhausted its quarterly or shorter time period allotment and any amounts unexpended in previous periods, he shall give notice in writing to this effect to the department director, the mayor, the town solicitor, and the town clerk who shall immediately transmit the notice to the town council. Upon this determination and notice of it, the director of municipal finance shall provide these officers with additional reports on at least a monthly basis indicating the status of these accounts.

The mayor, within 7 days after receiving this notice, shall determine whether to waive or enforce the allotment. If the allotment for the period is waived or is not enforced, as provided above, the department or agency head shall reduce the subsequent period allotments appropriately. If the allotment for the period is enforced or not waived, thereafter the department shall terminate all personnel expenses for the remainder of the period. All actions, notices, and decisions provided for in this section shall be transmitted to the town council and the town clerk within 7 days. No personnel expenses earned or accrued, within any department, shall be charged to or paid for that department's or agency's allotment of a subsequent period without approval by the mayor, except for subsequently determined retroactive compensation adjustments, approval of a payroll for payment of wages, or salaried or other personnel expenses which expenditure in excess of the allotment shall be a violation of this section by the department or agency head, including the superintendent of schools and the school committee. If the continued payment of wages, salaries or other personnel expenses is not approved in a period where a department director has exhausted the period allotment or allotments as specified above, or, in any event, if a department has exceeded its appropriation for a fiscal year, the town shall have no obligation to pay the personnel cost or expense arising after the allotment or appropriation has been exhausted.

Section 6-9. Personal liability for expenditures in excess of appropriations

No official of the town of Braintree, except in the case of an emergency involving the health and safety of the people, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that section 31 of chapter 44 of the General Laws shall be fully adopted and strictly enforced. Any official who violates this section shall be personally liable to the town for any amounts so expended to the extent the town does not recover these amounts from the person to whom the sums were paid.

Section 6-10. Capital improvement program

The mayor shall submit a capital improvement program to the town council at least 120 days before the start of each fiscal year. The capital outlay program shall be based on material prepared by the capital planning committee established by ordinance. It shall include:

- a clear and concise general summary of its contents;
- a list of all capital improvements proposed to be undertaken during the next ensuing 5 years, with supporting information as to the need for each capital improvement;
- cost estimates, methods of financing and recommended time schedules for each improvement; and,
- the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

Section 6-11. Independent audit

The town council shall annually provide for an outside audit of the books and accounts of the town to be made by a certified public accountant, or a firm of certified public accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the town or any of its officers. The mayor shall annually provide to the town council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the town council. The award of a contract to audit shall be made by the town council, on the recommendation of its budget/management committee on or before September fifteenth of each year. The budget/management committee shall coordinate the work of the individual or firm selected with the municipal officials. The report of the audit shall be filed in final form with the town council and the budget/management committee not later than March first in the year following its award.

ARTICLE 7
Elections and Election Related Matters

Section 7-1. Town elections: general, preliminary

The regular town election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

A preliminary election for the purpose of nominating mayoral candidates shall be held on the third Tuesday in September in every other odd-numbered year, but the town clerk may, with the approval of the town council, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy in the office of mayor is to be held, a preliminary election shall be conducted 35 days preceding the date established for the special election.

Section 7-2. Non-partisan elections

All elections for town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other designation whatsoever.

Section 7-3. Election

- (a) Signature requirements — The number of voter signatures required to place the name of a candidate on the official ballot to be used at an election shall be as follows:
 - (i) for the office of mayor, not less than 150 signatures, but at least 25 signatures must be certified from each district;
 - (ii) for the office of councilor-at-large or school committee member, not less than 150 signatures, but at least 25 signatures must be certified from each district;
 - (iii) for the office of district councilor, not less than 100 signatures, all of which shall be from the district from which the nomination is sought; and
 - (iv) for the office of electric light board, library trustee or housing authority, not less than 50 signatures townwide. **[Amended 1-10-2009 by c. 483 of the Acts of 2008]**
- (b) Determination of mayoral candidates — The 2 persons receiving at the preliminary election the highest number of votes for nomination shall be the sole candidates whose names shall be printed on the official ballots to be used at the regular town election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If the preliminary election results in a tie vote:
 - (i) for the highest number of votes, the names of those candidates who tied will appear on the ballot;
 - (ii) for the second highest number of votes where no tie exists as described in 7-3(b)(i) above, the names of those tied will appear on the ballot even though the ballots will have a number of candidates exceeding twice the number to be elected.
- (c) Condition making preliminary unnecessary — If at the expiration of time for filing statements of mayoral candidates to be voted upon at any preliminary election, not more than 2 statements have been filed with the town clerk for the office of mayor, the candidates whose statements have been filed with the town clerk shall be considered to have been nominated to the office, and their names

shall be voted upon for this office at the succeeding regular town election.

Section 7-4. Ballot position, regular Town election

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the town clerk. The town clerk shall give public notice of the time and place of the drawing, and the drawing shall be open to the public.

Section 7-5. Districts

The territory of the town shall be divided into 6 districts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each such district shall be composed of voting precincts established in accordance with general laws. The town council shall from time to time, but at least once in each 10 years, review such districts to insure their uniformity in number of inhabitants.

Section 7-6. Application of state general laws

Except as otherwise expressly provided in this charter and authorized by law, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

Section 7-7. Citizen initiative measures

- (a) **Commencement** — Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council or the secretary of the school committee, as the case may be. The petition shall be addressed to the town council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 250 voters and at least 25 signatures must be certified from each district by the town clerk. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.
- (b) **Referral to Town Solicitor** — The clerk of the council or the secretary of the school committee, as the case may be, shall immediately following receipt of each proposed petition deliver a copy of the petition to town solicitor. The town solicitor shall, within 15 days after receipt of a copy of the petition, in writing, advise the town council or the school committee, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the town council or the school committee. If the opinion of the town solicitor is that the measure is not in proper form, the reply shall state the reasons for this opinion in full. A copy of the opinion of the town solicitor shall also be mailed to the person designated as clerk of the petitioners committee, and any further petition shall be submitted under Section 7-7(a).
- (c) **Submission to Town Clerk** — If the opinion of the town solicitor is that the petition is in a proper form, the town clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed measure, as determined by the town solicitor, together with the names and addresses of the petitioners committee who signed the

originating petition. Within 30 days after the date the blank forms are issued by the town clerk, the petitions shall be returned and filed with the town clerk signed by at least 10 per cent of the total number of voters as of the date of the most recent town election. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on them of the name and residence address of the person designated as filing the petition. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within 10 days after the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent town election. The town clerk shall attach to the petition a certificate showing the results of their examination and shall return the petition to the clerk of the council, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters certificate shall also be mailed to the person designated as clerk of the petitioners committee.

- (d) Action on petitions — Within 30 days after the date a petition has been returned to the clerk of the council, or the secretary of the school committee, and after publication under section 2-9(c), the town council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the town council or the school committee fails to act with respect to any initiative measure that is presented to it within 30 days after the date it is returned to it, the measure shall be considered to have been rejected on the thirtieth day. If an initiative measure is rejected, the clerk of the council, or the secretary of the school committee, shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.
- (e) Supplementary petitions — Within 60 days after the date an initiative petition has been rejected a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5 per cent of the total number of voters as of the date of the most recent town election, and the signatures on the initial petition filed under subsection (c), above, and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least 15 per cent of the total number of voters in the town and in each of the districts into which the town is divided for the purpose of elections. If the number of signatures to the supplemental petition is found to be sufficient by the town clerk, the town council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days after the date the town council votes to call for the special election and shall submit the proposed measure, without alteration, to the voters for determination, but if any other town election is to be held within 120 days after the date of the certificate, the town council may omit the calling of the special election and cause the question to appear on the election ballot at the approaching election for determination by the voters.
- (f) Publication — The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 14 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the town clerk.
- (g) Form of question — The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition, take effect?

(Here, insert a fair, concise summary prepared by the town solicitor.)

– YES

– NO

- (h) Time of taking effect — If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

Section 7-8. Citizen referendum procedures

- (a) Petition, effect on final vote — If, within 21 days after the date on which the town council or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to 15 per cent of the total number of voters as of the date of the most recent regular town election and addressed to the town council or to the school committee, as the case may be, protesting against the measure or any part of it is filed with the secretary of the school committee or clerk of the council, the effective date of the measure shall be temporarily suspended. The school committee or the town council shall immediately reconsider its vote on the measure or part of it, and, if the measure is not rescinded, the town council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular town election, but pending such submission and determination the effect of the measure shall continue to be suspended.
- (b) Certain initiative provisions to apply — The petition described in this section shall be termed a referendum petition and, insofar as applicable, section 7-7 shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in those sections. The measure, or part thereof protested against, shall be null and void unless a majority of those voting on the question shall vote in favor of the measure or part thereof protested against at the election.

Section 7-9. Ineligible measures

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the town council or the school committee;
- (2) an emergency measure adopted in conformity with the charter;
- (3) the town budget or the school committee budget as a whole;
- (4) revenue loan orders;
- (5) any appropriation for the payment of the town's debt or debt service;
- (6) an appropriation of funds to implement a collective bargaining agreement;
- (7) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;

- (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures;
- (9) any proceedings providing for the submission or referral to the voters at an election; and
- (10) memorial resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

Section 7-10. Submission of other matters to voters

The town council may of its own motion, and shall at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular town election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

Section 7-11. Conflicting provisions

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

Section 7-12. Recall elections

- (a) Application — Any person holding an elected town office may be recalled from that office by the voters under the procedures made available in this section.
- (b) Recall petition
 - (1) Office elected by voters at large — Four hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on this affidavit shall contain the names of at least 50 voters in each of the districts into which the town is divided for the purpose of elections.
 - (2) Office elected by voters by district — One hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on this affidavit shall contain the names only of voters in the district from which the officer was elected.
 - (3) At large, or by district — If the affidavit is found to be valid, the town clerk shall deliver to the first 10 persons named on the affidavit, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the town council; they shall contain the names and residence addresses of the 10 persons to whom they are issued and they shall contain the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; and they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the board of registrars of voters within 21 days after the date they are issued, signed by not less than 10 per cent of the total number of voters (of the district or of the town as is appropriate) as of the date of the regular town election. The signatures on these petitions shall contain the names and addresses of at least 10 per cent of the voters in each of the districts into which the town is divided for the purpose of elections. The sheets constituting a petition need not all be filed at the same time. For the purposes of this section, a petition shall be considered filed whenever the persons responsible for its filing notify the board of registrars of voters in writing, that the filing is complete. Before receiving such notice the board of registrars of voters may, but shall not be

required to, certify signatures on the sheets already filed. The board of registrars of voters, shall within 10 days following the date the petition forms are filed certify the number of signatures on them which are the names of voters and the percentage that number represents of the total number of voters in each district as of the date of the regular town election.

- (c) Recall election — If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, they shall immediately submit the petitions, with their certificate, to the town council. Upon receipt of the certified petition forms, the town council shall immediately give written notice to the officer whose recall is sought of the validity of the petitions. If the officer whose recall is sought does not resign the office within 5 days after delivery of the notice, or by its having been left at the last known place of residence, the town council after consultation with the town clerk shall order a special election to be held on a date no less than 35 nor more than 90 days after the date of its notice to the officer whose recall is sought.
- (d) Ballot question — Ballots used at the recall election shall state the proposition in substantially the following form:

Shall (insert name of officer) be recalled from
the office of (insert name of office held)?

– YES

– NO

- (e) Officeholder — The person whose recall is sought shall continue to hold the office and to perform the duties until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be considered to be recalled, and the office shall be considered to be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected, but subject to recall as provided in section (f), below.
- (f) Restriction on recall petition — No recall petition shall be filed against any officer until at least 6 months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms.
- (g) Filling of vacancy — If the office of mayor is declared vacant as the result of a recall election, the town council shall immediately call a special election to be held on a date fixed by it not less than 95 nor more than 100 days after the date of the recall election. The person elected at that special election shall serve for the balance of the unexpired term remaining at the time of election.

Vacancies in any other office shall be filled under sections 2-11, 4-6 and 7-13. No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by that recall. **[Amended 1-10-2009 by c. 485 of the Acts of 2008]**

Section 7-13. Filling of vacancies in certain elected offices

- (a) Runner-up to succeed to office — If a vacancy shall occur in the office of library trustee, electric light board or housing authority, the vacancy shall be filled in descending order of votes received by the candidate for that office at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person

received votes equal to at least 60 per cent of the vote total received by the person receiving the largest number of votes for that office at that election. The town clerk shall certify this candidate to the office to serve for the balance of the then unexpired term but if the vacancy occurs during the first 18 months of the term for which members are elected, the person so chosen shall serve only until the next regular town election at which the remainder of the term shall be filled by the voters. A person serving as a member of the library trustees, electric light board or housing authority who was not elected by the voters shall not have the words "candidate for reelection" printed with his name on the ensuing election ballot. If a vacancy shall occur in the office of library trustee, electric light board, or housing authority during the last 6 months of the term, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for that office and who is not then serving as a member of the library trustees, electric light board or housing authority. That person shall immediately be certified and shall serve for the last 2 months of the concluding term in addition to the term for which he was elected.

- (b) Filling of vacancies by board — Whenever a vacancy shall occur in the office of library trustee, electric light board or housing authority and there is no available candidate to fill the vacancy in the manner provided in subsection (a), the vacancy shall be filled by the remaining members of the board on which the vacancy exists. Persons appointed to fill a vacancy by the remaining members of the board shall serve only until the next regular town election at which the vacancy shall be filled by the voters and the person elected to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which he was elected. A person serving as a member of the library trustees, electric light board or housing authority who was not elected by the voters shall not have the words "candidate for reelection" printed with his name on the ensuing election ballot. **[Amended 1-10-2009 by c. 484 of the Acts of 2008]**

ARTICLE 8 General Provisions

Section 8-1. Charter changes

This charter may be replaced, revised or amended under any procedure made available under the Massachusetts constitution or by statute.

Section 8-2. Severability

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 8-3. Specific provision to prevail

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 8-4. Rules and regulations

A copy of all rules and regulations adopted by any town agency shall be placed on file in the office of the town clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any town agency shall become effective until 5 days after the date it is so filed.

Section 8-5. Periodic review of Charter and ordinances

Not later than the first day of July, at 5-year intervals, in each year ending in a 5 or in a zero, the mayor and town council shall provide for a review to be made of the ordinances of the town for the purpose of preparing a proposed revision or recodification of them, without substantive change. This review shall be made by a special committee to consist of 9 members, 4 of these members shall be appointed by the town council president and 5 of the members shall be appointed by the mayor. At least 2 of the persons appointed by the town council president shall be members of the town council and the remaining members shall be voters of the town. The special committee shall file its report with the clerk of the council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the fifteenth day of June in that year and, if not so scheduled by the clerk of the council, the matter shall come before the town council for action at its next meeting held following the said fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote.

The review of town ordinances shall be under the supervision of the town solicitor. A revision, recodification or republication of the ordinances shall be made at 5-year intervals. Copies of the revision, recodification or republication shall be made available to the public at a cost not to exceed the actual cost of such reproduction. In each year between such reenactments, an annual supplement shall be published which shall contain all ordinances and amendments to ordinances adopted in the preceding year.

Not later than the first day of July, at 10-year intervals, in each year ending in a 9, the mayor and town council shall provide for a review to be made of the charter. This review shall be made by a special committee to consist of 9 members, 4 of these members shall be appointed by the town council president

and 5 of the members shall be appointed by the mayor. At least 2 of the persons appointed by the town council president shall be members of the town council, and the remaining members shall be voters of the town. The special committee shall file its report with the clerk of the council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the fifteenth day of June in that year and, if not so scheduled by the clerk of the council, the matter shall come before the town council for action at its next meeting held after the said fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote.

Section 8-6. Uniform procedures governing multiple member bodies

- (a) Meetings — All multiple-member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places as they may, by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple-member body shall be held on the call of the chairman or by one-third of the members thereof by written notice delivered in hand or to the place of residence of each member at least 48 hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted on the town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple-member bodies shall at all times be open to the public and the media.
- (b) Rules — Each multiple-member body shall determine its own rules and order of business unless another provision is made by ordinance or by law, and shall provide for keeping of the minutes of its proceedings. These rules shall be a public record and copies shall be placed on file in the office of the town clerk and in the Thayer Public Library.
- (c) Voting — If requested by any member, any vote of any multiple-member body shall be taken by a call of the roll and the vote of each member shall be recorded in the meeting minutes, but if the vote is unanimous, only that fact need be recorded.
- (d) Quorum — A majority of the members of a multiple-member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. Unless some other provision is made by law, by ordinance or by the multiple-member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to adopt any vote representing an exercise of the powers of the multiple-member body.

Section 8-7. Number and gender

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

Section 8-8. References to general laws

All references to General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

Section 8-9. Computation of time

In computing time under this charter, the day of the act or event after which the designated period of time

begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period is 7 days or more, every day shall be counted.

Section 8-10. Oath of office of elected officials

Elected officials shall, on the first business day in January of each even-numbered year, meet and be sworn to the faithful discharge of their duties. The oath may be administered to the mayor by the town clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to other elected officials by the mayor, after the mayor has been duly sworn, or by any of the above-named officials. A certificate that said oath or oaths have been taken shall be entered in the meeting minutes of the town council.

In case of the absence of an elected official on the day the oath of office is administered, the oath may at any time thereafter be administered to that person. A certificate of each oath subsequently taken shall be entered in the meeting minutes of the town council.

After the oath has been administered to the councilors present, they shall organize by electing from among their number a person to serve as the president and a person to serve as the vice-president, as provided in section 2-2. If the town clerk is unable to preside during this election, the town council member senior in years of service on the town council shall preside during the election. If 2 or more members are equally senior in years of service on the town council, the member senior both in years of service and age shall preside. The president and vice-president shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

After the oath has been administered to the school committee members present, they shall organize by electing from among their number a person to serve as the chair and a person to serve as the vice-chair, as provided in section 4-2. If the town clerk is unable to preside during this election, the member senior in years of service on the school committee shall preside during the election. If 2 or more members are equally senior in years of service on the school committee, the member senior both in years of service and age shall preside. The chair and the vice-chair shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

Section 8-11. Certificate of election or appointment

Every person who is elected, including those elected by the town council, or appointed to an office of the town shall receive a certificate of such election or appointment from the town clerk. Except as otherwise provided by law, every person who is elected, including those elected by the town council, or appointed to an office of the town, before performing any act under such appointment or election, shall take and subscribe to an oath to qualify to enter upon the duties of the office. A record of this oath shall be kept by the town clerk.

Section 8-12. Limitation on office holding

No person shall simultaneously hold more than 1 full-time town office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

Section 8-13. Enforcement of Charter provisions

It shall be the duty of the mayor to see that the provisions of the charter are faithfully followed and complied with by all town agencies and town employees.

Whenever it appears to the mayor that any town agency or town employee is failing to follow any provision of this charter, the mayor shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the town council that the mayor personally is not following the provisions of the charter, it shall, by resolution, direct the attention of the mayor to those areas in which it believes that there is a failure to comply with charter provisions. The procedures made available in chapter 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

Section 8-14. Annual report of the Town

An annual report which contains a general summary of the activities of all town agencies shall be published within 90 days after the close of each fiscal year. The annual report shall contain reports by the mayor, the town council, the director of municipal finance, the treasurer, the school committee and such other town agencies as may be required by ordinance to provide reports. The annual report shall be made available for inspection at the office of the town clerk, at the Thayer Public Library, and on the official town website.

Section 8-15. Notice of vacancies

Whenever a vacancy occurs, or is about to occur, in any town office or town employment, except for positions covered by the civil service law, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be posted on the town bulletin board for a period of not less than 14 days. Any person who desires to be considered for appointment to the office or employment may file with the appointing authority a statement in clear and specific terms setting forth the person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following the posting, and until all persons who have filed statements in application have been considered.

ARTICLE 9
Transitional Provisions

Section 9-1. Continuation of existing laws

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Braintree that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation.

In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

Section 9-2. Continuation of government and administration

All town agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another town agency.

Section 9-3. Transfer of records and property

All records, property and equipment whatsoever of any town agency, or part thereof, the powers and duties of which are assigned in whole or in part to another town agency, shall be transferred immediately to that agency.

Section 9-4. Effect on obligations, taxes, etc.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

Section 9-5. Time of taking effect

This charter shall be submitted to the voters of the town of Braintree for acceptance at the next town election in the form of the following question, which shall be placed on the official ballot to be used at that election: "Shall an Act passed by the General Court entitled 'An Act to establish a mayor/town council for the town of Braintree' be accepted." If a majority of votes cast in answer to this question are in the affirmative, this Charter shall then take effect in accordance with the following schedule; but if a majority of votes cast in answer to both this question and the question required by chapter 113 of the acts of 2005 is in the affirmative, then only the act corresponding to the question that receives the largest number of affirmative votes shall take effect.

- (a) All town officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the Charter, but, being mindful that on the first business day in January of the year following the first regular town election held under the charter, the executive authority will thereafter be vested in a mayor and the legislative authority shall be vested in a town council.

- (b) The first election of officers under this charter shall be held on the first Tuesday following the first Monday in November 2007 for the purpose of electing a mayor, 9 members of town council, 6 members of the school committee, 6 members of the Thayer Library Trustees, and 3 members of the Municipal Lighting Board. A preliminary election for the purpose of nominating the mayoral candidates to be elected at this election shall be held on the sixth Tuesday preceding the election. So much of this charter shall become effective as is necessary to conduct these elections. The board of selectmen shall issue the warrants for the elections. The term of all existing members of the school committee, the Braintree Electric Light Board, and the Thayer Library trustees shall expire at the end of the year 2007.

At the regular town election held in November 2007, 6 members shall be elected to the school committee. The 3 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the fourth, fifth and sixth highest number of votes, shall be declared elected for a 2-year term; thereafter, at each regular town election 3 candidates shall be elected to the office of school committee member for a term of 4 years.

At the regular town election held in November 2007, 3 members shall be elected to the Municipal Lighting Board. The candidate receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the second and third highest number of votes shall be declared elected to a 2-year term; thereafter, at each regular town election 1 or 2 candidates shall be elected to the office of Municipal Lighting Board.

At the regular town election held in November 2007, 6 members shall be elected to the Thayer Public Library Board of Trustees. The 3 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the fourth, fifth and sixth highest number of votes, shall be declared elected for a 2-year term. Thayer Library Trustees serving lifetime appointments shall transition to being elected when their office is vacated in accordance with Thayer Library Trustee procedures; thereafter, at each regular town election all candidates shall be elected to 4-year terms.

- (c) Immediately following the special November 2007 election, the persons elected as mayor and town council members shall be sworn to the faithful performance of their duties and shall take up so much of the powers and duties of their offices as are necessary to begin the process of transition from the existing form of government to the new form of government. This preparation for the transfer shall include a review by the town council members of policies and procedures to govern the conduct of the business of the town council and the adoption by it of rules by which it will conduct its business. The person chosen as mayor shall meet regularly with the members of the board of selectmen and the school committee and for such purpose shall be considered a member ex officio of these bodies. The mayor shall have a right to meet with any town officer, town agency or town employee during regular business hours for the purpose of acquiring and advancing knowledge and information necessary to assume the full powers of mayor on the first business day of January in the year following the year in which the charter is adopted. The mayor shall be responsible for a review of the existing town by-laws to be undertaken to bring them into conformity with the new charter.
- (d) On the first business day of January in 2008 the terms of office of the members of the board of selectmen, the town moderator and of the representative town meeting members shall all be terminated, and their offices abolished. The mayor, town council and school committee shall organize as provided in section 8-10. Each other elected and appointed town officer and employee shall continue to serve in the same office or position until some other provision is made under section 5-1 or unless some other provision is specifically made hereinafter for any particular office or position.

- (e) At the regular town election held in November 2007, 4 members shall be elected to the Braintree Housing Authority. The 2 candidates receiving the highest number of votes shall be declared elected to a 4-year term. The candidates receiving the third and fourth highest number of votes shall be elected for a 2-year term; thereafter, at each regular town election, 2 candidates shall be elected to the Braintree Housing Authority for a term of 4 years.
- (f) Until such time as a salary is established for the office of mayor under subsection (c) of section 3-1, the initial salary for the mayor shall be the same as the amount which was provided at the top level of the pay grade for the position of executive secretary on December 31, 2007. The initial salary for the members of the town council shall be established as \$5,000 for each councilor and \$7,500 for the president of the town council. **[Amended 2-21-2008 by c. 41 of the Acts of 2008]**
- (g) The office of executive secretary is hereby abolished effective on the first business day of January 2008. The incumbent in the office of executive secretary shall continue to serve in that office until the first business day of January 2008. The incumbent may be continued in the service of the municipality beyond that termination date, in some other position, if that person and the mayor so agree.
- (h) As soon as practical after the first mayor and town council have been elected and taken the oath of office in November 2007, the mayor shall call together an initial meeting of the members of the board of license commissioners established in section 5-7(c) of this charter. The board of selectmen and its staff shall keep the board of license commissioners so established fully apprised of its activities in the year-end renewing of licenses in order to acquaint the members of the board to these procedures. The board of license commissioners shall assume full authority under chapter 138 and chapter 140 of the General Laws on the first business day in January 2008.
- (i) Not later than 30 days after the date of the ratification of this charter by the voters, the board of selectmen shall give to each member of the Massachusetts house and senate who represent any part of Braintree a copy of the vote ratifying this charter and the following petition for the enactment of a special law applicable to Braintree in the following form:

AN ACT EXCEPTING BRAINTREE FROM
CERTAIN PROVISIONS OF THE CIVIL
SERVICE LAW

Be it enacted, etc.

For the purpose of classifying positions under the civil service law and rules, Braintree, notwithstanding a Charter establishing its form of government, shall continue to be governed by section 52 of chapter 31 of the General Laws and not by section 51 of said chapter 31. Nothing in this act shall be construed to affect the civil service status of any person currently covered by such law and rules. This act shall take effect upon its passage. The above draft is provided for guidance and general scope and may be altered by the General Court to conform to its normal practice.

- (j) As soon as practical following the election at which this charter is adopted the town clerk and the

board of registrars of voters shall, using existing precinct boundary lines and voting places, divide the town into 6 equal voting districts, or, as nearly equal as may be using the existing precinct lines. At the first regular town election held under this charter and at each subsequent municipal election until the town has been reapportioned, under sections 1-10, inclusive, of chapter 54 of the General Laws, 1 district councilor shall be elected from each such district and 3 town councilors shall be elected from the town at large.

- (k) The position of town accountant, which has existed in Braintree before the effective date of this charter, shall, after the assumption of power and authority by the mayor and town council, be divided into 2 separate and distinct functions. The powers of the office which are associated with auditing, including those described in sections 50, 51, 53 and 54A of chapter 41 of the General Laws shall be assigned to the office of town auditor established by section 2-8(a) of the charter.

The remaining powers of a town accountant having to do with the regular payment of bills and invoices submitted by municipal agencies including those described in sections 52, 56, 57 and 58 of chapter 41 shall be exercised by a person in the executive branch under the title town accountant, subject to the control of the director of municipal finance.

- (l) Not later than 30 days after the election at which this charter is adopted, the board of selectmen shall appoint 7 persons to be a committee to begin a review of the town by-laws for the purpose of preparing any revisions and amendments that may be necessary to bring them into conformity with this charter and to fully implement this charter. The committee shall submit a report, with recommendations, to the mayor and council immediately after the election held in the year in which this charter is adopted. The review shall be conducted under the supervision of the town solicitor, or, by special counsel appointed for that express purpose.
- (m) Immediately after the first regular town election held under this charter, the mayor-elect shall appoint 7 persons to be a committee to review the town by-laws for the purpose of preparing any revisions and amendments that may be necessary to bring them into conformity with this charter and to fully implement this charter. Upon the appointment of this committee, the committee established under paragraph (l), above, shall be terminated. The mayor may appoint to this committee any of the persons who served on the committee established under paragraph (l), or he may appoint different people. The committee shall submit a report, with recommendations, within 1 year after its creation and may submit interim reports with recommendations at any time. The review shall be conducted under the supervision of the town solicitor, or by special counsel appointed for that express purpose.
- (n) The incumbent in the office of town clerk shall serve until the expiration of the term for which elected as the town clerk described in section 2-8(b) and at the expiration of that term the town clerk shall be chosen as provided in section 2-8.
- (o) The provisions of section 5-3 reorganizing the department of public works, section 5-4 establishing a department of municipal finance, section 5-5 establishing a department of planning and community development, section 5-6 establishing a department of human resources and section 5-7 establishing a department of municipal licenses and inspections shall each take effect upon the appointment by the mayor of the first person to serve as director of that agency. Pending the adoption of an ordinance providing such detail, the directors of each department shall have the power to promulgate rules and regulations providing details of the organization of their department that may be necessary to carry out the functions of these departments.
- (p) Unless continued by an ordinance adopted in conformity with section 5-1, all multiple-member bodies shall be abolished as of June 30, 2008, unless that time is further extended by the mayor and council under the authority contained in section 9-6(r), below.

- (q) Notwithstanding any provision of this charter which might appear to the contrary, it is recognized that it will not be possible for the first person elected as mayor to begin at once to exercise all of the powers, duties and responsibilities which are assigned to the office of the mayor. It is recognized that it is in the best interest of the town of Braintree that this assumption be on a gradual basis as the mayor, town council and other municipal officials are able to adopt ordinances and other regulations that are necessary to implement all of the provisions of the charter.
- (r) The mayor and town council shall have authority to adopt measures that clarify, confirm or extend any of the transitional provisions in order that the transition may be made in the most expeditious and least contentious manner possible.

Approved January 10, 2006

The foregoing Act was accepted by the voters of the Town of Braintree at the Annual Town Election held on April 4, 2006.

Joseph F. Powers,
Town Clerk

Title 1: General Provisions

Chapter 1.08**GENERAL PENALTY**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 08-012 (former Ch. 1.08 of the Town Bylaws, adopted STM 10-7-1991 by Art. 15 as prior code § 1-6).

Amendments noted where applicable.]

1.08.010. Criminal complaint.

Whoever violates any provision of these ordinances may be penalized by indictment or criminal complaint brought in the District Court. The penalty shall be that fixed by ordinance; provided, however, that in no case shall the maximum penalty for each violation or offense, brought in this manner, be in excess of \$300 unless otherwise allowed by law. Each day on which any violation or offense exists shall be deemed a separate violation or offense.

1.08.020. Noncriminal disposition.¹

Whoever violates any provision of these ordinances, the violation or offense of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided for in MGL c. 40, § 21D, as the same now is or may hereafter be amended or supplemented. The noncriminal disposition method may also be used pursuant to this section for violations of any rule or regulation of any municipal officer, board or department, the violation or offense of which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that only the ordinances and rules and regulations which specifically invoke the use of a noncriminal disposition as provided in MGL c. 40, § 21D, are to be included within the scope of this section. In addition to police officers, who shall in all cases be considered enforcing persons for the purposes of this provision, the municipal positions, or persons serving the functions of same, listed in each ordinance, rule or regulation shall also be enforcing persons for such violations or offenses. Each day on which any violation or offense exists shall be deemed to be a separate violation or offense. Nothing contained herein shall be deemed to require the use of the noncriminal disposition method. At the option of the enforcing person, criminal and/or civil action may be utilized.

1.08.030. Fines and penalties to inure to use of Town.²

All fines and penalties for violation of any ordinance, rule, regulation, or order of the Town Council shall, when recovered, inure to the use of the Town and be paid into the Town treasury, unless it be otherwise directed by law or ordinance.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Table 1.08**Provisions Subject to Noncriminal Disposition**

[Amended ATM 5-9-2001 by Art. 28; ATM 5-15-2002 by Art. 47; ATM 5-7-2003 by Art. 34; STM 10-7-2003 by Art. 6; STM 5-3-2004 by Art. 7; ATM 5-2-2006 by Art. 32]

Cite (if applicable)	Provision (enforcing person)	Penalty
Chapter 5.400	Amusement games (P)	\$50
Chapter 5.560	Junk, secondhand and salvage dealers (H, B)	\$50
Chapter 5.565	Peddling and soliciting (P)	\$25
Chapter 5.570	Precious metals (P)	1: \$50 2: \$100 3: \$150 4: \$200 Subsequent: \$200
Chapter 5.585	Sales, special (P)	\$25
Chapter 6.100	Dogs and other animals (TC, ACO)	1: \$5 2: \$25 3: \$25 4: \$50 Subsequent: \$50
Chapter 8.100	Burglar alarm control	3: \$25 4: \$35 5: \$50 Subsequent: \$50
Sections 8.300.010 through 8.300.090	Fire alarm and fire protection systems (F)	1: warning 2: \$50 3: \$100 4 and each subsequent: \$200
Section 8.300.100	Fire alarm systems (F)	\$300
Chapter 8.400	Dumpsters (H, B)	\$25
Chapter 8.600	Hazardous materials (F, H) (P: mv only)	\$250
Chapter 8.700	Fencing swimming pools (H, B)	\$25
Sections 9.100.010, 9.100.020 and 9.400.040 through 9.400.070	Peace and good order (P)	\$25
Chapter 9.200	Alcohol: consumption in public (P)	\$50
Section 9.400.020	Littering (P)	1: \$50 2: \$100 3: \$200 Subsequent: \$200
Chapter 9.500	Firearms (P)	\$50

Table 1.08**Provisions Subject to Noncriminal Disposition**

[Amended ATM 5-9-2001 by Art. 28; ATM 5-15-2002 by Art. 47; ATM 5-7-2003 by Art. 34; STM 10-7-2003 by Art. 6; STM 5-3-2004 by Art. 7; ATM 5-2-2006 by Art. 32]

Cite (if applicable)	Provision (enforcing person)	Penalty
Chapter 10.04	Handicapped parking (P, SP: mv parking) (B: marking and signs)	\$100 per violation
Section 12.04.030	Numbering of buildings (E, B)	\$10
Section 12.08.030	Obstruction of sidewalks (P, CE)	\$25
Section 12.08.050A and B	Fire lanes (P, SP: mv parking) (F, B: marking and signs)	\$15
Section 12.08.050C	Fire lanes: snow removal (F)	\$15
Section 12.08.050D	Fire lanes: marking (F, B)	\$15
Section 12.16.030	Waterways (HM, P)	\$50
Chapter 12.20	Wetlands (CC)	1: \$50 2: \$100 Subsequent: \$300
Chapter 13.06	Cellar drains (P) (DPW)	\$100
Chapter 13.07	Grease treatment (P, CE, DPW)	\$100
Zoning Ordinances	Zoning (B)	\$50
MGL c. 148, § 27A	Cover fire hydrants with snow (F)	\$100
Department of Public Works	Department regulations	
	Trespass	\$50
	Swimming	\$50
	Boating	\$50
	Littering	\$50
	Trapping	\$50
	Discharge of firearms	\$100
	Open containers of alcohol	\$100
	Trans. garbage/rubbish	\$100
	Junked vehicles	\$100
	Recreational vehicles: motorized/nonmotorized (P)	\$100
Health Department	Department regulations (H)	\$50
	Environmental tobacco smoke:	
	1st offense (H)(P)	Warning
	2nd offense	\$100

Table 1.08**Provisions Subject to Noncriminal Disposition**

[Amended ATM 5-9-2001 by Art. 28; ATM 5-15-2002 by Art. 47; ATM 5-7-2003 by Art. 34; STM 10-7-2003 by Art. 6; STM 5-3-2004 by Art. 7; ATM 5-2-2006 by Art. 32]

Cite (if applicable)	Provision (enforcing person)	Penalty
	3rd offense	\$200
	4th offense	\$300
	Feral cat feeding station:	
	1st offense (H)	\$25
	2nd offense	\$35
	3rd offense	\$50
	Well (H)	\$300
	Massage bath (H)	\$100
	Distribution of tobacco products:	
	1st offense (H)	\$100
	2nd offense	\$200
	3rd offense	\$300
Park Department	Department regulations (PK)	\$50

NOTES:

Penalties: 1 = first offense, 2 = second offense, etc.

Enforcing person: P = Police; F = Fire; H = Health; E = Engineering; PK = Park; B = Building; CE = Code Enforcement; CC = Conservation Commission; SP = Special Police; ACO = Animal Control Officer; TC = Town Clerk; HM = Harbormaster; DPW = Department of Public Works.

BRAINTREE CODE

Chapter 1.10

ADOPTION OF CODE

[An ordinance adopting the Code of the Town of Braintree and making certain substantive changes to existing ordinance of the Town is presently proposed before the Town Council. Upon final adoption, it will be included in this chapter.]

Title 2: Administration and Personnel

Chapter 2.100**TOWN ELECTIONS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 3-18-2008 by Ord. No. 08-013. Amendments noted where applicable.]

GENERAL REFERENCES

Elections and election-related matters — See Charter Art. 7 and Art. 9, § 9-5.

2.100.010. Officers to be elected.

The offices to be filled by the voters shall be a Mayor, Town Council, School Committee, Thayer Public Library Board of Trustees, Braintree Electric Light Board, and Braintree Housing Authority.

2.100.020. Eligibility for elective office.

Subject to the provisions of Charter Sections 2-1, 2-3, 3-1, 4-1 and 4-3 any voter shall be eligible to hold any elective Town office.

2.100.030. Date of Town election; preliminary election.

- A. The regular Town election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.
- B. A preliminary election for the purpose of nominating mayoral candidates shall be held on the third Tuesday in September in every other odd-numbered year, but the Town Clerk may, with the approval of the Town Council, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy in the office of Mayor is to be held, a preliminary election shall be conducted 35 days preceding the date established for the special election.

2.100.040. Hours polls are to be open.³

The polls shall be opened for all elections not later than 7:00 a.m. and shall close not earlier than 8:00 p.m. This section shall also apply to all elections and primaries, unless otherwise provided by law.

2.100.050. Terms of office.

- A. The term of office for all members of the Town Council shall be for two years beginning on the first business day in January following the election and continuing until their successors are qualified. The term of office of the Mayor shall be for four years beginning on the first business day in January following the election and continuing until his or her successor is qualified.
- B. Subject to the provisions of Section 9-5(b) of the Charter, the term of office for the School Committee, Thayer Public Library Board of Trustees, Braintree Electric Light Board, and Braintree

3. Note: This section derived from prior code § 41-2.

Housing Authority members shall be for four years each beginning on the first business day of January in the year following their election and until their successors have been qualified.

2.100.060. Annual reports.⁴

All reports required by Section 8-14 or other sections of the Charter to be included in the Annual Town Report shall be submitted to the Mayor on or before the 15th of January. These reports shall be in such form as the Mayor shall prescribe.

2.100.070. Publication of reports.⁵

As required by Section 8-14 of the Charter, the Mayor shall cause to be printed and distributed the reports of the various Town officers, boards and committees and shall cause copies of such report to be distributed to each registered voter of the Town who shall apply therefor at the office of the Mayor.

4. Note: This section derived from prior code § 43-1 and was previously amended ATM 5-5-2003 by Art. 15.

5. Note: This section derived from prior code § 43-2.

Chapter 2.200**MAYOR**

[HISTORY: Adopted by the Town Council of the Town of Braintree 3-18-2008 by Ord. No. 08-014. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter Art. 3.

Assistant to Mayor — See Ch. 2.209.

Acting Mayor — See Ch. 2.208.

2.200.010. Powers, in general.

- A. The Mayor shall be the Chief Executive and Chief Administrative Officer of the Town of Braintree and shall have all of the power and authority that is conferred upon the Mayor by the Braintree Charter. The Mayor shall be considered to be the lawful successor to the Board of Selectmen and shall have every power, duty, authority and responsibility which was previously exercised by the Board of Selectmen, unless some other provision is made in the Charter or this Code.⁶
- B. The Mayor shall have the authority to declare a state of emergency within the Town, to direct the closure of Town buildings, and to deploy personnel to respond to the emergency.
- C. Effective January 2014, the Mayor shall receive an annual salary of \$125,000. **[Amended 2-5-2013 by Ord. No. 12-035]**

2.200.020. Control of activities not otherwise delegated.

- A. The Mayor shall have control of all Town property which is not placed in the care, custody and control of any Town official, department or activity and shall enforce the conditions and covenants of any lease or tenancy thereof.
- B. In addition to such other powers and duties as are conferred upon the office by Charter, by these ordinances, by custom or by any other vote of the Town, the Mayor shall have power to do any acts on behalf of the Town which are not by law, these ordinances or some vote of the Town delegated to some other board, committee or official, or reserved to the voters of the Town.
- C. The Mayor shall appoint all Town officers whose election by the voters or appointment by some other Town board or official is not required by law, the Charter, or by these ordinances.

2.200.030. Authority over legal affairs, in general.

- A. The Mayor, after consultation with the Town Solicitor, may bring on behalf of the Town any proceedings before any court, legislative committee, administrative agency or other public official or agency and may answer and defend any such proceedings brought against the Town and may cause the Town Solicitor to appear on behalf of the Town in any such proceedings instituted by others in which the Town has an interest. The Mayor, after consultation with the Town Solicitor, may

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

prosecute such suits to final judgment, or may compromise any claims by and against the Town on such terms as seem to the Mayor and Town Solicitor to be in the best interest of the Town, whether or not such claims are in litigation.

- B. The Mayor shall have authority in the name of the Town and through the Town Solicitor to prosecute, defend or compromise any and all claims or suits to which the Town is a party and in relation to claims and suits whenever in the judgment of the Mayor it is reasonably necessary, except actions otherwise provided for by statute or by ordinance. This section shall not apply to appeals for real estate tax abatements.

2.200.040. Authority to accept gifts or deeds and to be in charge of property.

The Mayor shall be authorized to accept gifts of monetary value and services on behalf of the Town. The Mayor shall be authorized to accept deeds conveying an interest in real estate to the Town. The Mayor shall notify the Town Council whenever such acceptance occurs. All land owned by the Town which is not by vote of the Town specifically assigned to some particular Town agency shall be deemed to be under the authority of the Mayor. The Mayor shall have general direction or management of the property and affairs of the Town in all matters not otherwise provided for unless otherwise provided by law.

2.200.050. Authority to manage Town property and affairs.

- A. Subject to any limitations imposed by law or by these ordinances, the Mayor shall have authority to sell or otherwise dispose of personal property and any real estate of which the Town has possession or title by following the procedures established in MGL c. 30B.
- B. Whenever a Town agency to which any land, easement, or other right or interest in land has been assigned determines that the land, easement, or other right or interest in land is no longer required by the agency it shall, forthwith, notify the Mayor of such determination and shall identify, with specificity, the land, easement, or other right or interest in land which it has deemed to be no longer needed by the Town agency. The Mayor upon receipt of any such determination shall forthwith refer the matter to the Department of Planning and Community Development for a report and recommendation. The Department of Planning and Community Development shall, after study and analysis, file a report containing its recommendations and the reasons for such recommendations with the Mayor.⁷
- C. Whenever any owned land, easement, or other right or interest in land is to be sold, the Mayor shall file a request to authorize such sale with the Town Council. The Town Council may, by a two-thirds vote, authorize the conveyance of such land, or a portion thereof, or the abandonment of an easement or other right or interest in the land. The Town Council may specify a minimum sum to be paid to the Town for such conveyance or abandonment. The Mayor shall advertise and otherwise give notice of the offer to convey or abandon the land, easement, or other right or interest in land in accordance with the provisions of MGL c. 30B and any other provisions of laws as may be applicable. If the Town Council has specified a minimum sum to be paid to the Town, the Mayor may, for such amount or any larger amount and on such other terms and conditions as the Mayor may deem to be proper, convey said land, or part thereof, by deed, or declare such easement, or right, or interest, or part thereof, be abandoned.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

2.200.060. Policy formulation for departments.

The Mayor, acting through the directors of departments, shall be responsible for the overall supervision of the departments of the Town government and for the establishment of priorities and policies to govern the operation of the Town departments and agencies.

2.200.070. Procedure to suspend or remove certain persons.

Whenever the Mayor desires to suspend or to remove any person from an office or position appointed by the Mayor such removal shall be governed, insofar as appropriate, by the provisions of Section 3-4 of the Charter, Civil Service Law, and those sections of these ordinances governing human resources matters.

2.200.080. Appointment.

The Mayor may appoint such other assistants as the needs of the office may require and as appropriation made for such purposes may allow. Every employee in the office of the Mayor shall be considered to be a confidential employee, who shall not be subject to the terms of any collective bargaining agreement, and shall not be subject to the ordinary provisions of the Civil Service Law.

Chapter 2.205**ADMINISTRATIVE ORGANIZATION**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Administrative organization — See Charter, Art. 5.

2.205.010. Mayor to be Chief Executive and Administrative Officer.

The Mayor shall be the Chief Executive and Administrative Officer of the Town Government.

2.205.020. Departmental organization.

- A. Departments established. The administrative services of the Town shall be divided into the following departments:
- (1) Municipal Finance Department.
 - (2) Human Resources Department.
 - (3) Department of Municipal Licenses and Inspections.
 - (4) Planning and Community Development Department.
 - (5) Public Works Department.
 - (6) Town Solicitor.
 - (7) Police Department.
 - (8) Fire Department.
 - (9) Council on Elder Affairs.
 - (10) Fair Housing Liaison/Committee.
- B. Purpose. It is the intention of this provision to assemble similar and related activities and functions of the Town into consolidated departments in order to attain the efficiencies and economies of scale, to reduce, or eliminate, duplication and overlapping of services, responsibilities and functions and to improve the communication and coordination between and among the various offices and agencies of the Town. It is the further intention of this provision that the director of each department shall be authorized to assign responsibilities and functions between and among personnel within the department, from time to time, without regard to the lines of responsibilities which have previously been associated with the agencies herein consolidated.

2.205.030. Standard provisions.⁸

The following standard provisions shall apply to all Town agencies whether established by the Charter, by ordinance, or by administrative rule or regulation arising out of the authority of the Charter:

- A. Titles. The head of each department of the Town government shall be termed "director."
- B. Appointments. The director of each department of the Town government shall be appointed by the Mayor for an indefinite term of office. The appointment of directors by the Mayor shall be subject to review by the Town Council as provided in Section 2-10 of the Charter. A department director shall be a person especially qualified by education, training and previous experience to perform the duties of the office. Except as otherwise provided by the civil service statute,⁹ directors of departments shall, subject to the consent of the Mayor, appoint all assistants and subordinates and other employees of the agency for which such person is responsible. Subject to the approval of the Mayor, nothing shall prevent the director of a department from also serving as the head of one or more divisions within the department. The director may appoint the head of a division within the department to serve simultaneously as the head of another division within the department. Such person so appointed, or so serving, shall possess all of the qualifications for the position which may be prescribed by law, by Charter, by ordinance, or otherwise.
- C. Temporary director of department. The Mayor may, as provided in Section 3-5 of the Charter, designate the head of one of the divisions within the department, or some other Town officer or employee, or any other person to serve as temporary head of a department.
- D. Removal. The Mayor may, by following the removal procedure established in Section 3-4(a) of the Charter, remove a director of a department from office. A director of a department may remove a division head, assistant or subordinate of the department from office, subject to civil service statute, by following the removal procedure established in Section 3-4(b) of the Charter.

2.205.040. Duties of all Town officers.

- A. In general. Every director of a department, division head, Town officer and Town employee shall perform all duties required of the position by state law, by the Charter and ordinances of the Town, and such other duties as may be required by the Mayor or by persons appointed by the Mayor.
- B. Department directors are responsible to the Mayor. All division heads and Town officers shall report to the Mayor through their respective department directors. The directors of departments shall be immediately responsible to the Mayor for the effective administration of their respective departments and all activities assigned to their departments.
- C. Duties. The directors of departments, Town officers and the heads of divisions shall keep themselves informed as to the latest practices in their particular fields and shall implement, with the approval of the Mayor, such new practices as appear would be of benefit and service to the citizens and taxpayers of the Town.
- D. Reports to Mayor. The directors of departments shall submit reports of the activities of their departments to the Mayor with such frequency and in such form as may be required by the Mayor. The directors of departments shall render an annual report of the activities and operations of the department for which each is responsible to the Mayor on a date established by the Mayor. Town

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

9. Editor's Note: See MGL c. 31.

officers and division heads shall assist their respective department directors by preparing and filing such reports with them as may be requested or required of them to enable the director of a department to so report.

- E. Maintain records. The directors of departments shall establish and maintain systems of filing and indexing records and reports in sufficient detail to furnish all information necessary for the proper control of departmental activities and to form a basis for the periodic reports to the Mayor.
- F. Maintenance and use of equipment. Town property, equipment, and vehicles are only to be used to carry out Town business and are not to be used for personal use. The directors of departments, Town officers and the heads of divisions shall be responsible for the proper maintenance and use of all Town property and equipment used in their departments, offices and divisions.
- G. Cooperation with Town Auditor. The directors of departments, Town officers and the heads of divisions and every other employee of the Town shall cooperate fully with the Town Auditor whenever the Auditor makes any request for any information relevant to the duties of such person.

2.205.050. Duties of directors of departments.

The director of each department shall have the following specific powers and duties:

- A. Provide coordination and direction to the divisions within the department to insure consistent administration and the efficient delivery of services to citizens and taxpayers.
- B. Meet with the Mayor to develop goals and objectives for each of the divisions within the department and to measure and evaluate the performance of functions by each constituent agency within the department.
- C. Meet with the division heads and other subordinate officers and employees of the department to explain the goals and objectives set by the Mayor for each such division and agency and to arrive at methods by which such goals and objectives might be achieved.
- D. Monitor the level of services provided in other communities to ensure the Town provides the highest and best level of service possible to its citizens and taxpayers consistent with the needs of the Town and its ability to pay.
- E. Coordinate with division heads in the development of annual operating budgets and capital outlay requests.
- F. Prepare and submit to the Mayor within the guidelines provided by the Mayor and within the time schedule established by the Mayor a proposed annual operating budget and capital outlay request covering all divisions and offices within the department for which the director is responsible.

2.205.055. Authority to establish fees.

Unless otherwise provided by general or special law or by ordinance, any department director or Town board empowered to issue a license, permit, or certificate or to render a service or perform work for a person or class of persons may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to state law or regulations wherein the entire proceeds of the fee remain with the Town, and may fix reasonable charges to be paid for any services rendered or work performed by the Town for any person or class of persons; provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board (MGL c. 40, § 22F).

2.205.060. Authority to establish regulations.

- A. Any department director or Town board appointed by the Mayor that is empowered to issue a license, permit, or certificate or to render a service or perform work for a person or class of persons may, from time to time, establish reasonable regulations for all such licenses, permits, or certificates, subject to the review and approval of the Mayor, and in the case of an elected board or an officer appointed by an elected board, the regulation shall be subject to the review and approval of such elected board.
- B. Unless otherwise provided by general or special law or by ordinance, a summary of each regulation adopted under this section shall be posted on a Town Hall bulletin board and on the Town's official website and shall be published once in a newspaper of general circulation in the Town, and formal written notification shall be provided to the Town Council, and such publication shall be notice to all persons.¹⁰

2.205.065. Submission of reorganization plans by Mayor.¹¹

Any plan presented by the Mayor to the Town Council which appears to be a reorganization plan under Section 5-1 of the Charter which does not contain a proposed ordinance in which are incorporated amendments, revisions or repeals of this chapter and any other chapters or provisions of this Code of Town Ordinances as will accomplish the desired reorganization shall not be deemed to be a reorganization plan within the meaning of said Section 5-1. Each proposed reorganization plan when filed by the Mayor with the Town Council shall bear an identifying number and shall be accompanied by a detailed statement of the Mayor in explanation of the reasons underlying the submission of the proposed plan and the goals and objectives expected to result from the implementation of the plan.

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

BRAINTREE CODE

Chapter 2.206

GENERAL STANDARDS OF CONDUCT

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 2.24 of the Town Bylaws). Amendments noted where applicable.]

2.206.010. Appointment of office restricted.¹²

No Town officer or board of Town officers having the power or authority to appoint any Town officer or agent shall appoint himself/herself or any member of such board to any office or position under the jurisdiction of such Town officer or board for which compensation is paid, but this shall not prohibit any Town officer from being named chair or clerk of the board of which he/she may be a member.

2.206.020. Eligibility for appointment.¹³

Except as hereinafter provided, no member of a Town board, committee, or commission shall be eligible for appointment or election by the members of such board, committee, or commission to any office or position under the supervision of such board, committee, or commission. No former member of such board, committee, or commission shall be so eligible until the expiration of one year from the termination of his/her service as a member of such board, committee, or commission.

2.206.030. Actions of former Board members.¹⁴

No former member of a board, committee, or commission of the Town shall, within one year after his/her last service as a member of such board, committee, or commission, knowingly act as agent or attorney for or receive compensation, directly or indirectly, from anyone other than the Town in connection with any particular matter in which the Town is a party or has a direct and substantial interest and in which he/she participated as a member of such board, committee, or commission. In addition to other remedies provided by law, any violation of this section which has substantially influenced the action taken by the Town in any particular matter shall be grounds for avoiding, rescinding or canceling the action on such terms as the interests of the Town may require.

12. Note: This section derived from prior code § 17-2.

13. Note: This section was originally added STM 5-3-1993 by Art. 15 as prior code § 33-1.

14. Note: This section was originally added STM 5-3-1993 by Art. 16 as prior code § 33-2.

Chapter 2.207**CHIEF OF STAFF AND OPERATIONS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 1-22-2008 by Ord. No. 08-004 and designated as Ch. 2.207 of the Town Code 2-6-2008 by Ord. No. 08-015. Amendments noted where applicable.]

2.207.010. Appointment and term.

The Chief of Staff and Operations shall be appointed by the Mayor and shall serve at the pleasure of the Mayor.

2.207.020. Duties and functions.

- A. The Chief of Staff and Operations shall in every matter be deemed to be acting in the place of and for the Mayor, unless it is specifically stated otherwise.
- B. The Chief of Staff and Operations, acting only on the direction of the Mayor, shall have the following duties:
 - (1) Represent the Mayor as liaison with the Town Council.
 - (2) Represent the Mayor at meetings of regional agencies, state and federal agencies, community groups, business interests and local trade and fraternal organizations, for purposes of gathering information and/or articulating the Mayor's point of view.
 - (3) Organize and summarize information and prepare it for the Mayor's review and action.
 - (4) Meet with department heads regarding day-to-day business, expediting administrative interaction between the Mayor's office and Town departments and agencies.
 - (5) Serve as a liaison officer between the Town government and the Town's residents.
 - (6) Be familiar with all aspects of the Town government and with the functions of the activities of the various offices and employees of the Town.
 - (7) Be familiar with the various services rendered by the Town to its residents, in order to inform citizens of the extent of these services and of the schedule for their performance.
 - (8) Complete specified research assignments with close contact to the Massachusetts Municipal Association, the National League of Cities, and the U.S. Conference of Mayors and similar organizations, comparing the Town's problems with problems and solutions of other communities in the state and the nation.
 - (9) Meet with the Mayor, boards and commissions in normal business meetings to explain proposals or identify means to expedite action.
 - (10) Work with the Clerk of the Council and the President of the Council in preparing orders and backup material for executive department initiatives and with committees to expedite support for the committee deliberations.
 - (11) Serve as spokesperson for the Mayor in responding to inquiries made concerning operations conducted by or affecting the Town of Braintree.

- (12) Perform other services so as to support the Mayor's role as Chief Executive of Braintree.

ACTING MAYOR

Chapter 2.208

ACTING MAYOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 3-18-2008 by Ord. No. 08-016. Amendments noted where applicable.]

GENERAL REFERENCES

Temporary absence of the Mayor — See Charter § 3-8.

Mayor — See Ch. 2.200.

2.208.010. Temporary absence.

Whenever, by reason of sickness, absence from the Town or other cause, the Mayor shall be unable to perform the duties of the office for a period of more than 10 successive working days, the President of the Town Council shall be the Acting Mayor. In the event of the absence or disability of the President of the Town Council, the Vice President of the Town Council shall serve as Acting Mayor. The Mayor shall, by a letter filed with the Town Council and a copy filed with the Town Clerk, designate a qualified Town officer of Town employee to serve as Acting Mayor during the temporary absence of the Mayor for periods of the 10 days or less and to serve only when the needs of the Town require and only to the extent necessary under the then circumstances.

2.208.020. Powers of Acting Mayor.

The Acting Mayor shall have only those powers of the Mayor that are essential to the conduct of the business of the Town in an orderly and efficient manner and on which action may not be delayed. The Acting Mayor shall have no authority to make any permanent appointment or removal from Town service unless the disability of the Mayor shall extend beyond 60 days nor shall an Acting Mayor approve or disapprove of any measure adopted by the Town Council unless the time within which the Mayor must act would expire before the return of the Mayor. During any period in which any member of the Town Council is serving as Acting Mayor, such Councilor shall not vote as a member of the Town Council.

BRAINTREE CODE

Chapter 2.209

ASSISTANT TO MAYOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 1-22-2008 by Ord. No. 08-005 and designated as Ch. 2.209 of the Town Code 3-18-2008 by Ord. No. 08-017. Amendments noted where applicable.]

GENERAL REFERENCES

Mayor — See Ch. 2.200.

2.209.010. Appointment.

The Mayor may appoint a person who shall hold the title of Assistant to the Mayor. The person so appointed shall serve in such position solely at the pleasure of the Mayor and shall be deemed a confidential employee as the term is used in MGL c. 150E.

2.209.020. Powers and duties.

- A. The person so appointed shall perform such duties and assume such responsibilities as the Mayor in his/her sole discretion may, from time to time, deem fit.
- B. The position of Assistant to the Mayor shall be a full-time position, except that:
 - (1) The working hours shall be established and may, from time to time, be changed or varied by the Mayor; and
 - (2) The position shall not be covered by a collective bargaining agreement nor eligible for inclusion within a collective bargaining unit.
- C. The remuneration for such position shall be duly established within the Wage and Salary Classification Plan, but said salary shall be subject to appropriation.

Chapter 2.220**DEPARTMENT OF PUBLIC WORKS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 2.64 of the Town Bylaws, adopted ATM 5-15-2002 by Art. 47). Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter §5-3.

2.220.010. Department established.

There shall be a Department of Public Works responsible for the performance of all public works related functions and activities of the Town. The Department of Public Works shall assume all of the duties and responsibilities related to public works activities which, before the adoption of the Charter, were performed by or under the authority of the Department of Public Works. The Department of Public Works shall perform all of the public works related functions which are associated with the following boards, departments and offices or which are now or may from time to time by general or special law be vested in such boards, departments and offices: Engineering Department, Highway Department, Cemetery Department, Water and Sewer Department, Tree Warden, and the Recycling Committee, and it may have such additional powers, duties and responsibilities with respect to public works related functions and activities as may from time to time be provided by ordinance.

2.220.020. Appointment of Director of Public Works.

The Mayor is authorized and empowered to appoint a Director of the Department of Public Works. The Director of Public Works shall be a person especially fitted by education, experience and training to perform the duties of the office.

2.220.030. Term of office of Director of Public Works.

The Director of Public Works shall be appointed for an indefinite term.

2.220.040. Powers and duties of Director of Public Works.

The Department of Public Works shall be under the direct control and supervision of a Director of Public Works who shall be appointed by and who shall be responsible to the Mayor. In addition to the powers and duties conferred upon the Director of Public Works pursuant to the Charter, the Director of Public Works shall be responsible for the following duties:

- A. Supervision and coordination of all activities of the Department of Public Works under statutes, Town ordinances, administrative code and rules and regulations;
- B. Granting or revoking any permits and licenses pertinent to public works activities, unless such authority is otherwise reserved for the Department of Public Works Advisory Board;
- C. Supervises, plans, directs, and administers all aspects of the Department of Public Works, including

the highway, grounds, cemetery, water, sewer, engineering, and recreation divisions, as well as solid waste collection and disposal and the municipal golf course;

- D. Develops and recommends departmental policies, projects, and procedures; confers with division heads concerning ongoing and future projects;
- E. Oversees management of department personnel, labor relations, training, staffing, and evaluation of employees;
- F. Responsible for and monitors department expenditures, including payroll, procurement of goods and services, and contracts for outside services;
- G. Makes recommendations to and advises Mayor of all short-term and long-term planning of department goals and projects;
- H. Responsible for maintaining department records and correspondence in compliance with the public records statutes.

2.220.050. Sale of cemetery lots.¹⁵

The Director of Public Works shall oversee the sale of lots in the cemetery, which shall be sold at prices to be fixed from time to time by the Mayor. Deeds conveying the right of burial in any public cemetery in the Town shall be filed with the Town Clerk as provided in Section 50 of Chapter 550 of the Acts of 1948.¹⁶

2.220.060. Centralized Maintenance Department. [Added 12-7-2021 by Order No. 21-027]

The Department of Public Works, under the direction of the Director, shall include a Centralized Maintenance Department, combining facilities staff, for the purpose of maintaining all buildings and land owned by the Town including school buildings and grounds. The Centralized Maintenance Department is hereby established as authorized by Section 4-5.3 of the Town Charter and the adoption of MGL c. 71, § 37M, by the Town Council. This section shall take effect only after a majority vote in favor thereof, pursuant to MGL c. 71, § 37M, by the School Committee. The consolidation of the maintenance departments may be revoked, pursuant to MGL c. 71, § 37M, by majority of vote of the School Committee or Town Council, or both.

15. Note: This section derived from prior code §§ 14-2 and 14-3.

16. Editor's Note: See MGL c. 114, § 24.

Chapter 2.230**DEPARTMENT OF MUNICIPAL FINANCE**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 5-4.

2.230.010. Department established.

There shall be a Department of Municipal Finance responsible for the performance of all of the fiscal and financial activities of the Town. The Department of Municipal Finance shall be responsible for the coordination of all of the duties and responsibilities related to fiscal and financial activities which are performed by or under the authority of the Town Accountant, the Treasurer/Collector, the Trust Fund Commissioners, the Board of Assessors, and the MIS Department, and it may have such additional powers, duties and responsibilities with respect to fiscal and financial-related functions and activities as may from time to time be provided by ordinance.

2.230.020. Appointment of Director.

The Department of Municipal Finance shall be under the direct control and supervision of a Director of Municipal Finance who shall be appointed by and who shall be responsible to the Mayor. The Director of Municipal Finance shall be a person especially fitted by education, experience and training to perform the duties of the office.

2.230.030. Term of office.

The Director of Municipal Finance shall serve for an indefinite term.

2.230.040. Powers and duties.

The Director of Municipal Finance shall be responsible for the supervision and coordination of all activities of the Department of Municipal Finance under state law, Town ordinances, administrative code and rules and regulations. The Director of Municipal Finance shall serve, ex officio, as the Mayor may from time to time specify, as the Treasurer/Collector. The Director of Municipal Finance shall also serve as the Town's chief procurement officer and shall oversee all procurement-related activities.

2.230.050. Execution of deeds and other instruments by Treasurer/Collector.¹⁷

Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the Town Council, the same shall be executed by the Treasurer/Collector, or the person performing the duties of the Treasurer/Collector, in behalf of the Town, unless otherwise provided by law or by vote of the Town Council.

17. Note: This section derived from prior code § 26-3.

2.230.060. Cemeteries Perpetual Care Fund.¹⁸

There is established under the control of the Director of Municipal Finance a fund to be known as the "Cemeteries Perpetual Care Fund" in which fund may be deposited any gift received and accepted by the Mayor or payment required by the Mayor, on the sale of cemetery lots, for perpetual care of certain lots, the income therefrom to be used for the perpetual care of such lots. All such gifts or payments shall be recorded on the cemetery lot records of the Town Clerk.¹⁹

18. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

19. Note: This section derived from prior code § 14-4.

DEPARTMENT OF HUMAN RESOURCES

Chapter 2.250

DEPARTMENT OF HUMAN RESOURCES

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 5-6.

2.250.010. Department established.

There shall be a Department of Human Resources which shall be responsible for all personnel and employee-related functions and activities of the Town government and its administration. The Department of Human Resources shall assume all of the duties and responsibilities related to human resources activities which, before the adoption of the Charter, were performed by or under the authority of the Board of Selectmen, Town Accountant, the Treasurer, the Collector of Taxes, the Personnel Board, the Personnel Department, the Disabilities Commission, the Retirement Board, Veterans' Affairs, and the heads of Town agencies, and it may have such additional powers, duties and responsibilities with respect to human resources-related functions and activities as may from time to time be provided by ordinance or as situation requires.

2.250.020. Appointment of Director.

The Department of Human Resources shall be under the direct control and supervision of a Director of Human Resources who shall be appointed by and responsible to the Mayor. The Director of Human Resources shall be a person especially fitted by education, experience and training to perform the duties of the office.

2.250.030. Term of office.

The Director of Human Resources shall serve for an indefinite term.

2.250.040. Powers and duties.

The Director of Human Resources shall be responsible for the supervision and coordination of all activities of the Department of Human Resources in accordance with applicable federal and state law, Town ordinances, and rules and regulations. The Director shall supervise and coordinate all of the duties and responsibilities related to human resources activities which, before the adoption of the Charter, were performed by or under the authority of the Board of Selectmen, Town Accountant, the Treasurer, the Collector of Taxes, the Personnel Board, the Personnel Department, the Disabilities Commission, the Retirement Board, and Veterans' Affairs.

BRAINTREE CODE

Chapter 2.265

BOARD OF LICENSE COMMISSIONERS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 5-7(c).

Local licenses and permits— See Ch. 5.100.

2.265.010. Board of License Commissioners.

There shall be a Board of License Commissioners comprised of the Town Clerk, the Building Inspector, the Director of Public Health, the Fire Chief and the Chief of Police, or persons performing similar duties under any other title, as designated by the Mayor, who shall serve by virtue of their offices, and without additional compensation as the members of the Board of License Commissioners. The Town Clerk shall serve as chair of the Board of License Commissioners.

2.265.020. Powers and duties of Board.

The Board of License Commissioners shall have the following responsibilities:

- A. The power to issue licenses for innholders or common victualers;
- B. The powers of a licensing board appointed under MGL c. 138, § 4;
- C. The licensing authority for the purposes of MGL c. 138 and 140;
- D. All of the other powers with respect to licenses which before the adoption of the Charter were exercised by the Board of Selectmen;
- E. The granting of licenses relating to alcoholic beverages under MGL c. 138; and
- F. The granting of those licenses under MGL c. 140 which are not, by that chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under those chapters.

Chapter 2.290**TOWN SOLICITOR**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 5-8.

2.290.010. Appointment of Town Solicitor.

The Mayor shall appoint a Town Solicitor, who shall be a member in good standing of the Massachusetts Bar Association, and who shall be a person especially fitted by education, experience and training to perform the duties of the office.

2.290.020. Term of office.

The Town Solicitor shall serve for an indefinite term.

2.290.030. Powers and duties.²⁰

- A. Every board, commission, committee or official, however appointed, elected or constituted, shall submit to the Town Solicitor for drafting or approval as to form all bonds, deeds, leases, obligations, conveyances, contracts and contract change orders amounting in the aggregate to \$5,000 or more, and other legal instruments to be made on behalf of the Town or to which the Town is a party, and the Town Solicitor shall do every professional act necessary for the protection of the Town's interest.
- B. The Town Solicitor shall furnish all legal advice to the Mayor, Town Council, and all elected or appointed Town officers, departments, boards, and committees pertaining to the discharge of their official duties, and when requested through the Mayor, or through the Mayor by a least three members of the Council who shall provide a written request to all Council members and shall submit the request to the Clerk of the Council, the Town Solicitor shall furnish a written opinion on any question that may be submitted to him/her in writing relative to the rights or duties of any Town board or officers.
- C. The Town Solicitor shall prosecute all suits ordered to be brought by the Mayor and shall appear in any court in the commonwealth in defense of all actions or suits brought against the Town or its officers or personnel for acts done in the discharge of their official capacity, or wherein any right, privilege, property, estate or act of the Town may be affected or brought into question, and shall try and argue any and all causes in which the Town shall be a party, before any tribunal, whether in law or in equity, in the Commonwealth, or before any board, administrative authority, arbitrator, mediator, or commission, and shall appear at any and all hearings on behalf of the Town whenever such services may be required. The Town Solicitor shall also confer with and advise the Mayor relative to the compromise or settlement of all suits and claims pending to which the Town is a party.

20. Note: This section derived from prior code § 26-1(B), (C) and (D) and was previously amended ATM 5-14-2002 by Art. 26.

- D. The Town Solicitor shall be responsible for all legal affairs of the Town and shall personally provide, or shall personally supervise the provision by others, all legal services necessary for the proper and efficient conduct of the Town's affairs.
- E. With the approval of the Mayor, the Town Solicitor may employ assistants and outside counsel. The Town Solicitor shall review and approve all bills or charges for legal services to the Town.
- F. No Town officer, board or agency shall, unless specifically authorized to do so by the Mayor, employ, advise with or consult with any attorney other than the Town Solicitor or the Town Solicitor's designee with regard to any Town duties or business. Whenever it is determined that the services of a legal specialist are necessary or desirable, the Town Solicitor shall select such counsel after consultation with the Mayor and the officer, board or agency involved.

Chapter 2.300**TOWN COUNCIL**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter Art. 2.

2.300.010. Composition of Council and term.

(See Charter Section 2-1.) The Town Council is comprised of nine members, three of whom are members, known as Councilors-at-Large, who are nominated and elected by and from the voters at large. The six remaining members, known as District Councilors, are nominated and elected from each of the six districts into which the Town is divided, in accordance with Section 7-5 of the Charter. The term of office for all Town Councilors shall be two years, beginning on the first business day of January.

2.300.020. Compensation.

The Town Council shall receive an annual salary, which shall be paid in monthly installments. The annual salaries are as follows:

- A. Councilors: \$5,000.
- B. President of the Council: \$7,500.
- C. Expenses as described in Section 2-4 of the Town Charter.

2.300.030. Powers, in general.

- A. The legislative powers of the Town are vested in the Town Council. The Town Council shall exercise its legislative powers in the manner determined by the Town Council, unless some other provision is made by a General Law, Town ordinance, or by the Charter.
- B. The Town Council may adopt ordinances which originate with the Mayor on any subject relating to the affairs of the Town. The Town Council may adopt ordinances which originate with it or are filed on petition of voters as provided in Section 7-7 of the Charter on any subject relating to the affairs of the Town, except as provided in Section 5-1 of the Charter.
- C. All ordinances adopted by the Town Council shall be presented to the Mayor as provided in Section 3-7 of the Charter.
- D. In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the Town Council shall review appointments made by the Mayor to any Town office, as a department director, or as a member of a multiple member body, but not including any position which is subject to the Civil Service Law. Appointments made by the Mayor shall take effect on the 30th day after the date on which notice of the appointment was filed with the Clerk of the Council, unless six members of the Town Council shall, within those 30 days, vote to reject the appointment, or unless the Town Council has sooner

voted to affirm the appointment.

- E. Subject to appropriation, the Town Council may appoint and employ employees, assistants, and agents which are necessary for the proper conduct of offices under their jurisdiction.
- F. Exercise of powers, quorum, rules and access of information shall be as described in Section 2-6 and Section 2-7 of the Town Charter.²¹

2.300.040. Meetings of Town Council.

- A. All meetings of the Town Council and of every committee or subcommittee of the Town Council are subject to the Open Meeting Law, MGL c. 39, § 23B.²²
- B. All matters which come before the Town Council will be decided by a majority vote unless some other provision is made by General Law, ordinance, or the Charter.
- C. A record shall be kept for every meeting, indicating the names of the Council members present, the subject acted upon, and the votes and other official actions taken by the Town Council at each such meeting.
- D. Regular meetings of the Town Council shall be held in the Horace Cahill Auditorium at Town Hall on the first and third Tuesday evenings of each month, commencing at 7:30 p.m. The Clerk of the Council shall notify the Councilors of all meetings of the Council. The Council may, by majority vote, dispense with any regular meeting, or change the day and hour of holding any regular meeting. No Town Council meeting shall be scheduled on the eve or day of a preliminary or final election in the Town.
- E. The Town Council may enter into executive session, pursuant to the provisions of MGL c. 39, § 23B,²³ only after the Council has first convened in open session for which notice has been appropriately posted. The President shall cite the reason for going into executive session and indicate whether the Council shall leave executive session for the purpose of adjournment or return to open session. The President shall ask for a roll call vote of the Council to enter into executive session, and all votes taken by the Council in executive session shall be by roll call vote.

2.300.050. Ejection of persons behaving in disorderly manner.

If a person behaves in a disorderly manner during any meeting of the Town Council, and after notice from the presiding officer, said person persists in such disorderly conduct, the presiding officer may order him/her to withdraw from the meeting, and if such person refuses to leave, the presiding officer may request that a police officer or other person remove the offender from the meeting.

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

22. Editor's Note: MGL c. 39, § 23B was repealed by St. 2009, c. 28, § 20. See now MGL c. 30A, § 20.

23. Editor's Note: MGL c. 39, § 23B was repealed by St. 2009, c. 28, § 20. See now MGL c. 30A, § 21.

Chapter 2.310**TOWN AUDITOR**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 2-8(a).

2.310.010. Appointment, term and salary.

The Town Council shall appoint a Town Auditor to serve for a term of three years and until a successor is chosen and qualified. If appointed as a Town employee and not an independent contractor, the salary of the Town Auditor shall be established by the Town Council and incorporated into the Town's Wage and Salary Classification Plan at a grade approved by the Town Council. If appointed as an independent contractor, the amount paid to the Town Auditor shall not exceed the amount appropriated therefor.

2.310.020. Powers, in general.

- A. The Town Auditor shall conduct, or cause to be conducted, financial and performance audits following government auditing standards as promulgated by the Comptroller-General of the United States.²⁴
- B. The Town Auditor shall, from time to time throughout the year, examine, or cause to be examined, the books and accounts of all officers and agencies of the Town which are entrusted with the receipt, custody or expenditure of money, including original bills on which money has been or may be paid from the Town treasury, the documentation submitted by the agency requesting payment of any such bills supporting payment, warrants for the payment of bills, and the canceled checks on file in the office of the Treasurer/Collector.
- C. The Town Auditor shall, at least once in every fiscal year, verify, or cause to be verified, the cash balance of each such officer and agency by the actual count of the cash on hand and by reconciliation of bank balances. The Town Auditor shall keep the Town Council President fully informed as to the results of this activity and, not less frequently than quarterly, shall make a detailed report summarizing the results of this overview to the Ways and Means Subcommittee of the Town Council. All reports to the full Town Council shall be made through the Ways and Means Subcommittee.
- D. The Town Auditor shall make periodic reports to the Town Council in such detail and with such frequency as the Town Council shall, by ordinance, by rule or by other vote, direct.
- E. The Town Auditor shall review each request which is made to the Town Council by the Mayor for the transfer of funds or for a supplementary appropriation.
- F. When the proposed Capital Improvement Program is submitted to the Town Council by the Mayor, as required by Charter Section 6-10, the Town Auditor shall review the proposed capital improvement

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

program.

- G. The Town Auditor shall review the annual budget when the same is submitted to the Town Council by the Mayor, as required by Charter Section 6-5.
- H. At the direction of the Town Council, the Town Auditor shall conduct special projects, such as identifying cost components of a particular program, analyzing expenditure trends, and comparing revenue and expenses.
- I. Subject to the provisions of the conflict of interest statute, MGL c. 268A, the Town Auditor shall recommend to the Town Council the hiring of an independent audit firm to conduct the annual outside audit of the Town's books and accounts and shall coordinate the conduct of the annual audit by the independent firm. The Town Auditor shall review the total Town cash reconciliation between the Treasurer/Collector and the Town Accountant and the data provided to the Department of Revenue, including all bank accounts, investments and trust funds.
- J. The Town Auditor shall conduct an annual physical inventory of any and all Town-owned assets and reconcile the inventory to Town capital asset records and department procurements documents.
- K. If requested, the Town Auditor shall attend all meetings of the Town Council and the Ways and Means Subcommittee, especially during budget discussions.
- L. The Town Auditor acts as the Town Council liaison with the administration regarding all financial issues (e.g., appropriation requests, expenditures, etc.) to be discussed during Town Council meetings.
- M. The Town Auditor shall review certain data prepared by the Assessor's office, including the tax rate, recapitulation, tax levy limitation, tax burden shift worksheets, tax classifications and Department of Revenue estimated receipts and charges.
- N. The Town Auditor shall appoint and employ such assistants and employees as may be necessary for the proper performance of duties of his/her department, subject to the approval of the Town Council and an available appropriation.

Chapter 2.320**TOWN CLERK**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 2-8(b).

2.320.010. Appointment, term and salary.

The Town Council shall appoint a Town Clerk to serve for a term of three years and until a successor is chosen and qualified. The salary of the Town Clerk shall be established by the Town Council and incorporated into the Town's Wage and Salary Classification Plan at a grade approved by the Town Council.

2.320.020. Powers and duties.

- A. The Town Clerk shall be the head of the agency known as the "Office of the Town Clerk" and shall, subject to the approval of the Town Council, appoint an assistant Town Clerk who shall serve coterminously with the Town Clerk.
- B. The Town Clerk shall be the keeper of vital statistics and all official records for the Town; the custodian of the Town Seal; shall administer the oath of office to all persons, elected or appointed, to any Town office; shall issue such licenses and permits as are required by law to be issued by town clerks; and shall supervise and manage the conduct of all elections and all other matters relating to elections.
- C. The Office of the Town Clerk is the primary agency responsible for serving the public through the provisions of public records, vital statistics and general information taking great care in preserving and maintaining official records of the Town and making them readily accessible to the public.
- D. The Town Clerk records and preserves original birth, marriage and death records and is responsible for the maintenance, disposition and preservation of municipal archival records.
- E. The Town Clerk notifies the office of the Mayor whenever the resignation of any official appointed by the Mayor is received, and furnishes copies of the Open Meeting Law, MGL c. 30A, § 20, and the Conflict of Interest Law, MGL c. 268A, to all elected and appointed officers upon their election or appointment.²⁵
- F. The Town Clerk serves on the Board of Registrars of Voters as Clerk and supervises the registration of voters and the maintenance of street lists and lists of voters.
- G. The Town Clerk supervises the conduct of all elections held in the Town, serves as the Chief Election Officer for all elections, prepares ballots and voting lists for all precincts, hires and trains wardens and precinct workers for the polls, and is responsible for all other election day workers.

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

- H. In accordance with Section 5-7(c) of the Charter, the Town Clerk serves as Chair of the Board of License Commissioners.
- I. The Town Clerk posts meeting notices for all boards, commissions and other governmental bodies subject to MGL c. 30A, § 20, and notifies the Town Council of such meetings.²⁶
- J. The Town Clerk is the custodian of books, reports, and laws received from the Commonwealth, and custodian of the rules, regulations and minutes of multiple member bodies.
- K. The Town Clerk performs all other duties imposed upon such office by any general or special law or by ordinance.
- L. The Town Clerk keeps the legislative record of the Town Council, and notifies the Director of Municipal Finance of the Town Council votes authorizing appropriations and assessments, and notifies the Town Solicitor of all Town Council votes approving or amending a Town ordinance or policy.
- M. The Town Clerk issues such licenses, certificates and permits as may be provided by law to be issued by town clerks, including those for marriage, birth, death, raffles, bazaars, businesses, and dogs.
- N. The Town Clerk records state and federal tax liens and Uniform Commercial Code filings.
- O. Pursuant to Section 2-9(c) of the Town's Charter, after final passage by the Town Council of every ordinance, appropriation order or loan authorization, the Town Clerk shall post a copy of the final order on a bulletin board within Town Hall, as designated by the Town Clerk, for no less than 10 calendar days.
- P. The Town Seal, or any reproduction or facsimile thereof, shall not be used, unless authorized by law, without the written authorization of the Town Clerk. Once the Town Seal has been validated, via written approval by the Town Clerk, there is no need to receive further authorization. **[Added 11-15-2011 by Ord. No. 11-041]**

26. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 2.330**CLERK OF THE COUNCIL**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 2-8(c).

2.330.010. Appointment, term and salary.

The Town Council shall appoint a Clerk of the Council to serve for a term of three years and until a successor is chosen and qualified. The salary of the Clerk of the Council shall be established by the Town Council and incorporated into the Town's Wage and Salary Classification Plan at a grade approved by the Town Council.

2.330.020. Powers and duties.

- A. The Clerk of the Council shall give notice of Town Council meetings to its members and to the public, keep the journal of its proceedings and perform any other duties that may be provided by ordinance or by other vote of the Town Council.
- B. The Clerk of the Council shall serve as a liaison between all Town agencies and members of the public and the Town Council. The Clerk of the Council attends regular Town Council meetings or meetings as directed by the Council President, supervises the recording of meeting minutes, prepares meeting agenda packages and other material as required, and notifies all applicable parties of actions taken at Town Council meetings.
- C. The Clerk of the Council shall maintain records of all Town Council votes, activities, resolutions, ordinances, changes and proposals and provide copies of the ordinances enacted during the year for inclusion into the Town's annual report.
- D. The Clerk of the Council is responsible for publishing and posting every proposed ordinance, appropriation order or loan authorization in a local newspaper, on the Town's official website, and in any additional manner as described in Section 2-9 of the Charter. The Clerk of the Council shall include in every publication of a proposed ordinance, appropriation order or loan authorization the following disclaimer: "This document is published for the benefit of the public, solely for purposes of information and to make the public aware of the general nature of certain subject matter the Town Council may consider at a future meeting. This publication is not intended to suggest that the measure will be adopted in this precise form, that it will be adopted with amendments, or that it will be adopted at all. Notwithstanding any amendments which may be made to this proposal by the Town Council it will not be published again before final enactment unless at least three Councilors vote to require such publication before final enactment."
- E. The Clerk of the Council shall record all ordinances in the order in which they are passed to be ordained in a book prepared and kept for that purpose. This book shall be referred to as the "Records of Ordinances of the Town of Braintree" and shall be preserved in the office of the Town Clerk and

shall be available for public inspection.

- F. The Clerk of the Council shall notify the Mayor, Chief of Staff and Operations, Town Solicitor, Town Auditor, Director of Municipal Finance, and any other Town agency affected thereby of all orders passed by the Town Council authorizing appropriations, loan authorizations, or ordinances, or directing the Town agency to do or to refrain from doing something, promptly after such orders are passed by the Town Council. The Clerk of the Council shall also file with the Mayor and the Town Solicitor a copy of each ordinance, order or resolution passed by the Town Council.

SCHOOL COMMITTEE

Chapter 2.400

SCHOOL COMMITTEE

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter Art. 4.

2.400.010. Composition of Committee.

- A. The School Committee is comprised of seven members. Six of these members shall be nominated and elected by and from the voters of the Town at large. The Mayor shall serve, by virtue of office, as the seventh member of the School Committee with all of the same powers and duties as the members elected by the voters as School Committee members.
- B. A School Committee member shall at the time of election be a registered voter of the Town. If a School Committee member removes from the Town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in the Charter under Section 4-6.

2.400.020. Term.

The term of office for the six School Committee members elected by the voters shall be for four years each, beginning on the first business day of January in the year following their election, and serving until their successors have been qualified. A vacancy in the office of School Committee shall be filled pursuant to Section 4-6 of the Charter.

2.400.030. Powers, in general.

The School Committee shall have all powers which are conferred on school committees by general or special laws and any additional powers and duties that may be provided by the Charter, by ordinance, or otherwise and are not inconsistent with the grant of powers conferred by general laws.

Chapter 2.500**TOWN ACCOUNTANT**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter §§ 5-4 and 9-5(k).

Department of Municipal Finance — See Ch. 2.230.

2.500.010. Establishment.

There shall be a Town Accountant, who shall be appointed by and work under the direct control and supervision of the Director of Municipal Finance. From time to time, the Director of Municipal Finance may serve as Town Accountant, when designated by the Mayor.

2.500.020. Powers and duties, in general.

In addition to the powers and duties conferred upon the Town Accountant by General Law and the Charter, the Town Accountant shall be responsible for the following:

- A. The Town Accountant shall examine the books and accounts of all officers, departments, boards, and committees entrusted with the custody or expenditure of money.
- B. The Town Accountant shall have all of the other powers, duties and responsibilities which are given to Town Accountants by the General Laws, with the exception of the powers of the office which are associated with auditing, including those duties described in MGL c. 41, §§ 50, 51, 53, and 54A, which powers shall be assigned to the Office of Town Auditor, as established by Section 2-8(a) of the Charter.
- C. The Town Accountant shall be sworn to the faithful performance of his/her duties and shall hold no other Town office involving the receipt or disbursement of money.
- D. The Town Accountant shall maintain proper books of accounts in conformance with Uniform Municipal Accounting Standards. The Town Accountant shall credit each municipal account with the appropriations approved by the Town Council for each fiscal year and shall charge against such accounts any proper and legal expenditures. The Town Accountant shall maintain said accounts in such form and detail as may be necessary to clearly exhibit all expenditures and receipts of each Town officer, department, board or committee, the name of the person or company to whom such expenditures are paid, and designating the fund or appropriation from which each expenditure is paid.
- E. The Town Accountant shall carefully review all bills, accounts, payrolls, and claims as may be presented to him/her by any Town officer, department, board or committee to insure that they are correctly cast and properly approved and shall endorse each bill, account, payroll or claim, indicating that he/she has examined the same and deemed it to be correct and proper. The Town Accountant shall transmit to the Treasurer/Collector for payment a schedule of all bills, accounts, payrolls and claims with a warrant for the payment of each.²⁷
- F. Whenever any appropriation shall have been expended or whenever it appears that the liabilities

incurred against an appropriation may be in excess of the unexpended balance of such appropriation, the Town Accountant shall immediately give notice of such fact to the Director of Municipal Finance and the Mayor, and no further liability against such appropriation shall be incurred until the Town Council shall make provision for the payment of same.

BRAINTREE CODE

Chapter 2.505

ANIMAL CONTROL OFFICER

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Animal Inspector — See Ch. 2.510.

Animals — See Title 6.

2.505.010. Establishment.

There shall be an Animal Control Officer, appointed by the Mayor. When deemed to be in the best interests of the Town, the Animal Control Officer may also be a member of the Braintree Police Department and shall work under the direction and control of the Chief of Police.

2.505.020. Powers, in general.

- A. The Animal Control Officer shall be responsible for the enforcement of all laws relating to dogs, including but not limited to MGL c. 140, §§ 136A to 174, and all ordinances of the Town further regulating animals.
- B. The Animal Control Officer shall have all of the powers of a field driver and pound keeper, as provided in MGL c. 49, §§ 22 to 41, and the authority to take up stray beasts as provided in MGL c. 134 and any other enabling authority relative thereto. The Animal Control Officer shall be responsible for the taking up, confinement, and disposition of wild animals which are disturbing the public peace or providing a threat to public safety.
- C. The Animal Control Officer shall coordinate and cooperate, as necessary, with the various humane societies that are active in Braintree and the surrounding area.

ANIMAL INSPECTOR

Chapter 2.510

ANIMAL INSPECTOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Animal Control Officer — See Ch. 2.505.

Animals — See Title 6.

2.510.010. Establishment.

The Mayor shall, annually, appoint an Animal Inspector, whose name shall be forwarded to the Commonwealth of Massachusetts Director of Animal Health (see MGL c. 129, § 15). When deemed to be in the best interests of the Town, the Animal Inspector may also be a Town officer or employee performing related duties.

2.510.020. Compensation.

The Animal Inspector shall not receive a salary for these services.

2.510.030. Powers, in general.

The Animal Inspector shall make regular and thorough inspections of all cattle, sheep, swine and other domesticated animals within the limits of the Town, and, if he/she knows or has reason to suspect any are infected with or have been exposed to any contagious disease, he/she may order their quarantine. The Animal Inspector shall have all of the other powers, duties and responsibilities given to animal inspectors by MGL c. 129, §§ 15 to 25.

BRAINTREE CODE

Chapter 2.515

DEPUTY ASSESSOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Assessors — See Ch. 2.710.

2.515.010. Establishment.

There shall be a Deputy Assessor, appointed by the Director of Municipal Finance, with the consent of the Mayor. (See Charter Section 5-4.)

2.515.020. Powers and duties, in general.

- A. The Deputy Assessor shall cause to be appraised real and personal property in the Town, perform field measurements and inspections of residential and commercial buildings, including new buildings, additions, major alterations, demolition and partial construction.
- B. The Deputy Assessor shall cause to be inspected land and land changes resulting from map changes, deed transfers and subdivision changes, and using appropriate appraisal techniques, make estimates of market value of said properties.
- C. The Deputy Assessor shall keep apprised of all deed transfers, check deeds for change of ownership, and adjust Town property records to reflect such transfers
- D. The Deputy Assessor shall maintain records on permanent properties, including collected data and calculated cost with depreciation, current market and assessed valuation considered.
- E. The Deputy Assessor shall keep a record of abatements as granted by the Board of Assessors and prepare all certificates of abatement to be transmitted to the Town Treasurer/Collector, or person performing similar functions.
- F. The Deputy Assessor shall manage the day-to-day activities and personnel of the Assessors' office.
- G. The Deputy Assessor shall mail a letter along with appropriate forms to all commercial property owners by March 1 of each year requesting income and expense information of the property owner.

Chapter 2.520**INSPECTOR OF BUILDINGS AND LOCAL INSPECTORS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter and statutory provisions — See Charter § 5-7 and MGL c. 143, § 3.

2.520.010. Establishment.

There shall be an Inspector of Buildings, who shall be appointed by the Director of Municipal Licenses and Inspections, with the consent of the Mayor, and work under the direct control and supervision of the Director of Municipal Licenses and Inspections or, if the Mayor so specifies, the Director of Municipal Licenses and Inspections shall perform the duties of the Inspector of Buildings. The Director of Municipal Licenses and Inspections may also appoint local inspectors as deemed necessary, with the approval of the Mayor.

2.520.020. Powers and duties, in general.

- A. The Inspector of Buildings shall keep a record of the business conducted by the Town's Building Division, submit to the Mayor a yearly report of such business, ascertain all facts and make all returns which shall be required by law.
- B. The Inspector of Buildings and any local inspectors hired to assist the Inspector of Buildings shall administer and enforce the State Building Code, as well as MGL c. 22, § 13A, as well as the rules and regulations made thereunder pertaining to accessible design standards, and the Town's Zoning Ordinances.²⁸
- C. Pursuant to MGL c. 40A, § 7, and the Town's Zoning Ordinances, the Inspector of Buildings shall serve as the Town's Zoning Enforcement Officer.
- D. The Town Clerk shall annually, not later than April 1, transmit to the State Board of Building Regulations and Standards, in writing, the name and official address of each Inspector of Buildings and each local inspector in the Town.
- E. Every Inspector of Buildings or local inspector shall be certified by the Board of Building Regulations and Standards in accordance with regulations promulgated by said Board.
- F. The Inspector of Buildings and local inspector shall enter upon the premises wherein any fire has occurred, if necessary, to determine whether the structure is sound.
- G. The Inspector of Buildings and local inspectors shall supervise the construction of all buildings erected by the Town, including any repairs and alterations to any building under the care and custody of the Town, to insure the project complies with plans and specifications, unless the Mayor shall designate an independent construction supervisor for a specific project.

28. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

2.520.020

BRAINTREE CODE

- H. In consultation with the Town Solicitor, the Inspector of Buildings shall have the authority to issue citations and prosecute violations of the Town's Zoning Ordinances, violations under MGL c. 40A, and violations under the State Building Code.
- I. The Inspector of Buildings shall keep or cause to be kept a complete record of the acts and business of the Department, including a full and accurate account of all receipts collected and expenditures, which shall at all times be subject to inspection by the Mayor, Director of Municipal Finance and Auditor.

2.520.030. Stretch Energy Code. [Added 10-1-2019 by Order No. 19-031]

- A. For the purpose of regulating the design and construction of buildings for the effective use of energy, building permits that are required by the State Building Code, 780 CMR, shall conform as well to Appendix 115. AA to said State Building Code, entitled "Stretch Energy Code," including future editions, amendments, or modifications thereto.
- B. This section shall take effect on January 1, 2020.

DIRECTOR OF FACILITIES AND EQUIPMENT

Chapter 2.530

DIRECTOR OF FACILITIES AND EQUIPMENT

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.530.010. Establishment.

There shall be a Director of Facilities and Equipment, who shall be appointed by the Director of Public Works, with the consent of the Mayor.

2.530.020. Powers and duties, in general.

- A. The Director of Facilities and Equipment shall oversee all maintenance and internal construction, repairs and renovations undertaken by the Town on all buildings under the care and custody of the Town, including maintenance, repairs and renovations to the electrical, security, plumbing, heating, and air-conditioning systems of any Town building, as well as external components of said buildings, including but not limited to sidewalks, walkways, ramps, parking lots, and entrances.
- B. The Director shall direct, supervise and assign all custodians and caretakers of Town buildings relative to the daily care and maintenance of such buildings and the preparations and cleaning of rooms within the buildings before and after meetings and elections.
- C. The Director shall regularly inspect and keep himself acquainted with the condition of each building under the care and custody of the Town, shall employ suitable mechanics and specialists to make alterations and repairs when necessary and when authorized by the Mayor, and shall render such other service in relation to such buildings as shall properly belong to his/her office.
- D. Through the Director of Public Works, the Director shall provide an annual report to the Mayor on the condition and capital needs of all Town buildings and Town equipment.
- E. The Director shall oversee all maintenance and repairs of all Town equipment, including motor vehicles, special or heavy motor equipment, and other similar equipment, undertaken by the Town on all equipment owned by the Town.
- F. The Director shall direct, supervise and assign all mechanics relative to the care and maintenance of all Town equipment.
- G. The Director or his/her designee shall insure that each Town building is properly secured, locked, or alarmed each night and weekend.
- H. The Director shall, subject to the approval of the Mayor and any applicable collective bargaining agreement, make reasonable rules and regulations relative to the duties of the custodians and caretakers as convenience or necessity may require.

BRAINTREE CODE

Chapter 2.550

FENCE VIEWERS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053.

Amendments noted where applicable.]

2.550.010. Establishment, term of office.

The Mayor shall, annually, appoint two or more Fence Viewers, who shall serve an indefinite term, or the Mayor may assign duties to the Inspector of Buildings.

2.550.020. Compensation.

The Fence Viewer shall not receive a salary for these services.

2.550.030. Powers and duties, in general.

The Fence Viewers shall be responsible for the enforcement of MGL c. 49 relative to the erection and maintenance of partition fences.

FIRE CHIEF AND FIRE DEPARTMENT

Chapter 2.560

FIRE CHIEF AND FIRE DEPARTMENT

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.560.010. Establishment.

The Fire Department shall consist of the Chief and as many Deputy Chiefs, Captains, Lieutenants and firefighters as are deemed necessary by the Mayor, after consulting with the Fire Chief. The Mayor shall appoint the Fire Chief, and all other firefighters, Lieutenants and Captains shall be appointed by the Fire Chief with the consent of the Mayor.

2.560.020. Powers and duties, in general.

- A. The Fire Chief shall have full charge of extinguishing fires and the protection of life and property in case of fire. The Chief shall have absolute command over all members of the Fire Department and of other persons present at a fire.
- B. The Fire Chief shall be in immediate control of all Town property used by the Fire Department in extinguishing fires and shall direct and supervise all firefighters and subordinates.
- C. Except as otherwise limited by the Charter and this chapter, the Fire Chief shall oversee the administration of the Fire Department and shall, subject to the approval of the Mayor, make all rules and regulations for its operation.
- D. The Fire Chief shall be responsible for the discipline and proper conduct of the firefighters and officers of the Fire Department and shall be in control of the several fire stations and apparatus.
- E. The Fire Chief shall annually submit to the Mayor a detailed report of the condition of the Fire Department, including its stations and apparatus. The report shall include detail of all fires, losses and accidents by fires, noting the determined causes of each fire, if such cause can be ascertained, a description of the buildings and other property damaged or destroyed by fire, the status of insurance coverage, and the names of the property owners.
- F. The Fire Chief shall have full charge of the operation of the fire alarm signal system and shall assign such members of the Fire Department to test, monitor and oversee the system.
- G. No fire apparatus shall be taken out of the Town without the permission of the Fire Chief or his/her designee, except pursuant to an existing mutual aid agreement or for repairs of the apparatus.
- H. Subject to the approval of the Mayor, the Fire Chief shall set fees for all licenses, permits, and inspections to be procured from or conducted by the Fire Department. All fees established by the Fire Chief shall be consistent with state law.
- I. Any fees or regulations established by the Fire Chief pursuant to this chapter shall be posted on a bulletin board at each fire station, on a bulletin board at Town Hall, on the Town's official website, and shall be published once in a newspaper in general circulation within the Town.

BRAINTREE CODE

Chapter 2.570

HARBORMASTER

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.570.010. Establishment.

The Mayor shall appoint a Harbormaster and any Assistant Harbormasters as the Mayor deems necessary. (See MGL c. 102, § 19.) When deemed to be in the best interests of the Town, the Harbormaster or Assistant Harbormaster may also be a Town officer or employee performing related duties.

2.570.020. Compensation.

The Harbormaster and any Assistant Harbormasters shall serve without compensation, but, subject to appropriation and the approval of the Mayor, they shall be eligible for reimbursement for their actual and necessary expenses incurred in the performance of their duties.

2.570.030. Powers and duties, in general.

- A. The Harbormaster shall be responsible for the operation and permitting of all vessels and the location of all moorings in the harbor in conformity with MGL c. 102, §§ 17 to 28, and all Town ordinances adopted in relation to the harbor.
- B. The Harbormaster may, subject to the approval of the Mayor, set fees and make reasonable rules and regulations regarding the operation and permitting of vessels in the harbor. Any fees or regulations established by the Harbormaster pursuant to this chapter shall be posted on a bulletin board at Town Hall, on the Town's official website, and shall be published once in a newspaper in general circulation within the Town.²⁹

29. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

DIRECTOR OF PUBLIC HEALTH

Chapter 2.575

DIRECTOR OF PUBLIC HEALTH

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Health — See Ch. 2.750.

2.575.010. Establishment.

Unless some other provision is made by the Charter, by ordinance or through a reorganization plan filed by the Mayor, there shall be a Director of Public Health, who shall be appointed by the Board of Health, pursuant to MGL c. 111, § 27. Pursuant to the Reorganization Plan filed by the Mayor on May 1, 2008, the powers and duties of the Director of Public Health are consolidated with and performed by the Director of Municipal Licenses and Inspections, who shall be appointed by the Mayor for an indefinite term.

2.575.020. Powers and duties, in general.

- A. The Director of Public Health shall be responsible for the performance of all public health related functions and activities of the Town and shall coordinate the local public health program with programs conducted by the commonwealth and with other municipalities.
- B. The Director of Public Health shall be responsible for the enforcement within the Town of all state laws and regulations pertaining to public health and Town ordinances, rules and regulations affecting the public health.³⁰

30. Editor's Note: Original § 2.575.020C, regarding powers assigned to boards of health, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1.10, Adoption of Code).

BRAINTREE CODE

Chapter 2.585

INSPECTOR OF GAS PIPING AND GAS APPLIANCES

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.585.010. Establishment.

With the consent of the Mayor, the Director of Municipal Licenses and Inspections shall appoint an Inspector of Gas Piping and Gas Appliances who shall be a licensed plumber or a licensed gas fitter. (See MGL c. 143, § 30.)

2.585.020. Powers and duties, in general.

- A. The Inspector of Gas Piping and Appliances shall have all of the powers, duties and responsibilities as are given such inspectors by MGL c. 143, § 30.
- B. The Inspector of Gas Piping and Appliances shall be responsible for the enforcement of the rules and regulations for gas piping and gas appliances pursuant to the State Plumbing Code, the State Building Code, and any regulations adopted by the Department of Public Safety.
- C. The Inspector of Gas Piping and Gas Appliances shall issue permits for the installation of containers of liquefied petroleum gas, and he/she shall inspect such installation and the regulating equipment used in connection therewith. The Inspector shall notify the Fire Chief of each permit so issued and the location of each container of liquefied petroleum gas installed thereunder.

LIBRARY DIRECTOR

Chapter 2.590

LIBRARY DIRECTOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Library Trustees — See Ch. 2.765.

2.590.010. Establishment.

There shall be a Library Director appointed by the Thayer Public Library Board of Trustees.

2.590.020. Powers and duties, in general.

- A. The Library Director shall be in full charge of the public library and any of its branches as may from time to time be established.
- B. The Library Director shall oversee the daily operations of the library and shall direct and supervise all personnel assigned to the library.
- C. The Library Director shall oversee the purchase or other acquisition of all books, periodicals, art objects and every other item or thing contained in the library collection.
- D. The Library Director shall be responsible for the care and custody of all library facilities and shall procure all equipment for the library operations.
- E. The Library Director shall prepare and monitor an annual budget for the public library.
- F. The Library Director shall take all actions necessary and shall advise the Board of Library Trustees of any action required to ensure that the library maintains its certification from the State Board of Library Commissioners.

BRAINTREE CODE

Chapter 2.595

PARKING CLERK

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.595.010. Establishment.

The Mayor shall designate or appoint a Parking Clerk, pursuant to MGL c. 90, § 20A, who shall report to and serve under the direction of the Director of Municipal Finance. The Treasurer/Collector may serve as the Parking Clerk, as specified by the Mayor.

2.595.020. Powers and duties, in general.

The Parking Clerk shall supervise, coordinate the processing of parking notices in the Town, hear appeals from parking violations, and exercise any duties specified by MGL c. 90, §§ 20A to 20E.

PLUMBING INSPECTOR

Chapter 2.600

PLUMBING INSPECTOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.600.010. Establishment.

With the consent of the Mayor, the Director of Municipal Licenses and Inspections shall appoint a Plumbing Inspector, who shall be a practical plumber and shall have had practical experience either as master or journeyman plumber. The Director of Municipal Licenses and Inspections may appoint a Plumbing Inspector who shall also be and serve as Inspector of Gas Piping and Gas Appliances, if so qualified.

2.600.020. Powers and duties, in general.

- A. The Plumbing Inspector shall be responsible for the enforcement of all rules and regulations regarding the installation, alteration and repair of all plumbing in the Town.
- B. The Plumbing Inspector, or Plumbing Inspector serving as the Inspector of Gas Piping and Gas Appliances, shall inspect all plumbing or gas fitting, as the case may be, in the process of construction, alteration or repair for which permits are granted within the Town and shall report to the Director of Municipal Licenses and Inspections all violations of any law, ordinance, bylaw, rule or regulation relative to plumbing or gas fitting.³¹
- C. The Plumbing Inspector or Inspector of Gas Piping and Gas Appliances shall not engage in or work at the business of plumbing or gas fitting; provided, however, that such an inspector may perform the work of a journeyman plumber or gas fitter outside the area over which he/she exercises jurisdiction as an inspector.³²

31. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

32. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

BRAINTREE CODE

Chapter 2.610

POLICE CHIEF AND POLICE DEPARTMENT

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.610.010. Establishment.

The Mayor shall appoint a Chief of Police and all sworn personnel of the Police Department, subject to the Civil Service Law and Rules.

2.610.020. Powers and duties, in general.

- A. The Chief of Police shall exercise all powers and duties conferred upon such office by MGL c. 41, § 97A.
- B. The Chief of Police shall be in immediate control of all Town property used by the Department, and of the police officers, whom he/she shall assign to their respective duties and who shall obey his/her orders.
- C. The Police Department shall have full charge of keeping the peace and the enforcement of all laws within the Town.
- D. The Chief of Police shall from time to time make suitable regulations governing the Police Department, and the officers thereof, subject to the approval of the Mayor, provided that such regulations shall become effective without such approval upon the failure of the Mayor to take action thereon within 30 days after they have been submitted to him/her by the Chief of Police.³³
- E. The Chief of Police shall be responsible for the enforcement of all laws and Town ordinances and to receive complaints regarding the enforcement of same. The Chief of Police shall cause proceedings to be instituted for the prosecution of all such violations of law or ordinance.
- F. The Chief of Police and police officers shall report immediately to the Director of Public Works any defects or obstructions in any streets, ways, squares, or public grounds of the Town which they may discover or which are reported to them.³⁴
- G. The Chief of Police and police officers shall report immediately to the proper department director or board all nuisances, obstructions, sources of filth or danger and causes of sickness which they may discover or which are reported to them.
- H. The Chief of Police shall keep or cause to be kept a complete record of the acts and business of the Police Department, including a full and accurate account of all receipts collected and expenditures, which shall at all times be subject to inspection by the Mayor, Director of Municipal Finance and Auditor.
- I. The Chief of Police shall keep or cause to be kept a complete record of each arrest and incident report and shall be responsible for the records of all prisoners.

33. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

34. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

PURCHASING AGENT

Chapter 2.615

PURCHASING AGENT

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.615.010. Establishment.

The Mayor may appoint a Purchasing Agent, pursuant to MGL c. 41, § 103. The Purchasing Agent shall also serve as the Chief Procurement Officer for the Town. The Director of Municipal Finance may perform the duties of the Purchasing Agent, as directed by the Mayor.

2.615.020. Power and duties, in general.

The Purchasing Agent shall purchase all supplies for the Town and for every department, except in the case of an emergency, in which case the department may procure the necessary services or supplies, as approved by the Mayor. The Purchasing Agent shall ensure that all purchases for goods, services, materials, equipment, designers, construction, and public works projects comply with the provisions of MGL c. 7, 30, 30B and 149, as applicable. The Purchasing Agent shall maintain a record of each bid, solicitation, contract and invoice.

BRAINTREE CODE

Chapter 2.620

SEALER OF WEIGHTS AND MEASURES

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.620.010. Establishment.

The Director of Municipal Licenses and Inspections may, with the consent of the Mayor, appoint a Sealer of Weights and Measures, pursuant to MGL c. 98, § 34.

2.620.020. Powers and duties, in general.

- A. The Sealer of Weights and Measures shall test, adjust and seal all devices used for the weighing and measuring of commodities and shall be responsible for the enforcement of all laws relating to weights and measures.
- B. The Sealer of Weights and Measures shall enforce the law pertaining to weighing and measuring devices and to the giving of false or insufficient weight or measure.
- C. The Sealer of Weights and Measures shall be certified by the Division of Standards within one year after assuming this position and shall participate in continuing education programs relative to these duties.
- D. The Sealer of Weights and Measures shall collect the fees and charges which he/she is allowed to receive for services rendered and shall forthwith pay over to the Treasurer/Collector all sums so received.
- E. At the time of sealing, the Sealer of Weights and Measures shall furnish the owner of the articles sealed a certificate signed by him, stating the name and address of the owner of the article so sealed, the date when sealed and the amount of fee collected.
- F. The Sealer of Weights and Measures shall keep a detailed record of all work performed, all official services rendered, and all money and fees collected or expended by him.

Chapter 2.630**TREASURER/COLLECTOR**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.630.010. Establishment.

There shall be a Treasurer/Collector appointed by the Director of Municipal Finance, with the consent of the Mayor.

2.630.020. Powers and duties, in general.

- A. The Treasurer/Collector shall have all the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred or imposed by law on Town Treasurers and Collectors.
- B. The Treasurer/Collector shall furnish a bond annually for the faithful performance of his/her duties in a form approved by the Commissioner of Revenue and in such sum, not less than the amount established by said Commissioner, as shall be fixed by the Mayor. The bond required shall cover the duties of the Treasurer/Collector with respect to trust funds and funds of retirement systems which are in his/her custody by virtue of his/her office, and any such funds, for the purposes of said bond, shall be deemed to be public funds.
- C. The Treasurer/Collector shall receive and take charge of all money belonging to the Town, and pay over and account for the same according to the order of the Town or of its authorized officers. The Treasurer/Collector shall have the authority given to an auditor by MGL c. 41, § 51, and shall annually render a true account of all his/her receipts and disbursements and a report of his/her official acts.
- D. The Treasurer/Collector shall keep cash balances of all accounts, funds, and money belonging to or held by the Town, in trust or otherwise, on deposit in a bank, and such balances shall be deposited at interest so far as is consistent with financial safety. The Treasurer/Collector shall solicit bids for the deposit of Town funds for any period but shall not be required to accept any bid submitted.
- E. The Treasurer/Collector shall cause all books, vouchers, papers, and documents under his/her care and belonging to the Town to be deposited and kept in a fireproof vault or safe.
- F. The Treasurer/Collector shall receive and have care and custody of all funds and moneys of the Town which are not otherwise provided for by law or ordinance, and also of all other funds, securities and property which are committed to his/her charge by virtue of law, ordinance, gift, devise, bequest, or deposit.
- G. The Treasurer/Collector shall keep true and accurate accounts of all receipts and expenditures, such accounts to conform to uniform system of accounting, as approved by the Department of Revenue.
- H. The Treasurer/Collector shall pay all drafts, orders and warrants directed to him/her in accordance with the provisions of these ordinances and any statute for the payments of bills, accounts, and claims against the Town and shall, on presentation, pay any sum of money due.
- I. The Treasurer/Collector shall collect and receive all rents and assessments due the Town, and all bills, claims, accounts and other demands against all persons indebted to the Town, when such bills, claims, accounts and other demands are delivered to him/her for collection. For the purpose of such

collection, the Treasurer/Collector is authorized to bring suit in the name of the Town.

- J. The Treasurer/Collector shall, immediately upon completion and delivery of the tax lists by the Assessors, proceed to issue tax bills to all persons assessed to be mailed to the persons assessed, as required by statute.
- K. For all taxes remaining unpaid on the day they are required to be paid, the Treasurer/Collector shall issue to the person owing such taxes a demand for the payment of same. If such tax remains unpaid at the expiration of time required in the demand notice, the Treasurer/Collector shall proceed to collect the tax, together with the interest and charge for the service of the demand, in the manner provided by statute.
- L. Notwithstanding any other provisions of any general or special law, the Treasurer/Collector shall collect all accounts due to the Town, including but not limited to water and sewer fees and trash collection fees, but excluding any amounts due to the Braintree Electric Light Department.
- M. The Treasurer/Collector shall have all the powers relative to the collection of said amounts due as may be conferred by general law, including the remedies provided by MGL c. 60, §§ 35, 36, and 93.

2.630.030. Assistant Treasurer/Collector.

The Treasurer/Collector shall, with the approval of the Director of Municipal Finance, appoint an Assistant Treasurer/Collector, who shall assist the Treasurer/Collector in the performance of his/her duties and who shall perform all of the duties of the Treasurer/Collector in his/her absence. The Assistant Treasurer/Collector shall be sworn to the faithful performance of office and shall give a bond to the Town in a sum as set by the Mayor.

TREE WARDEN

Chapter 2.635

TREE WARDEN

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.635.010. Establishment.

The Director of Public Works, or his/her designee, shall perform the duties of Tree Warden.

2.635.020. Powers and duties, in general.

- A. The Tree Warden shall have the care and control of all public shade trees, shrubs and growths in the Town, except those within a state highway. The Tree Warden shall enforce all provisions of law relative to the protection and preservation of shade trees, pursuant to MGL c. 87.
- B. The Tree Warden may make such rules and regulations, not inconsistent with statute, relative to the preservation and protection of public shade trees, shrubs and growths in the Town, subject to the approval of the Mayor and Director of Public Works, as may be deemed necessary and expedient.
- C. The Tree Warden shall enforce all provisions of these ordinances, statutes and regulations pertaining to public shade trees, shrubs and growths in the Town, and prosecute violations thereof in the name of the Town.
- D. The Tree Warden shall keep accurate and complete accounts of all official acts, receipts, and expenditures.

BRAINTREE CODE

Chapter 2.640

VETERANS' SERVICES DIRECTOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.640.010. Establishment.

There shall be a Veterans' Services Director, who shall be appointed by the Mayor, pursuant to MGL c. 115, § 10, and work under the general direction of the Human Resources Director.

2.640.020. Powers and duties, in general.

- A. The Veterans' Services Director shall furnish information, advice and assistance to veterans relative to employment, vocational education, hospitalization, medical care, pensions and other benefits to which they are or may be entitled.
- B. The Veterans' Services Director shall also serve as the Burial Agent and Graves Officer, who shall be responsible to see that every veteran's grave is suitably kept and cared for, in accordance with MGL c. 115, § 9.

WIRE INSPECTOR

Chapter 2.645

WIRE INSPECTOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.645.010. Establishment.³⁵

The Director of Municipal Licenses and Inspections shall, with the consent of the Mayor, appoint a Wire Inspector, pursuant to MGL c. 166, § 32. Said Inspector shall be a licensed electrician.

2.645.020. Powers and duties, in general.

- A. The Wire Inspector shall supervise every wire over or under streets or buildings in the Town and every wire within or supplied from buildings and structures subject to the provisions of MGL c. 143 and the State Building Code, except wires within a manufactured building or building component as defined in the State Building Code and inspected in accordance with rules and regulations promulgated by the State Board of Building Regulations and Standards.³⁶
- B. The Wire Inspector shall notify the person owning or operating any such wire whenever its attachments, insulation, supports or appliances are improper or unsafe, or whenever the tags or marks thereof are insufficient or illegible, shall remove every wire not tagged or marked as hereinbefore required, and shall see that all laws and regulations relative to wires are strictly enforced.

35. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

36. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 2.700**OTHER MULTIPLE MEMBER BODIES**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.700.010. Standard provisions for other officials and multiple member bodies.

- A. Standing multiple member bodies. This chapter describes all current standing multiple member bodies of the Town. The Town Council may establish additional standing multiple member bodies of the Town, upon the request of the Mayor, by the enactment of an ordinance amending this chapter and creating said standing multiple member body. All ordinances establishing standing multiple member bodies shall specify the following: membership, term of office, appointing authorities and responsibilities.
- B. Committees of the Town Council. The Town Council may from time to time, by vote, establish advisory multiple member bodies to assist it in carrying out its legislative responsibilities. Whenever the Town Council establishes such a committee it shall, in writing, advise the Mayor it has done so, including in such notice the names and addresses of the persons appointed.
- C. Committees of the Mayor. The Mayor may from time to time establish advisory multiple member bodies to assist the office of the Mayor in carrying out its executive and administrative responsibilities. Whenever the Mayor establishes such a committee the office of the Mayor shall, in writing, advise the Town Council it has done so, including in such notice the names and residence addresses of the persons appointed, for such action as the Town Council deems necessary or advisable in accordance with Charter Section 2-10.
- D. Town residency required. Unless some other provision is made in a general or special law, by Charter, or by ordinance, all members of multiple members bodies shall at all times be residents of the Town of Braintree; provided, however, that nonresidents who hold a Town office or Town employment may serve as a member of a multiple member body as a representative of the Town office or Town employment held. Any person who during the term of office as a member of a multiple member body removes from the Town and becomes a resident of another municipality shall be deemed to have resigned as a member of the multiple member body.
- E. Limitations of authority. Unless some other provision is made in this chapter, a multiple member body shall not have any power or authority over any of the day-to-day activities of the agency or department within which it serves but shall be advisory only.³⁷
- F. Compensation. Unless some other provision is made in this chapter, all members of multiple member bodies shall serve without compensation. Subject to appropriation and to prior authorization by their appointing authority, members of multiple member bodies may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

2.700.020. Organization of multiple member bodies.

- A. Except as otherwise provided by these ordinances, as soon as possible following the first day of business in each January, each multiple member body shall elect from its membership a chair, vice chair and clerk. Multiple member bodies may further elect a treasurer and such other officer or

37. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

2.700.020

OTHER MULTIPLE MEMBER BODIES

officers as are deemed necessary or as may be required by statute. Each multiple member body shall, forthwith following its annual organization and election of officers, file a report in the office of the Town Clerk on a form approved by the Town Clerk.

- B. The chair shall preside over all meetings of the multiple member body and shall be its official representative in all proceedings before the Town Council, with the Mayor, with other officials of the Town and with the public. The vice chair shall perform the chair's functions, in the absence of the chair.
- C. The clerk shall be responsible for the certification of the minutes of the meetings of the multiple member body, observance of the Public Records Law and the Open Meeting Law,³⁸ and maintenance of other records of the multiple member body. In addition to the records required to be kept by MGL c. 66, § 5A, the clerk shall, quarterly, prepare a statistical summary of the attendance record of each member of the multiple member body, a copy of which shall be filed with the Town Clerk and a copy of which shall be filed with the Mayor.

2.700.030. Time and place of meetings.

The clerk of each multiple member body shall be responsible for notifying the Town Clerk and the Mayor of the regularly scheduled meetings and all special meetings. The notification shall also include the location where each meeting will be held. The clerk shall also file a notice of the time and place of each meeting with the Town Clerk, who shall ensure posting of all meeting schedules, consistent with the Open Meeting Law.

2.700.040. Authority to establish subcommittees.

Each multiple member body may, by a majority vote of its membership, establish a subcommittee for the purpose of addressing a particular issue or issues. A report of the activities of any such subcommittee shall regularly be made to the full multiple member body. Each subcommittee so established shall observe laws relevant to the keeping of public records, the Open Meeting Law, and any other laws as prescribed by the Charter, by ordinance or by state law.

2.700.050. Filing of minutes.

Copies of the minutes of all meetings of all multiple member bodies shall be filed with the Town Clerk. The minutes of all executive sessions of multiple member bodies shall be filed with the Town Clerk as soon as possible following the date the minutes of those meetings have been made public. This filing of minutes of meetings with the Town Clerk is for the convenience of the public. Such filing shall not be construed to be the official records of the multiple member body. The official records shall continue to be maintained in the custody of the person designated pursuant to MGL c. 66, § 6.

38. Editor's Note: See MGL c. 66, Public Records, and MGL c. 30A, §§ 18 to 25.

BRAINTREE CODE

Chapter 2.705

ZONING BOARD OF APPEALS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.705.010. Establishment.

The Mayor shall appoint, subject to the review of the Town Council, three regular voting members and two associate members to the Zoning Board of Appeals. The Mayor shall strive to appoint a suitable mix of professional experience or educational background compatible with fulfilling the role of the Zoning Board of Appeals.

2.705.020. Term of office.

The term of office for members of the Zoning Board of Appeals shall be indefinite.

2.705.030. Powers, in general.

- A. The Zoning Board of Appeals shall hear and decide petitions brought by persons seeking relief from the Town's Zoning Ordinances and from relevant provisions of MGL c. 40A.
- B. The Zoning Board of Appeals shall hear and decide all applications for comprehensive permits, pursuant to MGL c. 40B.
- C. The Zoning Board of Appeals shall act as the permit granting authority pursuant to the Town's Zoning Ordinances, and as a special permit granting authority, if the Zoning Ordinances so provide.
- D. The Zoning Board of Appeals may adopt policies and procedures relative to the conduct of hearings and its administration of MGL c. 40B.

BOARD OF ASSESSORS

Chapter 2.710

BOARD OF ASSESSORS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Deputy Assessor — See Ch. 2.515.

2.710.010. Establishment.

There shall be a Board of Assessors which shall consist of three members, all of whom shall be appointed by the Mayor, subject to the review of the Town Council. The Mayor shall designate one member to serve as the Chair of the Board, and the members shall elect a Vice Chair and Clerk.

2.710.020. Term of office.

The term of office for the Board of Assessors shall be indefinite.

2.710.030. Compensation.

The Board of Assessors shall receive an annual salary, which shall be paid in monthly installments. The annual salaries are as follows:

- A. Chair: \$3,500.³⁹
- B. Remaining members: \$2,500.

2.710.040. Powers, in general.

- A. The Board of Assessors shall, annually and in accordance with the General Laws and the recommendations of the Department of Revenue, make a fair cash valuation of all of the estate, both real and personal, subject to taxation within the Town.
- B. The Board of Assessors shall, annually, provide to the Mayor and Town Council its recommendations regarding the percentage of the local tax levy to be borne by each class of property.
- C. The Board of Assessors shall annually determine the annual tax rate necessary to meet all sums voted by the Town.
- D. The Board of Assessors shall hear and decide all questions relating to the abatement of taxes levied by it.
- E. The Board of Assessors shall have all of the other powers, duties and responsibilities given to boards of assessors by MGL c. 59.

39. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 2.715**COMMUNITY PRESERVATION COMMITTEE**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Commission — See Ch. 2.720.

Housing Authority — See Ch. 2.760.

Historical Commission — See Ch. 2.755.

Planning Board — See Ch. 2.770.

2.715.010. Establishment.

- A. There shall be a Community Preservation Committee consisting of at least five and no more than nine members and shall include, but not be limited to:
- (1) One member of the Conservation Commission established under MGL c. 40, § 8C, as designated by the Commission;
 - (2) One member of the Historical Commission established under MGL c. 40C and MGL c. 40, § 8D, as designated by the Commission;
 - (3) One member of the Planning Board established under MGL c. 41, § 81A, as designated by the Board;
 - (4) One member of the Recreation Advisory Commission established under Chapter 482 of the Acts of 2008, as designated by the Commission;⁴⁰
 - (5) One member of the Housing Authority established under MGL c. 121B, § 3, as designated by the Authority; and
 - (6) The remaining four members, if appointed, shall be appointed by the Mayor.
- B. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority stated above who have appointing authority under this chapter, the Mayor shall designate a person to serve on the Committee. The Mayor shall appoint one member to serve as Chair, and the members shall select a Vice Chair and Clerk.

2.715.020. Powers, in general.

- A. The Community Preservation Committee shall study the needs, possibilities, and resources of the Town regarding community preservation. The Committee shall consult with the Mayor, existing municipal boards, including the Conservation Commission, the Historical Commission, the Director of Planning and Community Development, the Planning Board, the Recreation Advisory Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall annually hold one or more public informational hearings on the needs, possibilities, and resources of the Town regarding community

40. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town and posted on the Town's official website. The Community Preservation Committee shall meet as necessary to carry out its duties, but in any fiscal year shall hold no fewer than three meetings.

- B. On or before November 1 and May 1 of each year, the Committee shall make recommendations to the Mayor, who shall submit requests to the Town Council for the acquisition, creation, and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use, and community housing that is acquired or created pursuant to this chapter. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- C. The Committee may include in its recommendation to the Mayor, who shall submit it to the Town Council, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- D. For the purposes of community preservation and upon the recommendation of the Committee, the Town may take by eminent domain under MGL c. 79 the fee or any lesser interest in real property or waters located in the Town if such taking has first been approved by a two-thirds vote of the Town Council. Upon a like recommendation and vote, the Town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which the Town may be liable by reason of a taking for the purposes of community preservation.
- E. The Committee may recommend the issuance of general obligation bonds or notes, in accordance with the provisions of MGL c. 44B, § 11, in anticipation of revenues to be raised pursuant to the provisions of MGL c. 44B, § 3, the proceeds of which shall be deposited in the Community Preservation Fund.
- F. In every fiscal year, the Committee shall recommend to the Mayor and the Town Council that the Town either spend or set aside for later spending not less than 10% of the annual revenues in the Community Preservation Fund for each of the following: open space (not including land for recreational use); historic resources; and community housing.
- G. All recommendations submitted to the Town Council shall include the anticipated costs thereof in accordance with the submission requirements established by the Committee.
- H. No appropriation shall be made from the Community Preservation Fund without the approval of the Town Council.
- I. The Committee shall submit to the Mayor, who shall submit to the Town Council, by May 1 of each year, an annual administrative and operating budget for the Committee for the next fiscal year, which shall not exceed 5% of that year's estimated annual Community Preservation Fund revenues.

2.715.030. Quorum and voting.

A majority of the members shall constitute a quorum for purposes of convening a meeting and conducting the business of the Committee. The Committee shall approve its actions by a majority vote of the

Committee.

2.715.040. Severability.

In the event that any part of this chapter is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, the remainder of this shall continue in full force and effect.

Chapter 2.720**CONSERVATION COMMISSION**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Wetlands — See Ch. 12.20.

2.720.010. Establishment.

The Mayor shall appoint a Conservation Commission, consisting of at least five but not more than seven members, who shall exercise the powers provided in MGL c. 40, § 8C. The Mayor shall designate one member to serve as the Chair of the Commission, and the members shall select a Vice Chair and Clerk.

2.720.020. Term of office.

The members of the Conservation Commission shall serve an indefinite term.

2.720.030. Powers, in general.

- A. The Conservation Commission is established to protect, promote and enhance the quantity and quality of the natural resources within the Town, especially wetlands, wildlife and water resources, through planning, acquisition, land management, regulation, scientific research and public education. The Conservation Commission may conduct research into its local land areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes.
- B. The Commission may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work. Among such plans may be a conservation and passive outdoor recreation plan which shall be, as far as possible, consistent with the Town Master Plan and with any regional plans relating to the area.
- C. The Conservation Commission is responsible for the application of the Town's Wetlands Ordinance⁴¹ and the provisions of MGL c. 131, § 40 in protecting floodplains, water bodies and other wetlands within the Town, and other ordinances and regulations as directed.
- D. The Conservation Commission may adopt policies and promulgate land management plans for properties of the Town held for conservation purposes. Such land management plans shall attempt to integrate certain active and passive public uses while protecting natural resources.
- E. The Conservation Commission may receive gifts, bequests or devises of personal property or interests in real property in the name of the Town, subject to approval of the Mayor.
- F. The Conservation Commission may receive monetary gifts for development of a conservation fund, and expend the same, subject to the General Laws and the approval of the Mayor.

41. Editor's Note: See Ch. 12.20, Wetlands.

- G. The Conservation Commission, as a division of the Department of Planning and Community Development, shall receive staff support from the Department and coordinate activities with the Director of Planning and Community Development.

CONTRIBUTORY RETIREMENT BOARD

Chapter 2.725

CONTRIBUTORY RETIREMENT BOARD

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.725.010. Establishment.

There shall be a Contributory Retirement Board which shall consist of five members. Two members shall be appointed by the Mayor, two members shall be elected by the members in or retired from service of such system from among their number, and the fifth member, who shall not be an employee or retiree or official of the Town, shall be chosen by the other members.

2.725.020. Term of office.

Pursuant to MGL c. 32, § 20, the terms of all members shall be for three years.

2.725.030. Powers, in general.

The Contributory Retirement Board shall have the powers and duties provided in MGL c. 32 relative to municipal retirement boards and shall be responsible for the management of the retirement system for the Town, subject to the requirements of MGL c. 32 and to the oversight of the Commissioner of Public Employee Retirement.

BRAINTREE CODE

Chapter 2.730

COMMISSION ON DISABILITIES

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.730.010. Establishment.

There shall be a Commission on Disabilities, consisting of at least five and no more than nine members, all of whom are appointed by the Mayor. A majority of the persons appointed shall consist of persons with disabilities, one member shall be a member of the immediate family of a person with a disability, and one member shall be either an elected or appointed official of the Town.

2.730.020. Term of office.

The members of the Commission on Disabilities shall serve an indefinite term.

2.730.030. Powers, in general.

- A. The Commission shall support actions to cause the full integration and participation of people with disabilities in the Town.
- B. The Commission shall research local problems of people with disabilities; advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities; coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability; review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said Town as they affect people with disabilities; provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability; and coordinate activities of other local groups organized for similar purposes.⁴²
- C. The Commission may review and offer recommendations about policies, procedures, services, activities and facilities of departments and boards of the Town as they affect people with disabilities.
- D. The Commission shall provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability, and coordinate the activities of other local groups organized for similar purposes.
- E. The Commission may draft rules and regulations concerning disability issues and needs, which shall be submitted to the Mayor for consideration.
- F. The Commission may receive gifts of property, both real and personal, in the name of the Town, subject to the approval of the Mayor and Town Council, such gifts to be managed and controlled by said Commission for the purposes of this section.

42. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

COUNCIL ON ELDER AFFAIRS

Chapter 2.735

COUNCIL ON ELDER AFFAIRS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 2.44 of the Town Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 5-8.

2.735.010. Council established.

There shall be a Council on Elder Affairs which shall coordinate and carry out programs designed to meet the needs of the Town's elderly and aging population in cooperation with programs of the Department of Elder Affairs established under the provisions of MGL c. 6, § 73.⁴³

2.735.020. Appointment of Director.

The Mayor shall appoint a Director of Elder Affairs, who shall serve an indefinite term and shall act as a liaison between the Mayor and the Council on Elder Affairs.

2.735.030. Powers and duties of Director.

The Director of Elder Affairs shall recommend, oversee, coordinate, and carry out educational and social programs designed to meet the needs of the Town's elderly residents, consistent with programs established by the State Department of Elder Affairs.

2.735.040. Council on Elder Affairs Advisory Board.

The Mayor shall appoint a Council on Elder Affairs Advisory Board, which shall consist of at least five and no more than nine members, and shall provide advice and make recommendations relative to programs offered to the Town's elderly residents. The Mayor shall designate a member of the Council on Elder Affairs Advisory Board to serve as Chair, and the members shall select a Vice Chair and Secretary. All members of the Advisory Board shall serve without pay.

2.735.050. Use of identifying information.⁴⁴

The names, addresses, telephone numbers, or other identifying information about elderly persons in the possession of the Council shall not be public records, but the use of these records shall comply with MGL c. 19A, §§ 14 to 24, inclusive, as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

43. Editor's Note: See now MGL c. 19A.

44. Editor's Note: Added at time of adoption of Code (see Ch. 1.10, Adoption of Code).

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Chapter 2.740

DEPARTMENT OF PUBLIC WORKS ADVISORY BOARD

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 2.64 of the Town Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Department of Public Works — See Ch. 2.220.

2.740.010. Establishment.

There shall be a Department of Public Works ("DPW") Advisory Board, consisting of at least five and no more than nine members, all of whom shall be appointed by the Mayor. The Mayor shall designate one member of the Board to serve as Chair. The Board shall elect from its members a Vice Chair and Clerk. All members of the Board shall serve without pay.

2.740.020. Powers, in general.

- A. The Department of Public Works Advisory Board shall review the operations of the DPW and recommend policies and procedures relative to the Department of Public Works for adoption by the DPW Director.
- B. The DPW Advisory Board shall make recommendations to the DPW Director concerning the long-term public works needs of the Town.
- C. The DPW Advisory Board shall conduct hearings and decide requests for abatement of the Town's trash fee and water and sewer bills.
- D. The DPW Advisory Board shall be responsible for holding hearings and deciding violations in accordance with the Town's ordinances regarding water emergencies and conservation of water.
- E. The DPW Advisory Board shall be responsible for granting or revoking, after a hearing, the following permits and licenses:
 - (1) Any permits required for new construction seeking to add flow of more than 440 gallons per day to the Town's sewer system;
 - (2) Revocation, after notice and an opportunity for a hearing, of a contractor's license to work on water and sewer systems in the Town; and
 - (3) Any other permits and licenses pertinent to public works activities as delegated by the Mayor and not contrary to state law.

FAIR HOUSING LIAISON

Chapter 2.745

FAIR HOUSING LIAISON

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Section 5.8.

2.745.010. Establishment.

There shall be a Fair Housing Liaison, who shall be appointed by the Mayor and shall serve without compensation.

2.745.020. Powers, in general.

The Fair Housing Liaison shall:

- A. Identify and coordinate with other Town departments and boards to mobilize Town resources to provide persons now residing in the Town or persons wishing to reside in the Town equal access to housing regardless of race, age, sex, religion, economic status, marital status, national origin, ancestry, or physical or mental disability;
- B. Work closely with the Department of Planning and Community Development, the Housing Authority, the Director of Elder Affairs, monitoring agents designated by any comprehensive permits issued by the Zoning Board of Appeals, and applicable state and federal agencies to facilitate equal access to housing within the Town;
- C. Review and offer comments and recommendations on any housing proposal that may affect equal housing opportunities in the Town;
- D. Develop and monitor the Town's fair housing programs and advise the Mayor on the implementation of said programs;
- E. Serve as the primary contact between the Mayor and any federal, state, regional or local housing agencies or any community development corporation providing housing service to the Town; and
- F. Identify concerns in housing practices in the Town and recommend resolutions to such concerns to the Mayor.

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Chapter 2.750

BOARD OF HEALTH

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Director of Public Health — See Ch. 2.575.

2.750.010. Establishment.

The Mayor shall appoint a Board of Health which shall consist of three members, one of whom shall be a physician. The Mayor shall designate the Chair of the Board of Health, and the members may elect a Vice Chair and Clerk.

2.750.020. Term of office.

(See MGL c. 111, § 26.) The members of the Board of Health shall serve indefinite terms.

2.750.030. Powers, in general.

- A. The Board of Health shall be vested with and exercise all of the powers and duties conferred upon a board of health as provided in the General Laws.
- B. The Board of Health shall administer ordinances and regulations pertaining to and affecting the public health of the Town, including but not limited to establishments serving and preparing food, septic systems, wells, the transportation and disposal of garbage, and other environmental issues generally impacting the public health.
- C. The Board of Health shall have the authority to adopt regulations affecting the public health in the manner provided in MGL c. 111, § 31. Prior to adopting any regulations, the Board of Health shall forward proposed regulations to the Mayor for review and comment.
- D. The Board of Health may grant and revoke permits, grant variances, and seek enforcement of any of its health laws or regulations, in the manner provided in such laws or regulations.⁴⁵

45. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 2.755**HISTORICAL COMMISSION**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 12.12 of the Town Bylaws, which derived from prior code Ch. 24). Amendments noted where applicable.]

2.755.010. Establishment.

- A. There is hereby established a Historic District Commission, adopted in accordance with the provisions of MGL c. 40C, as amended, with all the powers and duties of a Historic District Commission provided under said statute, and to exercise the powers and duties of a Historical Commission in accordance with MGL c. 40, § 8D, as amended. Further, in accordance with the provisions of MGL c. 40C, § 14, the Commission shall hereinafter be titled the "Braintree Historical Commission."
- B. The Mayor shall appoint the Historical Commission which shall consist of no fewer than five nor more than seven members (note: current bylaw provides for seven members), who shall be residents of the Town, and shall be comprised as follows:
 - (1) One member, where possible, from two nominees submitted by the Braintree Historical Society;
 - (2) One member, where possible, from two nominees submitted by the Chapter of the Boston Society of Architects;
 - (3) One member, where possible, from two nominees of the Massachusetts Board of Realtors covering Braintree;
 - (4) One member, where possible, from two nominees admitted to the Massachusetts Bar;
 - (5) Three other members to be appointed by the Mayor.
- C. All members of the Historical Commission shall serve for indefinite terms.

2.755.020. Purpose.

The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

2.755.030. Powers, in general.⁴⁶

- A. The Historical Commission shall review, from time to time, possible additional historic districts and propose, as it deems appropriate, the establishment of additional historic districts or changes in historic districts. The Commission shall report on this activity in the Town annual report at least biennially.
- B. The Historical Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs, including without limitation

46. Note: This section was previously amended ATM 5-17-1999 by Art 24 and ATM 5-14-2002 by Art. 31.

any of those enumerated in this chapter, if the provisions of this chapter do not limit the authority of the Commission with respect thereto, may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of MGL c. 40C.

- C. The Historical Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with the provisions of the Historic District Act, MGL c. 40C, as amended, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purpose.
- D. Pursuant to MGL c. 40C, § 14, the Historical Commission shall have and exercise all of the powers and duties of the historical commission as provided in MGL c. 40, § 8D, and as established under Article 30 of the March 25, 1974 Annual Town Meeting and as amended under Article 12 of the December 9, 1975 Special Town Meeting.

2.755.040. Limitation on powers.⁴⁷

- A. Notwithstanding anything contained in this chapter to the contrary, the authority of the Commission shall not extend to the review of the following categories of buildings or structures or exterior architectural features in the Braintree Town Center Historic District:
 - (1) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level (a change of grade level requires Historical Commission review and approval);
 - (2) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae and similar appurtenances, or any one or more of them;
 - (3) The reconstruction substantially similar in exterior design of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence;
 - (4) Signs of not more than one square foot in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly;
 - (5) Temporary structures or signs, subject however to such conditions as to duration of use, location, lighting, renewal, and similar matters as the commission may reasonably specify.
- B. The authority of the Commission shall be limited to exterior architectural features within a district that are subject to view from designated public streets, public ways, public parks or public bodies of water although other portions of buildings or structures within the district may be otherwise subject to public view.

2.755.050. Hearings.

It is recognized that there may be cases in which the potential for an alteration (as defined in Section 3 of the Historic Districts Act)⁴⁸ affecting the future use of a property may depend on the future receipt of a certificate from the commission and that the uncertainty as to the receipt of a certificate at some future date may be a hardship to a property owner in contemplating an alteration or the sale of the property. In such

47. Note: This section was previously amended ATM 5-14-2002 by Art. 31.

48. Editor's Note: See MGL c. 40C, § 5.

cases, the property owner may at any time request a hearing on the matter, and the Commission shall give the owner a ruling, in writing, on the alteration's status as to appropriateness, nonapplicability or hardship; and the property owner shall have the customary rights of appeal. When the contemplated alteration is to be accomplished, the usual application for a certificate with plans and other required details shall be made.

2.755.060. Appeals.

The appeal procedures for property owners shall be in accordance with Sections 12, 12A and 13 of the Historic Districts Act, MGL c. 40C.

2.755.070. Construal of provisions.

Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair or replacement of any architectural feature within a historic district which does not involve a change in design, material, color, or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this chapter.

2.755.080. Town Center Historic District established.

There is established under the provisions of MGL c. 40C a historic district to be known as the "Braintree Town Center Historic District," which district shall include generally the area of south Braintree center as defined on the map of the proposed Braintree Town Center Historic District Area A, shown as Appendix B in the final report of the Braintree historic district study commission, entitled "Final Report Proposed Braintree Town Center Historic District," a copy of which is on file with the office of Town Clerk, such area being generally bounded on the east by Follette Circle and Bean Drive, Tenney Road, Union Place and Union Street; thence on the north by Hobart Avenue; thence on the west by Tremont Street; and on the south by French's Common; such historic district to comprise the following buildings and objects described by address and by Braintree assessor's plan and plot numbers:

- A. Braintree Town Hall, 1 JFK Memorial Drive, plan 1013, plot 1;
- B. Water Department Building, 2 JFK Memorial Drive, plan 1013, plot 1;
- C. Southworth Library of Thayer Academy, 745 Washington Street, plan 1014, plot 1;
- D. Frothingham Hall of Thayer Academy, 745 Washington Street, plan 1014, plot 1;
- E. Main building of Thayer Academy, 745 Washington Street, plan 1014, plot 1;
- F. Memorial Gymnasium of Thayer Academy on Campus, Hobart Avenue, plan 1014, plot 1;
- G. Glover Building of Thayer Academy, 745 Washington Street, plan 1014, plot 1;
- H. Site of first townhouse, Washington and Union Streets, plan 1004, plot II (partial);
- I. Fire station, 9 Union Place, plan 1005, Plot 29;
- J. Moses French House, 766 Washington Street, plan 1005, plot 7;
- K. General Sylvanus Thayer birthplace, 786 Washington Street, plan 1005, plot 64;
- L. Barn Museum and Library, Tenney Road, plan 1005, plot 78;

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- M. Oak tree, Frederick J. Follette Circle;
- N. Thayer Public Library, 798 Washington Street, plan 1005, plot 61;
- O. French's Common, Washington Street, plan 1013, plot 1;
- P. Site of Former Arnold Tavern, Washington Street and Central Avenue, plan 1014, plot 1;
- Q. Monument Mall, JFK Memorial Drive, plan 1013, plot 1.

Chapter 2.760**HOUSING AUTHORITY**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter and statutory provisions — See Charter § 9-5(e) and MGL c. 121B.

2.760.010. Establishment.

There shall be a Housing Authority, which shall be managed, controlled and governed by five members, appointed or elected as provided in this chapter, of whom three shall constitute a quorum.

2.760.020. Composition; term of office; filling vacancies.

- A. Four members of the Housing Authority shall be elected by the voters of the Town at the regular Town election held in November 2007. The two candidates receiving the highest number of votes at the November 2007 election shall be declared elected to a four-year term. The candidates receiving the third and fourth highest number of votes shall be elected for a two-year term. Thereafter, at each regular Town election, two candidates shall be elected to the Housing Authority for a term of four years.
- B. The fifth member of the Housing Authority shall be appointed by the Commonwealth of Massachusetts Department of Housing and Community Development for an initial term of three years. Thereafter, as the term of the appointed member of the Housing Authority expires, his/her successor shall be appointed, in the same manner and by the same body, for a term of five years from such expiration. (See MGL c. 121B, § 5.)
- C. Membership in a housing or redevelopment authority shall be restricted to residents of the Town.⁴⁹
- D. Vacancies, other than by reason of expiration of terms, shall be filled for the balance of the unexpired term, in the same manner and by the same body stated above. Every member, unless sooner removed, shall serve until the qualification of his/her successor.
- E. As soon as possible after the qualification of the members of a Housing Authority, the Town Clerk shall file a certificate of such appointment and election, as the case may be, with the Department of Housing and Community Development, and a duplicate thereof, in either case, in the office of the Secretary of State. If the Secretary of State finds that the Housing Authority has been organized and the members thereof elected or appointed according to law, he/she shall issue to it a certificate of organization and such certificate shall be conclusive evidence of the lawful organization of the authority and of the election or appointment of the members thereof. Whenever the membership of the Housing Authority is changed by appointment, election, resignation or removal, a certificate and duplicate certificate to that effect shall be promptly so filed. A certificate so filed shall be conclusive evidence of the change in membership of the authority referred to therein.

49. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

2.760.030. Powers, in general.

The Braintree Housing Authority shall make careful studies of the housing needs within the Town and shall provide such programs to make available housing for families of low income and for elderly persons of low income as it deems to be necessary or desirable and it may make studies and investigations relative to community development, including desirable patterns for land use and community growth. The Housing Authority shall have all of the powers, duties, authorities and responsibilities as are afforded to such entities under MGL c. 121B.

LIBRARY TRUSTEES

Chapter 2.765

LIBRARY TRUSTEES

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Charter provisions — See Charter § 9-5.

2.765.010. Establishment.⁵⁰

There shall be a Board of Trustees of the Thayer Public Library, which shall consist of nine Trustees. The Town shall elect by ballot eight Trustees of the Thayer Free Public Library who shall be residents of the Town. In accordance with Section 9-5(b) of the Charter, the one remaining lifetime appointee to the Board of Trustees shall transition to an elected position when this office is vacated. The Board shall from its own number annually choose a Chair, Vice Chair and a Clerk.

2.765.020. Powers, in general.

- A. The Board of Trustees of the Thayer Public Library shall represent the interests, issues, and concerns of the library to the Mayor, other agencies of the Town government and to the public. The Board of Trustees of the Public Library may establish written policies for the selection of library materials and the use of materials and facilities in accordance with the standards adopted by the American Library Association and MGL c. 78.
- B. The Library Trustees shall appoint a Director, who shall be charged with the day-to-day administration of the library, subject to policy direction and guidelines adopted by the Library Trustees.
- C. Pursuant to MGL c. 78, § 11, the Library Trustees shall have the custody and management of the library and reading room and of all property owned by the Town relating thereto. All money raised or appropriated by the Town for its support and maintenance shall be expended by the Library Trustees, and all money or property which the Town may receive by gift or bequest for said library and reading room shall be administered by the Library Trustees in accordance with the provisions of such gift or bequest. The Library Trustees, for the purpose of improving the services of said library, may enter into an agreement with the board or boards of any neighboring library or libraries, to pay for services in common, or to manage a facility to be operated jointly by more than one municipality, such payments to be shared in accordance with terms of such agreement.

50. Note: This section derived from prior code § 28.2.

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Chapter 2.770

PLANNING BOARD

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053 (former Ch. 2.28 of the Town Bylaws, which derived from prior code Ch. 36). Amendments noted where applicable.]

2.770.010. Establishment. [Amended 7-9-2018 by Order No. 18-029(2)]

There shall be a Planning Board of the Town which shall consist of five members and one associate member appointed by the Mayor, pursuant to MGL c. 41, § 81A, and c. 40A, § 9, who shall serve without pay. The Mayor shall designate one of the Board members to serve as Chair, and the members shall choose one of its members as Vice Chair, Clerk, and/or Secretary. The associate member shall be eligible to participate solely on matters in which the Planning Board is acting as the special permit granting authority under the Town's Zoning Ordinances.

2.770.020. Powers and duties, in general.

The Planning Board shall exercise the powers and perform the duties provided by the Town's Zoning Ordinances, the commonwealth's Zoning Act, the Subdivision Control Law,⁵¹ and any other relevant legislative acts and regulations, as may be amended. The Planning Board shall also serve as the special permit granting authority, as provided in the Town's Zoning Ordinances.

2.770.030. Deposit and release of bonds and securities.

All performance bonds, deposits of money or security required to be filed with the Town to insure compliance with the Subdivision Control Law, and/or any requirement made by a Town department relating to same, shall be deposited with the Town Treasurer/Collector. No such security, moneys or bond shall be released or returned, in whole or in part, to the depositor until such time as the Planning Board files, in writing, with the Town Treasurer/Collector a statement that all work within the purview of the Planning Board has been completed in a manner satisfactory to the Planning Board and that the subdivision conforms with the ordinances of the Town and the General Laws of the Commonwealth as they pertain to subdivisions.

51. Editor's Note: See MGL c. 40A, Zoning, and MGL c. 41, § 81K et seq.

REGISTRARS OF VOTERS

Chapter 2.775

REGISTRARS OF VOTERS

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

2.775.010. Establishment; political designation.

The Board of Registrars of Voters shall consist of three persons, appointed by the Mayor, plus the Town Clerk, who shall serve ex officio. The Mayor shall so appoint the Board as nearly as possible so that the members of the Board shall represent the two leading political parties, as defined in MGL c. 50, § 1, provided that the Town Clerk need not be enrolled in a political party, and provided, further, that in no case shall an appointment be made as to cause a Board to have more than two members, including the Town Clerk, of the same political party.

2.775.020. Term of office; filling vacancies.

The members of the Board of Registrars shall serve for indefinite terms, with the exception of the Town Clerk, who shall serve as long as said person holds the office of Town Clerk.

2.775.030. Powers, in general.

The Board of Registrars of Voters shall supervise the qualification of persons to vote, certify the signatures on nomination papers and petitions, and shall hold hearings and decide disputes with regard to any of the foregoing matters.

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Chapter 2.780

RECYCLING COORDINATOR

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 09-053. Amendments noted where applicable.]

GENERAL REFERENCES

Mandatory recycling for residential properties — See Ch. 8.500.

2.780.010. Establishment.

There shall be a Recycling Coordinator, who shall be appointed by the Mayor.

2.780.020. Powers, in general.

The Recycling Coordinator shall monitor the recycling efforts and solid waste collection of the Town and shall identify, recommend and promote new and additional recycling efforts to the Mayor. The Recycling Coordinator shall also initiate public education campaigns to raise awareness of the environmental and economic benefits of recycling. The Recycling Coordinator shall organize and oversee the procurement of services relative to the conduct of hazardous household waste collection and disposal programs.

Chapter 2.800**TREE COMMITTEE**

[HISTORY: Adopted by the Town Council of the Town of Braintree 4-25-2023 by Order No. 22-037. Amendments noted where applicable.]

2.800.010. Establishment.

There is hereby established the Tree Committee which shall act as advisory committee to the Tree Warden on all matters concerning jurisdictional trees including but not limited to the selection of trees for plantings, planting and pruning of trees, treatment of disease and preservation and regular maintenance of trees. The Tree Committee shall serve without compensation and be appointed by Mayor. The Tree Committee shall be composed of seven members, consisting of a certified arborist, the Conservation Planner or designee, the Tree Warden's designee, a member of the Electric Light Board, and three knowledgeable residents.

2.800.020. Term of office.

Two of the initial appointees shall serve for one year, two for two years, and three for three years. Thereafter, the Committee members shall serve for three year terms.

2.800.030. Powers, in general.

- A. Develop a Tree Maintenance Plan that sets forth standards for planting and maintenance of jurisdictional trees.
- B. In conjunction with the Tree Warden, develop and promulgate rules and regulations necessary to implement Chapter 12.30 of the Braintree Ordinances and the Tree Maintenance Plan.
- C. Coordinate Braintree's Arbor Day and other educational forestry programs, as determined by the Mayor's Office.
- D. Disseminate information regarding the benefits of trees.
- E. Oversee expenditures from the Tree Replacement Fund.
- F. Annually review and revise the Tree Maintenance Plan.
- G. Act as an advisory committee to the Tree Warden.
- H. Work with the Tree Warden to seek grants or other assistance concerning the preservation and maintenance of trees.
- I. Set and adjust fines for violation of Chapter 12.30.
- J. Annually set and adjust rates for payment in lieu of replacement.
- K. Annually review the preferred tree replacement species list.

Title 3: Revenue And Finance

Chapter 3.100**FISCAL PROVISIONS GENERALLY**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 10-010 (former Chs. 2.48 and 3.04 of the Town Bylaws). Amendments noted where applicable.]

3.100.010. Procedures governing procurement of supplies and services.

- A. No officer, department head or committee authorized to expend money shall purchase supplies or materials or contract for services to be rendered to the Town without following the applicable statutory process as well as the rules and regulations governing such matters as may be promulgated from time to time by the Director of Municipal Finance. Notwithstanding the establishment of any office or agency with a specific responsibility to purchase and procure goods and services for the Town, the Mayor shall retain authority over every purchase and procurement made by departments under the jurisdiction of the Mayor.
- B. Any elected official, department director, agent or other person duly authorized to purchase goods or services on behalf of the Town shall first determine that such procurement is in the best interest of the Town. In determining the best interest of the Town the elected official, department director, agent or other duly authorized person shall consider such factors, including but not limited to:
 - (1) The Town's need for goods and/or services to be provided;
 - (2) The cost of goods and/or services to be provided in comparison with the costs other providers of similar or identical goods or services would charge;
 - (3) References from other towns which have dealt with the provider of goods and/or services;
 - (4) The quality of goods and/or services provided to the Town by the provider in prior dealings between the Town and the provider;
 - (5) Potential impact, either adverse or beneficial, that the contract may have on any lawsuit filed by or against the Town.

3.100.020. Exceptions for emergencies.

The Mayor may exempt a purchase or contract from any or all of the provisions of the preceding section when, in the opinion of the Mayor, an emergency exists requiring immediate action on such purchase or contract to protect the health or safety of persons or property, or when no reasonably suitable substitute can be obtained for the article or service to be purchased or contracted for. Evidence indicating that such an emergency exists or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Mayor and to the Director of Municipal Finance, in writing, by the officer, board or committee making such purchase or contract and shall be kept on file with other records of such transactions.

3.100.030. Written contracts required. [Amended 4-25-2017 by Ord. No. 17-019]

Every board or officer in charge of a department and every committee of the Town, when authorized to do any public work or to purchase any supplies, materials or property or erect, construct or repair any building, the estimated cost of which is \$10,000 or more, shall make a written contract therefor, which shall be filed with the Director of Municipal Finance or his/her designee.

3.100.040. Written contracts for certain unclassified positions.

All contracts for services of employment to the Town (for positions not classified under the Human Resources Department or under the direction of the School Department) shall be in writing and filed with the Director of Municipal Finance.

3.100.050. Performance and payment bond required.⁵²

Every contract for construction work subject to MGL c. 149, §§ 44A to 44M, or any other applicable statute, whether for alterations, repairs or original construction, shall be accompanied by a suitable bond for the performance of same and for the payment of subcontractors in the amount of the contract price, as specified in MGL c. 149, § 44E.

3.100.055. Trust funds.

Unless some other provision is made by the express terms of a trust, the Treasurer/Collector or the Director of Municipal Finance, if serving as the Treasurer/Collector, shall be the custodian of all funds given or bequeathed to the Town for any purpose and shall manage and invest such sums in the same manner and with the same restrictions as apply to how other municipal funds are managed and invested. The Treasurer/Collector shall, annually, file a report in the office of the Mayor, a copy of which shall be printed in the Annual Town Report, which shows the beginning balance in each fund, the interest earned during the year just ended, the amount expended (and unless an account is given elsewhere, the purposes for which such funds were expended) and the ending balance in each such account.

3.100.060. Appropriations from conservation fund.⁵³

Appropriations from the conservation fund for land acquisition shall require at least a two-thirds affirmative vote of Town Council members present and voting.

3.100.065. Disposal of surplus property.**A. Personal property.**

- (1) Subject to such regulations regarding the disposition of surplus property as may be promulgated by the Director of Municipal Finance, the disposal of surplus personal property shall be governed by the provisions of MGL c. 30B, § 15, as may be amended.
- (2) No personal property of the Town shall be sold by any officer or board, unless by vote of the Town Council or by the joint authorization of the Mayor and of the President of the Town Council, except that if its initial cost or value was \$200 or less, it may be sold by the authorization of the Mayor; such authorization shall, in each case, be in writing, certify that the proposed selling price is fair and be filed with the Town Accountant. In the transaction for sales so approved, the turn-in value of any traded equipment may be allowed as a credit against the total price of similar equipment required for replacement purposes.⁵⁴

B. Real property.

- (1) Subject to such regulations regarding the disposition of real property as may be promulgated by

52. Note: This section derived from prior code § 17-5 and ATM 5-14-2002 Art. 25.

53. Note: This section derived from prior code § 41-19.

54. Note: This subsection derived from prior code § 17-7.

the Director of Municipal Finance, the disposal of surplus real property shall be governed by the provisions of MGL c. 30B, § 16, as may be amended.

- (2) The Mayor may sell real property, the title to which has been acquired by the Town under tax title foreclosure procedure or the so-called low value tax title statute,⁵⁵ at public auction pursuant to a notice of such sale published in one or more newspapers published in the Town at least one week before the date of such sale and shall execute such deeds or instruments of conveyance as may be necessary to carry out the purpose of this section. Unless the full purchase price or balance thereof has been paid for such conveyance within 60 days after completion of the auction sale, the Mayor may determine that the sale be set aside for breach of contract by the purchaser and any payment made on account thereof forfeited to the Town as liquidated damages. No such sale shall be made unless the Town shall have notified, in writing, all abutters of the land to be sold one week in advance of such sale and all Town departments and commissions having custody of any Town-owned land one month in advance of such sale.⁵⁶

3.100.070. Fees and charges by municipal agencies.

Any municipal agency which is otherwise authorized to issue a license, certificate or permit, or to render a service or to perform work for a person or class of persons, may from time to time fix a reasonable fee for the license, certificate, or permit or for rendering the service or for performing the work in the manner provided in MGL c. 40, § 22F. No municipal agency shall establish a fee or charge pursuant to this section without the prior review and consent of the Mayor or, if the agency is appointed by the School Committee, without the consent of the School Committee. Any fee or change in fee adopted under this section shall be posted on a bulletin board at Town Hall, posted in a public place in the office of the department authorized to collect such fee, posted on the Town's official website, and on file with the office of the Town Clerk.

3.100.100. Due dates for payments to Town; interest on unpaid balances.

Unless some other provision is made by law which permits a longer time for payment, all bills for the payment of any sum due to the Town, for whatever purpose, shall be due on the 31st day following the date such bill has been issued. Interest shall be added to any balance which remains unpaid after such 31st day at the same rate as is provided in MGL c. 59, § 57.

3.100.110. Acceptance of gifts, grants, bequests, etc.

Any Town agency may accept grants, gifts, or bequests of funds from any other unit of government, from a charitable entity, from a private corporation, or from an individual or group of individuals when such funds are to be expended for purposes within the jurisdiction of the Town agency. The Town agency may expend up to \$5,000 annually, in the aggregate, from the funds in any such account, but any expenditure in excess of \$5,000 annually requires the prior approval of the Mayor, for the purposes as specified in the gift or grant or bequest. The Treasurer/Collector shall maintain a list of all such funds as may be established pursuant to this section which listing shall be kept in a place convenient for public examination during regular office hours. A summary of the receipts and disbursements in each account so established shall be published annually in the Town Report. This section is designed to implement and apply the provisions of MGL c. 44, § 53A.

55. Editor's Note: See MGL c. 60, § 79.

56. Note: This subsection derived from prior code § 26-4.

3.100.120. Private off-duty work details.

All money received by the Town as compensation for work performed by one of its employees on private off-duty work details shall be deposited in the Town treasury and kept in a fund separate from other municipal funds. As provided in MGL c. 44, § 53C, the funds in such account may be used, without further appropriation, to compensate Town employees for such services. A surcharge of 10% shall be added to the fee charged by the municipal agency for the service which shall be paid by the person requesting the service. This fee shall be to cover the cost of administering the fund. This surcharge shall not apply to Town projects directly paid by the Town, such as the police detail for the school's Thanksgiving Day football game.

3.100.135. Execution of deeds and other instruments by Treasurer/Collector.⁵⁷

Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the Town Council, the same shall be executed by the Treasurer/Collector on behalf of the Town, unless otherwise provided by law or by vote of the Town Council.

3.100.145. Annual audit required.⁵⁸

The books and accounts for all departments of the Town shall be audited annually by an independent certified public accounting firm as assigned by the Town Council and as provided by MGL c. 44, § 42, or by auditors assigned by the Bureau of Accounts as provided by MGL c. 44, § 40. (See Charter § 6-11.)

3.100.150. Payment by Town departments to treasury.⁵⁹

All Town departments are required to pay all fees paid to them by virtue of their office into the Town treasury.

3.100.155. Transmittal of deferred compensation withholdings.⁶⁰

The Treasurer/Collector shall promptly transmit to the appropriate designated recipient on a basis consistent with the employee's pay periods all funds withheld from employees' payrolls in connection with any duly authorized deferred compensation plan.

3.100.165. Bills.

All bills for accounts due the Town shall state that all checks, drafts, or money orders shall be made payable to or to the order of the Town and not to or to the order of any officer, board, or commission.

57. Note: This section derived from prior code § 26-3.

58. Note: This section derived from prior code § 8-1.

59. Note: This section derived from prior Code § 32-1.

60. Note: This section was originally added STM 11-1-1993 by Art. 23 as prior Code § 32-10.

BRAINTREE CODE

Chapter 3.110

WATER/SEWER REHABILITATION FUND

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2010 by Ord. No. 10-010 (former Ch. 3.08 of the Town Bylaws, which derived from prior code Ch. 44, adopted ATM 5-13-1991 by Art. 18). Amendments noted where applicable.]

3.110.010. Establishment; purpose.

Pursuant to Chapter 303 of the Acts of 1990, an account to be known as the "Town Water/Sewer Rehabilitation Fund" is established for the purposes of providing revenue for the funding of engineering, testing, construction and rehabilitation of the water and sewage pipes, lines, facilities and systems located within the Town and to provide revenues to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from groundwater and other sources of water into pipes, lines, facilities and systems.

3.110.020. Water and sewer user fees.⁶¹

A one-time fee shall be paid by applicants for building permits for the construction, erection, improvement, reuse or rehabilitation of land or buildings thereon for industrial, commercial, multifamily and residential uses in the amount of \$2 per gallon of estimated daily water use and \$2 per gallon for estimated daily sewer use for new usage or additional usage for existing permits. The estimated daily water usage and the estimated daily sewer usage shall be calculated based upon the criteria established in 310 CMR 15.203, System Sewage Flow Design Criteria.

61. Note: This section was previously amended STM 1-27-2003 by Art. 4.

Chapter 3.120**RESPONSIBLE EMPLOYER**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-1-2009 by Ord. No. 09-048. Amendments noted where applicable.]

3.120.010. Applicability.

This chapter shall apply to all public building and public works projects in excess of \$250,000 awarded by Town departments, excluding the Electric Light Department and the Tri-Town Board of Water Commissioners. The provisions of this chapter shall not apply to an emergency procurement where the public health and safety are deemed to be at risk by the contract awarding authority.

3.120.020. Requirements from bidders.

- A. All bidders under bids submitted for projects subject to MGL c. 149, § 44A(2), and MGL c. 30, § 39M, shall, at the time said bid is submitted, and all subcontractors under such bids shall, at the time such subcontractor is selected for the project, verify under oath and in writing that they comply with the following conditions for bidding, and, for the duration of the project, each bidder and subcontractor shall verify under oath and in writing on a weekly basis that they are in compliance with the following obligations:
- (1) In a manner that is consistent with applicable law and regulations, the bidder and all subcontractors under the bidder shall employ local workers when qualified local workers are available for work. For the purposes of this chapter, "local workers" shall mean the Town of Braintree and its contiguous communities.
 - (2) The bidder and all subcontractors under the bidder must comply with the obligations established under MGL c. 149 to pay the appropriate lawful prevailing wage rates to their employees.
 - (3) The bidder, at the time of submitting his bid, and all subcontractors, prior to the time the subcontractor is selected for the project, must participate in a bona fide apprentice training program as defined by MGL c. 23, §§ 11H and 11I, for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Executive Office of Labor and Workforce Development and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project.⁶²
 - (4) The bidder, at the time of submitting his bid, and all subcontractors, prior to the time the subcontractor is selected for the project, must furnish, at their expense, hospitalization and medical benefits and/or coverage for all individuals employed on the project in an amount that is at least equivalent to the hospitalization and medical benefits provided by the health and welfare plans in the applicable crafts recognized by MGL c. 149, § 26, in establishing minimum wage rates for all individuals employed on the project.
 - (5) The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all of their employees on the project in accordance with MGL c. 152.
 - (6) The bidder and all subcontractors under the bidder must properly classify employees as

62. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, employment taxes, social security taxes and income tax withholding, per MGL c. 149, § 148B.

- (7) The bidder, at the time of submitting his bid, and all subcontractors, prior to the time that they are selected for the project, must certify that all employees to be employed at the work site will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion.
- B. The failure of a bid submitted by any general bidder to comply with any of the foregoing conditions for bidding will be grounds for rejection of the bid, and the invitation for bids for such projects shall clearly state this requirement. No general bidder shall select a subcontractor for work outside the scope of MGL c. 149, § 44F, that does not comply with the foregoing conditions.⁶³
- C. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on projects subject to MGL c. 149, § 44A(2), or MGL c. 30, § 39M, shall comply with any and all of the obligations set forth in this chapter for the entire duration of their work on the project, and an officer of each bidder or subcontractor shall certify under oath and in writing on a weekly basis to the awarding authority that they are in compliance with such obligations, and it shall be the responsibility of the awarding authority to ensure compliance with this chapter.

3.120.030. Contract requirements and penalties for noncompliance.

- A. Any contract awarded pursuant to this chapter shall contain the following provisions. Any bidder or subcontractor who fails to comply with any one of obligations under this chapter for any period of time shall be, at the sole discretion of the Mayor, subject to one or more of the following sanctions:
 - (1) Cessation of work on the project until compliance is obtained;
 - (2) Permanent removal from any further work on the project;
 - (3) Withholding of payment due under any contract or subcontract until compliance is obtained; and
 - (4) Liquidated damages to be paid to the Town in the amount of 5% of the dollar value of the contract held by the noncompliant contractor or subcontractor.
- B. Any contractor or subcontractor that has been determined by the Town of Braintree or by any court or agency to have violated any of the obligations set forth in this chapter may be barred from performing any work on any future projects for six months from the date of such determination of the first violation, three years from the date of such determination for a second violation and permanently for a third violation.

3.120.040. Compliance officer.

The department director under whose recommendation and supervision a contract subject to this chapter is awarded shall be the Town's agent responsible for ensuring compliance with and enforcement of this chapter.

63. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

3.120.050. Waiver.

The provisions of this chapter may be waived by the Mayor, when such waiver is determined to be in the best interests of the Town.

3.120.060. Severability.

If any provision of this chapter or the application of such provision to any person or circumstances shall be enjoined or held to be invalid, the remaining provisions of this chapter or the application of such provisions to persons or circumstances other than that which is enjoined or held invalid shall be not affected thereby.

Chapter 3.130**STORMWATER ENTERPRISE FEE**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-29-2018 by Ord. No. 18-026(4). Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 13.14.

3.130.010. Establishment; purpose.

Pursuant to MGL c. 83, § 16, the Town hereby establishes a charge for the use of the stormwater management and flood control services of the Town, to be known as the "stormwater enterprise fee," for the purposes of providing revenue for services provided by the Town which are related to:

- A. Transfer, control, conveyance and treatment of stormwater runoff through the Town;
- B. Maintenance, repair, and replacement of existing stormwater management and flood control systems and facilities;
- C. Planning, development, design and construction of additional stormwater management and flood control systems and facilities to meet current and anticipated needs;
- D. Regulation of the use of stormwater management services, systems and facilities; and
- E. Compliance with applicable local, state and federal stormwater management and flood control regulations, permit requirements and mandates.

3.130.020. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

IMPERVIOUS SURFACE(S) — Areas which prevent or impede the infiltration of stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development. Common impervious surfaces include, but are not limited to, rooftops, buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, swimming pools, hockey rinks, decks, compacted gravel and soil surfaces not specifically engineered and maintained to be permeable, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, water quality treatment structure, natural or man-made or altered drainage channel, reservoir, waterway or other drainage structure that together comprise the storm drainage system owned or operated by the Town.

STORMWATER — Runoff from rain, snowmelt, or surface water runoff and drainage.

STORMWATER MANAGEMENT SERVICES — All services provided by the Town which relate to the:

- A. Transfer, control, conveyance or movement of stormwater runoff through the Town;
- B. Maintenance, repair and replacement of existing stormwater management systems and facilities;
- C. Planning, development, design and construction of new, expanded or upgraded stormwater management systems and facilities to meet current and anticipated needs or to reduce the discharge of stormwater pollutants to wetlands or waterways, ensure that the rate or volume of runoff discharged to wetlands or waterways approximates predevelopment hydrology, or prevent or remediate flood damage;
- D. Regulation of the use of stormwater management services, systems and facilities on public or private properties in Braintree; or
- E. Compliance with applicable state and federal stormwater management regulations and permit requirements.

STORMWATER MANAGEMENT AND FLOOD SYSTEMS AND FACILITIES — Natural and man-made channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm sewers, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of stormwater runoff.

STORMWATER ENTERPRISE FEE — A charge for the use of the stormwater management services of the Town of Braintree.

STORMWATER ENTERPRISE FUND — A specific management structure for the stormwater management fee, in which a municipal utility is established to administer the fee and the stormwater management program for the Town of Braintree similar to a water or sewer utility.

3.130.030. Scope of responsibility for stormwater management services.

- A. The Town shall be responsible for all costs to operate, maintain, improve and access those stormwater management and flood systems and facilities which are located:
 - (1) Within the public road rights-of-way;
 - (2) On private property but within easements granted to, and accepted by, the Town, or which are otherwise permitted to be located on such private property by written agreements for rights-of-entry, rights-of-access, rights-of-use or such other lawful means to allow for operation, maintenance, improvement and access to the stormwater management system facilities located thereon;
 - (3) On public land which is owned by the Town and/or land of another governmental entity upon which the Town has agreements providing for the operation, maintenance, improvement and access to the stormwater management and flood control systems and facilities located thereon.
- B. Operation, maintenance and/or improvement of stormwater management and flood control systems and facilities which are located on private or public property not owned by the Town, and for which the Town lacks a lawful right of entry, shall be and remain the legal responsibility of the property owner, except as otherwise provided for by state and federal laws and regulations.

3.130.040. Stormwater enterprise fees.

- A. The stormwater enterprise fee is imposed on each parcel of property, including undeveloped and tax-

exempt parcels. The fee shall be billed in advance on a quarterly basis to the record title owner of the property. The quarterly bill shall be consolidated in the same bill as is sent to said property owner for other services provided by the Town supported by fees, including water service and sanitary sewer use. If the property does not receive a water/sewer bill from the Town, a bill for only the stormwater services will be sent.

- B. Receipts from the stormwater enterprise fee shall be deposited in a special revenue account to be known as the "Stormwater Enterprise Fund" set up in accordance with the authority granted by MGL c. 44, § 53F1/2. The funds deposited in this account shall be used to fund the stormwater services provided by the Town.
- C. The Director of Public Works shall recommend an annual budget for stormwater services to the Mayor. The Mayor shall include a proposed annual budget for the stormwater services in the proposed operating budget submitted to the Town Council. The budget submitted by the Mayor and approved by the Town Council shall set the annual budget at an amount that will be sufficient to provide for a balanced operating and capital improvement budget for the stormwater services provided by the Town.
- D. The charge shall be based on equivalent residential unit (ERU) billing units. The annual billing rate for each ERU will be determined by the Director of the Department of Public Works annually.
 - (1) During the first four fiscal years, the stormwater enterprise fee will be implemented gradually and the ERU billing rate will be calculated by multiplying an implementation factor by the annual stormwater budget and then dividing by the number of ERUs in the Town, where the implementation factor is 0.42 in year one and increases to 0.75 in year three.
 - (2) Starting in the fifth fiscal year after implementing the stormwater enterprise fee, the billing rate for each ERU will be calculated by dividing the annual stormwater budget by the number of ERUs in the Town.
 - (3) The ERU billing rate shall be on file in the office of the Department of Public Works.
- E. The annual charge will be as follows. For residential properties with one- to three-family dwellings, the annual charge shall be one ERU billing unit. For all other properties, the number of ERU billing units shall be calculated by dividing the parcel's impervious area by 2,780 square feet and rounding the resulting value to the nearest tenth; however, if the calculated value is less than one, a value of one shall be used instead, or, for nonresidential property, if the value is greater than 116.7, a value of 116.7 shall be used instead.
- F. Any impervious areas within the federal, state, county and Town-owned right-of-way used by the traveling public will not be attributed to the parcel and will not be considered as part of the total impervious area of the parcel.

3.130.050. Fee billing; delinquencies; collections.

- A. Failure of the Town to send a bill for the stormwater enterprise fee shall not relieve the property owner of record from the obligation to pay the stormwater enterprise fee. If a property is unbilled, or if no bill is sent for a particular parcel of land, the Town may back bill for the fees as applicable for a period not to exceed one year of charges, but no late fees or delinquency charges of any kind shall be charged or recovered from any property owner so back-billed.
- B. The provisions of § 13.04.010 pertaining to due dates and interest on unpaid charges shall apply to

the stormwater enterprise fee.

- C. In accordance with MGL c. 83, §§ 16A - 16F, the Town may assess liens on properties with unpaid accounts.
- D. Pursuant to MGL c. 83, § 16E, if a property owner believes the stormwater enterprise fee is improperly calculated or is otherwise incorrect, the property owner may, on or before the date when payment is due of the first installment of the annual charge for the stormwater enterprise fee, and after payment of the quarterly charge in full, apply to the Department of Public Works for an abatement. The application for abatement shall be supported by such information as is necessary for a reasonable person to conclude that it is more likely than not that the billing is in error. The Department of Public Works shall have 90 days to consider the request for abatement and render a written decision which may deny the abatement, grant the abatement in full or grant the abatement in part. If such application for an abatement is denied in whole or in part, the property owner may appeal to the Appellate Tax Board within 90 days of the date of the Department's decision, upon the same terms and conditions as a person aggrieved by the refusal of the Town Assessors to abate a tax.

Chapter 3.140**DEPARTMENTAL REVOLVING FUNDS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-18-2021 by Order No. 21-018. Amendments noted where applicable.]

3.140.010. Purpose.

As authorized by the provisions of MGL c. 44, § 53E1/2, this chapter establishes and authorizes revolving funds for use by Town departments, or boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities.

3.140.020. Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this chapter without appropriation subject to the following limitations:

- A. Fringe benefits of full time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance of the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by the Town Council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Town Council and Mayor.

3.140.030. Interest earned.

Interest earned on monies credited to a revolving fund established by this chapter shall be credited to the general fund.

3.140.040. Procedures and reporting.

Except as provided in MGL c. 44, § 53E1/2 and this chapter, the laws, charter provisions, ordinances, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this chapter. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

3.140.050. Authorized revolving funds.

The following Revolving Funds are hereby created and authorized by the Braintree Town Council:

- A. Department of Elder Affairs Revolving Fund.
 - (1) Fund name: Elder Affairs Services and Activities.
 - (2) Revenues: The Town Accountant shall establish the Elder Affairs Services and Activities

Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for using said programs.

- (3) Purpose and expenditures: During each fiscal year, the Department of Elder Affairs may incur liabilities against and spend monies from the Elder Affairs Services and Activities Revolving Fund to pay salaries, expenses and contractual services required to provide services and activities for the Town's elderly residents.
- (4) Fiscal years: The Elder Affairs Services and Activities Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

B. Board of Health Revolving Fund.

- (1) Fund name: Immunization Revolving Fund.
- (2) Revenues: The Town Accountant shall establish the Immunization Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for immunizations administered under the Department of Public Health.
- (3) Purpose and expenditures: During each fiscal year, the Board of Health may incur liabilities against and spend monies from the Immunization Revolving Fund to pay salaries, expenses and contractual services associated with purchasing, promoting and administering public health immunizations and for public health education programs.
- (4) Fiscal years: The Immunization Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

C. Library Trustees Revolving Fund.

- (1) Fund name: Library Materials Revolving Fund.
- (2) Revenues: The Town Accountant shall establish the Library Materials Revolving Fund as a separate account and credit to the fund all fines and fees charged to persons, organizations or entities and received by the Town of Braintree for lost or overdue library materials.
- (3) Purpose and expenditures: During each fiscal year, the Library Trustees may incur liabilities against and spend monies from the Library Materials Revolving Fund for the purchase of library books, audiovisual materials and other library materials.
- (4) Fiscal years: The Library Materials Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

D. Library Trustees Revolving Fund.

- (1) Fund name: Library Room Rental.
- (2) Revenues: The Town Accountant shall establish the Library Room Rental Revolving Fund as a separate account and credit to the fund all revenue received from persons, organizations or entities and received by the Town of Braintree for the rental of meeting rooms in the Library.
- (3) Purpose and expenditures: During each fiscal year, the Library Trustees may incur liabilities against and spend monies from the Library Room Rental Revolving Fund to pay salaries, expenses and contractual services required the support and promotion of special programs.

- (4) Fiscal years: The Library Room Rental Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

E. Recycling Revolving Fund.

- (1) Fund name: Recycling Materials.
- (2) Revenues: The Town Accountant shall establish the Recycling Materials Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for recycling.
- (3) Purpose and expenditures: During each fiscal year, the Mayor, in conjunction with the Recycling Coordinator, may incur liabilities against and spend monies from the Recycling Materials Revolving Fund for the purchase of home composting bins, curbside recycling bins, and recycling bins, and more the collection of fees and payments for recycling materials, including hazardous materials.
- (4) Fiscal years: The Recycling Materials Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

F. Recycling Revolving Fund.

- (1) Fund name: Household Hazardous Waste.
- (2) Revenues: The Town Accountant shall establish the Household Hazardous Waste Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for the collection of revenue generating materials.
- (3) Purpose and expenditures: During each fiscal year, the Mayor, in conjunction with the Recycling Coordinator, may incur liabilities against and spend monies from the Household Hazardous Waste Revolving Fund to promote Town recycling initiatives and events, including household hazardous waste events.
- (4) Fiscal years: The Household Hazardous Waste Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

G. School Department Revolving Fund.

- (1) Fund name: Full Day Kindergarten.
- (2) Revenues: The Town Accountant shall establish the Full Day Kindergarten Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for full day kindergarten.
- (3) Purpose and expenditures: During each fiscal year, the School Committee may incur liabilities against and spend monies from the Full Day Kindergarten Revolving Fund to pay salaries, expenses and contractual services associated with the operation of full day kindergarten.
- (4) Fiscal years: The Full Day Kindergarten Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

H. Recreation Revolving Fund.

- (1) Fund name: Pro Shop.

- (2) Revenues: The Town Accountant shall establish the Pro Shop Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for clinics, group and individual golf lessons and the sale of pro shop materials.
- (3) Purpose and expenditures: During each fiscal year, the Mayor, in conjunction with the Director of Golf Operations, may incur liabilities against and spend monies from the Pro Shop Revolving Fund to pay salaries, expenses and contractual services associated with the operation of the golf course pro shop.
- (4) Fiscal years: The Pro Shop Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

I. Recreation Revolving Fund.

- (1) Fund name: Food and Beverage.
- (2) Revenues: The Town Accountant shall establish the Food and Beverage Revolving Fund as a separate account and credit to the fund all fees charged to persons, organizations or entities and received by the Town of Braintree for food service operations at the Braintree Municipal Golf Course.
- (3) Purpose and expenditures: During each fiscal year, the Mayor, in conjunction with the Director of Golf Operations, may incur liabilities against and spend monies from the Food and Beverage Revolving Fund to pay salaries, expenses and contractual services associated with the operation of the golf course food service operations.
- (4) Fiscal years: The Food and Beverage Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021.

J. Tree Replacement Revolving Fund. **[Added 6-6-2023 by Order No. 23-029(2)]**

3.140.060. Severability.

All paragraphs, sentences, clauses and phrases of this chapter are severable and if any phrase, clause, sentence, paragraph or section of this chapter is found unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such finding(s) shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter.

Title 5: Licenses and Permits

Chapter 5.100

LOCAL LICENSES AND PERMITS

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012. Amendments noted where applicable.]

GENERAL REFERENCES

Board of License Commissioners — See Ch. 2.265.

Licenses and permits of delinquent taxpayers — See Ch. 5.200.

5.100.010. Board of License Commissioners.

The Board of License Commissioners shall have all authority to grant licenses and permits, except permits to public service corporations for locations in streets and ways of the Town.

5.100.020. Applications; publication fees.

All applications for licenses and permits shall be filed with the Licensing Coordinator, and all petitions for hearings or other requests which require or provide for publication, or advertising in newspapers, shall be accompanied by a fee sufficient to pay the expenses of such publication or notification, payable to the Town. When a public hearing is required, the applicant shall be responsible for providing written notice, by certified mail, to abutters, as certified by the Board of Assessors, and the applicant shall provide proof of such certified notice to the Board of License Commissioners.

5.100.030. Compliance with tax law.

In accordance with the provisions of MGL c. 62C, § 49A, no license or permit shall be issued to any individual or business operating within the Town unless said applicant has certified in writing, under the pains and penalties of perjury, that he/she has complied with all laws of the Commonwealth of Massachusetts relating to taxes, including local taxes under the provisions of MGL c. 59. The failure to properly execute such certification shall be considered grounds to revoke such license or permit.

Chapter 5.200**LICENSES AND PERMITS OF DELINQUENT TAXPAYERS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.04 of the Town Bylaws, which derived from prior code Ch. 51, adopted ATM 5-9-1988 by Art. 15). Amendments noted where applicable.]

GENERAL REFERENCES

Board of License Commissioners — See Ch. 2.265.

Local licenses and permits — See Ch. 5.100.

5.200.010. Purpose.⁶⁴

Pursuant to the authority conferred upon the Town by MGL c. 40, § 57, this chapter is adopted for the regulation of application for, revocation, suspension, renewal or transfer of local licenses and permits issued by any board, officer, department or commission of the Town for any person, corporation or business enterprise which has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, with the exceptions listed in § 5.200.020 of this chapter.

5.200.020. Applicability.

This chapter shall not apply to the following licenses and permits:

- A. Open burning, MGL c. 48, § 13;
- B. Bicycle permits, MGL c. 85, § 11A;⁶⁵
- C. Sales of articles for charitable purposes, MGL c. 101, § 33;
- D. Children work permits, MGL c. 149, § 69;
- E. Clubs and associations dispensing food or beverage licenses, MGL c. 140, § 21E;
- F. Dog licenses, MGL c. 140, § 137;
- G. Fishing, hunting and trapping licenses, MGL c. 131, § 12;
- H. Marriage licenses, MGL c. 207, § 28; and
- I. Theatrical events and public exhibition permits, MGL c. 140, § 181.

5.200.030. Persons delinquent in payment of municipal charges.

The Treasurer/Collector or other municipal officials responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Treasurer/Collector, shall annually furnish each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits, including renewals and transfers, a list of any person,

64. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

65. Editor's Note: MGL c. 85, § 11A, was repealed by Ch. 525 of the Acts of 2008.

corporation or business enterprise (hereinafter referred to as the party) that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

5.200.040. Denial, revocation or suspension of license or permit for nonpayment of municipal charges.

- A. The Town, acting by and through the Board of License Commissioners or any other licensing authority, may deny any application for, or revoke or suspend, a building permit or any local license or permit, including renewals and transfers, issued by any board, officer, or department for any person, corporation or business enterprise which has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, including amounts assessed under the provisions of MGL c. 40, § 21D, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.
- B. The Board of License Commissioners or any other licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector; provided, however, that written notice is given to the party and the Treasurer/Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer/Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Board of License Commissioners or any other licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceedings and shall not be relevant to or introduced in any proceeding at law, except for any appeal from such license denial, revocation or suspension.
- C. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Board of License Commissioners or any other licensing authority receives a certificate issued by the Treasurer/Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the Town as of the date of issuance of said certificate.
- D. Any party shall be given an opportunity to enter into a payment agreement with the Treasurer/Collector, thereby allowing the Board of License Commissioners or any other licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder is given notice and a hearing as required by applicable provisions of law.
- E. The Board of License Commissioners or any other licensing authority may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

Chapter 5.400**AMUSEMENT GAMES**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.12 of the Town Bylaws, which derived from prior Code Ch. 56); amended in its entirety 3-20-2018 by Ord. No. 18-017. Subsequent amendments noted where applicable.]

5.400.010. Definitions.

As defined in this chapter the following terms shall have the meanings indicated:

AMUSEMENT DEVICE ROOM — A building or place containing five or more amusement games, as defined herein.

AMUSEMENT GAME — Defined in MGL c. 140, § 177A, as "automatic amusement device," is defined as "any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines." As used in this chapter, "amusement game" shall not include keno, beano, bingo, or other like games of chance with cash rewards or prizes, or any game established or licensed by the Massachusetts State Lottery Commission. This definition does not include a jukebox, rides, bowling alleys, or any device maintained within a residence for the use of the occupants thereof and their guests.

OWNER — A record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

PERSON — One or more individuals, a corporation, partnership, association, trust or firm and any trustee, receiver or assignee.

TOWN — The Town of Braintree.

5.400.020. License required; application.

- A. No person shall maintain or operate an amusement device without first obtaining a license from the Board of License Commissioners.
- B. No person shall maintain or operate an amusement device room as the exclusive use of any premises in the Town. However, an amusement device room may be allowed as an accessory use to a restaurant or commercial recreation facility, as those terms are defined by the Town's Zoning Ordinances, subject to a permit(s) issued by the Board of License Commissioners, and provided the amusement device room shall occupy no more than 49% of the total square footage of the licensed restaurant or no more than 10% of the total square footage of the licensed commercial recreation facility which is open to the public. For the purposes of this chapter, the total square footage of the licensed establishment shall not include the kitchen, employee rooms, utility closets, storage areas, loading docks, or any other area which is not open to the public.
- C. License fee per amusement device is \$100 per year.
- D. Any application for a license will be acted upon after a hearing before the Board of License Commissioners (the "Board"). The Board will establish a time and location for such hearing and will notify the applicant of same.

- (1) Notice of the hearing shall be advertised in a newspaper in general circulation in the Town at

least seven days before the date set for the hearing.

- (2) The applicant shall provide notice by certified mail to all owners of property directly abutting the proposed premises for which the license is sought or directly opposite said premises on any public or private street, as such owners appear on the most recent tax list, as certified by the Board of Assessors.
- E. The Board will consider the granting of a license based on the merits of each application.
- F. A plan shall be filed with the application, designating the street and number, entrance and exits, the type of establishment and the exact location and number of the amusement device(s) to be licensed.
- G. When acting upon an application to operate an amusement device room, the Board of License Commissioners shall consider the following factors:
- (1) The overall type of business conducted on site;
 - (2) Whether alcohol is to be served on the premises, and if alcohol is to be served on the premises, alcohol shall only be sold or served from fixed locations within the establishment and shall not be served in the amusement device room;
 - (3) The layout of the establishment and amusement device room and whether the amusement device room is separated from the rest of the establishment;
 - (4) The means by which the applicant proposes to restrict minors under the age of 18 on the site, unless the parent or guardian of such minor provides written consent, and/or as required by MGL c. 140, § 179;
 - (5) The reputation and character of the applicant and general manager; and
 - (6) The presence and use of public safety details as an integral part of the establishment's business plan.

5.400.030. Operation of amusement devices.

- A. The owner of any amusement device within the Town shall comply with all provisions of law, ordinances, rules or regulations applicable thereto and relating to the conduct of the business in connection with which the game is used and the use and maintenance of the premises where it is located.
- B. The owner of the amusement device shall maintain good order on the premises at all times. The lack of good order on the premises shall include but not be limited to the following:
- (1) Fighting and rowdy behavior;
 - (2) Possession or consumption of alcoholic beverages, except upon premises licensed for on-premises consumption thereof;
 - (3) Gambling;
 - (4) Permitting the use of marijuana or any controlled substance.
- C. The owner of an amusement device shall not permit it to be played or operated after 10:00 p.m. by a person under the age of 16 unless accompanied by and under the supervision of a parent or other guardian over the age of 21.

5.400.030

AMUSEMENT GAMES

- D. The owner of an amusement device shall not allow it to be available for use or used unless it is under the control of and supervised by a person at least 18 years of age, who shall ensure that it is operated in compliance with this chapter.
- E. A person under the age of 16, unless accompanied by and under the supervision of a parent or other guardian over the age of 21, is not permitted to operate amusement devices during normal school hours (as established by the School Committee or appropriate authority) on weekdays only exclusive of holidays.
- F. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement device, and no such game shall be permitted.

5.400.040. Inspection of premises.

Any premises in the Town containing an amusement device or devices, when open for the transaction of business, shall be subject to inspection by any police officer.

5.400.050. Violations and penalties.

- A. Any person who violates any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$300.
- B. Each day that a violation exists, occurs or continues shall constitute a separate offense.

BRAINTREE CODE

Chapter 5.450

FOOD SALES

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.16 of the Town Bylaws, which derived from prior code Ch. 72). Amendments noted where applicable.]

5.450.010. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FOOD — Includes any articles or commodity however stored or packaged intended for human consumption, excluding alcoholic beverages.

5.450.020. Applicability.

This chapter shall not apply to the sale of alcoholic beverages by persons, stores or places of business licensed in accordance with the provisions of MGL c. 138.

5.450.030. Permit required for sale of food.⁶⁶

No person, store or place of business engaged in the retail sale of food shall, without a written permit from the Board of License Commissioners, sell any food at retail between the hours of 11:00 p.m. and 7:00 a.m. unless otherwise conditioned by the Board of License Commissioners based on the nature of the business, proximity to residences, and impact to neighborhood.

5.450.040. Common victuallers.

No person licensed as a common victualler in accordance with the provisions of MGL c. 140 shall, without a written permit from the Board of License Commissioners, be open for the transaction of any retail business or sell any food at retail between the hours of 1:00 a.m. and 6:00 a.m., unless otherwise conditioned by the Board of License Commissioners based on the nature of the business, proximity to residences, and impact to neighborhood.

5.450.050. Violations deemed separate offenses.

For purposes of this chapter, each separate sale shall be deemed a separate offense. In the event of sale of several items or articles at one time to one customer, only one sale shall be deemed to have taken place. In case of continuing violation, every calendar day upon which a store shall remain open shall be deemed a separate offense.

66. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 5.500**FORTUNE-TELLERS, PALMISTS AND SIMILAR PRACTITIONERS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.20 of the Town Bylaws, which derived from prior code Ch. 57, adopted STM 5-1-1989 by Art. 13). Amendments noted where applicable.]

5.500.010. License required.

No phrenologist, medium, clairvoyant, soothsayer, astrologist, fortune-teller, palmist, reader-advisor or the like, by whatsoever name called, shall conduct business or practice their trade for monetary consideration in the Town without first obtaining a license from the Board of License Commissioners and only after a criminal history check conducted by the Chief of Police of Braintree or his/her designee, the issuance of a certificate from the office of the Building Inspector that the property to be used for such purpose conforms with all Zoning Ordinances of the Town, and only after a determination by the Board of License Commissioners that issuance of such license would not be adverse to the public welfare, and after a public hearing.

5.500.020. License; issuance limitations; display.

A license to conduct a business described in this chapter shall be issued only to individuals and shall apply only to the premises shown on a plan furnished by the applicant. The plan need not be by a registered engineer but must be in a form and scale acceptable to the Town Engineer. The license, when issued, shall set thereon the name of the licensed individual and the approved location. The licensee shall be the operator of the licensed business. No person who is not duly licensed may conduct any business pursuant to this chapter nor shall any license issued for one premises be issued upon another. The license shall be displayed at all times in a prominent place upon the licensed premises.

5.500.030. License; effective date; transfer or renewal.

- A. The fee for the license shall be set by the Board of License Commissioners. No license shall be issued until such fee and any other costs have been paid to the Board of License Commissioners.
- B. Any license issued under the provisions of this chapter shall be effective from the date of its issuance. A new application for a license must be made annually by December 31 if the licensee continues in business. The fee for such license for less than one year shall be prorated. Such license is personal with the licensee and does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of without the permission of the licensing authority. Applications for renewal shall be made within 60 days from the date of expiration of the license and such renewal shall not be unreasonably withheld, unless for a good cause shown.

5.500.040. Application.

An application for a license pursuant to this chapter shall be made by the applicant, in writing, on forms approved by the Board of License Commissioners. The application shall be submitted under oath and shall set forth the name and address of the person who will conduct such business and the names and addresses of all persons having a beneficial interest in the business. It shall set forth an accurate description of the premises for which the license is sought, as described in this chapter. It shall contain such other detailed information as to the character and location of the business as may be required by the Board of License Commissioners to determine whether the issuance of the license sought would serve the public

interest. Every applicant for a license pursuant to this chapter shall submit to the licensing authority a valid social security number or Massachusetts driver's license or employer identification number as proof of the identity of the applicant.

5.500.050. Expense of hearing; deposit required.

In each application, except in the case of an application for renewal of a license, the applicant shall undertake to defray the expense to the Town of the public hearing on his/her application. In addition to and simultaneously with the filing of his/her application, the applicant shall be responsible for the cost of advertising and postage for notice to abutters for the public hearing.

5.500.060. Notice requirements; public hearing.

- A. Upon the filing of the application with the Board of License Commissioners, written notice shall be given to the applicant, and public notice shall be given by advertisement in a newspaper circulating in the Town at least seven days prior to the hearing, of the time and place fixed for the hearing to be held before the Board of License Commissioners on the issuance of the license. In the case of an application for renewal of a license, the Board of License Commissioners may dispense with the requirement for public notice. The applicant and all interested persons shall have reasonable opportunity to be heard at such hearing.
- B. In the licensing procedure under this chapter, the Board of License Commissioners shall take into consideration any record of a conviction of any crimes.

5.500.070. Sanitary facilities required.

Each licensee under this chapter shall provide sanitary facilities for the use of all customers upon the licensed premises in accordance with regulations of the Building Division of the Town.

5.500.080. Inspection.

Any premises in the Town licensed under this chapter, when open for the transaction of business, shall be subject to inspection by any police or special police officer acting pursuant to his/her duties.

5.500.090. License suspension, modification or revocation.

Upon notice to the licensee and after a hearing by the Board of License Commissioners at which it has been determined that the licensee has been convicted in a court of competent jurisdiction of a crime or cause has been shown that the licensee has violated the ordinances and/or Zoning Ordinances of the Town or the laws of the commonwealth, a license issued pursuant to this chapter may be suspended, modified or revoked by the Board of License Commissioners.

GASOLINE STATIONS AND AUTOMOTIVE REPAIR

Chapter 5.550

GASOLINE STATIONS AND AUTOMOTIVE REPAIR GARAGES

[HISTORY: Adopted by the Town Council of the Town of Braintree 11-18-2010 by Ord. No. 10-012 (former Ch. 5.24 of the Town Bylaws, which derived from prior code Ch. 77). Amendments noted where applicable.]

5.550.010. Hours of operation.

No gasoline station shall be operated between the hours of 12:00 midnight and 6:00 a.m. and no automotive repair garage shall be operated between the hours of 8:00 p.m. and 7:00 a.m. without a written permit from the Board of License Commissioners; provided, however, that any gasoline station that was granted permission by the former Board of Selectmen to be open between the hours of 12:00 midnight and 6:00 a.m. prior to the date of final passage of this chapter may continue to be open during said hours.

5.550.020. Rules and regulations.

The Board of License Commissioners may from time to time make reasonable rules and regulations regarding the operation of gasoline stations, automotive repair garages and motor vehicle towing services.

5.550.040. Requirements for storage permits.⁶⁷

Each application for the storage of motor vehicles shall be accompanied by a plot plan, which is an instrument of survey, certified by a registered professional engineer or land surveyor, detailing the location of the business and indicating the location and number of parking spaces for customers, employees, and the storage of motor vehicles, as well as showing the location of fire lanes, and access to and egress from the site. Each certified plot plan shall be subject to the review of the Fire Department, Police Department, Department of Municipal Licenses and Inspections, Planning and Community Development Department, and any other Town department or agencies, as determined by the Board of License Commissioners. The Board of License Commissioners shall have the discretion to determine the number of vehicles for which storage may be permitted, based upon the uses of the surrounding area, traffic, aesthetics, and what is in the best interest of the Town, provided the storage capacity for each site shall not be greater than the lesser of the number shown on the certified plot plan, the number permitted by the requirements of the applicable fire, zoning and building codes and the recommendations of the aforementioned Town departments; provided, however, that any gasoline station or automotive repair garage that was previously granted permission by the former Board of Selectmen or any other legal entity of the Town to store more vehicles than determined by the Board of License Commissioners shall have six months from the date of final passage of this chapter to present proof of such permission to the Board of License Commissioners, which shall incorporate such permission into the gasoline station's or automotive repair garage's written permit.⁶⁸

5.550.060. Violations and penalties.

Whoever violates this chapter or any rule, regulation, or restriction contained in his/her license shall be subject to a fine of not less than \$50 nor more than \$300, and each day that such violation continues to exist shall be deemed a separate offense.

67. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

68. Note: This section was originally added ATM 5-22-2001 by Art. 26.

Chapter 5.560**JUNK, SECONDHAND AND SALVAGE DEALERS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.28 of the Town Bylaws, which derived from prior code Ch. 85). Amendments noted where applicable.]

GENERAL REFERENCES

Precious metal dealers — See Ch. 5.570.

Yard sales — See Ch. 5.585.

5.560.010. Purpose.⁶⁹

Pursuant to the authority conferred upon the Town by MGL c. 140, § 54, this chapter is adopted for the regulation and restriction of the collection and storage of previously damaged, used, secondhand, worn out, scrapped or discarded materials or objects such as, inter alia, automobiles, building materials, machinery, metal, wastepaper, rags, glassware and tinware which are or in the future may be collected and stored in a dangerous, unsightly or unsanitary manner in yards or other places within the Town.

5.560.020. Definitions.

Except where otherwise indicated by law, the following definitions shall apply in the interpretation and enforcement of this chapter:

ENFORCEMENT OFFICER — The Inspector of Buildings or such other person designated by the Mayor.

JUNK — Any old, secondhand, previously used, discarded or scrapped metals, plastics, bottles, glassware, tinware, paper bags, rubber goods, plumbing, heating and electrical equipment, fixtures and appliances, building materials, whole motor vehicles which are unregistered or, if registered, no longer fit for reconditioning for use in highway transportation, or motor or other vehicles which are wholly or partly dismantled or used parts or scraps therefrom or any other old, secondhand, used, discarded or scrapped material commonly called "junk salvage material."

JUNK DEALER — A person who engages in the buying, selling, exchanging, storing, processing, preparing for sale or use, or dealing in any manner commercially with junk within the Town.

JUNK OR SALVAGE YARD — A yard, lot or place or any place of collection, storage or deposit outdoors, within the Town of Braintree, where junk is kept or stored. An area maintained and operated by the Town of Braintree for the collection and storage of recyclable materials shall be excluded from this chapter.

LICENSING AUTHORITY — The Board of License Commissioners of the Town of Braintree.

PERSON — Any individual, firm, partnership, association, corporation, company, organization or any business entity permitted to do business within the Commonwealth of Massachusetts.

69. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

5.560.030. License required.

No person shall engage in business as a dealer in junk or salvage unless he/she obtains a license from the Board of License Commissioners in accordance with the provisions of this chapter.

5.560.040. License; annual fee.

The annual fee for a license to conduct the business of a dealer in junk or salvage shall be \$1,000 per year. No license pursuant to the provisions of this chapter shall be issued, and no renewal of an existing license shall be granted, until the full amount of the fee has been paid to the Board of License Commissioners.

5.560.050. Scope of license.

Each license issued pursuant to the provisions of this chapter shall apply only to the premises shown on the survey furnished by the licensee with the application for the license. The licensee may not use any other premises.

5.560.060. Application; form and contents.

An application for a dealer in junk or salvage license shall be made by the applicant, in writing, on forms approved by the Board of License Commissioners. The application shall be submitted under oath and shall set forth the name and address of the person who will conduct such business and the names and addresses of all persons having a beneficial interest in the business. It shall set forth an accurate description of the premises for which the license is sought, as shown by a survey to be attached. It shall contain such other detailed information as to the character and location of the business as may be required by the Board of License Commissioners to determine whether the issuance of the license sought would serve the public interest.

5.560.070. Expense of hearing; deposit required.

In each application, except in the case of an application for renewal of a license, the applicant shall undertake to defray the expense to the Town of the public hearing on his/her application. The applicant shall be responsible for the cost of advertising and mailing notices to abutters of the public hearing.

5.560.080. Notice of hearing; conditions warranting denial of license.

- A. Upon the filing of the application with the Board of License Commissioners and the making of the deposit for costs, written notice shall be given to the applicant, and public notice shall be given by advertisement in a newspaper circulating in the Town at least seven days prior to the hearing of the time and place fixed for the hearing to be held before the Board of License Commissioners on the issuance of the license. In the case of an application for renewal of a license, the licensing authority may dispense with the requirement for public notice. The applicant and all interested persons shall have reasonable opportunity to be heard at such hearing.
- B. No license shall be granted under this chapter until the enforcement officer certifies that the proposed junk or salvage yard meets the requirements of this chapter, the Town Zoning Ordinances and the laws of the Commonwealth of Massachusetts, and unless it appears after the public hearing that the issuance of such license would not cause unreasonable depreciation of surrounding property or be otherwise adverse to the best interests of the Town.
- C. In the licensing procedure under this chapter the Board of License Commissioners shall take into consideration any record of a conviction of the crime of receiving stolen goods or larceny of any

applicant or of any stockholder, director or officer of any corporation applying for such license.

5.560.090. License fee; effective date; transfer or renewal.

Any license issued under the provisions of this chapter shall be effective from the date of its issuance. A new application for a license must be made annually by December 31 if the licensee continues in business. The fee for such license for the operation of a junk or salvage yard for less than one year shall be prorated. Such license is personal with the licensee and does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of without the permission of the Board of License Commissioners. Applications for renewal may be made within 60 days from the date of expiration of the license and such renewal shall not be unreasonably withheld, unless for a good cause shown.

5.560.100. Display of license.

Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business.

5.560.110. General operating requirements.

- A. Before use, a junk or salvage yard shall comply with all provisions of the Town Zoning Ordinances and shall have a suitable gate which shall be closed and locked except during the working hours of such junk or salvage yard or when the applicant or his/her agent shall be within.⁷⁰
- B. The junk or salvage yard together with things kept therein shall at all times be maintained in a sanitary condition.
- C. No space not covered by the license shall be used in the licensed business.
- D. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
- E. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four inches.
- F. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk, as defined herein, and is in use in the licensed business.
- G. No junk shall be allowed to rest upon or protrude over any public street, walkway or curb or become scattered or blown off the business premises.
- H. Junk shall be stored in piles not exceeding eight feet in height and shall be arranged so as to permit easy access to all such junk for fire-fighting purposes.
- I. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.
- J. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
- K. No junk or other material shall be burned on the premises in any incinerator not meeting the requirement of federal, state or Town laws, statutes and codes, and no junk or other material shall be

70. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

burned on the premises in the open.

- L. Processing of junk or any other operations conducted within a junk or salvage yard shall cease between the hours of 6:00 p.m. and 7:00 a.m. of the following day.
- M. No junk or salvage yard shall be allowed to become a nuisance, nor shall any junk or salvage yard be operated in such manner as to become injurious to the health, safety or welfare of the community or of any residents close by.

5.560.120. Sanitary facilities required.

Each licensee under this chapter shall install enclosed sanitary facilities upon the junk or salvage yard for the use of all personnel upon the premises in connection with the business in accordance with regulations of the Town's Building Division.

5.560.130. Health hazards prohibited.⁷¹

The junk or salvage yard shall be maintained and kept in such a manner as will prevent the habitation and breeding of rodents or vermin in the ground under junk piles or in or about such piles and as will prevent the accumulation of stagnant water on the ground in or about such piles of junk. The licensee shall comply with all orders issued by the Board of Health or its designee which are designed to eliminate the breeding of rodents or vermin.

5.560.140. Established junk or salvage yards.

For the purpose of this chapter, the location of junk or salvage yards already established shall be considered approved, provided that such junk or salvage yards comply with this chapter, the provisions of the Town Zoning Ordinances and the laws of the Commonwealth of Massachusetts and that they pay the license fee fixed in this chapter. Such established junk or salvage yards shall have 120 days from the date of mailing of notice to them to comply with such provisions of this chapter.

5.560.150. Records.

Each licensee shall keep a record of all vehicles, appliances or junk purchased in the course of business, setting forth the identity of the items purchased, the dates of such purchases, the names and addresses of the sellers and the amounts paid therefor. Such records shall be available for inspection to all law enforcement officers or other persons having lawful authority to make inquiry as to the source from which the junk material was acquired, the nature of the transaction and the title of the seller.

5.560.160. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine of \$150 a day. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

71. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 5.565**PEDDLING AND SOLICITING**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.32 of the Town Bylaws, derived from prior code Ch. 99). Amendments noted where applicable.]

5.565.010. Peddling of goods, wares and merchandise; license required.⁷²

No person shall hawk or peddle goods, wares or merchandise within the limits of the Town, except as otherwise authorized by law, without first obtaining a license therefor from the Commonwealth of Massachusetts in accordance with the provisions of MGL c. 101.

5.565.020. Transient vendors; local license required.

A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of MGL c. 101, § 3, shall, before making any sales of goods, wares or merchandise within the limits of the Town, make application to the Board of License Commissioners for a local license; such local license shall be subject to such reasonable rules and regulations and to the payment of a license fee in accordance with the provisions of MGL c. 101, § 5.

5.565.030. Hawkers and peddlers; permit required.

A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of MGL c. 101, § 22, shall, before making any sale of goods, wares or merchandise within the limits of the Town, apply for a permit from the Board of License Commissioners; such permit shall be subject to such reasonable rules and regulations as may from time to time be made by the Board of License Commissioners.

5.565.040. Temporary licenses for charitable organizations and veterans.

The Board of License Commissioners may from time to time make reasonable rules and regulations governing the granting of temporary licenses to any organization engaged exclusively in charitable work, or to a post of any incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection for the sale of flags, badges, medals, buttons, flowers, souvenirs and similar small articles, in accordance with the provisions of MGL c. 101, § 33.

5.565.050. Solicitation and canvassing. [Amended 9-15-2015 by Ord. No. 14-022; 3-2-2016 by Ord. No. 14-022(R)]

- A. Purpose. The purpose of this section is to protect the citizens of Braintree from crime, undue annoyance and fraudulent door-to-door solicitors and canvassers by requiring those who wish to engage in such activity to register with the Braintree Police Department.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:
 - RESIDENTIAL PROPERTY — Includes without limitation each individual dwelling unit.
 - SOLICITATION or CANVASSING — Traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, whether for salary, commission

⁷². Note: This section was previously amended ATM 5-10-2005 by Art. 37.

or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and (a) selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or (b) seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity; even if the original solicitation is made in writing, by telephone or any electronic communication.

C. Prohibition and requirements.

- (1) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Braintree, and no business, firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than 10 business days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
- (2) Persons engaged in solicitation or canvassing shall prominently display around their neck a fluorescent orange lanyard and attached card holder, and a five-inch by seven-inch identification card visible at all times on the chest area. The solicitor or company is responsible to provide said lanyard and create an identification card, which shall be inserted into the lanyard card holder. The identification card will contain 1) an identification number (assigned by the company or entity soliciting), 2) company name, 3) solicitor's name, 4) signature, 5) current photo, 6) phone number and name of company official responsible for the canvassing or soliciting operation in case of emergency or other immediate contact needs, 7) start date and expiration date (not to exceed 30 days), and shall have the approved 8) Braintree Police certificate of registration inserted in back of the identification card, and shall produce such certificate upon request. Failure to wear the provided lanyard and card holder shall result in a violation of \$300 per individual and 9) \$300 per primary employing entity per violation per day, which shall be considered separate from item No. 8. If a fine is issued to any party or entity, said party will be prohibited from soliciting in the Town of Braintree until the fine is paid.
- (3) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his/her business, and if he/she is representing an organization, firm, or other entity.
- (4) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.
- (5) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.
- (6) No person engaging in solicitation or canvassing shall misrepresent in any way his/her true objective, status or mission or that of any organization on behalf of which he/she is so engaged.
- (7) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as Chapters 93, 93A and 255D of the Massachusetts General Laws. Braintree Police shall provide all applicants with a copy of Chapter 5-565, Peddling and Soliciting, and highlight Section 5.565.050.
- (8) Anyone applying to canvas or solicit must provide a direct contact name and telephone number

of the direct supervisor or person responsible for the management of all those canvassing or soliciting. This direct contact must be accessible via phone at all times should issues arise.

- (9) No person shall place, deposit or throw or cause to be placed, deposited or thrown upon or into a motor vehicle, which is parked on any street, lane, parking lot or other public place, any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not, with the exception of any violation ticket or summons issued pursuant to lawful authority (see Subsection G, Penalty).

D. Registration.

- (1) Application. Persons seeking registration certificates in accordance with this section shall apply therefor not less than 10 business days before commencing solicitation or canvassing in the Town of Braintree. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:
 - (a) Applicant's name, home address and telephone number;
 - (b) Name of applicant's business, firm, corporation, organization, or other entity represented, business address and telephone number;
 - (c) Applicant's date of birth;
 - (d) Applicant's social security number;
 - (e) Applicants must produce a copy of their driver's license, or a photograph will be taken by the Braintree Police Department at the time of registering;
 - (f) Length of time for which applicant seeks to conduct business in the Town of Braintree;
 - (g) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
 - (h) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle;
 - (i) Each applicant or individual canvasser/solicitor must sign a release authorizing the Town of Braintree, acting by and through the Police Department or the Licensing Coordinator for the Board of License Commissioners, to process a Criminal Offender Record Information (C.O.R.I.) report for each individual canvasser/solicitor that has been completed in the past 60 days. Each C.O.R.I. will cost the applicant or entity \$75, payable to the Town of Braintree. If any applicant or individual canvasser/solicitor is from outside of Massachusetts, said applicant, individual canvasser or solicitor shall provide a certified copy of said individual canvasser's or solicitor's equivalent Criminal Offender Record Information issued by said canvasser's or solicitor's state of residence for each of the seven years preceding the date of application. Applicants or individual canvassers/solicitors who have been convicted (found guilty) of any of the following offenses within the past seven years are prohibited from canvassing or soliciting in Braintree: burglary, drug distribution, Level 2 and Level 3 sex offenders, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct, and unlawfully carrying weapons.
- (2) Contents of certificate. Each certificate of registration shall contain the signature of the Chief of

Police or his/her designee and shall show the name, address and photograph of the holder of the certificate, date of issue and registration number.

- (3) Expiration of certificate. Each certificate of registration issued pursuant to this section shall expire 30 days from the date of issue. Certificates must be returned to the Braintree Police Department when the applicant has concluded his/her solicitation activities in the Town of Braintree.
- (4) Transfer of certificate. No certificate of registration may be transferred to any other person or entity.
- (5) Revocation of certificate. The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this section or for providing false information on the application.
- (6) Duties of Police Department. The Police Department shall keep a record of all certificates of registration, including registration numbers, and applications therefor, for a period of six years after application or such time as the public records retention laws may provide, whichever is longer. Enforcement authority of this section shall be by the Braintree Police Department.

E. Exception. The provisions of this section shall not apply to the following persons:

- (1) Any person duly licensed under Chapter 101 of the General Laws, or to any person exempted under Chapter 101, Chapter 149, § 69, and Chapter 180, § 4, of the General Laws, or any other General Law.
- (2) Any officer or employee of the Town, county, state or federal government on official business.
- (3) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- (4) Individuals seeking to engage in exclusively noncommercial communication.
- (5) Exempted entities include but shall not be limited to religious organizations, political entities, charitable and fraternal organizations and other noncommercial community groups.

F. Severability. If any section, subsection, sentence, clause, phrase or portion of this section shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

G. Penalty. Whoever violates any provision of this section shall be liable to a penalty of not less than \$300 for each offense.⁷³

73. Note: This section was originally added STM 5-6-1996 by Art. 15 and amended STM 10-8-2002 by Art. 18.

Chapter 5.570**PRECIOUS METAL DEALERS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 10-19-2010 by Ord. No. 10-012 (former Ch. 5.36 of the Town Bylaws, which derived from prior code Ch. 83). Amendments noted where applicable.]

GENERAL REFERENCES

Junk, secondhand and salvage dealers — See Ch. 5.560.

5.570.010. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PRECIOUS METALS — Includes any precious metal, such as gold, silver or platinum, without regard to the form or amount of such precious metal.

5.570.020. License required.

- A. No person shall collect, deal in or keep a shop for the purchase, sale or barter of precious metals in any building or place within the limits of the Town without a license from the Board of License Commissioners.
- B. The Board of License Commissioners may, for a fee, license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of precious metals at such places within the Town as may be designated in such license, under such conditions and restrictions as are prescribed in this chapter, which shall be incorporated in every such license.
- C. All precious metal dealer licenses shall expire annually on June 30. The license holders shall be responsible for submitting an application for license renewal with the applicable license fee to the Licensing Coordinator at least 30 days prior to June 30. Upon receipt of an application for renewal, the Board of License Commissioners shall consider the specific performance of the licensee in adhering to all ordinances and regulations of the Town for precious metal dealers during the prior 12 months.

5.570.030. Prohibitions.

No keeper of a shop licensed under this chapter shall, directly or indirectly, either purchase or receive by way of barter or exchange any of the articles from a person under the age of 21, as established by the required identification described in § 5.570.060 herein.

5.570.050. Waiting period.

No article purchased or received shall be sold or altered in appearance, form or substance, which shall include any destructive testing of metals for appraisal purposes, until a period of at least 30 days from the date of its purchase or receipt has elapsed. All articles purchased or received must be made available to the Braintree Police Department upon request within 24 hours of such request, and the Police Department may,

upon the request, deliver such item to the Board of License Commissioners for the purpose of assessing a violation of this chapter.

5.570.060. Weekly list of articles purchased required.

Every such licensee shall make out and deliver to the Police Chief or his/her designee, in a manner and time prescribed by the Police Chief, a legible and correct list containing an accurate description of all precious metal articles, including type of precious metal, gender of article, size, engraving, presence of gems or precious stones, and all other identifiable traits, purchased or received, and the respective numbers of such articles. The licensee shall also provide to the Police Chief or his/her designee a copy of a photographic identification of the person selling or conveying such article(s), which shall include such person's name, age, permanent address, and telephone number. The licensee shall also submit to the Police Chief or his/her designee a photograph of each article purchased or received.

5.570.070. Recordkeeping requirements; inspection.

- A. Every keeper of a shop, licensed as provided in this chapter, shall keep a book in which shall be written, in English, at the time of every purchase, a description of precious metals so purchased or received, as required in § 5.570.060 of this chapter, the name, age, permanent address and telephone number of the person from whom purchased or received, and the day and hour when such purchase or receipt was made.
- B. Every such shopkeeper shall, at the time of making any purchase or receipt, attach a number to each article bought or received and shall make entry of such number in the book. Such book shall, at all times, be open for the inspection of the Police Chief or any member of the Police Department.

5.570.080. Posting of name and occupation.

Every keeper of a shop, as described in this chapter, shall put, in some suitable and conspicuous place in his shop, a sign having his name and occupation legibly described thereon in large letters. Such shop and all articles purchased or received therein may, at all times, be examined by the Police Chief or any member of the Police Department.

5.570.090. Violations and penalties.⁷⁴

Whoever collects, deals in or barter precious metals without a license or, if licensed, in any place or manner other than that designated in his license, or after notice to him that his license has been revoked, or whoever violates this chapter or any rule, regulation or restriction contained in his license, shall be subject to a fine of not less than \$50 nor more than \$300, and each day of such violation shall constitute a separate offense.

74. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 5.575**PRINTED MATTER VENDING MACHINES**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.38 of the Town Bylaws, which was adopted ATM 5-9-2001 by Art. 17). Amendments noted where applicable.]

5.575.010. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PRINTED MATTER VENDING MACHINE (referred to herein as "machine") — Any coin- or token-operated box, container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or distribution of newspapers, periodicals or other printed matter for public use.

5.575.020. Permit required.

No person, firm, corporation, association, partnership, trust or other type of entity shall place, install, use or maintain any printed matter vending machine on any public way, sidewalk, or other property owned or controlled by the Town without obtaining a written permit therefor from the Board of License Commissioners.

5.575.030. Application; fee.

The application for the permit shall fully and specifically describe the printed matter vending machine by setting forth its size by height, depth and width or any other relevant dimensions if varying in height, depth and width, the name and address of the applicant, the exact date or dates said machine will be in place or in operation, the exact place where the machine will be located, the manner in which said machine shall be affixed or held in place and the description of any object to which said machine shall be affixed. Further reasonable information which may affect the public safety, health or order in the community may be requested from the applicant. An annual application fee, the amount of which will be determined upon passage of this chapter and annually thereafter by the Board of License Commissioners, which fee will be reasonably related to the costs of processing said application, shall be paid for each machine licensed. The form of application shall be approved by Town Solicitor.

5.575.040. Insurance and indemnification.

The applicant shall agree to indemnify and save harmless the Town of Braintree, its officials, agents, employees, boards, commissions, and committees from any loss or damage and from all suits, actions and claims of any and every nature for or on account of any injuries or damage received or sustained by any person or company or other entity arising from the installation, use or maintenance of such machines. Prior to the issuance of any permit hereunder, a certificate of insurance for the purpose of providing such indemnification shall be filed with the Board of License Commissioners in a form and amount approved by the Board of License Commissioners.

5.575.045. Grant or denial; hearing.

- A. Within 20 days of receipt of a completed application, including application fee, the Board of License Commissioners shall grant a permit or shall order that a hearing be held within an additional 10 days, giving at least five days' written notice to the applicant.

- B. Within 10 days next following the close of the hearing, the Board of License Commissioners shall grant such permit or shall deny such application if it does not comply with the provisions of this chapter, or upon a finding that issuance of the permit would create a nuisance or would endanger the public health, safety, or order by:
- (1) Unreasonably increasing pedestrian traffic in the area in which the machine is to be located; or
 - (2) Endangering the public safety by reason of the machine's projection onto, into, or over any part of the roadway of any public street; by reason of its being affixed to a site or location used for public utility purposes, public transportation purposes or governmental use; by reason of its being located in such manner as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, or the ingress or egress from any residence, place of business or any legally parked or stopped vehicle; or by reason of harm and defacement caused by its being affixed to poles, posts, traffic signs or signals, hydrants, mailboxes or other objects at or near such location.
- C. Notice of the denial of an application for a permit shall be in writing and accompanied by a statement of the reasons therefor. The Board of License Commissioners may impose conditions upon the permit which relate to compliance with the permit, applicable laws or ordinances, or to public safety, health or order, or to guard against the creation of a nuisance, or to ensure adequate safety and security for the public. No applicant having been denied a permit shall submit the same or similar application within one year of the denial without including in the new application facts showing that the circumstances upon which the original denial was based have substantially changed.

5.575.050. Location.

No machine shall be chained, bolted or otherwise attached to property owned or maintained by the Town of Braintree without the permission of the Mayor or other Town board, commission, committee, or official having charge of such Town property. No machine shall be located within three feet of any crosswalk; within 10 feet of any fire hydrant; within five feet of any fire or police call box or other emergency facility; within five feet of any driveway, public or private; within three feet ahead or 15 feet to the rear of any designated bus stop, taxi stand or place marked for handicapped parking; within three feet of any bus bench or shelter, at any location whereby the clear space for the passage of pedestrians is reduced to less than four feet; or within three feet of any display window of any building abutting the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes.

5.575.060. Use for advertising prohibited.

No machine shall be used for advertising signs or publicity purposes, other than that which identifies the printed matter offered therein.

5.575.070. Maintenance.

Each machine shall be maintained in a clean and neat condition and in good repair at all times. No reflecting paint or fluorescent or reflective materials may be used on any machine.

5.575.080. Identification.

The person who places or maintains such machine shall have his/her name or his/her Massachusetts agent's name, address and telephone number affixed thereto in a place where such information may be easily seen.

5.575.090. Time limit for compliance.

All persons who have placed or intend to place machines in the Town of Braintree shall have 30 days from the effective date of this chapter to comply with its provisions. The Board of License Commissioners may grant an extension of this time limit in its discretion for good cause.

5.575.100. Violations and penalties.

Violation of the terms and conditions of this chapter or of any permit granted hereunder shall be punishable by a fine of \$100, and said violation shall be cause for cancellation, suspension, revocation, modification, or nonrenewal of the permit, after hearing, upon five days' written notice sent by registered or certified mail to the name and address set forth in the annual application.

5.575.110. Abandonment.

Any machine that is not used for the distribution of printed material for a period of 60 calendar days or more shall be deemed abandoned, and the applicant shall remove it within 48 hours of being notified by the Board of License Commissioners to do so.

5.575.120. Severability.⁷⁵

If any section, clause, or provision of this chapter shall be found by a court of competent jurisdiction to be invalid, the remainder of this chapter shall continue in full force and effect.

75. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

TAXICABS

Chapter 5.580

TAXICABS

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.40 of the Town Bylaws, which derived from prior code Ch. 122, as amended STM 10-5-2004 by Art. 30). Amendments noted where applicable.]

5.580.010. Licensing.⁷⁶

The Board of License Commissioners may license hackney carriage companies or companies which offer motor vehicles for the conveyance of passengers for hire in the Town, and it may revoke such licenses at its discretion, and a record of all licenses so granted or revoked shall be kept by the Board of License Commissioners. Taxi vehicles must be housed in Braintree and pay excise tax in Braintree. The company must have an office in Braintree and have a telephone line in Braintree.⁷⁷

5.580.020. Expiration of license. [Amended 3-5-2019 by Order No. 19-001]

Licenses issued under this chapter shall expire on the last day in June next after the date thereof and shall not be transferred without the consent of the Board of License Commissioners endorsed thereon. For each license the sum of \$200 shall be paid to the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his/her license within 10 days after notice that it has been granted.

5.580.030. Violations and penalties.

No person shall set up, use or drive in the Town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire in the Town under a penalty of \$100 for the first offense, \$200 for the second offense, and \$300 for a third and/or subsequent offense.

76. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

77. Note: This section was previously amended ATM 5-10-2005 by Art. 39.

BRAINTREE CODE

Chapter 5.585

YARD SALES

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.44 of the Town Bylaws, which derived from prior code Ch. 104). Amendments noted where applicable.]

5.585.010. Permit required.⁷⁸

Yard sales, garage sales and/or other similar sales are permitted in a residentially zoned district only if duly permitted on application to the Board of License Commissioners.

5.585.020. Rules and regulations.

The following regulations will control such permits:

- A. No more than two sales may be held within a calendar year unless the sale is solely for the benefit of a religious, educational, charitable or other nonprofit organization.
- B. No permit may be issued for more than two consecutive days.
- C. Permits may be granted only to the occupant of the premises where the sale is to be located, and the sale is limited to goods owned by the occupant of the premises, except where the sale is solely for the benefit of groups or organizations exempted in Subsection A of this section, in which case a permit may be issued to such group or organization in care of the property owner where the sale is to take place.

5.585.030. Fee.

The fee for such sales will be set by the Board of License Commissioners.

5.585.040. Enforcement.

This chapter will be enforced by the Braintree Police Department through the Board of License Commissioners.

78. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 5.590**TRASH HAULERS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.50 of the Town Bylaws, which was adopted ATM 5-17-1999 by Art. 17). Amendments noted where applicable.]

GENERAL REFERENCES

Garbage collection and disposal — See Ch. 8.400.

5.590.010. Purpose.

The purpose of this chapter is to further the Town of Braintree's recycling access plan and to achieve 51% or greater recycling access for multifamily residences and residential condominiums, townhouses and apartment associations by requiring that all trash haulers licensed by the Braintree Board of Health include a recycling component as part of their services.

5.590.020. Permit requirements.

- A. Pursuant to MGL c. 111, § 31B, all persons, businesses or contractors who collect trash in the Town of Braintree must first obtain a permit from the Board of Health.
- B. Each applicant for a trash hauler permit shall submit to the Board of Health a list of customers to be serviced, time of day and frequency of collection, an estimate of tons of solid waste and recyclables to be collected, and a process for resolving residential complaints or permit violations. Any application which fails to include this information, or any additional information requested by the Board of Health, shall be deemed incomplete and shall be denied.
- C. Trash hauling permits shall be valid for one year, renewable annually on the first day of January, subject to review and approval by the Board of Health. No permit shall be transferable except with the approval of the Board of Health.
- D. All permitted trash haulers shall provide trash and recycling services equal to the level of Braintree municipal service, and in compliance with the Commonwealth of Massachusetts Department of Environmental Protection regulations and the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs Solid Waste Management Plan.⁷⁹
- E. All permitted trash haulers shall charge a flat fee which shall reflect the fee for the collection and disposal of both residential trash and recyclables.
- F. All permitted trash haulers shall submit monthly reports listing the tonnage of refuse and recyclables collected and shall provide the Board of Health with copies of weight slips or vendor receipts to verify tonnage of refuse and recyclables collected. The report shall be submitted to the Board of Health with a copy to the Mayor on a monthly basis for each month that the hauler holds a valid permit. Failure to provide this information may result in suspension, modification or revocation of the permit.

79. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

5.590.030. Permit fee.

An application fee in an amount to be determined by the Board of Health shall be submitted with each application.

5.590.040. Enforcement.⁸⁰

Any member of the Board of Health or its agents or any other person designated by the Mayor may enforce the provisions of this chapter. Any violation of this chapter or the Department of Environmental Protection regulations or the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs Solid Waste Management Plan by the permitted hauler shall be grounds for suspension, modification or revocation of the permit.

80. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

MARIJUANA RETAILERS

Chapter 5.600

MARIJUANA RETAILERS

[HISTORY: Adopted by the Town Council of the Town of Braintree 3-27-2018 by Ord. No. 17-055(1); amended in its entirety 10-18-2022 by Order No. 22-049. Amendments noted where applicable.]

5.600.010. Prohibition of marijuana establishments.

The operation within the Town of any marijuana retailer, as defined in MGL c. 94G, § 1, is prohibited.

Chapter 5.700**DEMOLITION DELAY**

[HISTORY: Adopted by the Town Council of the Town of Braintree 4-2-2019 by Ord. No. 18-025.

Amendments noted where applicable.]

5.700.010. Intent and purpose.

- A. The Demolition Delay Ordinance is enacted for the purpose of encouraging and facilitating the preservation and protection of significant buildings within the Town of Braintree which are located outside designated historic districts. Such buildings reflect distinctive features of the architectural, cultural, economic, political, or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work.
- B. The intent of this chapter is not to permanently prevent demolition, but rather to provide an opportunity to document and photograph the building and in those situations determined by the Historical Commission to be historically significant, develop preservation solutions for significant buildings threatened with demolition. This chapter is intended to encourage owners and Townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. To achieve these purposes, the Braintree Historical Commission (the "Commission") is empowered to advise the Inspector of Buildings with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this chapter, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

5.700.020. Definitions.

For the purposes of this chapter only, the following words and phrases shall have the following meanings, whether or not capitalized:

APPLICANT — The person or persons filing an application for review under this chapter.

APPLICATION — An application for review under this chapter filed pursuant to this chapter.

BUILDING — A structure designed, built, or occupied as a shelter for persons, animals, or property.

COMMISSION — The Braintree Historical Commission.

DEMOLITION — Any act of pulling down, destroying, removing, razing or moving a building, or commencing such work with the intent of completing the same.

PREFERABLY PRESERVED — A significant building which, after a public hearing, the Commission determines that demolition of such building would be detrimental to the historical or architectural heritage or resources of the Town.

SIGNIFICANT BUILDING — Any building which in whole or in part is more than 75 years old, or is of unknown age, and which meets one or more of the following two criteria:

- A. The building is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
- B. The building is determined by the Commission Chairperson to be of historical or architectural significance by reason of period, style, method or building construction, or by reason of its

association with a particular architect, or a builder, or with a person or event of importance to the Town's history.

5.700.030. Procedure.

- A. No demolition of a building which is at least 75 years old, or which is of an indeterminate age, shall be permitted except in conformity with the provisions of this chapter. This chapter shall not apply to any building located in a designated Historic District created pursuant to MGL c. 40C or any special act of the legislature, or to any property certified as a landmark pursuant to MGL c. 40, § 8D.
- B. Upon receipt of an application for a demolition permit for any building which is at least 75 years old, or which is of indeterminate age, the Inspector of Buildings shall forward a copy thereof to the Planning and Community Development Department, which in turn shall notify the Historical Commission Chairperson. No demolition permit shall be issued at that time.
- C. Within five days of his/her receipt of a copy of an application for a demolition permit, the Commission Chairperson shall make an initial determination as to the significance of the subject building. If the initial determination shall be positive for the building, the Planning and Community Development Department shall notify the Building Inspector and applicant of said determination in writing within five days of the Chairperson's determination of the need to conduct a public hearing.
- D. If the initial determination is in the negative, or if the Planning and Community Development Department fails to notify the Building Inspector of the positive initial determination within five days of the initial determination, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, ordinances, rules and regulations, issue a demolition permit.
- E. If the initial determination is positive, the Commission shall, within 35 days of the initial determination, conduct a public hearing to determine whether the significant building is preferably preserved. The Commission shall give public notice by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by posting such notice in a conspicuous place in Town Hall for a period of not less than 14 days before the day of such hearing. The Commission shall also mail a copy of said notice to the applicant, to the owner of the premises on which the significant building is located (if other than the applicant), to the owners of all property within 300 feet of the lot on which the significant building is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. The applicant is encouraged to provide any information to the Commission that he or she believes will assist the Commission in reaching its decision. The conduct of the public hearing shall be in accordance with duly adopted ordinances or regulations adopted by the Commission.
- F. If, after a public hearing, the Commission determines based on the applicant's presentation and submission of materials that demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner (if other than the applicant), and the Inspector of Buildings, in writing, within 10 days of such public hearing. Upon receipt of such notice, or upon the expiration of 10 days from the date of the close of the Commission's public hearing without having received any notification from the Commission, the Building Inspector shall, subject to the requirements of the State Building Code and any other applicable laws, ordinances, rules and regulations, issue a demolition permit for the subject building.

- G. If, after the public hearing, the Commission determines that demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be preferably preserved and the Commission shall so advise the applicant, the owner (if other than the applicant), and the Inspector of Buildings of its determination, in writing, within 10 days, and no demolition permit shall be issued until four months after the date of such determination by the Commission. In making its determination, the Commission shall consider, among other relevant factors: a) the building's condition; b) whether the building is one of the last remaining examples of its kind in the neighborhood, the Town, or the region; and c) the building's historic, architectural, and urban design significance.
- H. In the event the Commission imposes a demolition delay pursuant to this chapter, the Commission shall invite the applicant (or owner of record, if different) to participate in an investigation of alternatives to demolition of the building. The Commission may also invite any other party to participate in such investigation, on an advisory basis, that it believes can be helpful. The investigation shall consider possibilities such as: the incorporation of the building into future development on the site; adaptive reuse of the building; financial incentives for rehabilitation; removal of the building to another site; and, with the owner's consent, a search for a party willing to purchase and preserve, restore, or rehabilitate the building. During the four-month delay period, the Commission shall notify the Massachusetts Historical Commission, the Mayor, the Director of Planning and Community Development, the Community Preservation Committee and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.
- I. Upon expiration of the four-month demolition delay period required by this chapter, the Inspector of Buildings may issue a demolition permit to the applicant, subject to the requirements of the State Building Code and any other laws, ordinances, and regulations.
- J. Notwithstanding the preceding subsections, the Inspector of Buildings may issue a demolition permit for a preferably preserved building prior to the expiration of the four-month demolition delay period upon receipt of written advice from the Commission to the effect that:
- (1) Notwithstanding the fact that a significant building is preferably preserved, the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or
 - (2) The Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.
- K. The requirements of this chapter are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations related to the demolition of buildings.
- L. Any determination issued pursuant to this chapter shall be in writing and shall specify the reasons for such determination. In the event a demolition delay is imposed, the written determination shall specify the date on which such delay period shall terminate.

5.700.040. Responsibilities of owner.

Once a significant building is determined to be preferably preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Inspector of Buildings. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the four-month demolition delay period, which destruction could have been prevented by the required security measures,

shall be considered a voluntary demolition in violation of this chapter.

5.700.050. Emergency demolitions.

- A. Notwithstanding the foregoing provisions, the Inspector of Buildings may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Inspector of Buildings shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Inspector of Buildings shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.
- B. Nothing in this chapter shall restrict the authority of the Inspector of Buildings to require the applicant to take reasonable action to prevent the need for required demolition of a significant building, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.
- C. No provision of this chapter is intended to conflict with or abridge any obligations or rights conferred by MGL c. 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.
- D. Nothing in this chapter shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district.

5.700.060. Enforcement and remedies.

- A. If the Commission determines that a significant building has been voluntarily demolished in violation of this chapter, the Building Commissioner shall not issue any building permit for new construction, or any use or occupancy permit for any use other than a park or recreational space, with respect to the premises for a period of eight months after the date of the demolition. As used herein, "premises" includes the parcel of land upon which the demolished building was located, and all abutting parcels under common ownership or control.
- B. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this chapter better serves the intent and purpose of this chapter, it may, prior to the expiration of said period of eight months, authorize the Inspector of Buildings to issue a building permit upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this chapter.

5.700.070. Regulations and fees.

- A. The Commission may promulgate regulations to administer the provisions of this chapter.
- B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this chapter (including the costs of publishing).

5.700.080. Severability.

If any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by

any court, every other section, paragraph and part shall continue in full force and effect.

Title 6: Animals

Chapter 6.100**DOGS AND OTHER ANIMALS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 3-19-2013 by Ord. No. 13-006 (former Ch. 6.04 of the Town Bylaws, which derived from prior code Ch. 63). Amendments noted where applicable.]

GENERAL REFERENCES

Animal Control Officer — See Ch. 2.505.

Animal Inspector — See Ch. 2.510.

6.100.010. Purpose.

The purpose of this chapter is to protect the health, safety and welfare of all the inhabitants who frequent and live in the Town. It is further the purpose of this chapter to prevent the needless health hazards caused by dog bites and dog feces upon public and private properties and to comply with Chapter 193 of the Acts of 2012.

6.100.020. Definitions.

Where otherwise not defined by this chapter, the definitions contained within MGL c. 140, § 136A, and Chapter 193 of the Acts of 2012 shall apply. In addition, the following terms shall have the following meanings when used in this chapter:

LEASH — Chain or line no longer than six feet long.

OWNER — Any person issued a license in accordance with the provisions of MGL c. 140, § 137, for a dog owned or kept within the Town.

PERSON — Any individual, partnership, company or corporation, association, trust or similar organization.

RESTRAINT — An animal shall be deemed to be under restraint if on the premises of its owner or keeper in a way that it may not leave the premises without its owner or keeper, such as confined by fence, leash, runner or other form of restraint; if outside the premises of the owner or keeper, it is accompanied by a person who shall have the animal under control by holding it firmly on a leash.

6.100.030. Dog license required.

No person shall own or harbor a dog in the Town, which dog is not duly licensed as required by MGL c. 140, §§ 137 through 138 inclusive. The fee for said licenses shall be established by the Town Council and posted in the office of the Town Clerk as follows:

- A. Intact dog: \$15.
- B. Spayed or neutered dog: \$10.
- C. Service animal: no charge.
- D. Substitute tag: \$5.

6.100.040. Personal kennel license. [Amended 6-15-2021 by Order No. 21-029]

- A. Any reference within this chapter to a "kennel" or "kennel license" is meant to refer to a personal kennel as defined under MGL c. 140, § 136A.
- B. Licenses issued for personal kennels shall be issued in packs of five license tags. Each pack of five licenses shall be priced at \$50.
- C. Nothing under this section shall prohibit any owner of more than four dogs from purchasing individual dog licenses as described in Section 6.100.030 nor shall it prohibit an owner or keeper of less than four dogs, three months or older, who does not maintain a personal kennel from securing a personal kennel license under this section as outlined in MGL c. 140, § 137A.

6.100.050. License violations and penalties. [Amended 5-27-2014 by Ord. No. 14-040]

There shall be assessed a fine of \$15 for each year missed with respect to any dog that is not licensed within the licensing period, which extends from April 1 through the end of June. This fine shall increase to \$25 for each year missed with respect to any dog that is not licensed by the end of August. This fine shall be in addition to the penalties provided in Section 6.100.180.

6.100.060. Leashing required.

The owner or keeper of any dog or dogs shall at all times keep such dog or dogs under restraint while in the physical limits of the Town.

6.100.070. Animal nuisances designated.

An owner shall exercise proper care and control of his animals to prevent them from becoming a public nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, habitually attacking people or other domestic animals, trespassing upon school grounds, or trespassing upon public or private property, or in such manner as to damage property, shall be deemed a nuisance.

6.100.080. Quarantining dogs that bite or diseased animals.⁸¹

Any dog which bites a person or any domesticated animal which, upon inspection, appears to be affected with a contagious disease, shall be quarantined for not less than 10 days in accordance with MGL c. 129, §§ 21, 22 and 24. If the Animal Inspector requests other confinement, the owner shall surrender the animal for the quarantine period. The second dog bite that takes place is sufficient reason for the Animal Inspector to request other confinement. The owner of any dog or animal so quarantined shall pay any charges associated with the care and custody of the dog or animal quarantined. Whoever is the owner or keeper of a dog found guilty of biting a person shall be punished by a fine in accordance with the penalties of § 6.100.180.

6.100.090. Dogs running at large; impoundment and reclamation.

Dogs running at large will be impounded. If the owner is known, notice shall be given within three days to such owner. If the owner is unknown, disposition of a dog shall be as provided under MGL c. 140, § 151A. The owner or keeper of any dog so impounded may reclaim such dog upon payment of the dog license fee, if it is then unpaid, and upon payment of the following maintenance and administrative charges:

81. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

- A. A daily boarding rate of \$25 for each day dog is held in the pound;
- B. Any penalty as stated in MGL c. 140, § 167; and
- C. Receipts under this section shall be turned over to the Town Treasurer/Collector.

6.100.100. Complaint against unresponsive owner or keeper.

In addition to any other statutory authority contained in MGL c. 140, the Animal Control Officer may enter a complaint before the Mayor for the purpose of obtaining an order with respect to the control or disposition of dog found to be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in this chapter.

6.100.130. Dog feces.

No person who owns or harbors a dog within the Town shall allow such dog to defecate on private property, other than that of its owner or keeper, or on a public sidewalk, or on other public areas. If a dog defecates on property other than that of the owner or keeper, the owner of the dog shall be responsible for the immediate removal of the feces.

6.100.140. Confinement of female dogs in heat.

Every female dog in heat (season) shall be confined in a building or secure enclosure in such a manner that such female dogs cannot come into contact with another animal except for planned breeding.

6.100.150. Termination of ownership; notification.

Any person who no longer owns or harbors a dog in the Town shall notify the Town Clerk immediately.

6.100.160. Disposal of dead animals.

Disposal of household pets, such as dogs and cats and other domesticated animals that have died, and the ownership of which can be established, is the sole responsibility of the owner and must be disposed of in accordance with the General Laws of the commonwealth.

6.100.170. Feeding wild animals.⁸²

No person shall feed any wild animals, including without limitation raccoons, homeless dogs or cats, except birds through freestanding bird feeders or bird feeders attached to a private residence, or except as provided herein. The Health Department may issue permits for the establishment of feral cat feeding stations for the feeding of homeless cats on property in areas which are located at least 200 feet from any residence, church, school, business, or other structure for human habitation, as well as 200 feet from any park, playground, parking lot, or other open area used or intended for use by the public, provided that the owner of the property on which the feral cat feeding station is located grants written permission from the Health Department and/or its agents, Braintree police officers, and Braintree Animal Control Officers to enter upon the property for the purpose of inspecting and monitoring such feral cat feeding station.

6.100.180. Violations and penalties.⁸³

82. Note: This section was previously amended ATM 5-15-2001 by Art. 51.

83. Note: This section was previously amended ATM 5-14-1996 by Arts. 21 and 22 and ATM 5-15-2001 by Art. 51.

6.100.180

BRAINTREE CODE

- A. The Animal Control Officer is authorized to seek a complaint against the owner or keeper of a dog or other domesticated animals, or other person who violates any provision of MGL c. 140, by imposing such penalties as prescribed under said MGL c. 140. If not prescribed by MGL c. 140, violations of the provisions of this chapter are as follows:
- (1) First offense: \$50.
 - (2) Second offense: \$75.
 - (3) Third offense: \$100.
- B. For each subsequent offense a fine of \$100 shall be imposed for each offense so committed in the same calendar year. The Braintree Police Department is also authorized to enforce the provisions of this chapter.

6.100.190. Displaying nondomesticated animals for entertainment.⁸⁴

No living nondomesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals or similar entities on property owned by the Town of Braintree, or Town-owned property under lease, or on private property. As used in this section, "displayed" shall include, but is not limited to, animal acts, performances, and competition.⁸⁵

84. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

85. Note: This section was originally added ATM 5-16-2001 by Art. 62.

Chapter 6.200**MIGRATORY WATERFOWL**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-038 (former Ch. 6.08 of the Town Bylaws, derived from prior code Ch. 64, adopted STM 5-4-1992 by Art. 9). Amendments noted where applicable.]

GENERAL REFERENCES

Animal Control Officer — See Ch. 2.505.

Dogs and other animals — See Ch. 6.100.

Animal Inspector — See Ch. 2.510.

6.200.010. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FEEDING AND BAITING — The placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled, shucked or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction or enticement to, on or over any such areas where such feed items have been placed, exposed, deposited, distributed or scattered.

6.200.020. Feeding or baiting of migratory waterfowl prohibited.

No person, except the Director of the Division of Fisheries and Wildlife or his agent or designee, as authorized pursuant to MGL c. 131, shall feed or bait any waterfowl of the family Anatidae (including but not restricted to ducks, geese, gulls and swans) on any property within or abutting Sunset Lake, the Braintree Municipal Golf Course, or any other Town park, waterfront, school or recreational property.

6.200.030. Construal of provisions.

Nothing in this chapter shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Fisheries and Wildlife, or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by that person.

6.200.040. Emergency feeding.

Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife or his agent or designee may authorize the emergency feeding of waterfowl and other birds when in his/her opinion such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the Mayor thereof by first-class mail.

6.200.050. Violations and penalties.

Any person who violates any provision of this chapter shall be subject to a fine of \$50 for each offense thereof. Violations of this chapter may be enforced pursuant to Chapter 1.08 of the Town Ordinances. This

chapter may be enforced by police officers, the Animal Control Officer, agents of the Health Department, environmental police officers and other enforcement officers of the Division of Law Enforcement, and by deputy environmental police officers.

Title 8: Health and Safety

Chapter 8.100**BURGLAR ALARM SYSTEMS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.04 of the Town Bylaws, which derived from prior code Ch. 68). Amendments noted where applicable.]

GENERAL REFERENCES

Fire alarm and fire protection systems — See Ch. 8.300.

8.100.010. Purpose.

False alarms have a deleterious effect on the local law enforcement effort. They are costly and disruptive; costly in the sense of the deployment of our people to non-bona fide calls, detrimental by subjecting our personnel and equipment to injury or other negative impacts when responding. They cause a drain on the allocation of personnel to designated areas by leaving certain other areas of the Town vulnerable. This is a situation that must be met, modified and dealt with in a manner consistent with the efficient and effective running of the Braintree Police Department, by specific means as set forth herein.

8.100.020. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTOMATIC DIALING DEVICE — An alarm system which automatically sends, over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

BURGLAR ALARM SYSTEM — An assembly of equipment and devices, or a single device such as a solid state unit, which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this chapter. Provisions of § 8.100.030C of this chapter shall apply to all users.

FALSE ALARM — ⁸⁶

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents.
- B. Any signal or automatic dialing device transmitted to the Braintree Police Department requesting, or requiring, or resulting in a response on the part of the Braintree Police Department when in fact there has been no unauthorized intrusion, robbery, or burglary, or attempted threat. For the purpose of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

86. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

8.100.030. Control and curtailment of signals emitted by alarm systems.

- A. Every alarm user shall submit, to the Police Chief, the names and telephone numbers of at least two other persons, in addition to the user, who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of such premises to immediately notify the Braintree Police Department of any changes in the list of authorized employees or other persons to respond to alarms.
- B. All alarm systems installed after the effective date of this chapter which use an audible horn or bell shall be equipped with a device that will shut off such bell or horn within 15 minutes after activation of the alarm system. All existing alarm systems in the Town must have a shutoff device installed within six months after passage of this chapter.
- C. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes between 7:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section and which disturbs the peace, comfort or repose of a community, a neighborhood, or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Braintree Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Subsection A of this section, in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.
- D. No alarm system which is designed to transmit emergency messages or signals of intrusion to the Braintree Police Department will be tested until police headquarters has been notified.
- E. Provisions of this chapter shall not apply to alarm devices or premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

8.100.040. Violations and penalties.⁸⁷

- A. The user shall be assessed \$50 as a false alarm service fee for each false alarm in excess of three occurring in a calendar year. The Police Chief shall notify the alarm user, either by certified mail or by service in hand by a police officer, of such violation. The user shall submit payment within 15 days of such notice to the Town Treasurer/Collector for deposit to the general fund. If the user fails to pay the fee within 15 days, the assessed fee shall be doubled, up to a maximum of \$300.
- B. The user of a system which occasions six or more false alarms within a calendar year or who fails to pay the fee(s) after such notice may be ordered to disconnect and otherwise discontinue the use of same by the Police Chief. The order to disconnect shall not eliminate any fees previously assessed.⁸⁸

⁸⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

⁸⁸. Note: This section was previously amended STM 5-5-2003 by Art. 12.

FLAMMABLE STORAGE LICENSE FEES

Chapter 8.200

FLAMMABLE STORAGE LICENSE FEES

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.05 of the Town Bylaws, adopted ATM 5-21-2003 by Art. 23). Amendments noted where applicable.]

GENERAL REFERENCES

Hazardous materials — See Ch. 8.600.

8.200.010. Fees for licenses and certificates of registration.

Fees for licenses and certificates of registration issued pursuant to MGL c. 148, § 13, for keeping, storage, manufacture or sale of crude oil petroleum and its products or explosive or inflammable fluids shall be as follows:

Storage Capacity	License (first year)	Registration (subsequent years)
Up to 5,000 gallons	\$200	\$100
5,001 to 50,000 gallons	\$400	\$200
Above 50,000 gallons	\$400, plus \$4 for each 10,000 gallons above 50,000 gallons	\$200, plus \$2 for each 10,000 gallons above 50,000 gallons

Chapter 8.300**FIRE ALARM AND FIRE PROTECTION SYSTEMS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.08 of the Town Bylaws, which derived from prior code Ch. 67, adopted ATM 5-8-1989 by Art. 22). Amendments noted where applicable.]

GENERAL REFERENCES

Burglar alarm systems — See Ch. 8.100.

8.300.010. Purpose.

Present requirements relating to fire alarms and fire alarm systems are nonexistent, creating Town-wide problems with Fire Department personnel gaining access to buildings with such fire alarm systems to either reset them or shut off the alarm. The practice of carrying keys for all buildings with alarm systems is no longer practical due to the great numbers of systems. Forced entry is not reasonable unless there are visible signs of fire or other emergency. The need to regulate abuses is due to the numerous number of false alarms from private alarm systems and the growing increase of homeowners' or renters' alarm systems that are connected to the Fire Department's emergency telephones.

8.300.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

ALARM ACTUATING — Any device such as a smoke or heat detector, pull station or sprinkler flow switch that causes the alarm to sound.

AUTOMATIC DEVICE — A fire protection device that requires no manual operation during activation.

FALSE ALARM —

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents; or
- B. Any signal or automatic dialing device transmitted to the Braintree Fire Department requesting, or requiring, or resulting in a response on the part of the Braintree Fire Department.

FIRE ALARM CONTROL PANEL — The electrical and electronic center of a system that detects alarm conditions, sounds signals, and provides power and supervisory features.

FIRE ALARM SERVICE COMPANY — A commercial firm that specializes primarily in the installation and service of fire alarm devices.

FIRE ALARM SYSTEM — An assembly of equipment and devices, or a single device such as a solid state unit, which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention to which the Fire Department is expected to respond. Also, any system which is designed to monitor temperature, smoke, humidity, or any other conditions directly related to the detection of fire or explosion hazards.

FIRE WATCH — A Braintree firefighter having knowledge of fire safety rules and regulations and having

the ability and knowledge to properly sound an alarm, and one who tours the property being protected in the event of fire.

MANUAL DEVICE — A fire alarm pull station or other device that requires manual activation for operation.

SERVICE INDIVIDUAL — An individual having extensive knowledge in the repair and maintenance of fire alarm systems, such as an electrician who specialized in signaling systems.

SIGNALING CIRCUIT — The electrical circuit that connects and operates all fire alarm system horns, bells, or other devices.

SINGLE STATION UNIT — A self-contained fire protection device equipped with all features of a system within a small housing, such as a battery-operated smoke detector (i.e., detector, power supply and signal).

STANDBY BATTERY — An emergency power supply in case of loss of commercial power to the fire alarm panel.

SUPERVISORY CIRCUIT — Any alarm circuit that passes a small current through a device and detects a fault on that circuit, such as a ground open or short.

TYPE I SYSTEM — A total fire alarm system that includes detecting devices, annunciator, signals, power supply and control panel, that sounds the local signals at the structure being protected and trips a master fire alarm box connected to the Braintree Fire Department.

TYPE II SYSTEM — The same as Type I, except no direct connection to the Fire Department is required.

8.300.030. Authority to inspect for fire and explosion hazards.

The Chief of the Fire Department shall be vested with the authority to inspect all buildings and premises for the purpose of eliminating fire or explosion hazards. If any building or premises contains a condition that, in the judgment of the Chief of the Fire Department, can be classed as fire or explosion hazards, he shall forthwith issue a written order for the elimination of such fire and explosion hazards as may exist.

8.300.040. Special fire alarm signal services; permit required.⁸⁹

All special fire alarm signal services which provide direct contact, including telephone, to the Braintree Fire Department shall be regulated by permit under the jurisdiction of the Fire Chief. The fee for such permit shall be \$50.

8.300.050. Special fire alarm signal services; access.

Users of such special fire alarm signal services shall provide access to the Braintree Fire Department only via connections to telephone lines approved by the Fire Chief. In no case shall direct access be provided via the Fire Department emergency telephone numbers.

8.300.060. False alarms; fines.

To regulate the use of Braintree Fire Department emergency telephone lines by unauthorized special fire alarm signal services or by homeowners/renters, the following provides a system of fines to reduce and control false alarms through mechanical failure, malfunction, improper installation or negligence of the user of a fire alarm system which may occur over a twelve-month period:

89. Note: This section was previously amended ATM 5-14-1991 by Art. 30.

- A. First offense: no charge.
- B. Second offense: \$50.
- C. Third offense: \$100.
- D. Fourth offense and each subsequent offense: \$200.

8.300.070. Key box required.

Any residential building of six or more units, or any business or commercial property which has a fire alarm system or other fire protection system that transmits a signal through a private central station alarm company or directly to the Braintree Fire Department through the Fire Department alarm system, shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the Braintree Fire Department and shall be located and installed as approved by the Chief. Any building owner violating this section after receiving due notice by the Fire Department shall be subject to a fine of \$50.

8.300.080. Underground installation required.

- A. All fire alarm cables and fire alarm equipment installed in new subdivisions shall be placed underground.
- B. Such installation is to be done at the expense of the developer and the work performed under the supervision of the Fire Chief who shall notify the Planning Board, in writing, upon satisfactory completion of such installation.

8.300.090. Fee schedule.⁹⁰

For inspections and related services not covered by statutory law, the following fees, based on a Department-certified inspection form, shall apply for those uses listed below:

- A. Lumberyards: \$50 per year.
- B. Junk or salvage yards: \$50 per year.
- C. Theater inspection: \$50 per year.
- D. Inspection of commercial garages: \$50 per year.
- E. Gasoline stations: \$50 per year.
- F. Review of sprinkler and/or fire protection plans and specifications: \$30 per hour.
- G. On-site inspections/fire protection inspections:
 - (1) Single-family: \$25 as prescribed under MGL c. 148; reinspection or call-back visit: \$25 each.
 - (2) Multiple dwelling: \$25; additional units: \$10 each.
 - (3) Commercial: \$50 per zone of fire protection system.

90. Note: This section was previously amended ATM 5-14-1991 by Art. 30.

- (4) Reinspection or call-back visit, multiple dwelling or commercial: \$25 per zone of fire protection system.
- H. Nursing and convalescent homes, quarterly inspections:
 - (1) Twenty-five beds or fewer: \$50.
 - (2) Over 25 beds: \$100.
- I. Clinics/HMOs: \$50 per licensing certificate of inspection.
- J. Kindergartens: \$50 per licensing certificate of inspection.
- K. Private schools: \$50 per licensing certificate of inspection.
- L. Hotels/motels, quarterly inspections:
 - (1) One hundred rooms or fewer: \$100.
 - (2) Over 100 rooms: \$150.
- M. Master box:
 - (1) Initial connection: \$250.
 - (2) Annual fee: \$150.
- N. Reinspection for licensed facilities or those requiring quarterly inspections: \$50.
- O. Underground storage tanks, removal or relocation. Any underground storage tank which has been used for keeping or storage of gasoline or hazardous chemicals, as prescribed by the Environmental Protection Agency or the Massachusetts Department of Environmental Protection, shall not be removed or relocated unless a permit has been obtained from the Chief of the Braintree Fire Department, i.e., a permit to remove or relocate an underground storage tank under the provisions of MGL c. 210, § 1, and 527 CMR 9:00 and 502 CMR 3:00, as amended.⁹¹
 - (1) Permit fee: \$200 (all steel, fiberglass UST and gasoline and heating fuel).
 - (2) Fuel oil tank under 1,100 gallons removal permit: \$25 (heating fuel No. 2 only).
- P. General Laws Chapter 21E inquiry and record review: \$25 per hour.
- Q. All other permits not addressed by statute: \$25.

8.300.100. Fire alarm systems; testing and maintenance.

- A. All buildings that are required to be equipped with Type I or Type II fire alarm systems as determined and described by the Massachusetts State Building Code Regulations, Massachusetts Fire Prevention Regulations or Town of Braintree ordinances shall have all fire alarm system devices tested no less than two times each calendar year by a qualified fire alarm service company. Lodging homes having 13 or more tenants shall be equipped with a Type I system. Lodging homes having 12 or fewer tenants shall be equipped with a Type II system. Devices to be tested are all alarms (automatic or manual), signaling, supervisory circuits, standby battery supplies and other system and single station units

91. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

within the structure installed for the purpose of fire protection. The building owner shall be responsible for maintaining proper written records of the tests, indicating dates, time and signature of the qualified tester, and such records shall be available to be viewed by any public safety representative employed by the Town. The Chief of the Braintree Fire Department, his representative or the Braintree Assistant Superintendent of Fire Alarm Systems shall determine the qualifications of the fire alarm service organization or individual. The owner shall have written proof of a maintenance contract or agreement with a qualified fire alarm company, and such agreement or contract shall indicate that the service company is on twenty-four-hour call and will respond within 24 hours for maintenance or repair of the fire alarm system.

- B. Should a fire alarm system require maintenance or repair, it is the responsibility of the owner or his representative that such system be repaired and placed back into service within 24 hours of the discovery of the fault by the owner, service company, or Braintree public safety official. Notification of such fault to the owner or his representative may be written or verbal.
- C. Should the system provide protection for a structure where a life hazard exists, including, but not limited to, apartments (six units or more), hotels, motels, lodging houses, hospitals, nursing homes, schools, day-care centers or nurseries, it is the responsibility of the owner to have the system in proper operation within the twenty-four-hour period or, at his expense, provide a Braintree firefighter during the nighttime hours or when a life hazard exists. Those failing to comply shall be considered in violation of this chapter. The Chief of the Fire Department shall determine when a life hazard exists. When such condition exists, the Chief of the Fire Department or his representative shall determine when the fire watch will be removed.
- D. Any owner to be found in violation of this chapter shall be fined the sum of no more than \$300 per day for each day of violation until the fire alarm system is placed in service to the satisfaction of the Chief of the Fire Department or his representative. All residential structures of five units or fewer are exempted from the requirement to procure a formal maintenance contract. However, it is the responsibility of the owner of such structure to properly maintain and keep in good working order all fire protection and fire alarm devices.⁹²
- E. The name and emergency telephone number of both the owner and the qualified service organization shall be posted in a conspicuous place, preferably on the fire alarm control panel.

92. Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

Chapter 8.400**GARBAGE COLLECTION AND DISPOSAL**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.12 of the Town Bylaws, which derived from prior code Ch. 75). Amendments noted where applicable.]

GENERAL REFERENCES

Trash haulers — See Ch. 5.590.

Mandatory recycling for residential properties — See Ch. 8.500.

8.400.010. Applicability.

For purposes of this chapter only, "commercial properties" shall be defined as any business, firm, store, shopping plaza, property dedicated to business use, any residential dwelling of more than four units, nursing home, congregate living facility, hospital, hotel, motel, or lodging house.

8.400.020. Enclosure of containers required.

- A. Any business, firm, store, group of stores, shopping center, shopping plaza, or residential dwelling of more than four units which stores or disposes of its refuse in bins, dumpsters or similar containers is required to fence off or otherwise enclose such containers if, in the opinion of the Health Department, the conditions in and around such containers constitute a public nuisance or if so required pursuant to a permit issued by the Planning Board.
- B. The Health Department may direct the property owner in question to maintain the containers within an enclosure created by a solid fence or wall, in such a manner that the containers are screened from public view, and constructed so as to effectively trap any refuse which may accidentally be spilled from the containers.

8.400.030. Garbage placed for collection to be in custody of Town; violations and penalties.

Solid waste, including recyclable materials and garbage placed upon the sidewalk for collection by any residential property owner or a commercial property owner, if said commercial property owner is permitted by the Department of Public Works Advisory Board to avail itself of the Town's curbside collection, shall become the property of the Town. It shall be a violation of this chapter if any person, other than authorized agents of the Town, acting in the course of their employment or contract, collects or causes to be collected any solid waste or recyclables so placed. For a first offense, the fine shall be \$50; for a second offense, the fine shall be \$100; and for a third or subsequent offenses, the fine shall be \$300. Each and every such collection in violation of this section shall constitute a separate offense.

8.400.040. License required for garbage removal.

No person other than the Town, its agents, or a person duly licensed by the Board of Health, in writing, pursuant to reasonable rules and regulations for the issuance of such license as promulgated by the Board of Health, shall collect, take away or remove any such rubbish, including recyclable materials, or garbage so placed, except that the depositor may reclaim any or all of it prior to removal thereof by the Town, its agents or duly licensed person.

8.400.050. Removal of vehicles impeding collection of solid waste and recyclable materials.

The Mayor, or his designee, for the purpose of facilitating the collection of solid waste, recyclable materials, and refuse, may request the Police Department to remove or cause to be removed to some convenient place in the Town, including in such term a public garage, from any portion of a public way therein or from any private way therein open to public use, any vehicle parked contrary to a sign within 100 feet banning parking at such time and place or any other vehicle parked in such a manner as to impede an authorized solid waste or recycling hauler from collecting said solid waste and recyclable materials. The cost of removing the vehicle and the cost of the resulting storage charges, if any, shall be assessed against the owner of such vehicle.

Chapter 8.500**MANDATORY RECYCLING FOR RESIDENTIAL PROPERTIES**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.13 of the Town Bylaws, adopted ATM 5-10-2004 by Art. 27). Amendments noted where applicable.]

GENERAL REFERENCES

Garbage collection and disposal — See Ch. 8.400.

8.500.010. Purpose.

This chapter is enacted in order to preserve the environment by reducing the amount of refuse sent to landfills and incinerators and to comply with Department of Environmental Protection waste ban regulations. It is the policy of the Town to reduce the amount of solid waste generated and to require the recycling of recyclable materials to the fullest extent possible.

8.500.020. Applicability.

For purposes of this chapter only, "residential properties" shall include one- and two-family dwellings, as defined in the Town's Zoning Ordinances, and residential properties with four units or fewer, regardless of whether owner-occupied or rented, or any other residential property as may be permitted by the Department of Public Works Advisory Board to participate in the Town's curbside collection program.

8.500.030. Preparation and placement.

Each residential owner or occupant who receives solid waste collection services from the Town's solid waste contractor shall comply with all regulations of the Department of Public Works or the Massachusetts Department of Environmental Protection relative to the collection of solid waste and recyclable materials. The preparation and placement of solid waste and recyclables shall be accomplished in accordance with rules and regulations issued by the Department of Public Works Director or his designee.

8.500.040. Collection limited to authorized agents.

Upon placement of solid waste and recyclables for the Town or its contractor at curbside, pursuant to this chapter, such solid waste and recyclables shall become the property of the Town. It shall be a violation of this chapter if any person, other than authorized agents of the Town acting in the course of their employment or contract, collects or causes to be collected any solid waste or recyclables so placed. For a first offense, the fine shall be \$50; for a second offense, the fine shall be \$100; and for a third or subsequent offenses, the fine shall be \$300. Each and every such collection in violation of this section shall constitute a separate violation.

8.500.050. Promulgation of rules and regulations.

The Department of Public Works Director may promulgate rules and regulations for the implementation for this chapter.

8.500.060. Violations and penalties.

Whoever violates any provision of this chapter, including any rule or regulation promulgated hereunder, may be penalized by a fine of up to \$300. In the alternative, the Town may impose a noncriminal disposition penalty pursuant to MGL c. 40, § 21D, in the amount of \$50. The designated enforcing persons under MGL c. 40, § 21D, for this chapter shall be any police officer of the Town and any designated staff of the Department of Public Works. A noncriminal disposition penalty will be imposed under this chapter only after the violator receives a written warning regarding the violation indicating the method of correction.

8.500.070. Severability.

This chapter and the various parts, sentences and clauses are declared to be severable. If any part, sentence or clause is adjudged to be invalid, the remainder of this chapter shall not be affected thereby.

Chapter 8.600**HAZARDOUS MATERIALS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.16 of the Town Bylaws, which derived from prior code Ch. 92). Amendments noted where applicable.]

GENERAL REFERENCES

Flammable storage license fee — See Ch. 8.200.

8.600.010. Authority.

This chapter is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under MGL c. 40, § 21.

8.600.020. Purpose.

This chapter is intended to protect the public health, safety and welfare, and the environment, as well as to preserve and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface waters within the Town from contamination with hazardous materials.

8.600.030. Definitions.⁹³

The following definitions shall apply in the interpretation and implementation of this chapter:

BIODEGRADABLE — A product or material which decomposes at a significant rate into nontoxic materials by natural biological processes.

CMR — The Code of Massachusetts Regulations.

COMBUSTIBLE — Any liquid having a flash point above 100° F. and below 200° F.

CONTAINER — Any portable device in which hazardous materials or wastes are stored, transported, treated, disposed of or otherwise handled.

CORROSIVE — Any liquid or solid that causes destruction of human skin tissue or a material that has a severe corrosive rate on steel.

DEP — The Department of Environmental Protection and/or its successors.

DISCHARGE — The disposal, deposit, injection, dumping, spilling, escape, incineration or placing of any hazardous material or waste into or on any land, water or air. "Discharge" includes, without limitation, leakage of such hazardous material or wastes from containers, tanks or storage systems, or disposal of such materials or wastes into any sewage disposal systems, dry well, catch basin or landfill.

DOUBLE-WALLED TANK — A container with two complete shells which provide both primary and secondary containment. The container shall have continued 360° interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor

93. Note: This section was previously amended ATM 5-14-2002 by Art. 39.

is able to continuously monitor this space. All double-walled tanks shall be UL-listed (Underwriters Laboratories).

EMERGENCY RESPONSE PLAN — A document setting an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous materials which could threaten public health, safety, welfare or the environment. A contingency plan prepared in accordance with 310 CMR 30.520 through 30.524 (Massachusetts Hazardous Waste Regulations) may be submitted in lieu of this plan.

ETIOLOGIC AGENT — Any viable microorganism or its toxin which causes or may cause human disease.

FACILITY — A commercial or industrial facility, including a home business that is registered in accordance with this regulation.

FIRE CHIEF — The Fire Chief of the Town of Braintree and shall include any designee of the Fire Chief.

FLAMMABLE —

- A. Any solid material, other than an explosive, which is liable to cause fires through friction, absorption of moisture, spontaneous chemical change, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation hazard.
- B. Any liquid having a flash point below 100° F.
- C. Any liquid that ignites spontaneously in dry or moist air at or below 130° F.
- D. Any compressed gas meeting that requirement for lower flammability limit range, flame projection or flame propagation criteria as specified by the United States Department of Transportation ("DOT").

FUEL OIL — Oil of grades 1, 2, 4, 5 and 6 in accordance with MGL c. 94, § 249H.

HAZARDOUS MATERIAL — A product or waste or combination of substances which because of quantity, concentration, physical, chemical or infectious characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to the human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance which may create a special hazard in the event of a spill, leak, fire or exposure, and all substances regulated as radioactive, explosive, combustible, corrosive, flammable, oxidizer, poison, an etiologic agent or any other material defined by, but not limited to, the United States Department of Transportation, shall be considered a hazardous material for the purpose of this chapter.

HAZARDOUS MATERIAL GENERATOR — Any commercial enterprise, government agency, owner or operator who produces, prepares, imports or compounds hazardous material or waste by combining previously nonhazardous materials to create hazardous materials.

HAZARDOUS MATERIAL USER — Any commercial enterprise, government agency, owner or operator who utilizes hazardous materials or waste for any purposes other than those specifically exempt from the requirements of this chapter.

HEALTH HAZARD — Any chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees. The term "health hazard" includes but is not limited to chemicals which are carcinogens, mutagens, toxins, irritants, corrosives, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which sensitize or damage the lungs, skin, eyes or mucous membranes.

IRRITANT — Any liquid or solid substance which upon contact with fire, or when exposed to air, gives off dangerous or intensely irritating fumes, but is not a poisonous material.

LABEL — Any written, printed or graphic material displayed or affixed to containers of toxic or hazardous materials.

LEPC — The Local Emergency Planning Committee.

MATERIAL SAFETY DATA SHEET (MSDS) — A form containing data on physical, chemical and hazardous characteristics, health and safety hazards of specific chemicals, procedures recommended for spills and leaks of specific chemicals, and special protection and precautions to be taken in the handling of specific chemicals.

OPERATOR — The lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.

OTHER REGULATED MATERIALS (ORM) — Any material that does not meet any other definition of a hazardous material but is an anesthetic, noxious, toxic or contains any other similar property, or has a characteristic which makes it unsuitable for shipment or storage unless properly identified and prepared for transportation or storage, or presents a limited hazard during transportation or storage due to its form, quantity or packaging, or has otherwise been classified as a hazardous material.

OWNER — Any person with effective control or legal ownership of a site, facility, or activity.

OXIDIZER — Any substance that yields oxygen readily to stimulate the combustion of organic matter.

PHYSICALLY HAZARDOUS — A chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

POISON — Any poisonous gas or liquid of such nature that a very small amount of the gas or vapor of the liquid mixed with air is dangerous to life; or any substance, liquid or solid, which is known to be so toxic to man as to afford a hazard to health during transportation or storage; or which, in the absence of adequate data on human toxicity, is presumed to be toxic to man.

RADIOACTIVE — Any material, or combination of materials, that spontaneously emits ionizing radiation, and having a specific activity greater than 0.002 microcuries per gram.

RELEASE — Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic or hazardous material into the environment.

REPORTABLE DISCHARGE — Any discharge which could threaten public health or safety or the environment by entering the surface water, groundwaters, or water recharge areas or by emitting toxic fumes or gases into the air. Discharges which are in compliance with all federal, state and local regulations or which are permitted by governing federal, state or local agencies are not considered reportable discharges.

STORAGE — The holding of any hazardous materials or wastes for more than 24 hours.

TANK — Any stationary device used to store or to contain an accumulation of hazardous materials or wastes.

UNDERGROUND STORAGE TANK (UST) — A storage tank where 10% or more of the tank volume and piping is buried below the ground surface, but shall not include storage in a freestanding container within a building.

WORKPLACE — An establishment, job site, or project, at one geographical location containing one or more work areas.

8.600.040. Registration required.⁹⁴

Every owner or operator for each commercial and industrial establishment (including municipal, state and federal operations) which stores, transports, uses, handles, or otherwise manages hazardous materials shall register with the Health Department. Also required are proper permits from the Braintree Fire Department.

8.600.050. Registration form and contents.⁹⁵

The registration form shall be designated by the Board of Health and shall include the following information:

- A. Business/facility name.
- B. Business/facility address.
- C. Twenty-four-hour emergency contact name. This individual must be knowledgeable in the types of hazardous materials used at the business/facility, proper storage and handling procedures, familiar with emergency response procedures and authorized to enact such procedures.
- D. Twenty-four-hour emergency contact phone number.
- E. Alternate contact name.
- F. Alternate contact phone number.
- G. Types of hazardous materials, oils, or hazardous waste stored, used or generated on site which shall include the following:
 - (1) Name of material.
 - (2) Hazard type.
 - (3) Maximum quantity.
 - (4) Container(s).
 - (5) Storage location; include underground containers and material stored in each.
 - (6) Attach a diagram of storage areas and/or process areas.
 - (7) Hazard type; hazard types include: corrosive (C), irritant (I), oxidizer (O), combustible (D), flammable (F), explosive (E), reactive (R), toxic (T), poison (P), etiological agent (A), and radioactive (N).
 - (8) Maximum quantity: maximum stored on site at any one time.
 - (9) Container(s): list type, size and construction material of the containers (i.e., one-gallon plastic bottles, fifty-five-gallon drums, one-thousand-gallon steel UST).

8.600.060. Registration due date.

- A. Registration required in this chapter shall be submitted by November 1, 1983, and annually thereafter

94. Note: This section was previously amended ATM 5-14-2002 by Art. 39.

95. Note: This section was previously amended ATM 5-14-2002 by Art. 39.

by November 1 of each year.

- B. Owners and operators of commercial or industrial establishments who have not previously registered, if they meet registration requirements, shall register initially within 30 days of meeting such requirements and thereafter by November 1 of each year.

8.600.070. Registration fees.⁹⁶

Any owner/operator registering storage of hazardous materials pursuant to § 8.600.040 shall pay to the Town a registration fee as determined by the Board of Health. Such a fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall be subject to the penalties of § 8.600.210 of this chapter.

8.600.080. Use regulations.

All hazardous materials within the Town must be stored, handled, transported and used in such a way as to minimize any discharge of any hazardous material to ensure maximum protection of the environment and the public health, safety and welfare.

8.600.090. Transportation of hazardous materials.⁹⁷

- A. The transportation of any materials listed on the Environmental Protection Agency's SARA Title III extremely hazardous material list is prohibited on the following public ways:
- (1) West Street from the Randolph/Braintree Town line to its intersection with Washington Street.
 - (2) Pond Street from the Randolph/Braintree Town line to its intersection with Washington Street.
 - (3) Granite Street from its intersection with Pond Street to West Street.
 - (4) Washington Street from its intersection with Pond Street to its intersection with Franklin Street.
 - (5) Franklin Street from its intersection with Washington Street to West Street.
- B. Said vehicle shall go directly to its point of destination.
- C. This section shall be enforced by the Braintree Police Department.

8.600.100. Material data sheets required.⁹⁸

Each business/facility must keep a file at a location known and accessible to all emergency response personnel, material safety data sheets on all hazardous materials stored or used at the facility. These data sheets must be available to the Health Department and Fire Department during inspections, investigations or in the event of an emergency. Data sheets must be made available to all employees (Right to Know Law).⁹⁹

96. Note: This section was previously amended ATM 5-14-2002 by Art. 39.

97. Note: This section was originally added STM 5-1-1989 by Art. 4 and amended ATM 5-16-1990 by Art. 46 and ATM 5-14-2002 by Art. 39.

98. Note: This section was previously amended ATM 5-14-2002 by Art. 39.

99. Editor's Note: See MGL c. 111F, Hazardous Substances Disclosure by Employers.

8.600.110. Emergency response plan required.¹⁰⁰

Each business/facility must keep on file at a location known and accessible to all emergency response personnel an emergency response plan. This plan must detail the procedures to be used for prevention and control of emergencies, the emergency equipment available on site, outside agencies and organizations which would be notified and/or may provide assistance in an emergency, and an evacuation plan for personnel.

8.600.120. Employee training programs.¹⁰¹

All businesses/facilities shall provide adequate employee training programs to ensure the proper use, storage, transportation and handling of hazardous materials.

8.600.130. Recordkeeping.¹⁰²

All businesses/facilities registered in accordance with § 8.600.040 of this chapter must keep sufficient records to provide best estimates of quantities of hazardous materials on site.

8.600.140. Discharge; containment, removal and disposal required.

In the event of a spill, leak or unexpected release, each owner or operator must take immediate steps to contain the hazardous material to ensure that such materials do not enter surface waters or groundwaters, sewer or septic systems, land, or air, and shall remove and dispose of such materials in accordance with all applicable local, state and federal regulations.

8.600.150. Discharge; emergency response by Town.¹⁰³

In the event that the Health Department or its agent(s) is unable to contact the owner/operator to institute emergency response procedures to contain a discharge, then the Board of Health shall invoke its emergency power as granted under MGL c. 111 and any other authority. The owner/operator will be responsible for all costs incurred by the Town during this emergency response.

8.600.160. Reporting requirements.¹⁰⁴

Any person having knowledge of a reportable discharge of hazardous material shall immediately report the discharge to the Health, Police and Fire Departments and LEPC Chairman.

8.600.170. Promulgation authority.

The Board of Health shall establish rules and regulations consistent with, and as may be necessary to promulgate, a comprehensive code for the safe storage, use and handling of hazardous materials.

100.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

101.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

102.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

103.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

104.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

8.600.180. Protection of underground aquifers.¹⁰⁵

All geotechnical test borings, probes, pits and wells that penetrate the groundwater table shall be sealed after the investigation of the properties of the soil and rock with a cement bentonite material from the bottom to ground surface of the test boring, probe, pit and well to prevent the potential contamination of the groundwater table by hazardous materials. The Director of Planning and Community Development, in association with the Conservation Commission and the hazardous materials coordinator of the Town, shall promulgate regulations for the issuance of permits for the investigation of soil, rock, groundwater and other materials located below the surface of the earth. These regulations shall include procedures for sealing any penetrations into the water table and the methods for reporting results to the Conservation Commission of any investigations used to determine the physical properties of the soil, rock and contaminants found in the groundwater of the Town.

8.600.190. Variances.¹⁰⁶

The Board of Health may vary the application of any provision of this chapter, unless otherwise required by law, when, in its opinion, the applicant has demonstrated that an equivalent degree of environmental protection required under this chapter will still be achieved. The applicant at his/her own expense must notify all abutters by certified mail at least 10 days before the Board of Health meeting at which the variance request will be considered. The notification shall state the variance sought and the reasons therefor. Any variance granted by the Board of Health shall be in writing and shall contain a brief statement of the reasons for its decision.

8.600.200. Enforcement.

The Board of Health or its agent(s) shall be the enforcing authority of this chapter and may enter upon privately owned property for the purpose of performing their duties under this chapter.

8.600.210. Violations and penalties.

Any owner/operator who violates any provision of this chapter shall be punished by a fine of not more than \$250 in addition to all costs incurred to the Town associated with each violation. Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. This chapter may be enforced pursuant to MGL c. 40, § 21D, by the Police Department or Health Department.

105.Note: This section was originally added ATM 5-3-1995 by Art. 19.

106.Note: This section was previously amended ATM 5-14-2002 by Art. 39.

BRAINTREE CODE

Chapter 8.700

SWIMMING POOLS

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-040 (former Ch. 8.24 of the Town Bylaws, which derived from prior code Ch. 119). Amendments noted where applicable.]

8.700.010. Applicability.

All of these regulations apply to existing outdoor swimming pools as well as future swimming pools.

8.700.020. Fencing required.

Every outdoor swimming pool containing 24 inches or more of water in depth at any point shall be enclosed by a fence or structure as required by current building code regulations or health code regulations and firmly secured at ground level.

8.700.030. Fencing specifications.

Such fence or structure, including gates therein, shall be in accordance with current building code regulations or health code regulations above the underlying ground and any gate shall be self-latching with latches placed in accordance with current building code regulations or health code regulations above the ground or otherwise made inaccessible from the outside to children under eight years of age.

8.700.040. Substitute devices or structures.

All other protective devices approved by the Building Inspector may be used as a substitute for such enclosure so long as, in the written opinion of the Building Inspector, the degree of protection afforded by the substituted devices or structures is equivalent to the protection afforded by the enclosure, gate and latch described herein.

Chapter 8.800**ANTI-BLIGHT PROGRAM**

[HISTORY: Adopted by the Town Council of the Town of Braintree 11-3-2021 by Order No. 21-028. Amendments noted where applicable.]

8.800.010. Purpose.

- A. The purpose of this chapter is to address commercial and industrial properties throughout the Town of Braintree that are in a blighted and/or vacant condition. Many of these properties are essentially abandoned and in violation of multiple aspects of state and local building and sanitary codes. Blighted conditions contribute to the decline of neighborhoods, negatively impact the economic well-being of the Town and have the potential to cause adverse conditions to the health, safety and welfare of the residents. Additionally, such blighted and/or vacant properties may provide a location for temporary occupancy by transients and persons engaged in criminal activity. These properties create significant costs to the Town by virtue of the need for consistent monitoring and frequent boarding and securing.
- B. Many blighted and/or vacant properties can be rehabilitated, redeveloped, demolished and/or reused to provide safe, decent and sanitary uses, thereby increasing the quality of life for the public, occupants, abutters and neighborhoods.

8.800.020. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

BLIGHTED PREMISES — Any commercial or industrial building, structure, parcel of land, or any part of a commercial or industrial building or structure that is a separate unit in which at least one of the following conditions exist:

- A. It is not being adequately maintained and secured as documented by the enforcement officer (as defined herein) based upon, but not limited to, the following factors:
 - (1) Missing, broken or boarded up windows or doors for more than 30 days;
 - (2) Collapsing or missing walls, roof or floor;
 - (3) Siding that is seriously damaged or missing;
 - (4) Extensive fire or water damage;
 - (5) A foundation that is structurally faulty;
 - (6) The failure to remedy graffiti within 30 days;
 - (7) The exterior storage or accumulation of junk, trash, litter, bottles, cans, rubbish or refuse of any kind, except for domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 15 days. The term "junk" shall include parts of machinery or motor vehicles, used stoves, refrigerators or other cast off material of any kind whether or not the same could be put to any reasonable use unless such items are customarily used in connection with a lawfully operating business;
 - (8) Gravel, rocks and dirt piles stored by the owner for purposes of construction and/or landscaping and said item(s) remain stored for more than 12 months upon the owner's premises unless such

items are customarily used in connection with a lawfully operating business;

- (9) Storage of abandoned or unregistered vehicles or trailers unless such items are customarily used in connection with a lawfully operating business;
 - (10) Overgrown vegetation that may harbor vermin or pests, conceal pools of stagnant water or other nuisances or which is otherwise detrimental to neighboring properties or property values and which is not grown to serve conservation purposes;
 - (11) Dead, decayed, diseased or hazardous trees, shrubs or any vegetation that may pose a hazard to the health and safety of any person in the vicinity of the property or which is otherwise detrimental to neighboring properties or property values and which has not been removed to serve conservation purposes; or
 - (12) Overgrown grass of at least two feet that is not grown to serve conservation purposes:
- B. It has been cited for violations as documented by the Building Inspector, the Director of the Board of Health, the Chief of Police, the Fire Chief and/or their designated agents, which violations have not been corrected;
 - C. Conditions causing a public nuisance, harboring vermin or pests, presenting a threat to public health or safety, or which is a fire hazard as determined by the Fire Chief or his designee, or is attracting illegal activity as determined by the Police Department;
 - D. Because of fire, wind or other natural disaster, or because of physical deterioration, it is no longer useful for the purpose for which it was originally intended;
 - E. Is a vacant property as defined hereunder that is not being maintained in accordance with Section 8.800.030; or
 - F. It is determined by the Building Inspector and/or the Director of the Board of Health that the building, structure or parcel of land is in a condition that poses a serious threat to safety, health, morals and general welfare of the Town.

ENFORCEMENT OFFICER — The Building Inspector and Director of the Board of Health and/or their designated agents.

OWNER — Any individual, business entity, voluntary association or nonprofit organization, and quasi-governmental entities (i.e., Braintree Housing Authority and Braintree Electric Light Department) that alone or jointly or severally with others:

- A. Has legal or equitable title to any building, structure or property or parcel of land, vacant or otherwise;
- B. Has care, charge or control of any such building, structure or property in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title;
- C. Is a lessee under a written agreement;
- D. Is a mortgagee in possession of any such property;
- E. Is an agent, trustee or other person appointed by the courts and vested with possession or control of such building, structure or property; or
- F. Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions

and has initiated the foreclosure process.

PROPERTY — Any privately owned commercial or industrial property or portion thereof, located in the Town, including any buildings, structures or other personal property on the parcel.

VACANT PROPERTY — Any commercial or industrial property that is unoccupied for a period greater than 180 consecutive days and any residential property that is unoccupied for a period greater than 90 days by the person or persons with legal right to occupancy thereof, except for bona fide temporary absences.

8.800.030. Creation or maintenance of blighted premises prohibited.

- A. No owner of property located within the Town shall allow, create, maintain or cause to be created or maintained any blighted premises.
- B. Maintenance of vacant properties - requirements. Owners of vacant properties, including commercial, industrial and residential, must fulfill the following minimum adequate maintenance requirements for any such property they own:
 - (1) Maintain vacant properties in accordance with the relevant sanitary, building and fire codes;
 - (2) Secure vacant properties so as to prevent unauthorized entry and exposure to the elements;
 - (3) Maintain vacant properties in a manner that ensures their external/visible maintenance, including, but not limited to, the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery and other landscape features;
 - (4) Repair or replace broken windows or doors; the boarding up of any doors or windows is prohibited except as a temporary measure for no longer than 30 days; and
 - (5) For properties vacant for six months or more, the utilities must be shut off, removed or cut and capped to prevent accidents.
- C. Enforcement.
 - (1) Investigation.
 - (a) The enforcement officer(s) shall undertake an investigation of any alleged violation of this section upon their own initiative or upon receipt of a complaint from any individual, civic organization, neighborhood group, governmental entity or other affected agency. In conducting investigations, the Building Inspector shall coordinate inspections by and among the Board of Health, the Chief of Police and the Fire Chief, or their designees, as the Building Inspector deems appropriate to ensure that this chapter is enforced.
 - (b) In making such inspection, the Building Inspector, and/or the Board of Health, the Chief of Police and the Fire Chief, or their designees, shall have such right of access to premises that may be lawfully exercised by him/her under the laws and constitution of the commonwealth or of the United States.
 - (2) Order to take corrective action.
 - (a) In the event that a violation of this chapter has occurred, the enforcement officer shall serve notice of the violation and an order to correct such violation on the owner of the property by certified mail or by handing a copy of the notice and order to the intended recipient. A copy of the notice and order shall also be provided to the district councilor

representing the district where the property is located. The order shall require the owner to bring the property into compliance with the requirements of the notice within 30 days of receipt. In the event of demonstrated hardship, an extension or extensions may be granted at the discretion of the enforcement officer.

- (b) If the Building Inspector determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this chapter, s/he shall refer the matter to the Board of Health or any other appropriate state or local officials for action.
- (c) Failure to comply.
 - [1] Should the property owner fail to comply, or neglect or refuse to take the corrective action specified in the notice, the Building Inspector may make complaint to the Superior Court or any court of competent jurisdiction seeking an injunction or order restraining any further use of the property and the continuation of the violation and shall take such other action as is necessary to enforce the provisions of this chapter.
 - [2] Further, if the violation continues, the Town may undertake such repairs or other corrective action when in its judgment a failure to do so will endanger the health, safety or welfare of the public. Notice of the intention of the Town to make such repairs or other corrective action shall be served on the owner by the means provided for service in Subsection C(2) herein.
- (3) Recovery of costs. When repairs are made or other corrective action is taken by the Town, the costs of such repairs and enforcement action shall constitute a debt in favor of the Town against the owner of the blighted premises. In the event that the property owner fails, neglects or refuses to pay the debt within 30 days of the debt receipt, the Town shall take action to collect the debt. Such action may include placing a lien on the property and/or initiating a civil action in a court of competent jurisdiction for the balance due. Lenders foreclosing on a property may seek waiver of such costs that accrued before possession by lender, which the Town may consider in its sole discretion.
- (4) Enforcement authority. The enforcement authority under this section shall be in addition to and not in place of any other existing authority under any relevant ordinance or General Law. If any conflict exists under this section and any other authority, then the legal authority that provides the Town with the greatest authority and the maximum flexibility in enforcement shall govern.

D. Penalties.

- (1) Each separate offense of this chapter shall be punishable by a fine of \$300. Each violation of any provision of this chapter shall be considered a separate offense and each day that any violation continues shall constitute a separate offense.
- (2) The imposition of any fine from this section shall not be construed to prevent enforcement of any other ordinances, laws or regulations of the same property nor prevent other enforcement measures or fines, including civil or legal action against the owner to require compliance with the order. Failure to pay any fine arising from the enforcement of this chapter shall constitute a debt in favor of the Town. The Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt. Lenders foreclosing on a property may seek waiver of any such fines that accrued before possession by lender, which the Town may consider in its sole discretion.

Title 9: Public Peace, Morals and Welfare

Chapter 9.100

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-041 (former Ch. 9.04 of the Town Bylaws). Amendments noted where applicable.]

9.100.010. Nude bathing prohibited.¹⁰⁷

No person shall swim or bathe in any of the public waters within or surrounding the Town so as to be exposed in a nude state.

9.100.020. Peeping into windows.¹⁰⁸

No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another or upon any public property with the intention of peeping into the windows of a house or other building or of spying in any manner upon any person or persons therein.

9.100.030. Violations and penalties.

Violations of this chapter shall be handled through the noncriminal disposition process as outlined in MGL c. 40, § 21D. For a first offense, the fine shall be \$50; for a second offense, the fine shall be \$100; and for third offense or subsequent offenses, the fine shall be \$300. Each day that a violation of this chapter occurs shall constitute a separate violation. This chapter shall be enforced by the Braintree Police Department.

107.Note: This section derived from prior code § 97-5.

108.Note: This section derived from prior code § 97-6.

PUBLIC CONSUMPTION OF ALCOHOLIC

Chapter 9.200

PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-041 (former Ch. 9.08 of the Town Bylaws, which derived from prior code Ch. 50). Amendments noted where applicable.]

9.200.010. Definitions.

The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

BEACH — Any beach under the care and control of the Town and beaches within the limits of the Town to which the public has a right of access.

CONSERVATION LAND — Any conservation land under the care and control of the Town.

PARKS — Any public park under the care and control of the Town, including Pond Meadow Weymouth - Braintree Conservation Recreation District.

PLAYGROUND — Any playground under the care and control of the Town.

PRIVATE PARKING AREAS — Any private parking area throughout the Town to which the public has the general right of access.

PUBLIC PARKING AREAS — Any public parking area under the care and control of the Town.

PUBLIC WAYS — All ways within the Town to which the public has a right of access.

TOWN FOREST — Any Town forest under the care and control of the Town.

9.200.020. Consumption in public prohibited.

Unless approved by special permit, no person shall drink or consume alcoholic beverages as defined in MGL c. 138, § 1, while on, in, or upon the public ways and places set forth above, whether in or upon a vehicle, motor vehicle or on foot, or in a place to which members of the public have access as invitees or licensees, or in a park, Town forest, public parking area or playground, or on any beach within the limits of the Town to which the public has a right of access or on private land or place without the consent of the owner or person in control.

9.200.030. Evidence of violation.

Possession of an open can, bottle or other container which, upon analysis by the Department of Public Health, is determined to contain an alcoholic beverage, as defined in MGL c. 138, § 1, shall be prima facie evidence of drinking or consuming such alcoholic beverage. All alcoholic beverages being used in violation of this chapter shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

9.200.040. Violations and penalties.

A police officer may arrest without a warrant anyone who violates this chapter. Whoever violates any provision of this chapter shall be liable to a penalty of not more than \$300 for each violation.

BRAINTREE CODE

Chapter 9.300

RELEASE OF IMPOUNDED VEHICLES

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-041 (former Ch. 9.10 of the Town Bylaws, adopted ATM 5-10-2005 by Art. 38). Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Title 10.

9.300.010. Impoundment for operating under the influence of certain substances.

No motor vehicle impounded pursuant to an arrest under MGL c. 90, § 21, for operating under the influence of intoxicating liquor, marihuana or narcotic drugs or depressant or stimulant substances, all as defined in MGL c. 94C, § 1, or under the influence of vapors of glue, or other substances set forth in said MGL c. 90, § 21, may be released prior to the passing of 12 hours following arrest.

Chapter 9.400**PROPERTY OFFENSES**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-041 (former Ch. 9.12 of the Town Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Streets, sidewalks and public places — See Title 12.

9.400.010. Placement of advertising matter restricted.¹⁰⁹

Unless authorized by the Building Division, no person shall place, or cause or allow to be placed, posters, handbills, placards or other advertising matter of any nature upon any wall, fence, structure, pole or tree, in any highway or street, and in or upon any sidewalk or footwalk in the Town, except upon property owned or occupied by such person so advertising.

9.400.020. Littering prohibited.¹¹⁰

No person shall throw, place or cause to be thrown or placed upon any street or sidewalk in the Town any dirt, ashes, stones, hoops, boards or other wood with nails projecting therefrom, shavings, sawdust, manure, nails, spikes, screws, glass, bottles, cans, filth, rubbish or any noxious or refuse liquid or solid matter or substance.

9.400.040. Swinging of gates or doors over public ways prohibited.¹¹¹

No person shall allow any gate or door on premises under his control, and adjoining any public way, to swing on, over or into such public way.

9.400.050. Obstruction of passage prohibited.¹¹²

Unless otherwise permitted by the Mayor, no person shall stand, lounge or park any vehicle on any sidewalk, public way or other place to which the public has a right of access in such manner as to obstruct a free passage for pedestrians or motor vehicles.

9.400.060. Obstruction of public streets prohibited.¹¹³

Unless otherwise permitted by the Mayor, no person shall obstruct the free and convenient use for travel of any public street, sidewalk or footpath.

109.Note: This section derived from prior code § 80-1.

110.Note: This section derived from prior code § 89-1.

111.Note: This section derived from prior code § 97-3.

112.Note: This section derived from prior code § 97-4.

113.Note: This section derived from prior code § 97-7.

9.400.070. Destruction of lights prohibited.¹¹⁴

No person shall remove, extinguish, injure or destroy any light lawfully in a public way.

114.Note: This section derived from prior code § 97-8.

WEAPONS

Chapter 9.500

WEAPONS

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-041 (former Ch. 9.16 of the Town Bylaws, which derived from prior code Ch. 69). Amendments noted where applicable.]

9.500.010. Applicability.

This chapter does not apply to any firing of a weapon in accordance with law.

9.500.020. Discharge of firearms prohibited.

No person shall fire or discharge any gun, fowling piece, pistol or other firearms in any place, public way, street or square within the Town limits, except with the permission of the Mayor or his designee.

9.500.030. Exception for discharge on approved range.

No person shall discharge or fire any rifle of any caliber within the Town limits for any purpose except on an approved range.

9.500.040. Violations and penalties.

Violations of this chapter shall be handled through the noncriminal disposition process as outlined in MGL c. 40, § 21D. For a first offense, the fine shall be \$50; for a second offense, the fine shall be \$100; and for a third offense or subsequent offenses, the fine shall be \$300. Each day that a violation of this chapter occurs shall constitute a separate violation. This chapter shall be enforced by the Braintree Police Department.

BRAINTREE CODE

Chapter 9.600

PUBLIC CONSUMPTION OF MARIHUANA

[HISTORY: Adopted by the Town Council of the Town of Braintree 4-28-2009 by Ord. No. 09-011.

Amendments noted where applicable.]

9.600.010. Prohibition.

No person shall smoke or consume marihuana (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, park, playground or other public place in the Town. Violation of this section may be enforced through any lawful means in law or in equity by the Mayor, or his duly authorized agents, or any police officer of the Town of Braintree, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D, with a fine of \$300 for each offense.

Chapter 9.800**SEX OFFENDER RESIDENCY RESTRICTIONS**

[HISTORY: Adopted by the Town Council of the Town of Braintree 12-7-2010 by Ord. No. 10-045. Amendments noted where applicable.]

9.800.010. Definitions.

For the purpose of this chapter, the following terms shall have the respective meanings ascribed to them:

ADULT CRIMINAL LEVEL THREE SEX OFFENDER — A person convicted of a criminal sex offense as defined in MGL c. 6, § 178C, and designated as a level three sex offender by the Massachusetts Sex Offender Registry Board, established and maintained pursuant to MGL c. 6, § 178D. The Board has determined that these individuals have a high risk to reoffend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

DAY-CARE CENTER — Any establishment, whether public, private or parochial, which provides care for children and is registered with and licensed by the Commonwealth of Massachusetts Department of Early Education and Care and is located within the Town of Braintree.

ELDERLY HOUSING FACILITY — A building or buildings on the same lot containing four or more dwelling units restricted to occupation by households having one or more members 55 years of age or older or which provides a group residence for individuals over the age of 55 and located within the Town of Braintree.

ESTABLISHING A RESIDENCE — To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property, including a renewal or extension of a prior lease or rental agreement, whether in writing or verbal.

GIS — The Town of Braintree's geographic information system.

LOITER — To remain in or around a school, day-care center, park, recreational facility open to the public, elderly housing facility, or school bus stop for more than 10 minutes.

PARK — Any public land located within the Town of Braintree that has been designated for active or passive recreational or athletic use by the Town of Braintree, the Commonwealth of Massachusetts, or other governmental subdivision.

RECREATIONAL FACILITY OPEN TO THE PUBLIC — A playground, forest, conservation area, jogging trail, running path, hiking trail, pond, beach, water park, wading or swimming pool, athletic field, hockey rink, golf course, miniature golf business, arcade, laser tag establishment, Boys and Girls Club(s), skate park, dance or gymnastic studio, movie theater, or martial arts school, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within the Town of Braintree.

RESIDENCE, PERMANENT — A place where a person lives, abides, lodges, or resides for 14 or more consecutive days.

RESIDENCE, TEMPORARY — A place where a person lives, abides, lodges, or resides for less than five consecutive days or 14 days in the aggregate during any calendar year, but shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days.

SCHOOL — A licensed or accredited public or private school or church school that offers instruction in preschool, including a licensed day-care or other business permitted as a school by the Town of Braintree,

or any of grades kindergarten through high school, which is located within the Town of Braintree. This definition shall not include private residences in which students are taught by parents or tutors.

SCHOOL BUS STOP — Any area designated by the Braintree School Department or by any private or parochial school within the Town of Braintree as a school bus stop.

9.800.020. Residency restrictions.¹¹⁵

- A. It shall be unlawful for any person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, to establish a temporary or permanent residence or any other living accommodations within the Town of Braintree which is within 1,500 feet of the property on which any school, day-care center, park, elderly housing facility, designated as a school bus stop, Department of Elder Affairs on Cleveland Avenue, or recreational facility open to the public is located.
- B. It shall be unlawful for a property owner to knowingly let, lease, or rent any place, building, structure, or part thereof as a temporary or permanent residence to any person who is prohibited from establishing such residence pursuant to Subsection A of this section if such place, building, structure, or part thereof is located within the Town of Braintree and within 1,500 feet of the property on which any school, day-care center, park, elderly housing facility, designated as a school bus stop, Department of Elder Affairs on Cleveland Avenue, or recreational facility open to the public is located.
- C. The one-thousand-five-hundred-foot restriction shall be measured in a straight line from the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located to the property line of the nearest school, day-care center, park, elderly housing facility, designated as a school bus stop, Department of Elder Affairs on Cleveland Avenue, or recreational facility. Distances will be taken from the Town's GIS system. The Town's GIS system shall be presumed accurate and shall be evidence of a violation.
- D. Exceptions. A person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, residing within the Town of Braintree and within 1,500 feet of the property on which any school, day-care center, park, elderly housing facility, designated as a school bus stop, Department of Elder Affairs on Cleveland Avenue, or recreational facility open to the public is located does not commit a violation of this residency restriction if any of the following apply:
 - (1) The person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, established the permanent residence prior to the effective date of this chapter and:
 - (a) Permanent residence was established by purchasing the real property where the residence is established, as long as the person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, continues to reside in, and does not move to another restricted location in the Town of Braintree different from the permanent residence established prior to the effective date of this chapter; or
 - (b) Permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this chapter, as long as the person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, continues to reside within, and does not move to another restricted location in the Town of Braintree different from the permanent residence established prior to the

115.Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

effective date of this chapter; or

- (c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, continues to reside within said residence, and does not move to another restricted location within the Town of Braintree different from the permanent residence established prior to the effective date of this chapter.
- (2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), and said parent(s) or legal guardian(s) established a permanent residence pursuant to Subsection D(1) of this section.

9.800.030. Exception for changes to use of property.

Changes to the use of property resulting in the construction, designation, establishment or location of a school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public within 1,500 feet of an adult criminal level 3 sex offender's registered address which occur after an adult criminal level 3 sex offender establishes temporary or permanent residency at such address shall not form the basis for finding that a criminal sex offender is in violation of this chapter.

9.800.035. Forfeiture of exception for established residents.

If, either after the effective date of this chapter or after a new school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public is located within 1,500 feet of an adult criminal level 3 sex offender's registered address, a conviction of another sex offense is issued by a court against an adult criminal level 3 sex offender who was otherwise enjoying an exception to this chapter under § 9.800.030, the adult criminal level 3 sex offender shall immediately forfeit the exception afforded by § 9.800.030 and be required to comply with § 9.800.020 of this chapter.

9.800.040. Notice to move.¹¹⁶

With the exception as stated in § 9.800.030 above, a person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, who establishes a residence on a permanent or temporary basis within 1,500 feet of any school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public, or the Department of Elder Affairs located on Cleveland Avenue, following passage of this chapter shall be deemed to be in violation of this chapter and shall, within 60 days of receipt of written notice from the Braintree Police Department of the registered sex offender's noncompliance with this chapter, move from said location to a new location, but said new location may not be within 1,500 feet of any school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public, or the Department of Elder Affairs located on Cleveland Avenue, within the Town of Braintree. The first day following the sixty-day written notice shall be considered the first violation. Following the first violation, every day that the person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, continues to reside within the Town of Braintree and within 1,500 feet of any school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public, or the Department of Elder Affairs located on Cleveland Avenue, shall be considered a separate violation. Further, it shall be a violation each day that an adult criminal level 3 sex offender shall move from one location within the Town of Braintree to another that is within 1,500 feet of any school, day-care center, park, elderly housing facility, school bus stop, or recreational facility open to the public, or the Department of Elder Affairs located on Cleveland Avenue.

116.Editor's Note: Amended at time of adoption of Code (see Ch. 1.10, Adoption of Code).

9.800.045. Safety zones.**A. Prohibitions.**

- (1) A person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, is prohibited from entering or loitering upon the premises of a school or day-care center unless previously authorized, in writing, by the school administration or day-care center owner.
- (2) A person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, is prohibited from entering or loitering upon the premises of an elderly housing facility unless previously authorized, in writing, by the on-site manager of the elderly housing facility.
- (3) A person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, is prohibited from entering or loitering upon the premises of any park or recreational facility open to the public.

B. Exceptions.

- (1) The prohibitions defined in Subsection A(1) through (3) of this section shall not be construed or enforced so as to prohibit a person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, from exercising his or her right to vote in any federal, state or municipal election, or from attending any religious service.
- (2) The prohibitions defined in Subsection A(1) through (3) of this section shall not apply to the place of residence of a person classified as an adult criminal level 3 sex offender, for so long as such person is so classified, when such residence has been accepted under § 9.800.030.

9.800.050. Violations and penalties.

Pursuant to MGL c. 40, § 21D, the following penalties may be imposed by the Town of Braintree Police Department for violation of this chapter:

- A. First offense by registered sex offender: noncriminal fine of \$150 and/or notice to person that s/he has 30 days to move.
- B. Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the sex offender has violated a municipal ordinance.
- C. A property owner's failure to comply with this chapter shall subject said property owner to a noncriminal fine of \$100 per offense. Each day that a property owner fails to comply with this chapter shall constitute a separate offense.

9.800.060. Enforcement.

The Braintree Police Department shall be charged with the enforcement of this chapter.

9.800.070. Effective date.

This chapter shall become effective immediately upon its passage.

9.800.080. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect or invalidate the remainder of this chapter, and it shall be construed to have been the legislative intent to enact this chapter without such unconstitutional or invalid parts therein.

Title 10: Vehicles and Traffic

Chapter 10.04**PARKING FOR DISABLED VETERANS AND HANDICAPPED PERSONS**

[HISTORY: Adopted by the Town of Braintree as prior code §§ 113-11-1 and 113-11-2.

Amendments noted where applicable.]

10.04.010. Required spaces; standards. [Amended ATM 5-9-2001 by Art. 28]

- A. Any person or body that has lawful control of a public way or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or any other place where the public has a right of access as invitees or licensees is required, subject to the remaining provisions of this section, to reserve parking spaces in such off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, according to the following formula: If the number of parking spaces in any such area is:
- (1) More than 15 but not more than 25, one parking space;
 - (2) More than 25 but not more than 40, 5% of such spaces but not less than two;
 - (3) More than 40 but not more than 100, 4% of such spaces but not less than three;
 - (4) More than 100 but not more than 200, 3% of such spaces but not less than four;
 - (5) More than 200 but not more than 500, 2% of such spaces but not less than six;
 - (6) More than 500 but not more than 1,000, 1 1/2% of such spaces but not less than 10;
 - (7) More than 1,000 but not more than 2,000, 1% of such spaces but not less than 15;
 - (8) More than 2,000 but less than 5,000, 3/4 of 1% of such spaces but not less than 20; and
 - (9) More than 5,000, 1/2 of 1% of such spaces but not less than 30.
- B. Parking spaces designated as reserved under the provisions of this section shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense," shall be as near as possible to a building entrance or walkway and shall be eight feet wide with a five-foot-wide cross-hatch access aisle adjacent to it except when adjacent to a van accessible parking space which requires an eight-foot cross-hatch access aisle, and said access aisles shall have curb ramp (cut) leading to walkway or other unobstructed methods permitting sidewalk access to a handicapped person.

10.04.020. Unauthorized use prohibited. [Amended ATM 5-8-1989 by Art. 13]

No person may leave a vehicle, other than a vehicle which is owned and operated by a disabled veteran or handicapped person which vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, within a parking space designated for use by disabled veterans or handicapped persons as authorized by § 10.04.010.

10.04.030. Obstruction of curb ramps (cut) and parking in cross-hatch area (access aisle). [Amended

ATM 5-8-1989 by Art. 13; ATM 5-9-2001 by Art. 28]

No person may leave a vehicle in such a manner as to obstruct a curb ramp (cut) or cross-hatch area (access aisle) designated for use of handicapped persons as a means of egress to a street or public way.

10.04.040. Violations and penalties. [Amended ATM 5-8-1989 by Art. 13; ATM 5-9-2001 by Art. 28]

The penalty for violation of this chapter shall be no less than \$100,¹¹⁷ plus removal of the vehicle according to the provisions of MGL c. 266, § 120D.

117.Editor's Note: See now Ch. 10.06, Parking Penalties.

BRAINTREE CODE

Chapter 10.06**PARKING PENALTIES**

[Adopted by the Town Council of the Town of Braintree 3-18-2014 by Ord. No. 14-012(1).

Amendments noted where applicable.]

10.06.010. Penalty schedule.

The Town hereby adopts the new parking penalty schedule presented below and as amended by the Committee on Ordinance and Rules under the direction of the Director of Municipal Finance as authorized by MGL c. 90, § 20A, effective April 1, 2014.

Violation	Penalty
Handicap parking zone	\$150
Blocking handicap curb cut	\$150
In a bus stop	\$100
Within 10 feet of a fire hydrant	\$50
Fire station entrance	\$25
Fire lane	\$25
Within an intersection	\$15
Interfering with snow removal	\$15
On a crosswalk	\$25
On a sidewalk	\$25
Blocking public or private driveway	\$25
Wrong direction, one-way street	\$15
Within 20 feet of an intersection	\$15
Restricted area	\$15
Overtime parking	\$15
Double parking	\$15
Right wheels more than 12 inches from curb	\$15
On a bridge	\$15
Overnight parking	\$5

PARKING TICKET LATE FEES

Chapter 10.08**PARKING TICKET LATE FEES**

[Adopted by the Town Council of the Town of Braintree 3-18-2014 by Ord. No. 14-012(2).

Amendments noted where applicable.]

10.08.010. Fee schedule.

The Town hereby adopts the new parking ticket late fee schedule presented below under the direction of the Director of Municipal Finance as authorized by MGL c. 90, § 20A, effective April 1, 2014.

Violation	1st Late Fee	2nd Late Fee	Nonrenewal Fee
Handicap parking zone	\$10	\$15	\$20
Blocking handicap curb cut	\$10	\$15	\$20
In a bus stop	\$10	\$15	\$20
Within 10 feet of a fire hydrant	\$10	\$15	\$20
Fire station entrance	\$10	\$15	\$20
Fire lane	\$10	\$15	\$20
Within an intersection	\$10	\$15	\$20
Interfering with snow removal	\$10	\$15	\$20
On a crosswalk	\$10	\$15	\$20
On a sidewalk	\$10	\$15	\$20
Blocking public or private driveway	\$10	\$15	\$20
Wrong direction, one-way street	\$10	\$15	\$20
Within 20 feet of an intersection	\$10	\$15	\$20
Restricted area	\$10	\$15	\$20
Overtime parking	\$10	\$15	\$20
Double parking	\$10	\$15	\$20
Right wheels more than 12 inches from curb	\$10	\$15	\$20
On a bridge	\$10	\$15	\$20
Overnight parking	\$10	\$15	\$20

Chapter 10.10

HEAVY COMMERCIAL VEHICLES EXCLUDED

[HISTORY: Adopted by the Town Council of the Town of Braintree 6-20-2023 by Order No. 23-044. Amendments noted where applicable.]

10.10.010. Definitions.

Any heavy commercial vehicle having a carrying capacity of more than 2 1/2 tons.

10.10.020. Restrictions.

The use and operation of heavy commercial vehicles having a carrying capacity of more than 2 1/2 tons are hereby restricted on the following named streets or parts thereof, as listed on the Schedule A, which shall be updated from time to time by the Department of Public Works and kept in the Town Clerk's office.

10.10.030. Exemptions.

Section 10.10.020 shall not apply to heavy commercial vehicles going to or coming from places upon said streets for the purpose of making deliveries of goods, materials, or merchandise to or similar collections from abutting land or buildings or adjoining streets or ways to which access cannot otherwise be gained; or to vehicles used in connection with the construction, maintenance and repair of said streets or public utilities therein; or to federal, state, municipal or public service corporation owned vehicles.

Title 12: Streets, Sidewalks and Public Places

Chapter 12.04**STREETS AND SIDEWALKS GENERALLY**

[HISTORY: Adopted by the Town of Braintree as prior code §§ 113-1, 113-2, 113-3, 113-4, 113-4-1 and 113-9. Amendments noted where applicable.]

12.04.010. Promulgation authority.

The Selectmen may from time to time make reasonable rules and regulations as to the use of Town ways and ways under the control of the Town.

12.04.020. Street naming.

The Board of Selectmen shall name all streets and avenues in the Town, but no present name of any street or avenue shall be given to any other street or avenue.

12.04.030. Numbering of buildings.

The Town Engineer shall order all buildings on public streets to be numbered, designating the numbers to be used. The owner or occupant of any such building shall comply with such order within 10 days thereafter. The Town Engineer may also recommend such numbering of buildings on any private way of the Town.

12.04.040. Removal of vehicles interfering with snow removal.

The Superintendent of the Highway Department, for the purpose of removing or piping snow or removing ice from any way in the Town, may request the Police Department to remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work, and the cost of such removal and the cost of the resulting storage charges, if any, shall be assessed against the owner of such vehicle.

12.04.050. Retail businesses required to clear sidewalks. [Amended ATM 5-14-1996 by Art. 24]

Owners, leaseholders or operators of all retail businesses along the public way shall be required to clear sidewalks located in front of such premises within 24 hours from the termination of a snowfall or other precipitation. Any person who violates any provision of this section shall be punished by a fine of not more than \$50. Each day or portion thereof during which a violation continues shall constitute a separate offense.

12.04.060. Petition for street acceptance; minimum street width. [Amended ATM 5-8-1990 by Art. 12]

All petitions for the acceptance of streets, new or otherwise, must be presented to the Board of Selectmen not later than January 1 previous to the Annual Town Meeting, and such streets may be accepted only at an Annual Town Meeting. No street or way shall be laid out or accepted by the Town of a width less than 40 feet, unless the same shall have been actually opened and used for public travel prior to January 1, 1924, and is recommended and approved by the Selectmen. Each petition for acceptance must be accompanied by a plan and profile of each street drawn in ink on mylar or equivalent at a scale of one inch equals 40 feet and suitable for recording at the Registry of Deeds. The survey and plan must be accomplished by a private registered engineer or registered land surveyor and the cost of the work shall be borne by the abutters and/or petitioners.

12.04.070. Utility poles. [Added ATM 5-9-2001 by Art. 18]

All lines or wires placed on utility poles within the Town shall be limited to a maximum height of 45 feet. This limitation shall not apply to lines and wires used for the transmission or distribution of electricity for light, heat, or power.

12.04.080. Temporary repairs in private ways. [Added STM 5-8-2001 by Art. 13]

Pursuant to MGL c. 40, § 6N, temporary repairs in private ways, which are open for public, may be made by the Town, if the Board of Selectmen determines that such repairs are required by public necessity, in accordance with a recommendation by the Town Engineer and Highway Superintendent or upon receipt of a petition signed by more than 50% of the abutters along said way requesting such repairs. Said repairs shall be limited to necessary roadway, sidewalk and drainage improvements, as determined by the Board of Selectmen. The Board of Selectmen may assess betterments to the abutters for said repairs based on the linear frontage of each parcel along said private way. The Town's liability for any claims arising out of such repairs shall be limited to \$10,000.

12.04.090. Snow removal. [Added ATM 5-10-2004 by Art. 32]

- A. No person or entity, regardless of their ownership, tenancy, or other status or relationship to any property, nor any agent, employee, contractor or servant of any person or entity shall place, throw, plow or in any way move any snow or ice onto any portion of the Town's streets, ways, sidewalks, or land, except with the approval of the Director of Public Works or his designee. Notwithstanding the foregoing, this section shall not be construed to prohibit owners or lawful occupants of residential premises from placing snow and ice on the sidewalk while leaving unobstructed room for pedestrian passage, and from placing snow or ice from pavement edge to no more than one foot (12 inches) out into the street, immediately adjacent to the driveway opening.
- B. Anyone violating the prohibitions of this section shall be subject to a specific penalty of a fine in an amount up to \$300 for each offense. The fine structure shall be as follows:
 - (1) All first violations: documented warning.
 - (2) Residential (fewer than six dwelling units):
 - (a) Manual snow shoveling:
 - [1] Second violation: \$10.
 - [2] Third violation: \$25.
 - [3] Fourth or more violations: \$50.
 - (b) Residential mechanized snow moving:
 - [1] Second violation: \$25.
 - [2] Third violation: \$50.
 - [3] Fourth or more violations: \$100.
 - (3) Commercial and six or more residential units:
 - (a) Manual snow shoveling:

12.04.090

STREETS AND SIDEWALKS GENERALLY

[1] Second violation: \$50.

[2] Third or more violations: \$300.

(b) Mechanized snow moving:

[1] Second violation: \$150.

[2] Third or more violations: \$300.

C. The Director of Public Works, Highway Superintendent, Assistant Highway Superintendent, Highway Foremen, Code Enforcement Officer, and all Braintree police officers are empowered and authorized to enforce this section.

Chapter 12.08**EXCAVATIONS AND OBSTRUCTIONS**

[HISTORY: Adopted by the Town of Braintree as prior code §§ 113-5 to 113-8 and 113-10.

Amendments noted where applicable.]

12.08.010. Permit. [Amended ATM 5-15-2002 by Art. 47]

- A. No opening or obstruction shall be made in, nor, except as provided in § 12.08.030, shall any material be placed on a public way or a way under control of the Town, either by a department of the Town or a private individual or corporation, unless a permit therefor shall first be obtained from the Board of Selectmen or Director of Public Works.
- B. Before such permit is granted, an applicant, other than a Town department, may be required to deposit cash or a certified check in a sum satisfactory to the Board of Selectmen conditioned upon the faithful discharge and performance of every duty and requirement imposed by statute, bylaw of the Town or regulation of the Board of Selectmen applicable thereto and upon conformance to all directions of the Director of Public Works relating to the work to be done under such permit and upon the payment of all expenses and damages incurred by the Town or recovered from it by reason of or in connection with such occupation, opening or work.
- C. Each applicant for a permit to open a street shall deposit with the Town Treasurer an amount prescribed by the Director of Public Works as a condition to the issuing of the permit to cover the cost of resurfacing after the opening has been closed; provided, however, that an applicant may be excused from making such payment in advance when a satisfactory guaranty is given.
- D. Except as noted in Subsection E, below, no permit shall be granted within the moratorium period specified below for any nonemergency excavation within the improved area. (NOTE: Emergency excavations for National Grid or other gas companies shall consist of evacuation to fix a "Grade 1" leak. For all others an "emergency" shall be defined as in Massachusetts' "Dig Safe" law, MGL c. 82, §§ 40 and 40A through 40E.) **[Added 8-11-2015 by Ord. No. 15-033]**

Improvement	Description	Longitudinal Trench	Transverse Trench (or Transverse Plus Longitudinal Totalling Less Than 150 Feet)
Reconstruction	New pavement over repaired or replaced granular base ¹	10 years	5 years
Mill and overlay	New pavement over milled existing pavement	10 years	5 years

Improvement	Description	Longitudinal Trench	Transverse Trench (or Transverse Plus Longitudinal Totalling Less Than 150 Feet)
Overlay	1 inch plus full lane width overlay of existing pavement ¹	10 years	5 years
Shim with microsurface, chip seal, cape seal, etc.	Less than 1-inch full width surface treatment over paved shim along middle area of road	10 years	5 years
Microsurface, chip seal, cape seal, etc.	Less than 1-inch full width surface treatment over existing pavement	10 years	3 years
Other treatments	Not known at this time	TBD ²	TBD ²

NOTES:

¹

Includes improved sidewalks.

²

To be determined by the Town Council as cases arise.

- E. The Town Council may grant a petition of National Grid or another gas company for a permit to excavate in an improved area under the moratorium and may require such mitigation and repairs as it sees fit, and it may require that surety be posted to secure the completion of the required mitigation and repairs.

The Mayor may grant a petition of others for a permit to excavate in an improved area under the moratorium for public-safety-related concerns, and may require such mitigation and repairs as he sees fit, and he may require that surety be posted to secure the completion of the required mitigation and repairs.

The minimum mitigation and surface repair requirement that should be expected for longitudinal excavation in an improved area in the first seven years of the moratorium is for full-width curb-to-curb milling and repaving for the full length of the excavation along the road plus another 25 feet at each end. (NOTE: Length and/or width of repair may be varied at intersections and in other special circumstances.)

The minimum mitigation and surface repair requirement that should be expected for a) all transverse excavation or for b) longitudinal excavation in the last three years of the moratorium is crown-to-curb milling and repaving the extent of the excavation plus another five-foot length each edge in the

direction of traffic. (NOTE: Length and/or width of repair may be varied at intersections and in other special circumstances.)

All pavement markings shall be replaced in-kind. Curbs and sidewalks must be repaired or replaced, each to the satisfaction of the Highway Superintendent. Infrared treatment of seams may be required at the discretion of the Highway Superintendent. [Added 8-11-2015 by Ord. No. 15-033]

12.08.020. Fencing of excavations.

Any person excavating land or any person in charge of such excavation and/or any owner of land which has been excavated shall erect barriers or take other suitable measures to fence the excavation within two days after such person has been notified, in writing, by the Board of Selectmen or the Building Inspector that in its or his opinion such excavation constitutes a hazard to public safety.

12.08.030. Obstructing sidewalks prohibited; exception.

No person shall place or cause to be placed upon any sidewalk any box, crate, barrel, refuse receptacle, package or any container or other object so as to obstruct the same for more than one hour or for more than 10 minutes after being notified by a constable, police officer or Selectman to move it, unless a permit has been issued by the Board of Selectmen authorizing such obstruction. Nothing in this section shall prohibit the placing in suitable locations at the edge of the street or sidewalk of suitable containers filled with rubbish for disposition in connection with a duly authorized public rubbish collection, provided that such container shall be reasonably removed from the street or sidewalk after being emptied.

12.08.040. Obstructions by building materials; permit required.

- A. No person intending to erect, repair or take down any building on land abutting on any street or way which the Town is required to keep in repair, and desiring to make use of any portion of such street or way for the purpose of placing therein building materials or rubbish, shall do so until he shall have given notice thereof to the Selectmen and obtained their permit therefor.
- B. The Selectmen may grant a permit to occupy a portion of such street or way, and if such permit is granted, it shall be upon the condition that the licensee shall keep a sufficient number of lighted lanterns at or near the parts of the street or way obstructed or unsafe and shall keep a railing or guard around the same while such obstruction shall continue.
- C. If such obstruction is more than a temporary condition, the licensee shall place a good temporary walk around such obstruction and at the completion of the work shall restore the street or way to its former condition.
- D. Before issuing a permit as hereinabove provided, the Selectmen shall require from the person applying for the same a written agreement (and may require a bond) to indemnify and save harmless the Town against and from all damages by reason of any claim for damages or by reason of any proceeding, criminal or civil, on account of the existence of such obstruction or excavation.

12.08.050. Obstruction of fire lanes prohibited; violations and penalties.

- A. It is unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple-family building, stores, shopping centers, schools and places of public assembly.
- B. It is unlawful to obstruct or park a vehicle in any fire lane, such fire lanes to be designated by the

head of the Fire Department and posted as such. Such fire lanes to be a distance of 12 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the head of the Fire Department.

- C. Any object or vehicle obstructing or blocking any fire lane or private way may be removed or towed by the Town under the direction of a police officer at the expense of the owner and without liability to the Town.
- D. The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in Subsection B of this section. Such signs shall be no less than 12 inches by 18 inches and shall read "Fire Lane — No Parking — Tow Zone."
- E. Any person violating any of the foregoing sections shall, for each offense, be punished by a fine of \$15. Each day that such violation continues shall constitute a separate offense.

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Chapter 12.16

WATERWAYS

[HISTORY: Adopted by the Town of Braintree as prior code Ch. 129. Amendments noted where applicable.]

12.16.010. Motorized vessels prohibited on Sunset Lake; exceptions.

No motorized vessel of any description shall be operated on Sunset Lake except those of governmental or protective agencies in the performance of their official duties.

12.16.020. Boat or bathing suit rental; license required.

No person shall carry on the business of renting boats or bathing suits, for use upon or in so much of the waters of any great pond as is situated within the Town, without first obtaining license so to do from the Selectmen upon such conditions as they may impose.

12.16.030. Vessels moored or docked in Town waterways; general requirements. [Added STM 11-13-1990 by Art. 10; amended STM 10-7-2003 by Art. 6]

The owners or persons in control of any vessel habitually moored or docked in waterways owned or under the control of the Town, or any vessel usually kept within the borders of the Town, shall, prior to April 1 of each year, list with the Harbormaster each and every vessel in excess of 12 feet in length so moored, docked or kept, on forms provided by him, the owner's name, home and business address, date of purchase of vessel, its description and registration number. In order to defray the cost of this listing, each owner or person in control shall pay to the Harbormaster a service fee to be established by the Board of Selectmen, which shall then be paid into the Waterways Improvement Fund of the Town.

12.16.040. Violations and penalties. [Added STM 5-6-1991 by Art. 8; amended STM 10-7-2003 by Art. 6]

Any person who fails to comply with § 12.16.030 of this chapter shall, upon conviction thereof, be punished by a fine not to exceed \$50 a day. Each day during which noncompliance occurs shall constitute a separate offense. Alternatively, the enforcing person may impose a noncriminal penalty of \$50 per day pursuant to Chapter 1.08 of this Code.

Chapter 12.20**WETLANDS**

[HISTORY: Adopted by the Town of Braintree STM 5-4-1999 by Art. 27. Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Commission — See Ch. 2.720.

12.20.010. Findings of fact and purpose.**A. Findings of fact.**

- (1) The wetland areas of Braintree are indispensable but fragile natural resources subject to flood, erosion, soil-bearing capacity limitations and other hazards. In their natural state, they serve multiple functions for storage and passage of floodwaters, pollution control, wildlife, aquifer recharge, erosion control, protection of groundwater quality, education, scientific study, open space and recreation.
- (2) Considerable acreage of these important wetland areas has been lost or impaired by draining, dredging, excavating, filling, building, pollution and other acts inconsistent with the natural uses of such areas. Other wetlands are in jeopardy of being lost, despoiled or impaired by such acts, contrary to the public safety and welfare.
- (3) It is therefore the policy of Braintree to protect its citizens, including generations yet unborn, by preventing the despoliation and destruction of wetlands.

B. Purpose. The purpose of this chapter is to protect wetlands, water resources, groundwater quality and adjoining areas in Braintree by regulating activities deemed by the Conservation Commission (Commission) likely to have a significant or cumulative effect upon the following wetland values: public or private water supply, flood control, water quality, groundwater, storm damage prevention, including coastal storm flowage, erosion and sedimentation control, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat, recreation and aesthetics (the "wetland values protected by this chapter").

12.20.020. Jurisdiction.

Except as permitted by the Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter any:

- A. Freshwater wetland, coastal wetland, marsh, wet meadow, bog, swamp, bank, dune, beach or land within 100 feet of any of the aforesaid resource areas (the one-hundred-foot buffer zone); land under a lake, pond, creek, river, stream (whether natural or man-made, intermittent or continuous), estuary or ocean;
- B. Land subject to flooding or inundation by groundwater or surface water;
- C. Land subject to tidal action, coastal storm flowage or flooding;

- D. Land which may cause degradation or change to the physical characteristics of groundwater;
- E. Alteration of land which requires the creation of detention or retention ponds or basins, 1,000 square feet in size or greater, which are required to control drainage for siltation or surface runoff; or
- F. Riverfront area.

(These are the "resource areas" protected by this chapter. Such resource areas shall be protected whether or not they border surface waters.)

12.20.030. Applications for permits and requests.

- A. Notice of intent.
 - (1) A written notice of intent (notice) shall be filed with the Commission to perform activities affecting the resource areas protected by this chapter. The notice shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the resource areas. No activity shall commence without receiving and complying with a permit issued pursuant to this chapter.
 - (2) The Commission in an appropriate case may accept, as a notice under this chapter, a notice of intent filed under the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Wetlands Protection Act regulations, 310 CMR 10.00.
 - (3) With the filing of a notice, an applicant shall pay a fee as set by the Commission. The fee is in addition to that required by MGL c. 131, § 40, and 310 CMR 10.00.
- B. Request for determination of applicability. Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may request, in writing, a determination from the Commission. Such a request for determination of applicability (request) shall include information and plans deemed necessary by the Commission.
- C. Waiver of fees, costs and expenses. The Commission may waive all filing fees, costs and expenses associated with a notice or request by a government agency or nonprofit organization.

12.20.040. Conditional exceptions.

- A. Any notice/request required by this chapter shall not be required for maintaining, repairing or replacing (but not substantially changing or enlarging) an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that:
 - (1) Written notice has been given to the Commission prior to commencement of work; and
 - (2) The work conforms to all performance standards and design specifications adopted by the Commission.
- B. Emergency projects.
 - (1) Any notice/request required by this chapter shall not be required for emergency projects necessary to protect the health and safety of the public, provided that:

- (a) The work is performed by or is ordered by an agency of the commonwealth or a political subdivision thereof;
 - (b) Advance notice (oral or written) has been given to the Commission prior to commencement of work or within 24 hours after commencement;
 - (c) The Commission or its agent certifies the work as an emergency project;
 - (d) The work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and
 - (e) Within 21 days of commencement of work, a notice/request shall be filed for review as provided by this chapter.
- (2) Upon failure to meet these or other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- C. Any other exception provided in MGL c. 131, § 40, and 310 CMR 10.00 shall not apply under this chapter.

12.20.050. Notice and hearings.**A. Names and addresses of abutters.**

- (1) Parties of interest for a notice/request shall include:
- (a) Applicant and the owner (if different from the applicant) of the parcel(s) to which a notice/request relates.
 - (b) Owners of all parcels of land that are adjacent to the parcel(s) to which a notice/request relates.**
 - (c) Owners of parcels of land directly opposite on a public way or street or water body to which a notice/request relates.**
 - (d) The Conservation Commission of an adjacent municipality if the parcel(s) to which a notice/request relates is within 100 feet of a municipal boundary line.

**Such persons are parties of interest even if their land lies in another city or town.

- (2) The identity of all parties of interest listed above shall be taken from the most recent tax list of the applicable city or town.
- (3) If notice is required to be given to the owner of any portion of a condominium as a party of interest and if the units within the condominium are separately assessed, each unit owner within the condominium as well as the association of unit owners are parties of interest.
- B. Notice of public hearing (hearing).**
- (1) Notice of any hearing required by this chapter shall be made in a newspaper of general circulation in the Town not less than five working days prior to the date of the hearing. In calculating the five-day period, the day of publication shall be counted but the day of the hearing

shall be excluded.

- (2) Notice of any hearing required by this chapter shall be posted in a conspicuous place in Town Hall at least five working days prior to the date of the hearing.
- (3) Notice of any hearing required by this chapter shall be sent by mail to all parties of interest at least five work days prior to the date of the hearing.
- (4) All notices of hearings required by this chapter shall be prepared by the Department of Planning and Conservation and shall include the following information:
 - (a) Name of the applicant;
 - (b) Subject matter of the hearing;
 - (c) Description of proposed activities;
 - (d) Address or other adequate identification of the location of the parcel(s) to which a notice/request relates;
 - (e) Date, time and place of the public hearing;
 - (f) Wetland resource areas impacted; and
 - (g) Location where the notice/request may be review.
- (5) Should a party of interest not receive a notice of a hearing, the Commission may accept a waiver of notice or an affidavit of actual notice from such party or may order special notice to such party giving five additional days to reply.
- (6) If the Commission fails to comply with any notice requirement, the Commission may continue the hearing until the notice requirement has been satisfied.

C. Public hearing.

- (1) Within 21 days of receipt of a completed notice/request, the Commission shall conduct a hearing on the notice/request unless an extension is authorized, in writing, by the applicant.
- (2) The Commission in an appropriate case may combine its hearing under this chapter with the hearing conducted under MGL c. 131, § 40, and 310 CMR 10.00.
- (3) An applicant may appear on his own behalf or may be represented by an agent or attorney. If an applicant or a representative does not appear at the hearing, the Commission may, in its discretion, decide the matter using the information it has received.
- (4) The Commission shall have authority to continue a hearing for the following reasons:
 - (a) Failure to comply with the notice requirements;
 - (b) Lack of a quorum;
 - (c) To allow comment and recommendations from Town boards and officials; and
 - (d) For additional information which is deemed pertinent to the notice/request.
- (5) If a hearing is continued to a date, time and place certain which is announced at the hearing, no

additional notice shall be required. If a hearing is not continued to a date, time and place certain, the hearing shall reconvene within 21 days after the submission of a specified piece of information or the occurrence of a specified action and the notice requirements as set forth in this chapter shall apply to the continued hearing.

- (6) A hearing shall be closed by vote of the Commission when all pertinent information has been placed on the record and the Commission has determined that all of its questions have been answered.

D. Conservation Commission decisions.

- (1) Approval of a notice/request shall require a majority vote of the Commission.
- (2) The Commission shall issue a decision, in writing, on a notice/request within 21 days of the close of a hearing thereon unless an extension is authorized, in writing, by the applicant.

12.20.060. Outside professional services.

- A. If at any point during its review the Commission determines that the assistance of outside consultants is warranted due to the size, scale or complexity of a notice/request, the Commission shall require an applicant to pay any reasonable costs incurred by the Commission for the employment of such consultants. The Commission may engage wetlands scientists, engineers, planners or other appropriate professionals.
- B. In such instances, the Commission shall notify the applicant of the need to engage a consultant and shall provide the opportunity for the notice/request to be amended or withdrawn.
- C. An applicant may take an administrative appeal of the selection of a consultant to the Board of Selectmen. The grounds for such appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum qualifications. Minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action on a notice/request by the Commission shall be extended by the duration of an administrative appeal. If no decision is rendered by the Selectmen within 30 days following the filing of the appeal, the selection made by the Commission shall stand.
- D. Consultant fee to be reimbursed shall reflect reasonable cost and expenses and shall be based on the following schedule:

Project Cost	Maximum Fee
Up to \$100,000	\$10,000
\$100,001 to \$500,000	\$15,000
\$500,001 to \$1,000,000	\$17,500
\$1,000,001 to \$1,500,000	\$20,000
\$1,500,001 to \$2,000,000	\$20,500

Each additional \$500,000 project cost increment over \$2,000,000 shall be charged at an additional \$5,000 maximum fee per increment.

- E. An applicant shall submit an estimate of project costs at the Commission's request. "Project costs" shall mean the cost of the total project, including, but not limited to, site preparation, building construction, landscaping, and site improvements. A project shall not be segmented to reduce the amount of the consultant fee. Failure to provide such estimate shall not relieve an applicant of the obligation to pay the consultant fee. Failure of an applicant to furnish the required funds shall be grounds for denial of a notice.

12.20.070. Coordination with other boards.

- A. Notice of any hearing required by this chapter shall be provided by the Commission, at least five work days prior to the date of the hearing, to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health, Town Engineer, Building Inspector and Water and Sewer Commission.
- B. The Commission shall not take final action on a notice/request until it has received reports from the above-cited boards and officials or until 14 days have elapsed from the date of notice without the submission of a report.
- C. The Commission shall take the reports into account but the reports shall not be binding on the Commission. The applicant shall have the right to review and respond to any report.

12.20.080. Determinations, permits and conditions.

A. Determinations.

- (1) The Commission shall have the authority, after a hearing on a request, to determine whether a specific parcel of land contains resource areas protected under this chapter. If the Commission finds that no such resource areas are present, it shall issue a negative determination.
- (2) The Commission shall have the authority, after a hearing on a request, to determine whether the activities which are the subject of the request are likely to have a significant detrimental effect upon the resource areas protected under this chapter. If the Commission finds that the activities are not likely to have a significant detrimental effect upon any resource areas, it shall issue a negative determination. If the Commission finds that the activities are likely to have a significant detrimental effect upon any resource areas, it may require the filing of a notice on the activities.

B. Permits.

- (1) If, after a hearing, the Commission determines that the activities which are the subject of a notice or the land and water uses which will result therefrom are likely to have a significant individual or cumulative impact upon the resource areas protected by this chapter, it shall issue or deny a permit for the activities requested.
- (2) The Commission shall issue a permit only if it finds that the applicant has demonstrated by a preponderance of the evidence that the activities proposed will:
 - (a) Result in minimum feasible alteration or impairment of the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources and

- hydrological conditions;
- (b) Not adversely effect a rare species;
 - (c) Not cause significant degradation of groundwater or surface water quality;
 - (d) Comply with all applicable state, local and federal laws, including those related to sediment control, pollution control, and floodplain zoning;
 - (e) Provide a buffer zone of not less than 25 feet between wetlands and upland activities for those portions of a regulated activity that need not be conducted in the wetland. Alterations to existing single-family houses and lots shall be exempt from this requirement;
 - (f) Comply with this chapter and the Commission's regulations, including those pertaining to wetland creation and restoration; and
 - (g) Not degrade or alter groundwater quality.
- (3) The Commission may attach to a permit such conditions it deems necessary to carry out the purposes of this chapter. Such conditions may include, but not be limited to:
- (a) Limitation on the total portion of any lot or the portion of the resource areas on a lot that may be graded, filled or otherwise modified;
 - (b) Requirements that structures be elevated or otherwise protected against natural hazards;
 - (c) Modification of waste disposal and water supply facilities;
 - (d) Imposition of operational controls and deed restrictions concerning future use of lands such as flood warnings, reservation of undeveloped areas as open space and limitations on vegetation removal;
 - (e) Dedication of easements to protect resource areas;
 - (f) Setbacks for structures, deposit of fill and other activities from resource areas;
 - (g) Replanting of wetland vegetation and construction of new wetland areas to replace damaged or destroyed wetlands;
 - (h) Modifications in project design to ensure continued water supply to wetlands and circulation of waters;
 - (i) Erosion control and stormwater management measures;
 - (j) Time limitation on the commencement of construction and/or the completion of the approved development;
 - (k) Establishment of vegetated buffers separating and protecting resource areas from proposed activities.
- (4) Denial of permit.
- (a) The Commission is empowered to deny a permit:
 - [1] For failure to meet the requirements of this chapter;

- [2] For failure to submit necessary information and plans requested by the Commission;
 - [3] For failure to meet the design specifications, performance standards and other requirements as set by the regulations of the Commission;
 - [4] For failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this chapter;
 - [5] Where no conditions are adequate to protect those values; or
 - [6] For failure to meet the qualifications for issuance of a permit as set forth in Subsection B(2) of this section.
- (b) In denying a permit, due consideration shall be given to any demonstrated hardship on the applicant as presented at the hearing.
- C. Buffer zone. Lands within the one-hundred-foot buffer zone are presumed important to the protection of wetland areas because activities undertaken in close proximity to such areas have a high likelihood of adverse impacts upon them as a consequence of construction or as a consequence of daily operation or existence of such activities. Impacts may include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. The Commission therefore shall require an applicant to maintain, at a minimum, a continuous undisturbed vegetative strip abutting a wetland 25 feet in width and may set other conditions as it deems necessary, unless the applicant provides evidence deemed sufficient by the Commission that the buffer zone may be disturbed without harm to the values protected by this chapter. Alterations to existing single-family houses and lots shall be exempt from this requirement.
- D. Riverfront area.
 - (1) A permit may be issued for activities within a riverfront area, provided that:
 - (a) The applicant complies with all applicable requirements of this chapter;
 - (b) The applicant proves by a preponderance of the evidence that there is no practicable alternative to the proposed project with less adverse impacts; and
 - (c) Should there be no practicable alternative, such activities, including proposed mitigation measures, will have no significant adverse impact upon resource areas or wetland values protected by this chapter.
 - (2) The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration proposed property use, overall project purposes, logistics, existing technology, costs of the alternatives and overall project costs.
- E. Wetlands loss; replication.
 - (1) In order to prevent wetlands loss, the Commission shall:
 - (a) Require an applicant to avoid wetlands alteration wherever feasible;
 - (b) Minimize wetlands alteration where alteration is unavoidable; and
 - (c) Require full mitigation of any wetlands alteration.
 - (2) As a condition of a permit issued or as an enforcement action under this chapter, the

Commission may require that the applicant restore or create wetlands in order to offset, in whole or in part, the losses resulting from an applicant's or violator's actions. In making a determination of whether such a requirement will be imposed and, if so, the degree to which it would be required, the Commission will consider the following:

- (a) The long- and short-term effects of the action upon the wetland and associated aquatic ecosystem and the reversible or irreversible nature of the impairment or loss;
- (b) The type and benefit of the wetland functions and associated resource lost;
- (c) The type, size and location of the wetland altered and the effect it may have upon the remaining watershed of which the wetland is a part;
- (d) Observed or predicted trends with regard to the gains or losses of this type of wetland in the watershed, in light of natural and human process;
- (e) The cost and likely success of the possible compensation measures in relation to the magnitude of the proposed project or violation; and
- (f) The degree to which an applicant has made a good-faith effort to incorporate measures to avoid or minimize wetland impacts from the proposed project.

F. Length of permit.

- (1) A permit shall expire one year from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission.
- (2) A permit may be renewed for additional one-year periods, provided that:
 - (a) A request for renewal is received in writing by the Commission at least 30 days prior to expiration of the permit;
 - (b) The Commission finds that good cause has been shown for such extension; and
 - (c) Such extension will not have significant adverse effect upon any of the wetland values protected by this chapter.
- (3) Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely or until permanent protection is in place.
- (4) If the activities authorized under a permit are not completed or operations totally cease within the time period indicated on the approved permit, the developer shall be required to restore the natural appearance and biological character of affected resource areas to the conditions prior to institution of the development to the maximum extent practicable.

G. Modification; rescission. After notice and a hearing pursuant to § 12.20.050 of this chapter, the Commission may modify, suspend or revoke a permit if it finds that the applicant has not complied with the conditions set forth in a permit or has exceeded the scope of work set forth in a notice.

H. Relationship to MGL c. 131, § 40, and 310 CMR 10.00. The Commission in an appropriate case may combine the permit issued under this chapter with the order of conditions issued under MGL c. 131, § 40, and 310 CMR 10.00.

- I. Recording of permit. No work authorized by any permit issued by the Commission shall be undertaken until such permit has been recorded in the Registry of Deeds and/or land court and until the holder of the permit certifies, in writing, to the Commission that the permit has been recorded.

12.20.090. Regulations.

- A. After notice and hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this chapter. At a minimum these regulations shall define key terms in this chapter not inconsistent with this chapter, establish procedures governing the filing of a notice or request and set fees for the processing of a notice.
- B. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

12.20.100. Definitions.

Words or phrases used in this chapter shall be defined as follows. Where ambiguity exists, words or phrases shall be interpreted so as to give this chapter its most reasonable application in carrying out the regulatory purpose.

ALTER — Includes any of the following:

- A. Removing, excavating, or dredging of soil, sand, gravel or aggregate materials of any kind;
- B. Changing preexisting drainage, flood retention or flushing characteristics, salinity distribution, sedimentation patterns or flow patterns;
- C. Drainage or other disturbance of water level or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill or removal of material which would alter elevation;
- F. Driving of piles, erection or repair of buildings or structures of any kind;
- G. Placing of obstructions or objects in water;
- H. Destruction of plant life, including cutting of trees;
- I. Changing temperature, biochemical oxygen demand or other physical, biological or chemical characteristics of any water;
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- K. Application of pesticides or herbicides;
- L. Incremental activities which have, or may have, a cumulative adverse effect on the resource areas protected by this chapter.

APPLICANT — The person filing a notice/request under this chapter.

BANK — The land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BOGS — Areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with sphagnum moss (sphagnum) and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (*Aster nemoralis*), azaleas (*Rhododendron canadense* and *R. viscosum*), black spruce (*Picea mariana*), bog cotton (*Eriophorum*), cranberry (*Vaccinium macrocarpon*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), laurels (*Kalmia angustifolia* and *K. polifolia*), leatherleaf (*Chamaedaphne calyculata*), orchids (*Arethusa*, *Calopogon*, *Pogonia*), pitcher plants (*Sarracenia purpurea*), sedges (*Cyperaceae*), sundews (*Droseraccae*), sweet gale (*Myrica gale*), white cedar (*Chamaecyparis thyoides*).

COASTAL WETLANDS — Any bank, marsh, swamp, meadow, flat or other lowland subject to tidal action or coastal storm flowage.

DETENTION/RETENTION PONDS OR BASINS — Any basin that is excavated on site to control drainage of runoff on site. This shall also include all detention/retention basins to control the release of runoff for the site to an off-site drainage system, including streams, storm drains, rivers or other bodies of water.

FRESHWATER WETLANDS — Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provides a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

MARSHES — Areas where a vegetational community exists in standing or running water (fresh or salt) during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums (*Araceae*), bladder worts (*Utricularia*), bur reeds (*Sparganiaceae*), buttonbush (*Cephalanthus occidentalis*), cattails (*Typha*), duck weeds (*Lemnaceae*), eelgrass (*Vallisneria*), frog bits (*Hydrocharitaceae*), horsetails (*Equisetaceae*), hydrophilic grasses (*Gramineae*), leatherleaf (*Chamaedaphne calyculata*), pickerel weeds (*Pontederiaceae*), pipeworts (*Eriocaulon*), pond weeds (*Potamogeton*), rushes (*Juncaceae*), sedges (*Cyperaceae*), smartweeds (*Polygonum*), sweet gale (*Myrica gale*), water milfoil (*Halcragaceae*), water lilies (*Nymphaeaceae*), water starworts (*Callitrichaceae*), water willow (*Decodon verticillatus*).

MEAN ANNUAL HIGH-WATER LINE — With respect to a river, the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and which distinguishes between predominantly aquatic and predominantly terrestrial land. The mean high-tide line shall serve as the mean annual high-water line for tidal rivers.

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

POND — Any open body of fresh water with a surface area observed or recorded within the last 10 years of at least 2,500 square feet. Ponds shall contain standing water except periods of extended drought. Not included as ponds are swimming pools, artificially lined ponds or pools or constructed wastewater lagoons.

RARE SPECIES — Without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife.

RIVER — A natural flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year and is identified on the most recent USGS topographic map of the Town or on a map provided by the Commonwealth of Massachusetts.

RIVERFRONT AREA — That area of land situated between a river's mean annual high-water line and a parallel line located a maximum 200 feet away, measured outward horizontally from the river's mean annual high-water line. (The Commission may, after a public hearing, designate a riverfront area of less than 200 feet for densely developed areas.) This definition shall not create a buffer zone, so-called, beyond such riverfront area. The riverfront area shall not include land now or formerly associated with historic mill complexes in existence prior to 1946 and situated landward of the waterside facade of a retaining wall, building, sluiceway, or other structure existing on the effective date of this chapter. The riverfront area shall not apply to any mosquito control work done under the provisions of clause (36) of MGL c. 40, § 5, of MGL c. 252 or of any special act, and to construction, expansion, repair, maintenance or other work on piers, docks, wharves, boat houses, coastal engineering structures, landings, and all other structures and activities subject to licensing or permitting under MGL c. 91 and its regulations, provided that such structures and activities shall remain subject to statutory and regulatory requirements under MGL c. 91 and MGL c. 131, § 40, or is the site of any project authorized by special act prior to January 1, 1973.

RIVERFRONT AREA BOUNDARY LINE — The line located at the outside edge of the riverfront area.

SWAMPS — Areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily including all of the following plants or groups of plants: alders (*Alnus*), ashes (*Fraxinus*), azaleas (*Rhododendron canadense* and *R. viscosum*), black alder (*Ilex verticillata*), black spruce (*Picea Mariana*), buttonbush (*Cephalanthus occidentals*), American or white elm (*Ulmus americana*), white Hellebore (*Veratrum viride*), hemlock (*Tsuga canadensis*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), cowslip (*Caltha palustris*), poison sumac (*Toxicodendron vernix*), red maple (*Acer rubrum*), skunk cabbage (*Symplocarpus foetidus*), sphagnum mosses (*Sphagnum*), spice bush (*Lindera benzoin*), black gum tupelo (*Nyssa sylvatica*), sweet pepperbush (*Clethra alnifolia*), white cedar (*Chamaecyparis thyoides*), willow (*Salicaceae*).

VERNAL POOL — A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression.

WET MEADOWS — Areas where groundwater is at the surface for the significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges and rushes; made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (*Iris*), vervain (*Verbena*), thoroughwort (*Eupatorium*), dock (*Rumex*), false loosestrife (*Ludwigia*), hydrophilic grasses (*Graminae*), loosestrife (*Lythrum*), marsh fern (*Dryopteris thelypteris*), rushes (*Juncaceae*), sedges (*Cyperaceae*), sensitive fern (*Onoclea sensibilis*), smartweed (*Polygonum*).

12.20.110. Security.

As a condition of a permit issued under this chapter, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by a proper bond, deposit of money, negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission. The particular amount and the conditions of such surety shall be consistent with the purpose of this chapter.

12.20.120. Enforcement.

A. No person shall:

- (1) Remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by this chapter or cause, suffer or allow such activities;
 - (2) Leave in place unauthorized fill or otherwise fail to restore illegally altered land to its original condition;
 - (3) Fail to comply with a permit or an enforcement order issued pursuant to this chapter.
- B. The Commission or its agents and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the commonwealth.
- C. The Commission shall have authority to enforce this chapter and its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions. Any person who violates provisions of this chapter may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- F. Any person who violates any provision of this chapter, the Commission's regulations, permit or administrative order issued thereunder may be punished by a fine of up to \$300 per offense.
- (1) Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense.
 - (2) Each provision of this chapter or the regulations, permits or administrative orders violated shall constitute a separate offense.
- G. As an alternative to criminal prosecution, the Commission may issue citations under the noncriminal disposition procedures authorized in the Town's general bylaws.

12.20.130. Burden of proof.

- A. An applicant shall have the burden of proving, by a preponderance of the credible evidence, that the activities proposed in a notice/request will not have significant or cumulative effect upon the resource area and wetland values protected by this chapter.
- B. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a notice or to grant a notice with conditions.

12.20.140. Abrogation and greater restriction.

It is not intended that this chapter repeal, abrogate or impair any existing regulations, easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

12.20.150. Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the goals of this chapter.

12.20.160. Appeals.

A decision of the Commission shall be reviewable in the Superior Court in accordance with MGL c. 249, § 4.

12.20.170. Relation to the Wetlands Protection Act.

This chapter utilizes the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes to protect additional resource areas for additional values, with additional standards and procedures stricter than those of MGL c. 131, § 40, and 310 CMR 10.00, and is independent of MGL c. 131, § 40, and 310 CMR 10.00.

12.20.180. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

Chapter 12.30**PUBLIC TREE PROTECTION**

[HISTORY: Adopted by the Town Council of the Town of Braintree 4-25-2023 by Order No. 22-037. Amendments noted where applicable.]

12.30.010. Purpose.

Healthy trees and a robust tree canopy are essential for human and environmental health. They reduce air and noise pollution, prevent adverse climate effects such as the heat island effect, and reduce flooding. They also provide energy-saving shade and cooling, furnish habitat for wildlife, enhance aesthetics and property values, and are an important contributor to community image, pride, and quality of life.

As such, this chapter is intended to complement and strengthen MGL c. 87, §§ 1 through 14, "Shade Trees," by preserving and protecting the shade and street trees presently existing along Braintree's accepted public ways through the public hearing process set forth in that statute, and by having a formal mechanism for replacement of those trees that are removed due to injury, disease, or otherwise pursuant to Section 3 of Chapter 87 of the General Laws.

12.30.020. Definitions.

ACCEPTED PUBLIC WAY — Streets or roads, by whatever term so-called, laid out by the Town of Braintree but excluding state highways, streets and roads under the jurisdiction of Massachusetts Department of Transportation.

DIAMETER AT BREAST HEIGHT (DBH) — The standard measure of tree size for those trees existing on a site that are at least eight inches in diameter at a height of 4 1/2 feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below 4 1/2 feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

INVASIVE SPECIES — Species are characterized as "Invasive" or "Likely Invasive" by the Massachusetts Invasive Plant Advisory Group, including but not limited to:

Amur cork-tree (*Phellodendron amurense*)

Black locust (*Robinia pseudoacacia*)

Norway maple (*Acer platanoides*)

Sycamore Maple (*Acer pseudoplatanus*)

Tree of Heaven (*Ailanthus altissima*)

JURISDICTIONAL TREE — Shall consist of protected trees and public shade trees.

NATIVE SPECIES — Native plants with origins east of the Mississippi River per the USDA plant database, with a preference for species from the US Environmental Protection Agency Ecoregion Level III Northeastern Coastal Zone (#59), and secondary preference for Northeastern Highlands (#58) and the Atlantic Coastal Pine Barrens (#84).

PROTECTED TREE — Any non-invasive tree, having a diameter of eight inches DBH or larger, along or within an accepted public way, or located upon any Town owned land, excepting land owned and controlled by the Town of Braintree Conservation Commission.

PUBLIC SHADE TREE — Pursuant to MGL c. 87, all trees within a public way or on the boundaries

thereof including trees planted in accordance with the provisions of MGL c. 87, § 7, shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

TREE COMMITTEE — A seven-member body, appointed by the Mayor, consisting of a certified arborist, the Conservation Planner or designee, the Tree Warden's designee, a member of the Electric Light Board, and three knowledgeable residents.

TREE PLAN — Shall include the location, species, and DBH of each tree where work is to be performed, and shall designate the trees to be removed, specify which trees are to remain, if any, and the proposed location, species and DBH of replacement trees, if applicable.

12.30.030. Tree permit.

- A. Cutting, trimming or removal of a jurisdictional tree, as defined, by any person or entity other than the Tree Warden or the Deputy Tree Warden, shall require a public hearing and tree permit.
- B. The application for a permit to cut, trim or remove a jurisdictional tree shall be submitted in writing to the Tree Warden, and include a brief description of the work to be performed and a Tree Plan showing the location, species, and DBH of each tree along the impacted segment of the public way, and shall indicate clearly which trees are to be removed. If replacement trees are to be planted, the plan shall indicate the replacement location and species, and DBH.
- C. A public hearing on the cutting, trimming or removal of a jurisdictional tree shall be noticed of the time and place of such hearing thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed, to be posted in two or more public places in the Town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the city or Town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing, and notice shall be provided to the Tree Committee and District Councilor not less than seven days before the hearing.
- D. If no written objections are produced either at or before the public hearing, the Tree Warden shall issue the written tree permit dependent on a sufficient Tree Plan and determination of replacement or payment in lieu of replacement. The tree permit shall specify the authorized work to be performed and whether replacement trees or payment in lieu of replacement has been authorized.
- E. Cutting, trimming or removal of either a public shade tree or protected tree, as defined, by the Tree Warden or the Deputy Tree Warden, shall not require a permit, but shall require a public hearing and notice compliant with Section 12.30.030C above. If more than one tree is to be removed in any one location, a Tree Plan shall be prepared and submitted with the written notice.

12.30.040. Emergencies.

- A. Emergencies. If the Tree Warden determines, pursuant to Section 5 of Chapter 87 of the General Laws that a jurisdictional tree must be trimmed, cut or removed due to hazardous condition, the requirements of Section 12.30.030E of this chapter shall not be applicable. Written notice after the fact of the trimming, cutting or removal shall be provided within 14 days to both the Tree Committee and the District Councilor.
- B. Tree Committee shall review any removal under this section and determine if a replacement tree shall

be planted, and the location thereof.

12.30.050. Tree replacement guidelines and standards for replacement.

A replacement tree shall be planted within 18 months of the removal of the jurisdictional tree, but as soon as possible based on the ideal growing conditions.

- A. A replacement tree shall be a non-cultivar, native species, or chosen from the preferred species list referenced in Appendix A¹¹⁸ or as set forth by the Tree Committee, and replacement shall be at a one to one ratio. A replacement tree shall be required to survive for a minimum of 18 months from the date it is planted. If a replacement tree dies within 18 months from the date of planting, it must be replaced.
- B. A replacement tree shall be planted in close proximity to the location of removal.

12.30.060. Payment in lieu of replacement.

In lieu of planting a replacement tree, a payment may be made to the Tree Replacement Fund in an amount equivalent to the cost of purchasing, planting, watering and maintaining said replacement trees for a period of not less than 18 months. Rates shall be established annually by the Tree Committee. This section shall not be applicable to the Tree Warden or Deputy Tree Warden.

12.30.070. Tree Replacement Fund.

The Tree Replacement Fund has been established pursuant MGL c. 44, § 53E1/2. See Braintree Ordinance c. 3.140, Section 3.140.050, "Authorized Revolving Funds," Subsection J, "Tree Replacement Revolving Fund." Any payments into the Tree Replacement Fund shall be deposited in said Fund, and shall be used for tree related needs, which shall include but not be limited to buying, planting and maintaining trees in the Town.

The Tree Committee with input from the Conservation Commission and the Tree Warden, shall expend these funds for tree planting, transplanting, care, and other tree-related needs as requested by the Town or as determined by the Tree Committee, with planting preference to areas with the lowest percentage of tree canopy cover, designated heat islands or neighborhoods with an Environmental Justice Block Group Population.

12.30.080. Enforcement.

The Tree Warden, or designee, shall be authorized to enforce the provisions of this chapter.

12.30.090. Violations and penalties.

Violations of the proceeding sections shall be punishable by a fine of \$500.

Title 13: Public Services

118.Editor's Note: Appendix A is included as an attachment to this chapter.

Chapter 13.04**WATER AND SEWER CHARGES**

[HISTORY: Adopted by the Town of Braintree ATM 5-10-1994 by Art. 44 (prior code Ch. 133).

Amendments noted where applicable.]

13.04.010. Due dates; interest on unpaid charges. [Amended ATM 5-15-2002 by Art. 47]

Pursuant to MGL c. 40, § 21E, the Board of Selectmen is authorized to establish due dates for the payment of water and sewer charges and bills, and if such charges remain unpaid after such due dates, interest shall accrue. The rate of interest shall be equal to the rate at which interest may be charged on tax bills under the provisions of MGL c. 59, § 57.

13.04.020. Meter reading fee. [Added STM 10-5-2004 by Art. 20]

There will be a fee of \$35 for each water meter reading performed by the Town at the request of the customer for any reason, including but not limited to meter inspections, sump pump inspection and so called final readings for real estate transactions, said fee incorporated on the final water and sewer invoice.

13.04.030. Water shutoff for failure to pay charges. [Added STM 10-5-2004 by Art. 21]

The Town may shut off the flow of water from its mains or pipes to the premises of any customer who has failed or refused to pay the lawful charges of the Town for water previously consumed. The officers, employees or agents of the Town may, on any business day between the hours of 8:00 a.m. and 4:00 p.m., enter upon the premises of a customer whose payments are in arrears and close a valve or remove or disconnect a meter pipe or fitting, if necessary, for the purpose of shutting off the flow of water as above authorized, provided that the customer has been given 36 hours' notice in person or by registered or certified mail directed to his last address furnished to the Town. If such address is different from the address of the premises affected, a copy of such notice shall also be so mailed to the address thereof. Upon entering the premises to shut off water, the Town representative shall, before shutoff, state to an occupant, if present, that service is to be shut off.

13.04.040. Water shutoff for certain residents restricted. [Added STM 10-5-2004 by Art. 21]

The Town shall not intentionally shut off the water service to any domicile occupied by a person who is seriously ill if the Town receives written notice from the Town Health Department or a registered physician verifying the fact of such illness. Such certificates must be renewed monthly during the course of such illness. The Town shall not intentionally shut off service to any domicile occupied by a child under the age 12 months if the Town receives certification from the Town Health Department, clergy, registered physician, hospital or government official, or birth certificate. The Town shall not intentionally shut off service to any domicile in which all occupants are age 65 or older.

13.04.050. Notice of shutoff. [Added STM 10-5-2004 by Art. 21]

The Town shall not shut off the flow of water to any residential building in which the occupant thereof is not the customer of record of the Town without first complying with the notice provision of § 13.04.030 and also providing notice to each affected dwelling unit in the manner prescribed by the Water and Sewer Department regulations.

A. Such notice shall contain the following information:

13.04.050

WATER AND SEWER CHARGES

- (1) The amount then due and payable for such water service;
 - (2) The date on or after which such service will be shut off, such date to be not less than 15 nor more than 30 days after the day on which such notice is first given;
 - (3) The date on which said notice is given; and
 - (4) The right of the occupants of such building to pay the amount due or portion thereof as is prescribed by regulation and thereby avoid a cessation of service.
- B. Any employee of the Town may at any reasonable time enter the common hallways of such building to post or deliver said notice.

13.04.060. Procedure for termination of service. [Added STM 10-5-2004 by Art. 21; amended STM 10-3-2006 by Art. 13]

- A. Service may be terminated only if:
- (1) A bill is not paid within 60 days from receipt;
 - (2) The Town, not earlier than 45 days after the rendering of the bill (i.e., first request for payment), renders a second request for payment, stating its intention to terminate on a date not earlier than 60 days after the receipt of the original bill;
 - (3) The Town renders a final notice of termination not earlier than 60 days after receipt of the bill; and
 - (4) The bill remains unpaid on the termination date indicated on the notice.
- B. In no event shall service to a customer be terminated for failure to pay a portion of any bill which is subject of a dispute which has been made with the Town in accordance with any applicable regulations. However, a customer shall be responsible for and accordingly shall be subject to termination for nonpayment of any portion of any bill which is not the subject of a dispute. All second requests and termination notices shall be accompanied by a brief explanation of customer rights.

13.04.070. Additional regulations for termination of service. [Added STM 10-5-2004 by Art. 21]

The Board of Selectmen acting as the Water and Sewer Commissioners may enact regulations under this chapter further regulating procedures for the termination of service.

13.04.080. Fee for restoration of service. [Added STM 10-5-2004 by Art. 21]

There shall be a fee of \$50 for the restoration of water service after service has been terminated pursuant to this chapter, said \$50 and unpaid water and sewer bill to be paid prior to the reconnection of water service.

BRAINTREE CODE

Chapter 13.05

CONDOMINIUM CONVERSIONS

[HISTORY: Adopted by the Town of Braintree STM 11-14-2007 by Art. 22. Amendments noted where applicable.]

13.05.010. Responsibilities of property owner.

Prior to converting any property to a condominium, the property owner shall notify the Building Department and the Water and Sewer Department in writing, and the property owner shall make, at his expense, any modifications to the water system as may be required by the Director of Public Works or his designee to accommodate the Water and Sewer Department's billing requirements.

CELLAR DRAINS

Chapter 13.06

CELLAR DRAINS

[HISTORY: Adopted by the Town of Braintree ATM 5-7-2003 by Art. 34. Amendments noted where applicable.]

13.06.010. Cellar drains prohibited; violations and penalties.

No person shall install a groundwater gravity connection from the interior of any building to the Town stormwater drainage system. This does not prohibit the connection of exterior foundation drains to the Town stormwater drainage system, provided the foundation drain is above the elevation of the cellar floor. Violations shall be punishable by a fine of \$100.

BRAINTREE CODE

Chapter 13.07

GREASE TREATMENT

[HISTORY: Adopted by the Town of Braintree ATM 5-2-2006 by Art. 32. Amendments noted where applicable.]

13.07.010. Treatment required; violations and penalties.

All food establishments shall install and maintain in good working order a device which complies with the regulations of the Water and Sewer Department for the treatment of grease. Failure to comply with the Water and Sewer Department regulations for treatment of grease shall be punishable by a fine of \$100 for each offense. Each day that noncompliance continues shall be deemed a separate offense. This chapter may also be enforced through noncriminal disposition under Chapter 1.08.

WATER EMERGENCIES AND CONSERVATION

Chapter 13.08

WATER EMERGENCIES AND CONSERVATION

**[HISTORY: Adopted by the Town of Braintree STM 5-2-1989 by Art. 18 (prior code Ch. 131).
Amendments noted where applicable.]**

13.08.010. Purpose.

This chapter is intended to preserve, maintain and increase the water supply of the Town.

13.08.020. Promulgation authority. [Amended ATM 5-10-1994 by Art. 46; ATM 5-15-2002 by Art. 47]

Whenever a declaration of a state of water supply emergency or resulting order is legally declared and imposed on the Town by an appropriate state or federal agency, or a water conservation restriction emergency is declared by the Tri-Town Board of Water Commissioners, the Braintree Board of Selectmen is authorized to promulgate such reasonable rules and regulations as are necessary to implement such declaration and order.

13.08.030. Administration. [Amended ATM 5-15-2002 by Art. 47]

- A. The Board of Selectmen, through the Department of Public Works, shall be the exclusive administrator for processing receipted violations to the water usage restriction order.
- B. There shall be one warning issued and recorded on an approved Water and Sewer Department administrative form. Such warning shall be sent by certified mail to the site of the violation. Subsequent violations recorded shall be punished by civil penalties as stipulated in § 13.08.040 of this chapter. Subsequent violations shall be recorded on an approved department administrative form which stipulates that a violation has been found and a civil penalty has been applied with mandatory payment of such civil penalty to be receipted by the Water and Sewer Department.

13.08.040. Violations and penalties. [Amended ATM 5-15-2002 by Art. 47]

Any person who is found after a hearing before the Public Works Permitting and Advisory Board to have violated any of the rules and regulations as promulgated by the Board of Selectmen attendant to a declaration of a state of water supply emergency and resulting order shall, for each offense, be punished by a civil penalty of \$100. Each day such violation continues shall constitute a separate offense.

Chapter 13.12**CROSS-CONNECTION CONTROL**

[HISTORY: Adopted by the Town of Braintree STM 10-7-1991 by Art. 11 (prior code Ch. 45); amended ATM 5-12-2002 by Art. 47. Subsequent amendments noted where applicable.]

13.12.010. Purpose.

The purpose of this chapter is:

- A. To protect the public potable water supply served by the Braintree Department of Public Works from the possibility of contamination or pollution by isolating such contaminants or pollutants which could backflow or backsiphon into the public water system;
- B. To promote the elimination or control of existing cross-connections, actual or potential, between its customers in-plant potable water system and nonpotable systems;
- C. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

13.12.020. Authority.

As provided in the Federal Safe Drinking Water Act of 1974 (Public Law 93-523) and the Commonwealth of Massachusetts Drinking Water Regulations, 310 CMR 22.22, the water purveyor has the primary responsibility for preventing water from unapproved sources or any other substances from entering the public potable water system.

13.12.030. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AIR GAP SEPARATION — The method of preventing backflow through the use of an unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

APPROVED — Accepted by the reviewing authority as meeting an applicable specification stated or cited in this regulation or as suitable for the proposed use.

APPROVED BACKFLOW PREVENTION DEVICE OR DEVICES — A method to prevent backflow approved by the Department for use in Massachusetts.

ATMOSPHERIC VACUUM BREAKER — An approved backflow device used to prevent back siphonage which is not designed for use under static line pressure.

AUXILIARY WATER SUPPLY — Any water supply of unknown or questionable quality on or available to the premises other than the supplier's approved public potable water supply.

BACK PRESSURE — Pressure created by mechanical means or other means which causes water or other liquids or substances to flow or move in a direction opposite to that which is intended.

BACK SIPHONAGE — A form of backflow due to reduced or subatmospheric pressure within a water system.

BACKFLOW — The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than the intended source.

BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT — A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere, in which the check valves are force-loaded to a normally closed position and the venting means is force-loaded to a normally open position.

BAROMETRIC LOOP — A loop of pipe rising at least 35 feet, at its topmost point, above the highest fixture it supplies.

CONTAMINANT — Any physical, chemical, biological or radiological substance or matter in water.

CROSS-CONNECTION — Any actual or potential connection between a distribution pipe of potable water from a public water system and any waste pipe, soil pipe, sewer, drain or other unapproved source.

CROSS-CONNECTION VIOLATION FORM — A violation form designated by the Department, which is being sent to the owner by the water supplier with copies sent to the Department, Plumbing Inspectors and Board of Health delineating cross-connection violations found on the owner's premises and a procedure for corrective action.

DELEGATED REPRESENTATIVE — Any individual approved by the Director who holds a current certificate as a backflow prevention device tester from the Commonwealth of Massachusetts.

DEPARTMENT — The Massachusetts Department of Environmental Protection.

DIRECTOR — The Director of the Department of Public Works, appointed by the Selectmen, is vested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of this chapter.

DOUBLE CHECK VALVE ASSEMBLY — A backflow prevention device which incorporates an assembly of check valves, with shutoff valves at each end and appurtenances for testing.

IN-PLANT PROTECTION — The location of approved backflow prevention devices in a manner which provides simultaneous protection of the public water system and the potable water system within the premises.

OWNER — Any person maintaining a cross-connection installation or owning or occupying premises on which cross-connections can or do exist.

PERMIT — A document issued by the Department which allows a cross-connection installation.

PERSON — Any individual, corporation, company, association, trust, partnership, the commonwealth, a municipality, district, or other subdivision or instrumentality of the United States, except that nothing herein shall be construed to refer to or to include any American Indian tribe or the United States Secretary of the Interior in his capacity as trustee of Indian Lands.

PRESSURE VACUUM BREAKER — An approved backflow prevention device designed to prevent only back siphonage and which is designed for use under static line pressure and which has necessary appurtenances for testing.

REDUCED PRESSURE BACKFLOW PREVENTER — An approved backflow prevention device incorporating:

- A. Two more check valves;
- B. An automatically operating differential relief valve located between the two checks;
- C. Two shutoff valves; and
- D. Necessary appurtenances for testing.

RESIDENTIAL DUAL CHECK — An assembly of two spring-loaded, independently operating check valves without tightly closing shutoff valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.

REVIEWING AUTHORITY — The Department, its designee, or the local Plumbing Inspector, authorized by MGL c. 142 and licensed by the Board of State Examiners of Plumbers and Gas Fitters, whichever is responsible for the review and approval of the installation of an approved backflow prevention device.

13.12.040. Exemptions.

Existing homes used solely for residential purposes shall be exempt from the provisions of this chapter. However, all residential sprinkler systems shall require a backflow prevention device.

13.12.050. Cross-connection control program.

- A. The Director will operate an active cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the State Department of Environmental Protection's Cross-Connection Regulations and is approved by the Department.
- B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provision of the Town's program and the Department regulations.

13.12.060. Installation of approved backflow prevention devices required.

The Director shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back siphonage of contaminants or pollutants. If, as a result of a survey of the premises, the Director or his delegated representative determines that an approved backflow prevention device is required at the Town's water service connection or as in-plant protection on any customer's premises, the Director or his delegated representative shall issue cross-connection violation form to such customer to install approved backflow prevention devices. The customer shall, within a time frame determined by the Director, install such approved device or devices at his own expense, and failure or refusal or inability on the part of the customer to install such device or devices within the specified time frame shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

13.12.070. Procedure.

- A. On new installations, the Director or his delegated representative will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, and notify the owner of plan approval requirements by the appropriate reviewing authority.
- B. For premises existing prior to the start of this program, the Director or his delegated representative will perform surveys of the premises and reviews of as-built plans and issue a cross-connection violation form to the owner detailing any corrective action required, the method of achieving the correction, and the time allowed for the correction to be made. The time period allowed shall depend upon the degree of hazard involved.
- C. The Director will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.
- D. If the Director determines at any time that a serious threat to the public health exists, the water service

will be terminated immediately.

- E. The Director shall have on his staff a delegated representative who is a backflow prevention device tester certified by the Commonwealth of Massachusetts.
- F. The Director or his delegated representative will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the Department, during calendar year 1991. Initial focus will be on high hazard industries and commercial premises.
- G. The Director strongly recommends that all new and retrofit installations of reduced pressure backflow preventers and double check valve assemblies include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

13.12.080. Owner responsibilities.

- A. The owner shall be responsible for the elimination or protection of all cross-connections on his premises, including any costs for the installation of needed devices.
- B. The owner shall be responsible for applying for and obtaining all necessary approvals and permits for the maintenance of cross-connections and installation of backflow prevention devices and applying annually for the renewal of each permit.
- C. The owner shall have any device that fails an inspection or test repaired by a licensed plumber.
- D. The owner shall inform the Director of any proposed or modified cross-connection and also any existing cross-connection of which the owner is aware but has not been found by the Director or his delegated representative.
- E. The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- F. The owner shall install backflow preventers in a manner approved by the Department and by the Director.
- G. The owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by the State Department of Environmental Protection.
- H. Any owner of industrial, commercial or institutional premises having a private well or other private water source must have a permit if the well or source is cross-connected to the Braintree water system. Permission to cross connect may be denied by the Director. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained even if it is not cross-connected to the Braintree water system.
- I. The owner of any residential premises having a private well or other private water source will not be allowed a physical connection with the public water supply system.
- J. The owner shall be responsible for the payment of all fees for permits, device testings, retestings in the case that the device fails to operate correctly, and second reinspections for noncompliance with

requirements of the Director or the Department.

- K. The owner shall be responsible for providing labor on the premises as necessary to allow inspections and testing of devices by the Director or his delegated representative.
- L. The owner shall be responsible for having spare parts and repair tools for the backflow devices on the premises at all times. If the backflow device is not able to be repaired the owner is responsible for supplying a replacement device.

13.12.090. Containment devices required.

The Director recognizes the threat to the public water system arising from cross-connections. As such, the Director, whereas he is responsible for the quality of the public water supply, may require a containment device on the water service entrance to any customer who, as a result of unprotected cross-connections, could contaminate the public water supply system.

13.12.100. Existing in-use backflow prevention.

Any existing backflow preventer shall be allowed by the Director to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure backflow preventer, or a reduced pressure backflow preventer must be installed in the event that no backflow device was present.

13.12.110. Residential dual check device required.

Effective the date of the acceptance of the cross-connection control program for the Town, all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. This device will be provided by the Department of Public Works at a scheduled cost to the homeowner. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Director. Since the installation of a residential dual check valve results in a potential closed plumbing system within the residence, provisions may have to be made by the owner for thermal expansion within his closed loop system (i.e., the installation of thermal expansion devices and/or pressure relief valves).

13.12.120. Periodic testing and inspection.

- A. Reduced pressure backflow preventers and double check valve assemblies shall be tested and inspected at least semiannually by the Director or his designated representative.
- B. Periodic testing shall be performed by the Director's certified tester in accordance with state regulations.
- C. The testing shall be conducted during the Water and Sewer Department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the Director or his delegated representative.
- D. Reduced pressure backflow preventers and double check valve assemblies must be tested annually by the owner, independent of the semiannual test by the water supplier, and such test must be conducted by a certified tester.

- E. Any backflow preventer which fails during a periodic test must be repaired or replaced by a licensed plumber. When repairs are necessary, upon completion of the repair, the device will be retested at the owner's expense to insure proper operation. High-hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 14 days after the test date will be established. Parallel installation of two devices is an effective means of the owner insuring that uninterrupted water service remains during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- F. Backflow prevention devices will be tested more frequently than specified above in Subsection A of this section in cases where there is a history of test failures and the Director feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be borne by the owner.

13.12.130. Fees for testing and inspection.

The Public Works Permitting and Advisory Board shall recommend fees for the inspection of facilities or testing of devices to ensure implementation of this chapter to the Board of Selectmen. The Board of Selectmen shall set such fees.

13.12.140. Records and reports.

- A. Records. The Director or his delegated representative will initiate and maintain the following:
 - (1) Master files of customer cross-connection tests and/or inspections;
 - (2) Master files on approved cross-connection installations;
 - (3) Copies of lists and summaries supplied to the Massachusetts Department of Environmental Protection.
- B. Reports. The Director or his designated representative will submit the following to the Department of Environmental Protection:
 - (1) Initial listing of high-hazard cross-connections;
 - (2) Initial listing of low-hazard cross-connections;
 - (3) Annually update lists of Subsection B(1) and (2) of this section;
 - (4) Annual summary of cross-connection inspections and surveys.

13.12.150. Enforcement.

- A. The Director shall not allow a cross-connection to exist with the public water supply system unless it is considered necessary and all approvals and permits have been issued.
- B. After any violations of the cross-connection regulations are found, in surveys or otherwise, the supplier must send out a cross-connection violation form detailing the violation(s) and a procedure for corrective action. This shall include a requirement for plan submittal and will indicate the deadline for such submittal and who the reviewing authority will be (either the Department or the Department of Public Works). A period of 30 days will be granted for plan submittal unless a more appropriate schedule is necessary in the judgment of the Director.

- C. If the owner of any premises does not initiate corrective actions by the prescribed deadline, the Director will then issue a follow-up letter indicating that the owner remains in violation and under 310 CMR 22.22 Section 2(b) of the Drinking Water Regulations of the Commonwealth of Massachusetts will have his service terminated unless corrective work is initiated within 15 days.
- D. If the owner of any premises remains in noncompliance after the deadline established in this second letter, the owner will be notified by certified mail that the property has been scheduled for shutoff in seven days. If the owner fails to initiate corrective action within that period the water service will be terminated.
- E. If the occasion should arise where termination of the water supply will result in unreasonable risk to the public health of the community, the Department will be notified and another enforcement strategy will be initiated, including but not limited to the assessment of an administrative penalty to any owner in noncompliance with Section 22 of the Drinking Water Regulations of the Commonwealth of Massachusetts.

Chapter 13.14**STORMWATER MANAGEMENT**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-29-2018 by Ord. No. 18-026(5). Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater enterprise fee — See Ch. 3.130.

13.14.010. Purpose; administration and application of provisions.

- A. The purpose of this chapter is to implement the requirements of the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the United States Environmental Protection Agency, and the Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection; protect the public health, safety, and welfare of Braintree residents; protect the natural resources, water bodies, groundwater resources, environment, and municipal facilities of the Town; satisfy the appropriate water quality requirements of the Federal Clean Water Act and State Clean Water Act; eliminate and prohibit illicit connections and discharges to the municipal storm drain system of the Town; eliminate or reduce the adverse effects of soil erosion and sedimentation as a result of land disturbance activities; and manage stormwater runoff to minimize adverse impacts to the Town, its citizens, and the environment.
- B. The Department of Public Works is authorized to administer and enforce this chapter, and may promulgate rules and regulations to effectuate the purpose of this chapter.
- C. The provisions of this chapter shall apply to all properties in the Town.

13.14.020. Definitions.

- A. Unless otherwise defined in this section, the terms in this chapter correspond to definitions found in the Clean Water Act (33 U.S.C. § 1251 et seq.) and the General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the United States Environmental Protection Agency.
- B. The following definitions apply to this chapter:
 - CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as it is amended from time to time.
 - GENERAL PERMIT — The National Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the United States Environmental Protection Agency.
 - ILLICIT CONNECTION — A surface or subsurface drain or conveyance which allows an illicit discharge into a storm drain, including, without limitation, sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously constructed, permitted, or approved before the effective date of this chapter.

ILLCIT DISCHARGE — The dumping or discharging of any pollutant or nonstormwater discharge into the municipal storm drain system, into a watercourse, or into waters of the United States and/or the commonwealth, except as exempted in § 13.14.030.

LAND DISTURBANCE — Any activity that removes the surface cover from land, changes the grade, or exposes soil to the potential influence of stormwater.

MASSACHUSETTS STORMWATER STANDARDS — The performance standards issued by the Massachusetts Department of Environmental Protection (DEP), codified in regulations at 310 CMR 10.05(6)(k)-(q), and further defined and specified in the Massachusetts Stormwater Handbook issued by the DEP.

MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

OWNER — A person who alone or jointly or severally with others has the legal title to any premises or has care, charge or control of any premises as agent, executor, administrator, trust, lessee or guardian of the estate of the holder of legal title.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

STATE CLEAN WATER ACT — Massachusetts General Laws Chapter 21.

STORMWATER — Stormwater runoff, snow melt runoff, and drainage of any water resulting from rainfall or other precipitation that runs off surfaces during or after a storm.

13.14.030. Applicability; prohibited activities; exempt discharges.

- A. This chapter applies to all owners that discharge or propose to discharge stormwater off their property, directly or indirectly, into the municipal storm drain system of the Town of Braintree.
- B. Prohibited activities.
 - (1) Illicit discharge. No person shall dump, discharge, cause or allow to be discharged any contaminated water or nonstormwater discharge (except as exempted in § 13.14.030C) into the municipal storm drain system, into a watercourse, or into the waters of the commonwealth.
 - (2) Illicit connection. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Exempt discharges. The following discharges are exempt from this chapter:
 - (1) Department of Public Works ice and snow control operations;
 - (2) Flow resulting from firefighting activities;
 - (3) Street and pavement wash waters;
 - (4) Natural flow from riparian habitats and wetlands;

- (5) Diverted tide, river or stream flows;
- (6) Water main, hydrant flushing and other discharges from potable water sources associated with routine maintenance of the water distribution system;
- (7) Uncontaminated groundwater or infiltration of groundwater;
- (8) Uncontaminated springs;
- (9) Rising groundwater;
- (10) Uncontaminated water from sump pumps and other pumps that remove floodwaters from basements;
- (11) Water discharge from irrigation or watering of lawns, trees, landscaping, and gardens;
- (12) Noncommercial car washing;
- (13) Waters from residential property management activities, including washing walkways, patios, house siding, and windows, provided the wash water does not contain detergents; and
- (14) Swimming pool discharges that have been de-chlorinated;

13.14.040. Regulations.

- A. Regulations adopted by the Department of Public Works pursuant to this chapter may include, but are not limited to, the following:
 - (1) Implementation of stormwater runoff pollution reduction requirements for new development and redevelopment consistent with the General Permit, including requirements for stormwater management permits to be issued by the DPW;
 - (2) Limitations on the types of discharges allowed to the municipal storm drain system, including exempt activities;
 - (3) Provisions to require the removal of illicit connections;
 - (4) A permitting program to regulate connections to the municipal storm drain system;
 - (5) Requirements for the design, construction, and ongoing maintenance of privately owned stormwater facilities; and
 - (6) Provisions for inspections, reporting requirements, and enforcement actions necessary to insure compliance with the General Permit, the Massachusetts Stormwater Standards, this chapter, and the regulations.
- B. The regulations may provide for different permitting requirements among projects and facilities, based upon differences in the nature and extent of land disturbance, the effect upon stormwater runoff, and the impacts upon the municipal storm drain system. The regulations may also exempt projects from the requirement for a DPW permit where the projects are otherwise subject to permitting requirements of the Planning Board, the Conservation Commission, or another municipal board, if such requirements are determined by the DPW to ensure compliance with the standards established the DPW permitting requirements.

13.14.050. Enforcement; violations and penalties.

- A. The DPW shall have authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions pursuant to MGL c. 83, § 10, or any other applicable statute or regulation, including actions for injunctive relief and the imposition of civil penalties. The Town may seek to recover from each violator any additional cost for any expense, loss, or damage to the Town occasioned by such violation.
- B. To the extent permitted by law, or if authorized by the owner or other person in control of the property, the DPW, its officers, agents, and employees may enter upon privately owned property for the purpose of performing their duties, and may make such inspections and sampling as is reasonably necessary.
- C. The decisions and orders of the DPW are final. Any appeal shall be to a court of competent jurisdiction.
- D. Any person who violates any provision of this chapter, the regulations, or a permit issued pursuant to this chapter or the regulations may be punished by a criminal fine, not to exceed \$300, in the manner prescribed by § 1.08.010 of the Town Ordinances. Each day on which any violation exists shall be deemed a separate violation.
- E. As an alternative to criminal prosecution, the DPW may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D and § 1.08.020 of the Town Ordinances, in which case the Director or the Director's designee, and any Town police officer, shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day on which any violation exists shall be deemed a separate violation.

13.14.060. Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this chapter or the application thereof to any owner, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of said Chapter to the extent permitted by law.

Miscellaneous Provisions

Chapter 14.04**LGBTQ+ PRIDE MONTH**

[HISTORY: Adopted by the Town Council of the Town of Braintree 5-2-2023 by Order No. 23-028.

Amendments noted where applicable.]

14.04.001. Town support; celebration.

The Town of Braintree supports the rights, freedoms, and equal treatment of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals and acknowledges that LGBTQ+ rights are human rights. The Town of Braintree will support efforts to ensure the safety of our LGBTQ+ residents, as well as ensure the protection of rights and freedoms of LGBTQ+ residents. Every June the Town of Braintree will celebrate "LGBTQ+ Pride Month" to provide an annual, public opportunity to learn about the contributions and strengths of the LGBTQ+ community, as well as to support efforts to ensure the protection of rights and freedoms of LGBTQ+ residents. The celebration will include flying the Progressive Rainbow flag in front of Town Hall.

Appendix

Appendix A**LEGISLATIVE ACTS ACCEPTED BY THE TOWN****§ A-1. List of legislative acts accepted.**

The following is a list of the legislative acts accepted by the Town of Braintree:

Date Accepted	Statutory Reference	Subject
4-25-1888	Ch. 217, Acts of 1885	Water supply
1-25-1901	Ch. 548, Acts of 1898	Voting precincts; ballots
1-25-1901	MGL c. 11	Precinct voting
	MGL c. 28	Public parks
	Ch. 423, Acts of 1909	Ice cream sales
3-11-1929, Article 22	Ch. 546, Acts of 1910	Sewage system
	Ch. 306, Acts of 1911	Smelts
	Ch. 494, Acts of 1911	Eight-hour day
	Ch. 503, Acts of 1912	Pensioning laborers
	Ch. 635, Acts of 1912	Tenement houses
	Ch. 807, Acts of 1913	Workmen's compensation
	Ch. 217, Acts of 1914	Laborers' vacations
	Ch. 688, Acts of 1914	Saturday half holiday
	Ch. 790, Acts of 1914	Party enrollment
	Ch. 807, Acts of 1914	Workmen's compensation
11-4-1919: Question 2	Ch. 311, Acts of 1919	Continuation schools
	MGL c. 48, §§ 42 to 44	Fire Department
3-27-1922: Article 57	Ch. 55, Acts of 1922	Louis N. Goodhue
3-10-1924: Article 8A	MGL c. 143, §§ 3 to 12	Inspection of buildings
3-17-1924: Article 11	MGL c. 39, § 48	Regular or permanent police force, civil service
3-17-1924: Article 12	MGL c. 31, § 49	Police and chief, civil service
3-17-1924: Article 13	MGL c. 32, § 85	Police and firemen
3-24-1924: Article 70	Ch. 391, Acts of 1923	Water rates
4-7-1924: Article 91	MGL c. 139, §§ 1 to 3	Burned or dangerous buildings
	MGL c. 41, § 73	Board of Survey
3-25-1925: Article 106	MGL c. 32, § 77B	Pensions
	MGL c. 82, § 37	Building lines
	Ch. 63, Acts of 1929	Day off for police officers

Date Accepted	Statutory Reference	Subject
4-11-1932: Article 47	Ch. 15, Acts of 1930	Reserve police force
11-27-1933: Article 4	Ch. 17, Acts of 1930	Construction of sewage system
4-11-1932: Article 42	MGL c. 136	Sunday sports
March 1936	Ch. 45, Acts of 1936	Sewers
	Ch. 406, Acts of 1936	"Laborers, workmen and mechanics" includes all Town employees regardless of nature of duties, except fire and police
	MGL c. 32, §§ 26 to 31H	Contributory retirement fund
March 1937	Ch. 17, Acts of 1937	Representative form of Town government
March 1943: Article 53	MGL c. 41, § 103	Purchasing Department
March 1944: Article 13	MGL c. 94, § 120A	Additional fees for slaughtering
March 1945: Article 13	MGL c. 147, § 16B	Police Department, 1 day off in 6
	Ch. 391, § 1, Acts of 1945	Damages for public employees
March 1946: Article 9	Ch. 723, Acts of 1945	Department of Veterans' Services
March 1947: Article 60	MGL c. 136, § 4B, as inserted by Ch. 207, § 4B, Acts of 1946	Licenses for bowling on the Lord's day
March 1947: Article 9	Ch. 559, Acts of 1946	Retirement of police and firemen
March 1947: Article 8	Ch. 576, § 6, Acts of 1946	Increased pensions for public employees
March 1949	Ch. 340, Acts of 1947	Planning Board; Subdivision Control Act
March 1948: Article 8	Ch. 615, Acts of 1947	Increased pensions to employees and beneficiaries
	Ch. 588, Acts of 1948	Increased pensions to employees and beneficiaries
March 1949: Article 7-A	MGL c. 41, § 100A	Indemnification of officers and employees for damages or expenses arising out of injuries caused by the operation of vehicles or equipment owned by a municipality
March 1951: Article 9	MGL c. 41, § 97A	Police Departments; Chief of Police
	Ch. 595, Acts of 1948	Police Department
March 1951: Article 23	MGL c. 111, § 128	State regulations on public health
March 1951: Article 38	Ch. 538, Acts of 1950	Repairs to private ways

Date Accepted	Statutory Reference	Subject
	Ch. 757, Acts of 1950	Annuities to dependents of certain public employees killed, etc., in performance of duty
March 1951: Article 10	Ch. 783, Acts of 1950	Increase in retirement allowances to persons retired after 1-1-1946, with a minimum allowance
March 1951: Article 11	Ch. 820, Acts of 1950	Increase in certain benefits payable by commonwealth and its political subdivisions to certain former employees and persons claiming under them
March 1951: Article 8	Ch. 41, § 110A, Acts of 1951	Any Town public office may remain closed on any and all Saturdays
March 1951: Article 12	Ch. 41, § 97A, Acts of 1951, as amended by Ch. 130, § 52, Acts of 1951	Authorize Selectmen to regulate shell fisheries in Town
March 1951: Article 23	Ch. 111, § 128, Acts of 1951	Accept State Department of Health regulations relative to minimum standards of fitness for human habitation
March 1952: Article 33	Ch. 781, Acts of 1951	Act relative to increasing pensions payable to certain former public employees
3-26-1951	MGL c. 45, § 14	Board of Parks and Playground Commissioners to consist of 7 elected and appointed members
4-14-1952: Article 25	Ch. 32, § 89A, as amended by Ch. 227, Acts of 1951	Tenure of office members of Fire Department and Fire Alarm Department
March 1952: Article 37	Ch. 54, § 103A, Acts of 1952	Absentee voting at Town elections
4-21-1952: Article 68	Ch. 140, § 194, Acts of 1952 Ch. 166, § 32, Acts of 1953	Licensing of boat rental business Authorize Selectmen to establish wire inspection fee schedule
3-29-1954	Ch. 40, § 27A, Acts of 1954 Ch. 15, Acts of 1955	Zoning changes cannot be reconsidered, after adverse vote, within 2 years except upon Planning Board recommendation Transfer of Braintree Cemetery Association

Date Accepted	Statutory Reference	Subject
	MGL c. 31, § 47B	School building janitors under civil service
3-5-1956 (Rescinded 5-11-1981)	MGL c. 31, § 47	Labor service under civil service
3-5-1956	MGL c. 32B	Provide group insurance plan
4-9-1956	MGL c. 78, § 10	Treasurer of library trust funds
3-20-1957	MGL c. 41, § 45	Board of Commissioners of Trust Funds
3-20-1957	Ch. 374, Acts of 1956	Providing certain pension options
3-20-1957	Ch. 401, Acts of 1956	Civil defense volunteers classified
3-20-1957	MGL c. 41, § 1	3-year terms for Clerk, Treasurer and Tax Collector
3-24-1958	Ch. 750, Acts of 1957	Relative to election of pension options
3-28-1960	Ch. 493, Acts of 1959	Pensions and retirement allowances to certain former public employees
3-28-1960 (Rescinded 5-5-1981)	Ch. 628, Acts of 1953	Indemnification of certain retired police officers and firefighters for certain hospital, medical and surgical expenses
3-6-1961	Ch. 595, Acts of 1959	Town pays 1/2 of premium costs payable by retired employee for group life and health insurance
3-5-1962	MGL c. 48, § 58B	48-hour week for Fire Department
3-5-1962	Ch. 334, § 5, Acts of 1961	Town purchase of additional group life and accidental death and dismemberment insurance for employees
3-4-1963	Ch. 647, Acts of 1962	Extension of group health insurance to elderly retired from Town service and their dependents
3-19-1963	Ch. 409, Acts of 1962	Pedestrian control
3-19-1963	MGL c. 40, § 8C	Conservation Commission, 5 members
10-29-1963	MGL c. 41, § 1	Increase number of School Committee members to 7

Date Accepted	Statutory Reference	Subject
3-2-1964	MGL c. 71, §§ 16 to 16I	Establishment of regional school district
3-18-1964	Ch. 58, Acts of 1963	First Parish Cemetery
3-1-1965	MGL c. 41, § 1	Selectmen to act as Board of Public Welfare
3-18-1965	Ch. 486, Acts of 1964	Increasing pension and retirement allowances payable to certain former public employees
3-18-1965	MGL c. 40, § 8C	Increase Conservation Commission membership from 5 to 7
3-19-1968	Ch. 670, Acts of 1960	Act requiring cities and towns to grant annuities to surviving spouse or children of certain officials or employees retired or pensioned under any noncontributory retirement law
3-16-1971	Ch. 635, Acts of 1945	Payment of advances in vacation pay to Town employees
1-31-1972	MGL c. 40, § 13	Establishment of municipal buildings insurance fund
3-20-1972	MGL c. 53, § 9A	Nomination papers for candidates for Town offices
3-21-1972	MGL c. 40, § 6B	Appropriation of money for purchases of uniforms for members of Police and Fire Departments
11-28-1972	Ch. 344, Acts of 1970	Relative to deposit in treasury of money received in payment for off-duty work by Police Department members
3-25-1974	Ch. 571, Acts of 1973	Authorizing domestic electric utilities to enter into a New England power pool agreement
3-26-1974	Ch. 430, Acts of 1967	Authorizing cities and towns to employ police cadets
3-12-1975	MGL c. 90, § 20C	Regulating motor vehicle parking and authorizing Selectmen to establish by rule or regulation a fine schedule for offenses

Date Accepted	Statutory Reference	Subject
3-12-1975	MGL c. 40, § 22D	Authorize Selectmen to adopt rules relative to towing of illegally parked vehicles in public ways
5-6-1975	MGL c. 83, § 17	Sewer assessments
5-24-1976	Ch. 775, Acts of 1975	Members of Massachusetts Municipal Wholesale Electric Company
6-20-1978	MGL c. 40A, amended by Ch. 808, Acts of 1975	Further regulating zoning
5-9-1979	MGL c. 71, § 71E, as amended by Ch. 639, Acts of 1977	Appropriations for expenditures of receipts from adult education and continuing education programs
5-9-1979	Ch. 364, Acts of 1978	Act providing compensation of Town officers in connection with contributory retirement system
5-5-1981	MGL c. 41, § 100B	Rescinds the acceptance of referenced statute accepted 3-28-1960
5-11-1981	MGL c. 31	Rescinds the acceptance of referenced statute as it relates to the labor service
5-11-1981	MGL c. 148, § 26C	Requires apartment houses containing 6 or more dwelling units, hotels, boardinghouses or lodging houses to be equipped with automatic smoke or heat detectors
5-11-1981	MGL c. 148, § 26E	Requiring buildings used for residential purposes to be equipped with approved smoke detectors
12-7-1981 (Rescinded 10-20-1997)	MGL c. 90, § 20A1/2, as amended by Ch. 351, Acts of 1981	Parking regulations and fines
5-9-1983	Ch. 641, § 20A, Acts of 1982	Indemnify Retirement Board
11-7-1983	MGL c. 60A, § 1, as amended by Ch. 597, Acts of 1982	Excise exemption for POW
11-26-1984	MGL c. 40, § 8J	Establish Handicapped Commission

Date Accepted	Statutory Reference	Subject
11-28-1984	Ch. 288, Acts of 1984	Braintree Water and Sewer Reorganization Act of 1984
5-7-1985	MGL c. 32B, § 9D	Town pays 1/2 premium cost surviving spouse health insurance
11-4-1985	MGL c. 71, § 40, as amended by Ch. 188, Acts of 1985	Minimum teacher salaries
11-4-1985	MGL c. 32, § 20, Paragraph 4(c)	Authorize Selectmen to appoint contributory retirement member
11-4-1985	Ch. 188, § 13, Acts of 1985	Increasing teacher compensation
5-5-1986	MGL c. 59, § 5, Clause 5	Veterans' organization exemptions
5-12-1986	MGL c. 59, § 5, Clauses 17C and 37A to 41B (enacted by §§ 2, 3 and 5 of Ch. 653, Acts of 1982)	Real estate exemptions
5-12-1986	MGL c. 64G, § 3A	Hotel/motel excise; amended 8-11-2009 to increase local excise tax to 6%
10-6-1986	MGL c. 140, § 147A	Regulation of dogs
1-28-1987	MGL c. 59, § 5, Clause 41C (enacted by § 3 of Ch. 73, Acts of 1986)	Tax abatement for the elderly
5-5-1987	MGL c. 40, § 4A	Hazardous material rescue vehicle
5-6-1987	MGL c. 59, § 5, Clause 50 (enacted by § 142 of Ch. 200, Acts of 1986)	Exempts certain residential improvements from property tax
5-6-1987	MGL c. 59, § 5 (enacted by § 1, Ch. 73, Acts of 1986)	Relief of revaluation for widows and aged
5-9-1988	Ch. 640, Acts of 1985, adding MGL c. 40, § 57	Authority of Town to deny any application for or revoke or suspend any local license or permit issued to any person for failure to pay any municipal charges
5-9-1988	Ch. 402, Acts of 1987, amending MGL c. 59	Tax collector – collecting interest
5-3-1989	MGL c. 44, § 53F	Compensating balance agreements
5-8-1989	MGL c. 148, § 26G	Installation of automatic sprinkler system

Date Accepted	Statutory Reference	Subject
5-8-1989	MGL c. 148, § 26H	Automatic sprinkler system in lodging houses and boardinghouses
1-8-1990	MGL c. 41, § 41B	Direct bank deposits for Town employees
5-7-1990	MGL c. 148, § 56	Open air parking space
5-7-1990	MGL c. 40, § 13C	Reserves to pay workers' compensation
5-7-1990	MGL c. 44, § 53F, as amended by Ch. 454, Acts of 1989	Compensating balance agreement
5-8-1990	MGL c. 59, § 5, Clause 5B	Tax exemptions for VFW
5-9-1990	Ch. 642, Acts of 1989	Automatic sprinkler systems
5-8-1991	Ch. 291, Acts of 1990	Enhanced 911
5-8-1991	MGL c. 40, § 8G	Mutual aid
5-13-1991	Ch. 245, Acts of 1988, amending MGL c. 41, § 81U	Bond – subdivision
5-13-1991	Ch. 254, Acts of 1990, amending MGL c. 32	Services beyond age 70
5-13-1991	Ch. 303, Acts of 1990	Water/sewer rehabilitation fund
10-7-1991	Ch. 653, § 41, Acts of 1989, adding MGL c. 59, § 57C	Quarterly tax bills
5-5-1992	MGL c. 32B, § 18	Requires municipal retirees to transfer to a Medicare extension plan offered by the Town
5-6-1992	MGL c. 32, § 22D	Establishing a funding schedule for the Town contributory retirement system
5-11-1992	MGL c. 262, § 34	New fee schedules for Town Clerk
10-26-1992	MGL c. 32B, § 2A	Traffic supervisors group health insurance
5-11-1993	MGL c. 44, § 53E1/2	Student transportation revolving fund
5-11-1993	MGL c. 44, § 53E1/2	Seniors activity revolving fund
5-9-1994	Ch. 71, § 83, Acts of 1993	Education Reform Act – early retirement
10-25-1994	MGL c. 40, § 8A	Economic Development Commission

Date Accepted	Statutory Reference	Subject
5-1-1995	MGL c. 148, § 26H	Sprinklers in lodging houses and boardinghouses
10-29-1996	Ch. 71, Acts of 1996	Creditable retirement service for active service in the armed services
5-5-1997	MGL c. 40, § 8E	Youth Commission establishment
10-20-1997	MGL c. 40, § 8G	Mutual aid agreements
10-20-1997	MGL c. 90, § 20A	Positive motion parking violations, rescinds acceptance dated 12-7-1981
5-26-1998	MGL c. 148, § 26I	Sprinklers, multifamily buildings
5-26-1998	MGL c. 32, § 103	Retirement Board (retirees—COLA)
10-27-1998	MGL c. 194, § 288	Retirement option
5-10-1999	MGL c. 40, § 3	Allow School Committee to expend any unused balance remaining in the Rental or Lease Income Account for the upkeep and maintenance of any facility under its control
5-17-1999	Ch. 456, §§ 2, 3, 4 and 5, Acts of 1998	Cost of living increase to members/survivors of noncontributory retirees
1-24-2000	MGL c. 32, § 103	Cost of living increase for retirees
5-8-2000	MGL c. 44, § 53E1/2	Council on Aging revolving fund
5-8-2000	MGL c. 44, § 53E1/2	Recycling Committee revolving fund
5-15-2000	MGL c. 41, § 108L	Modified Quinn Bill
5-14-2001	MGL c. 59, § 5K	Establish a program to allow persons over the age of 60 to volunteer to provide services to the Town in exchange for reduced property tax obligations
5-14-2001	Ch. 411, Acts of 2000	Provide a pension allowance adjustment for noncontributory retirees who retired under MGL c. 32, § 58B, before 1-12-1998 and whose beneficiary predeceased them

Date Accepted	Statutory Reference	Subject
10-23-2001	MGL c. 40, §§ 42A to 42F	Allow the Water and Sewer Departments to assess liens on properties of delinquent accounts
5-15-2002	Ch. 160, Acts of 2001	An Act Authorizing the Town of Braintree To Establish a Department of Public Works
10-8-2002	Ch. 116, § 6, Acts of 2002	Offer veterans who did not elect to purchase military service credit an additional 180 days to purchase such service credit
5-5-2003	MGL c. 40, § 22F	Allow local boards and officers to set reasonable fees for licenses, permits, certificates and services
5-3-2004	Ch. 181, § 1, Acts of 1995	Provide an annual increase in the amount of the real estate tax exemption granted to senior citizens and surviving spouses and minors in an amount equal to 3.5% of the cost of living adjustment of the prior year as determined by the Commissioner of Revenue, whichever is less
5-10-2004	Ch. 137, Acts of 2003	Protection of the salaries of certain public employees who served or are serving in the armed services
5-3-2005	Ch. 133, Acts of 2005	An Act To Establish a Town Manager for the Town of Braintree
5-10-2005	MGL c. 59, § 5, Clause 41A	Maximum annual income limit of \$40,000 for persons 65 or older with regard to property tax deferral
5-10-2005	Ch. 653, § 40, Acts of 1989	Change effective date for new growth from January 1 to June 30 each year
10-25-2005	Ch. 189, Acts of 2005	An Act Establishing a Mayor/ Town Council for the Town of Braintree
5-9-2006	Ch. 157, § 1, Acts of 2005	Provide veterans' benefit to accidental disability retirees

Date Accepted	Statutory Reference	Subject
5-9-2006	Ch. 157, § 2, Acts of 2005	Provide retroactive veterans' benefits to certain accidental disability retirees
5-10-2006	MGL c. 40, § 4A	Authorize the Board of Health to enter into an intermunicipal mutual agreement
8-19-2008	MGL c. 44, § 64	Payment of bills incurred in excess of appropriations
9-23-2008	MGL c. 32B, § 19	Coalition bargaining over group health insurance (said acceptance is contingent upon the Town negotiating a written agreement with the Public Employee Committee)
8-11-2009	MGL c. 64G, § 3A	Amend 5-12-1986 vote to increase local excise tax from 4% to 6%
1-5-2010	Ch. 183, Acts of 2009	Extend the time period for the issuance of third quarter tax bills to 1-30-2010
8-17-2010	MGL c. 48, § 59A	Mutual aid agreements for joint fire and rescue services
11-18-2010	MGL c. 41, § 100G1/4	Funeral benefits for police officers and firefighters
11-18-2010	MGL c. 41, § 91	Authorizing the Mayor to appoint constables
10-18-2011	MGL c. 32, § 101, as amended by Ch. 131, Acts of 2010	Increase allowance to widows of disabled public employees
2-28-2012	Ch. 134, Acts of 2008	Extend through fiscal year 2014
9-20-2012	MGL c. 54, § 16A	Authorizing Town Clerk to appoint Election Officers to fill vacancies
12-4-2012	MGL c. 59, § 5, Clause 41C	Adjusting the eligibility requirements within the limits of the statute
12-4-2012	MGL c. 59, § 5, Clause 41D	Authorizing annual increase in gross receipts and whole estate, real and personal
5-21-2013	MGL c. 64L, § 2	Impose local meals excise tax
10-6-2015	Ch. 134, Acts of 2008	Extend through fiscal year 2018

Date Accepted	Statutory Reference	Subject
2-7-2017	MGL c. 39, § 23D	Permitting absentee members of local boards to vote if only a single session of an adjudicatory hearing is missed
10-4-2017	MGL c. 90, § 17C	Authorizes establishment of a speed limit of 25 mph in thickly settled and business districts
10-4-2017	MGL c. 90, § 18B	Authorizes establishment of a speed limit of 20 mph in certain safety zones
3-20-2018	Ch. 134, Acts of 2008	Extend through fiscal year 2021
5-29-2018	MGL c. 44, § 53F 1/2	Establishing a stormwater fund as an enterprise fund
5-28-2019	MGL c. 44, § 53F 1/2	Establishing a cable public education and government (PEG) fund as an enterprise fund effective fiscal year 2020
4-7-2020	MGL c. 59, § 5C 1/2	Providing an additional exemption up to 20% of the personal exemption for taxpayers who are granted personal exemptions on their domiciles under MGL c. 59, § 5, to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2020
11-17-2020	Ch. 419, Acts of 1998	Providing for membership in the South Shore Recycling Collaborative
7-13-2021	MGL c. 71, § 37M	Allowing for the consolidation of administrative functions of the school committee with those of the Town
10-3-2022	MGL c. 64N, § 3	Providing for a local sales tax upon sale or transfer of marijuana or marijuana products
10-3-2022	MGL c. 59, § 5, Clause 22H	Providing for a veterans' exemption for surviving parents and guardians
6-6-2023	MGL c. 44, § 53e 1/2	Establishment of new revolving fund for tree replacement

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Date Accepted	Statutory Reference	Subject
6-6-2023	Ch. 92, Acts of 2022	Deferring authority on police detail assignment selections to Town Clerk and Police Chief or their designees
12-19-2023	MGL c. 59, § 5C 1/2	Providing additional real estate tax exemptions to taxpayers who are granted personal exemptions on their domiciles under MGL c. 59, § 5, granted for any fiscal year beginning on or after July 1, 2023

Appendix B**STATUTORY REFERENCES FOR MASSACHUSETTS CITIES AND TOWNS****§ B-1. List of statutory references.**

The statutory references direct the Code user to those portions of the state statutes that are applicable to the laws of the municipality. This reference list is up-to-date through July 2001.

General Provisions

Powers and duties of cities and towns generally: MGL c. 40, §§ 1 to 4F

Ordinances, bylaws and regulations: MGL c. 40, §§ 21 to 33

Lockups: MGL c. 40, §§ 34 to 37A

Seal: MGL c. 40, § 47

Boundaries of cities and towns: MGL c. 42

City charters: MGL c. 43

Vital statistics: MGL c. 46

Administration and Personnel

Town meetings: MGL c. 39, §§ 9 to 24

City government generally: MGL c. 39, §§ 1 to 8A

Powers and duties of cities and towns generally: MGL c. 40, §§ 1 to 4F

Taking, purchasing and abandonment of land: MGL c. 40, §§ 14 to 15C

Ordinances, bylaws and regulations: MGL c. 40, §§ 21 to 33

Records and reports: MGL c. 40, §§ 48 to 52

Public records: MGL c. 66

Election of town officers: MGL c. 41, §§ 1 to 11

Disclosure of campaign expenditures and contributions: MGL c. 55

City charters generally: MGL c. 43, §§ 1 to 45

Government by mayor and city council elected at large: MGL c. 43, §§ 46 to 55

Government by mayor, city council and city manager: MGL c. 43, §§ 79 to 92A

Government by mayor and council elected by wards and at large and nominated at party primaries:
MGL c. 43, §§ 117 to 134

Standard form of representative town meeting government: MGL c. 43A

Home rule procedures: MGL c. 43B

Fires, fire departments and fire districts: MGL c. 48

Clerk: MGL c. 41, §§ 12 to 19J

Selectmen: MGL c. 41, §§ 20 to 23D

Administration and Personnel

Assessors: MGL c. 41, §§ 24 to 34B

Treasurer and collector: MGL c. 41, §§ 35 to 43A

Sinking fund commissioners: MGL c. 41, § 44

Commissioners of trust funds: MGL c. 41, §§ 45 to 47

Auditor: MGL c. 41, §§ 48 to 54A

Accountant: MGL c. 41, §§ 55 to 61

Temporary officers: MGL c. 41, § 61A

Officers in charge of roads, sewers and water works: MGL c. 41, §§ 62 to 69B

Board of public works: MGL c. 41, §§ 69C to 69G

Planning board: MGL c. 41, §§ 70 to 72 and 81A to 81J

Board of survey: MGL c. 41, §§ 73 to 81

Art commission: MGL c. 41, §§ 82 to 84

Weighers, measurers and surveyors of commodities: MGL c. 41, §§ 85 to 90A

Constables: MGL c. 41, §§ 91 to 95

Police officers: MGL c. 41, §§ 96 to 101A

Regional police districts: MGL c. 41, §§ 99B to 99K

Indemnification of officers and employees: MGL c. 41, §§ 100 to 100H

Inspector of health: MGL c. 41, §§ 102 to 102B

Purchasing agent: MGL c. 41, §§ 103 to 104

Tree warden: MGL c. 41, § 106

Town physician: MGL c. 41, § 106A

Terms of office and compensation of town officers: MGL c. 41, §§ 107 to 109A

Municipal personnel systems: MGL c. 31A

Retirement systems and pensions: MGL c. 32

Holidays and vacations: MGL c. 41, §§ 110 to 111N

Employment of veterans: MGL c. 41, §§ 112 to 112A

District officers: MGL c. 41, §§ 113 to 132

Tenure for certain appointive officers: MGL c. 41, §§ 126 to 132

Disaster relief: MGL c. 41, § 125

Revenue and Finance

Municipal finance generally: MGL c. 44

Assessment and collection of local taxes: MGL c. 59 and 60

Purposes for which towns may appropriate money: MGL c. 40, §§ 5 to 12

Revenue and Finance

Public beach districts: MGL c. 40, §§ 12B to 13A

Taking, purchase and abandonment of land: MGL c. 40, §§ 14 to 15C

Oaths of claimants demanding payment: MGL c. 40, § 46

Illegal appropriations: MGL c. 40, § 53

Annuities for hospital employees: MGL c. 40, § 55

Property taxation: MGL c. 40, § 56

Governmental units pooled insurance: MGL c. 40M

Municipal indebtedness: MGL c. 44, §§ 2 to 11

Liability for debts: MGL c. 44, §§ 14 to 15

Bonds, notes and certificates of indebtedness: MGL c. 44, §§ 16 to 22C

Form and certification of town and district notes: MGL c. 44, §§ 23 to 27A

Report of borrowing: MGL c. 44, § 28

Department appropriations: MGL c. 44, §§ 30 to 31D

Budget in cities: MGL c. 44, §§ 32 to 33B

Auditing: MGL c. 44, §§ 35 to 46A

Sinking funds: MGL c. 44, §§ 47 to 52

Miscellaneous financial provisions: MGL c. 44, §§ 53 to 72

Business Licenses and Regulations

Licenses generally: MGL c. 40, §§ 22F and 57, and MGL c. 140

Regulation of carriages, taxicabs, etc.: MGL c. 40, § 22

Alcoholic liquors: MGL c. 138

Rent control prohibition act: MGL c. 40P

Animals

Dogs: MGL c. 140, §§ 136A to 174D

Pounds and impounding of cattle: MGL c. 49, §§ 22 to 41

Health and Safety

Infirmaries: MGL c. 47

Fires, fire departments and fire districts: MGL c. 48

Recycling programs: MGL c. 40, § 8H

Public Peace, Morals and Welfare

Crimes and punishments generally: MGL c. 263 to 274

Vehicles and Traffic

Laws of the road: MGL c. 89 to 90

Parking and parking meters: MGL c. 40, §§ 22A to 22D

Streets, Sidewalks and Public Places

Public parks, playgrounds and the public domain: MGL c. 45

Improvement districts: MGL c. 40, §§ 44 to 44L

Snow and ice removal: MGL c. 40, § 7

Public Services

Public water supply: MGL c. 40, §§ 38 to 42

Collection of water rates: MGL c. 40, §§ 42A to 42K

Improvement districts: MGL c. 40, §§ 44 to 44L

Regional refuse disposal districts: MGL c. 40, §§ 44A to 44L

Subdivisions

Subdivision control: MGL c. 41, §§ 81K to 81GG

Planning and Zoning

Zoning generally: MGL c. 40A, §§ 1 to 17

Regional planning: MGL c. 40B

Historic districts: MGL c. 40C

Industrial development of cities and towns: MGL c. 40D

Improved method of municipal planning: MGL c. 41, §§ 81A to 81J

Appendix C**CROSS-REFERENCE TABLE****§ C-1. Cross-Reference Table**

This table provides users with the legislative history and the disposition of the sections in the prior municipal code. The legislative history information was derived from the Town of Braintree Bylaws, published by the Town.

Prior Code	Source	Town Bylaws	Herein
1-1	STM 11-17-1980 Art. 5	Not codified	—
1-2	STM 11-17-1980 Art. 5	Not codified	—
1-3	STM 11-17-1980 Art. 5	Not codified	—
1-4	STM 11-17-1980 Art. 5	Not codified	—
1-5	STM 11-17-1980 Art. 5	Not codified	—
1-6		1.08.010, 1.08.020, 1.08.030	Ch. 1.08
4-1		2.36.010	Repealed 5-18-2010 by Ord. No. 09-053
4-2		2.36.020	Repealed 5-18-2010 by Ord. No. 09-053
4-3		2.36.030	Repealed 5-18-2010 by Ord. No. 09-053
4-4		2.36.040	Repealed 5-18-2010 by Ord. No. 09-053
4-5		2.36.050	Repealed 5-18-2010 by Ord. No. 09-053
4-6		Not codified	—
5-1	STM 11-17-1980 Art. 5	2.44.010	Repealed 5-18-2010 by Ord. No. 09-053
5-2	STM 11-17-1980 Art. 5	2.44.020	Repealed 5-18-2010 by Ord. No. 09-053
5-3	STM 11-17-1980 Art. 5	2.44.030	Repealed 5-18-2010 by Ord. No. 09-053
5-4	STM 11-17-1980 Art. 5	2.44.040	Repealed 5-18-2010 by Ord. No. 09-053
5-5	STM 11-17-1980 Art. 5	2.44.050	Repealed 5-18-2010 by Ord. No. 09-053
5-6	STM 11-17-1980 Art. 5	2.44.060	Repealed 5-18-2010 by Ord. No. 09-053

Prior Code	Source	Town Bylaws	Herein
8-1	STM 11-17-1980 Art. 5	3.04.010	3.100.145
12-1	STM 11-17-1980 Art. 5	2.32.020	Repealed 5-18-2010 by Ord. No. 09-053
12-2	STM 11-17-1980 Art. 5	2.32.030	Repealed 5-18-2010 by Ord. No. 09-053
12-3	STM 11-17-1980 Art. 5	2.32.040	Repealed 5-18-2010 by Ord. No. 09-053
12-4	STM 11-17-1980 Art. 5	2.32.050	Repealed 5-18-2010 by Ord. No. 09-053
12-5	STM 11-17-1980 Art. 5	2.32.060	Repealed 5-18-2010 by Ord. No. 09-053
12-6	STM 11-17-1980 Art. 5	2.32.010	Repealed 5-18-2010 by Ord. No. 09-053
12-7	STM 11-17-1980 Art. 5	2.32.070	Repealed 5-18-2010 by Ord. No. 09-053
12-8	STM 11-17-1980 Art. 5	2.32.080	Repealed 5-18-2010 by Ord. No. 09-053
12-9	STM 11-17-1980 Art. 5	2.32.090	Repealed 5-18-2010 by Ord. No. 09-053
12-10	STM 11-17-1980 Art. 5	2.32.100	Repealed 5-18-2010 by Ord. No. 09-053
12-11	STM 11-17-1980 Art. 5	2.32.110	Repealed 5-18-2010 by Ord. No. 09-053
12-12	STM 11-17-1980 Art. 5	2.32.120	Repealed 5-18-2010 by Ord. No. 09-053
14-1	STM 11-17-1980 Art. 5	2.56.010	Repealed 5-18-2010 by Ord. No. 09-053
14-2	STM 11-17-1980 Art. 5	2.56.020	2.220.050
14-3	STM 11-17-1980 Art. 5	2.56.030	2.220.050
14-4	STM 11-17-1980 Art. 5	2.56.040	2.230.060
17-1	STM 11-17-1980 Art. 5	2.48.020	Repealed 5-18-2010 by Ord. No. 09-053
17-2	STM 11-17-1980 Art. 5	2.24.010	2.206.010
17-3	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 2	Repealed by STM 10-17-2000 Art. 29	—
17-4	STM 11-17-1980 Art. 5	2.48.040	Repealed 5-18-2010 by Ord. No. 09-053
17-5	STM 11-17-1980 Art. 5	2.48.050	3.100.050

Prior Code	Source	Town Bylaws	Herein
17-6	STM 11-17-1980 Art. 5	2.48.060	Repealed 5-18-2010 by Ord. No. 09-053
17-7	STM 11-17-1980 Art. 5	2.48.070	3.100.065A(2)
17-8		2.48.010	Repealed 5-18-2010 by Ord. No. 09-053
19-1		2.60.010	Repealed 5-18-2010 by Ord. No. 09-053
21-1	STM 11-17-1980 Art. 5	2.40.010	Repealed 5-18-2010 by Ord. No. 09-053
21-2	STM 11-17-1980 Art. 5	2.40.020	Repealed 5-18-2010 by Ord. No. 09-053
21-3	STM 11-17-1980 Art. 5	2.40.030	Repealed 5-18-2010 by Ord. No. 09-053
21-4	STM 11-17-1980 Art. 5	2.40.040	Repealed 5-18-2010 by Ord. No. 09-053
21-5	STM 11-17-1980 Art. 5	2.40.050	Repealed 5-18-2010 by Ord. No. 09-053
21-6	STM 11-17-1980 Art. 5	2.40.060	Repealed 5-18-2010 by Ord. No. 09-053
21-7	STM 11-17-1980 Art. 5	2.40.070	Repealed 5-18-2010 by Ord. No. 09-053
21-8	STM 11-17-1980 Art. 5	2.40.080	Repealed 5-18-2010 by Ord. No. 09-053
21-9	STM 11-17-1980 Art. 5	2.40.090	Repealed 5-18-2010 by Ord. No. 09-053
21-10	STM 11-17-1980 Art. 5	2.40.100	Repealed 5-18-2010 by Ord. No. 09-053
21-11	STM 11-17-1980 Art. 5	2.40.110	Repealed 5-18-2010 by Ord. No. 09-053
21-12	STM 11-17-1980 Art. 5	2.40.120	Repealed 5-18-2010 by Ord. No. 09-053
21-13		2.40.130	Repealed 5-18-2010 by Ord. No. 09-053
24-1	STM 11-17-1980 Art. 5	12.12.010	Repealed 5-18-2010 by Ord. No. 09-053
24-2	STM 11-17-1980 Art. 5	12.12.020	2.755.020
24-3	STM 11-17-1980 Art. 5	12.12.030	2.755.080
24-4	STM 11-17-1980 Art. 5	12.12.040	2.755.010
24-5	STM 11-17-1980 Art. 5	12.12.060	2.755.040

Prior Code	Source	Town Bylaws	Herein
24-6	STM 11-17-1980 Art. 5	12.12.050	2.755.030
24-7(A)	STM 11-17-1980 Art. 5	12.12.050	2.755.030
24-7(B)	STM 11-17-1980 Art. 5	12.12.060	2.755.040
24-7(C)	STM 11-17-1980 Art. 5	12.12.090	2.755.070
24-7(D)	STM 11-17-1980 Art. 5	12.12.080	2.755.060
24-8	STM 11-17-1980 Art. 5	12.12.050	2.755.030
24-9	STM 11-17-1980 Art. 5	12.12.070	2.755.050
24-10	STM 11-17-1980 Art. 5	Not codified	—
26-1(A)	STM 11-17-1980 Art. 5	2.16.010	Repealed 5-18-2010 by Ord. No. 09-053
26-1(B)	STM 11-17-1980 Art. 5	2.16.020	2.290.030
26-1(C)	STM 11-17-1980 Art. 5	2.16.020	2.290.030
26-1(D)	STM 11-17-1980 Art. 5	2.16.020	2.290.030
26-2	STM 11-17-1980 Art. 5	2.16.030	Repealed 5-18-2010 by Ord. No. 09-053
26-3	STM 11-17-1980 Art. 5	2.48.080	2.230.050; 3.100.135
26-4	STM 11-17-1980 Art. 5	2.48.090	3.100.065B(2)
26-5	STM 11-17-1980 Art. 5	2.16.040	Repealed 5-18-2010 by Ord. No. 09-053
28-1	STM 11-17-1980 Art. 5	2.52.010	Repealed 5-18-2010 by Ord. No. 09-053
28-2	STM 11-17-1980 Art. 5	2.52.020	2.765.010
32-1	STM 11-17-1980 Art. 5	3.04.020	3.100.150
32-2	STM 11-17-1980 Art. 5	2.12.010	Repealed 5-18-2010 by Ord. No. 09-053
32-3	STM 11-17-1980 Art. 5	2.12.010	Repealed 5-18-2010 by Ord. No. 09-053
32-4	STM 11-17-1980 Art. 5	2.08.010	Repealed 5-18-2010 by Ord. No. 09-053
32-5	STM 11-17-1980 Art. 5	2.08.020	Repealed 5-18-2010 by Ord. No. 09-053
32-6	STM 11-17-1980 Art. 5	2.08.030	Repealed 5-18-2010 by Ord. No. 09-053
32-7	STM 11-17-1980 Art. 5	2.08.040	Repealed 5-18-2010 by Ord. No. 09-053
32-8	STM 11-17-1980 Art. 5	2.08.050	Repealed 5-18-2010 by Ord. No. 09-053

Prior Code	Source	Town Bylaws	Herein
32-9	STM 11-17-1980 Art. 5	2.08.060	Repealed 5-18-2010 by Ord. No. 09-053
32-10		3.04.030	3.100.155
33-1		2.24.020	2.206.020
33-2		2.24.030	2.206.030
36-1	STM 11-17-1980 Art. 5	2.28.010	2.770.020
36-2	STM 11-17-1980 Art. 5	2.28.020	2.770.010
36-3	STM 11-17-1980 Art. 5	2.28.030	Repealed 5-18-2010 by Ord. No. 09-053
36-4	STM 11-17-1980 Art. 5	2.28.040	2.770.030
41-1	STM 11-17-1980 Art. 5	2.04.010	Repealed 5-18-2010 by Ord. No. 09-053
41-2	STM 11-17-1980 Art. 5	2.04.020	2.100.040
41-3	STM 11-17-1980 Art. 5	2.04.030	Repealed 5-18-2010 by Ord. No. 09-053
41-4(A)	STM 11-17-1980 Art. 5; 5-9-1983 Art. 18; 5-13-1986 Art. 44	2.04.040	Repealed 5-18-2010 by Ord. No. 09-053
41-4(B)	STM 11-17-1980 Art. 5; 5-9-1983 Art. 18; 5-13-1986 Art. 44	2.04.050	Repealed 5-18-2010 by Ord. No. 09-053
41-4(C)	STM 11-17-1980 Art. 5; 5-9-1983 Art. 18; 5-13-1986 Art. 44	2.04.060	Repealed 5-18-2010 by Ord. No. 09-053
41-5	STM 11-17-1980 Art. 5	2.04.070	Repealed 5-18-2010 by Ord. No. 09-053
41-6	STM 11-17-1980 Art. 5	2.04.080	Repealed 5-18-2010 by Ord. No. 09-053
41-7	STM 11-17-1980 Art. 5	2.04.090	Repealed 5-18-2010 by Ord. No. 09-053
41-8	STM 11-17-1980 Art. 5	2.04.100	Repealed 5-18-2010 by Ord. No. 09-053
41-9	STM 11-17-1980 Art. 5	2.04.110	Repealed 5-18-2010 by Ord. No. 09-053
41-10	STM 11-17-1980 Art. 5	2.04.120	Repealed 5-18-2010 by Ord. No. 09-053
41-11	STM 11-17-1980 Art. 5	2.04.130	Repealed 5-18-2010 by Ord. No. 09-053

Prior Code	Source	Town Bylaws	Herein
41-12	STM 11-17-1980 Art. 5	2.04.140	Repealed 5-18-2010 by Ord. No. 09-053
41-13	STM 11-17-1980 Art. 5	2.04.150	Repealed 5-18-2010 by Ord. No. 09-053
41-14	STM 11-17-1980 Art. 5	2.04.160	Repealed 5-18-2010 by Ord. No. 09-053
41-15	STM 11-17-1980 Art. 5	2.04.170	Repealed 5-18-2010 by Ord. No. 09-053
41-16	STM 11-17-1980 Art. 5	2.04.180	Repealed 5-18-2010 by Ord. No. 09-053
41-17	STM 11-17-1980 Art. 5	2.04.190	Repealed 5-18-2010 by Ord. No. 09-053
41-18	STM 11-17-1980 Art. 5	2.04.200	Repealed 5-18-2010 by Ord. No. 09-053
41-19	STM 11-17-1980 Art. 5	2.04.210	3.100.060
43-1	STM 11-17-1980 Art. 5	2.20.010	2.100.060
43-2	STM 11-17-1980 Art. 5	2.20.020	2.100.070
44-1		3.08.010	3.100.010
44-2		3.08.020	3.110.020
45-1		13.12.010	13.12.010
45-2		13.12.020	13.12.020
45-3		13.12.060	13.12.060
45-4		13.12.030	13.12.030
45-5		13.12.050	13.12.050
45-6(A)		13.12.070	13.12.070
45-6(B)		13.12.080	13.12.080
45-7		13.12.090	13.12.090
45-8		13.12.100	13.12.100
45-9		13.12.110	13.12.110
45-10		13.12.120	13.12.120
45-11		13.12.150	13.12.150
45-12		13.12.140	13.12.140
45-13		13.12.130	13.12.130
45-14		13.12.040	13.12.040
50-1	STM 11-17-1980 Art. 5	5.08.010	Repealed 6-15-2010 by Ord. No. 10-012

Prior Code	Source	Town Bylaws	Herein
50-2	STM 11-17-1980 Art. 5	9.08.010	9.200.010
50-3	STM 11-17-1980 Art. 5	9.08.020	9.200.020
50-4	STM 11-17-1980 Art. 5	9.08.030	9.200.030
50-5	STM 11-17-1980 Art. 5	9.08.040	9.200.040
51-1		5.04.010	5.200.010
51-2		5.04.030	5.200.030
51-3		5.04.040	5.200.040
51-4		5.04.050	5.200.040
51-5		5.04.060	5.200.040
51-6		5.04.020	5.200.020
56-1	STM 5-4-1982 Art. 15	5.12.010	5.400.010
56-2	STM 5-4-1982 Art. 15	5.12.020	5.400.020
56-3	STM 5-4-1982 Art. 15	5.12.030	5.400.030
56-4	STM 5-4-1982 Art. 15	5.12.040	5.400.040
56-5	STM 5-4-1982 Art. 15	5.12.050	5.400.050
56-6	STM 5-4-1982 Art. 15	Not codified	—
57-1		5.20.010	5.500.010
57-2		5.20.020	5.500.020
57-3		5.20.030	5.500.030
57-4		5.20.040	5.500.040
57-5		5.20.050	5.500.050
57-6		5.20.060	5.500.060
57-7		5.20.070	5.500.070
57-8		5.20.080	5.500.080
57-9		5.20.090	5.500.090
63-1	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.010	6.100.010
63-2	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.020	6.100.020
63-3	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.170	6.100.180
63-4	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.060	6.100.060
63-5	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.070	6.100.070

Prior Code	Source	Town Bylaws	Herein
63-6	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.080	6.100.080
63-7	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.030	6.100.030
63-8	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.040	6.100.040
63-9	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.050	Repealed 12-7-2010 by Ord. No. 10-038
63-10	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.090	6.100.090
63-11	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.100	6.100.100
63-12	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.110	6.100.110
63-13	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.120	6.100.120
63-14	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.130	6.100.130
63-15	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.140	6.100.140
63-16	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.150	6.100.150
63-17	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 21	6.04.160	6.100.160
Ch. 64		Ch. 6.08	Ch. 6.200
67-1		8.08.010	8.300.010
67-2		8.08.020	8.300.020
67-3(A)		8.08.030	8.300.030
67-3(B)		8.08.040	8.300.040
67-3(C)		8.08.050	8.300.050
67-4		8.08.060	8.300.060
67-5		8.08.070	8.300.070
67-6		8.08.080	8.300.080
67-7		8.08.090	8.300.090
67-8		8.08.100	8.300.100
68-1	STM 5-3-1983 Art. 18	8.04.010	8.100.010
68-2	STM 5-3-1983 Art. 18	8.04.020	8.100.020

Prior Code	Source	Town Bylaws	Herein
68-3	STM 5-3-1983 Art. 18	8.04.030	8.100.030
68-4	STM 5-3-1983 Art. 18	8.04.040	8.100.040
69-1	STM 11-17-1980 Art. 5	9.16.020	9.500.020
69-2	STM 11-17-1980 Art. 5	9.16.030	9.500.030
69-3	STM 11-17-1980 Art. 5	9.16.010	9.500.010
72-1	STM 11-17-1980 Art. 5	5.16.030	5.450.030
72-2	STM 11-17-1980 Art. 5	5.16.040	Repealed 6-15-2010 by Ord. No. 10-012
72-3	STM 11-17-1980 Art. 5	5.16.050	5.450.040
72-4	STM 11-17-1980 Art. 5	5.16.060	Repealed 6-15-2010 by Ord. No. 10-012
72-5	STM 11-17-1980 Art. 5	5.16.010	5.450.010
72-6	STM 11-17-1980 Art. 5	5.16.070	5.450.050
72-7	STM 11-17-1980 Art. 5	Not codified	—
72-8	STM 11-17-1980 Art. 5	5.16.020	5.450.020
73-1	ATM 5-9-1981 Art. 10	8.20.010	Repealed 12-7-2010 by Ord. No. 10-040
73-2	ATM 5-9-1981 Art. 10	8.20.020	Repealed 12-7-2010 by Ord. No. 10-040
73-3	ATM 5-9-1981 Art. 10	8.20.030	Repealed 12-7-2010 by Ord. No. 10-040
73-4	ATM 5-9-1981 Art. 10	Not codified	—
75-1	STM 11-17-1980 Art. 5	8.12.010	8.400.020
75-2	STM 11-17-1980 Art. 5	8.12.010	8.400.020
75-3	STM 11-17-1980 Art. 5	8.12.020	8.400.030
75-4	STM 11-17-1980 Art. 5	8.12.030	8.400.040
75-5	STM 11-17-1980 Art. 5	8.12.040	8.400.050
77-1	STM 11-17-1980 Art. 5	5.24.010	5.550.010
77-2	STM 11-17-1980 Art. 5	5.24.020	Repealed 11-18-2010 by Ord. No. 10-012
77-3	STM 11-17-1980 Art. 5	5.24.030	5.550.020
77-4	STM 11-17-1980 Art. 5	5.24.040	Repealed 11-18-2010 by Ord. No. 10-012
80-1	STM 11-17-1980 Art. 5	9.12.010	9.400.010
83-1	STM 5-2-1983 Art. 17	5.36.020	5.570.020
83-2	STM 5-2-1983 Art. 17	5.36.010	5.570.010

Prior Code	Source	Town Bylaws	Herein
83-3	STM 5-2-1983 Art. 17	5.36.020	5.570.020
83-4	STM 5-2-1983 Art. 17	5.36.040	5.570.030
83-5	STM 5-2-1983 Art. 17	5.36.050	5.570.050
83-6	STM 5-2-1983 Art. 17	5.36.060	5.570.060
83-7	STM 5-2-1983 Art. 17	5.36.070	5.570.070
83-8	STM 5-2-1983 Art. 17	5.36.070	5.570.070
83-9	STM 5-2-1983 Art. 17	5.36.080	5.570.080
83-10	STM 5-2-1983 Art. 17	5.36.090	5.570.090
83-11	STM 5-2-1983 Art. 17	5.36.030	Repealed 10-19-2010 by Ord. No. 10-012
85-1	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.010	5.560.010
85-2	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.020	5.560.020
85-3	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.030	5.560.030
85-4	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.040	5.560.040
85-5	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.050	5.560.050
85-6	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.060	5.560.060
85-7	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.070	5.560.070
85-8(A)	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.080	5.560.080
85-8(B)	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.080	5.560.080
85-8(C)	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.080	5.560.080
85-8(D)	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.090	5.560.090
85-8(E)	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.100	5.560.100
85-9	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.110	5.560.110
85-10	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.120	5.560.120

Prior Code	Source	Town Bylaws	Herein
85-11	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.130	5.560.130
85-12	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.140	5.560.140
85-13	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.150	5.560.150
85-14	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	5.28.160	5.560.160
85-15	STM 11-17-1980 Art. 5; STM 5-6-1985 Art. 23	Not codified	—
89-1	STM 11-17-1980 Art. 5	9.12.020	9.400.020
92-1	STM 5-3-1983 Art. 22	8.16.010	8.600.010
92-2	STM 5-3-1983 Art. 22	8.16.020	8.600.020
92-3	STM 5-3-1983 Art. 22	8.16.030	8.600.030
92-4	STM 5-3-1983 Art. 22	Not codified	—
92-5	STM 5-3-1983 Art. 22	8.16.040	8.600.040
92-5:1	STM 5-3-1983 Art. 22	8.16.050	8.600.050
92-5:2	STM 5-3-1983 Art. 22	8.16.100	8.600.100
92-5:3	STM 5-3-1983 Art. 22	8.16.110	8.600.110
92-5:4	STM 5-3-1983 Art. 22	8.16.060	8.600.060
92-6:1	STM 5-3-1983 Art. 22	8.16.080	8.600.080
92-6:2	STM 5-3-1983 Art. 22	8.16.120	8.600.120
92-6:3	STM 5-3-1983 Art. 22	8.16.130	8.600.130
92-6:4	STM 5-3-1983 Art. 22	8.16.140	8.600.140
92-6:5	STM 5-3-1983 Art. 22	8.16.150	8.600.150
92-7	STM 5-3-1983 Art. 22	8.16.190	8.600.190
92-8	STM 5-3-1983 Art. 22	8.16.200	8.600.200
92-9	STM 5-3-1983 Art. 22	8.16.210	8.600.210
92-10	STM 5-3-1983 Art. 22	8.16.070	8.600.070
92-11	STM 5-3-1983 Art. 22; STM 11-7-1983 Art. 3	8.16.160	8.600.160
92-12	STM 11-17-1980 Art. 5; STM 5-3-1983 Art. 22	8.16.170	8.600.170
92-13		8.16.090	8.600.090
92-14		8.16.180	8.600.180

Prior Code	Source	Town Bylaws	Herein
97-1	STM 11-17-1980 Art. 5	9.04.010	Repealed 12-7-2010 by Ord. No. 10-041
97-2	STM 11-17-1980 Art. 5	9.12.030	Repealed 12-7-2010 by Ord. No. 10-041
97-3	STM 11-17-1980 Art. 5	9.12.040	9.400.040
97-4	STM 11-17-1980 Art. 5	9.12.050	9.400.050
97-5	STM 11-17-1980 Art. 5	9.04.020	9.100.010
97-6	STM 11-17-1980 Art. 5	9.04.030	9.100.020
97-7	STM 11-17-1980 Art. 5	9.12.060	9.400.060
97-8	STM 11-17-1980 Art. 5	9.12.070	9.400.070
97-9	STM 11-17-1980 Art. 5	9.12.080	Repealed 12-7-2010 by Ord. No. 10-041
99-1	STM 11-17-1980 Art. 5	5.32.010	5.565.010
99-2	STM 11-17-1980 Art. 5	5.32.020	Repealed ATM 5-10-2005 Art. 37
99-3	STM 11-17-1980 Art. 5	5.32.030	5.565.020
99-4	STM 11-17-1980 Art. 5	5.32.040	5.565.030
99-5	STM 11-17-1980 Art. 5	5.32.050	Repealed 6-15-2010 by Ord. No. 10-012
99-6	STM 11-17-1980 Art. 5	5.32.060	5.565.040
99-7	STM 5-6-96 Art. 15	5.32.070	5.565.050
104-1	STM 11-17-1980 Art. 5	5.44.010	5.585.010
104-2	STM 11-17-1980 Art. 5	5.44.020	5.585.020
104-3	STM 11-17-1980 Art. 5	5.44.030	5.585.030
104-4	STM 11-17-1980 Art. 5	5.44.040	5.585.040
113-1	STM 11-17-1980 Art. 5	12.04.010	12.04.010
113-2	STM 11-17-1980 Art. 5	12.04.020	12.04.020
113-3	STM 11-17-1980 Art. 5	12.04.030	12.04.030
113-4	STM 11-17-1980 Art. 5	12.04.040	12.04.040
113-4-1	STM 5-5-1982 Art. 16	12.04.050	12.04.050
113-5	STM 11-17-1980 Art. 5	12.08.010	12.08.010
113-6	STM 11-17-1980 Art. 5	12.08.020	12.08.020
113-7	STM 11-17-1980 Art. 5	12.08.030	12.08.030
113-8	STM 11-17-1980 Art. 5	12.08.040	12.08.040
113-9	STM 11-17-1980 Art. 5	12.04.060	12.04.060

Prior Code	Source	Town Bylaws	Herein
113-10	ATM 5-9-84 Art. 8	12.08.050	12.08.050
113-11-1	5-8-1985 Art. 3	10.04.010	10.04.010
113-11-2	5-8-1985 Art. 3	10.04.020 to 10.04.040	10.04.020 to 10.04.040
119-1	STM 11-17-1980 Art. 5	8.24.020	8.700.020
119-2	STM 11-17-1980 Art. 5	8.24.030	8.700.030
119-3	STM 11-17-1980 Art. 5	8.24.040	8.700.040
119-4	STM 11-17-1980 Art. 5	8.24.010	8.700.010
122-1	STM 11-17-1980 Art. 5	5.40.010	5.580.010
122-2	STM 11-17-1980 Art. 5	5.40.030	5.580.030
122-3	STM 11-17-1980 Art. 5	5.40.020	5.580.020
129-1	STM 11-17-1980 Art. 5	12.16.010	12.16.010
129-2	STM 11-17-1980 Art. 5	12.16.020	12.16.020
129-3		12.16.030	12.16.030
129-4		12.16.040	12.16.040
131-1		13.08.010	13.08.010
131-2		13.08.020	13.08.020
131-3		13.08.040	13.08.040
131-4		13.08.030	13.08.030
132-1*		Repealed by STM 5-4-1999 Art. 27 Art. 27	—
132-1*	STM 5-4-1981 Art. 11	Not codified	—
132-2*		Repealed by STM 5-4-1999 Art. 27	—
132-2*	STM 5-4-1981 Art. 11	Not codified	—
132-2-1		Not codified	—
132-2-2		Not codified	—
132-3*		Repealed by STM 5-4-1999 Art. 27	—
132-3*	STM 5-4-1981 Art. 11	Not codified	—
132-4*		Repealed by STM 5-4-1999 Art. 27	—
		Repealed by STM 5-4-1999 Art. 27	—
132-4*	STM 5-4-1981 Art. 11	Not codified	—
132-5*		Repealed by STM 5-4-1999 Art. 27	—

Prior Code	Source	Town Bylaws	Herein
		Repealed by STM 5-4-1999 Art. 27	—
132-5*	STM 5-4-1981 Art. 11	Not codified	—
132-6*		Repealed by STM 5-4-1999 Art. 27	—
132-6*	STM 5-4-1981 Art. 11	Not codified	—
132-7*		Repealed by STM 5-4-1999 Art. 27	—
132-7*	STM 5-4-1981 Art. 11	Not codified	—
132-8*		Repealed by STM 5-4-1999 Art. 27	—
132-8*	STM 5-4-1981 Art. 11	Not codified	—
132-9*		Repealed by STM 5-4-1999 Art. 27	—
132-9*	STM 5-4-1981 Art. 11	Not codified	—
132-10		Repealed by STM 5-4-1999 Art. 27	—
132-11		Repealed by STM 5-4-1999 Art. 27	—
132-12		Repealed by STM 5-4-1999 Art. 27	—
132-13		Repealed by STM 5-4-1999 Art. 27	—
132-14		Not codified	—
Ch. 133		13.04.010	13.04.010

*Note: There were two each of prior code sections numbered 132-1, 132-2 and 132-3 through 132-9.

Appendix D**BYLAW LIST AND DISPOSITION TABLE****§ D-1. Bylaw List and Disposition Table**

Meeting Date	Article	Description/Town Bylaws	Herein
STM 5-11-1987	2	Amends § 41-1 of prior code, town meeting (2.04)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-19-1987	68	Amends Ch. 132 of prior code, wetlands	Repealed by STM 5-4-99 Art. 27
ATM 5-9-1988	15	Adds Ch. 51 to prior code, local licenses and permits (5.04)	Ch. 5.200
ATM 5-11-1988	45	Amends § 132-4 of prior code, wetlands	Repealed by STM 5-4-99 Art. 27
STM 5-1-1989	4	Adds § 92-13 to prior code, hazardous materials (8.16)	8.600.090
STM 5-1-1989	13	Adds Ch. 57 to prior code, fortunetellers, palmists and the like (5.20)	Ch. 5.500
STM 5-2-1989	7	Adds § 17-8 to prior code, contracts (2.48)	Repealed 5-18-2010 by Ord. No. 09-053
STM 5-2-1989	18	Adds Ch. 131 to prior code, water emergency and conservation (13.08)	Ch. 13.08
ATM 5-8-1989	13	Amends § 113-11-2 of prior code, streets and ways (10.04)	Ch. 10.04
ATM 5-8-1989	22	Repeals and replaces Ch. 67 of prior code, fire alarm and fire protection systems (8.08)	Ch. 8.300
ATM 5-8-1990	12	Amends § 113-9 of prior code, streets and ways (12.04)	12.04.060
ATM 5-15-1990	34	Amends § 1-6 of prior code, general provisions	Repealed by STM 10-7-91 Art. 15

Meeting Date	Article	Description/Town Bylaws	Herein
ATM 5-15-1990	37	Amends § 32-2 of prior code, officers and employees (2.12)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-16-1990	46	Amends § 92-13(A) of prior code, hazardous materials (8.16)	8.600.090
STM 11-13-1990	10	Adds § 129-3 to prior code, waterways (12.16)	12.16.030
STM 5-6-1991	8	Adds § 129-4 to prior code, waterways (12.16)	12.16.040
ATM 5-13-1991	18	Adds Ch. 44 to prior code, water/sewer rehabilitation fund (3.08)	Ch. 3.110
ATM 5-14-1991	30	Amends §§ 67-3(B) and 67-7 of prior code, fire alarm and fire protection systems (8.08)	8.300.040 and 8.300.090
STM 10-7-1991	11	Adds Ch. 45 to prior code, cross-connection control bylaw (13.12)	Ch. 13.12
STM 10-7-1991	15	Repeals and replaces prior code § 1-6, general provisions, and § 135-204, zoning (1.08)	Ch. 1.08
STM 5-4-1992	9	Adds Ch. 64 to prior code, feeding or baiting of migratory waterfowl (6.08)	Ch. 6.200
ATM 5-11-1992	19	Amends § 77-2 of prior code, gasoline stations (5.24)	Repealed 11-18-2010 by Ord. No. 10-012, see now Ch. 5.550
ATM 5-11-1992	27	Adds Ch. 4 to prior code, fair housing committee (2.36)	Repealed 5-18-2010 by Ord. No. 09-053
STM 10-27-1992	21	Amends § 132-4 of prior code, wetlands	Repealed by STM 5-4-99 Art. 27
STM 5-3-1993	15	Adds § 33-1 to prior code, restrictions on appointment (2.24)	2.206.020

Meeting Date	Article	Description/Town Bylaws	Herein
STM 5-3-1993	16	Adds § 33-2 to prior code, restrictions on appointment (2.24)	2.206.030
STM 11-1-1993	23	Adds § 32-10 to prior code, officers and employees (3.04)	3.100.155
ATM 5-4-1994	21	Amends § 41-8 of prior code, town meeting (2.04)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-4-1994	22	Amends § 1-6 of prior code, general provisions	Repealed by STM 10-25-1994 Art. 23
ATM 5-10-1994	44	Adds Ch. 133 to prior code, due dates and interest (13.04)	Ch. 13.04
ATM 5-10-1994	46	Repeals and replaces § 131-2 of prior code, water emergency and conservation (13.08)	13.08.020
STM 10-25-1994	23	Repeals ATM 5-4-1994 Art. 22 (Repealer)	—
ATM 5-2-1995	13	Adds Ch. 19 to prior code, restrictions on vehicles owned or leased by the town (2.60)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-3-1995	15	Adds § 21-13 to prior code, finance committee (2.40)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-3-1995	16	Amends § 17-3 of prior code, contracts	Repealed by STM 10-17-2000 by Art. 29
ATM 5-3-1995	17	Repeals and replaces § 63-8 of prior code, dogs and other animals (6.04)	6.100.040
ATM 5-3-1995	19	Adds § 92-14 to prior code, hazardous materials (8.16)	8.600.180
ATM 5-14-1996	21	Amends prior code § 63-3, dogs and other animals (6.04)	6.100.180

Meeting Date	Article	Description/Town Bylaws	Herein
ATM 5-14-1996	22	Amends prior code §§ 1-6 and 63-3, enforcement (1.08, 6.04)	6.100.180 (former § 1.08.030 was repealed 5-18-2010 by Ord. No. 08-012)
ATM 5-14-1996	24	Amends prior code § 113-4-1, streets and sidewalks (12.04)	12.04.050
STM 5-6-1996	15	Adds prior code § 99-7, solicitation and canvassing (5.32)	5.565.050
STM 5-4-1999	27	Repeals and replaces Ch. 12.20, wetlands (12.20)	Ch. 12.20
ATM 5-10-1999	12	Amends § 2.08.020, executive secretary (2.08)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-17-1999	17	Adds Ch. 5.50, trash haulers (5.50)	Ch. 5.590
ATM 5-17-1999	18	Amends Ch. 162 of the Acts of 1994, recall election provisions (not codified)	—
ATM 5-17-1999	19	Amends Ch. 17 of the Acts of 1937, town meeting members (Act Establishing Form of Government)	Superseded by 2005 Town Charter
ATM 5-17-1999	23	Adds § 2.08.055; amends § 2.08.050 (2.08)	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-17-1999	24	Amends § 12.12.050, historic district commission (12.12)	2.775.030
STM 10-18-1999	14	Adds Ch. 2.46, government study (2.46)	Repealed 5-18-2010 by Ord. No. 09-053
STM 5-22-2000	31	Amends Ch. 2.32 definitions, capital planning (2.32)	Repealed 5-18-2010 by Ord. No. 09-053
STM 10-17-2000	29	Repeals and replaces § 2.48.030, contracts, purchasing and property sales (2.48)	Repealed 5-18-2010 by Ord. No. 09-053

Meeting Date	Article	Description/Town Bylaws	Herein
STM 5-8-2001	13	Adds § 12.04.080, temporary repairs in private ways	12.04.080
ATM 5-9-2001	17	Adds Ch. 5.38, printed matter vending machines	Ch. 5.575
ATM 5-9-2001	18	Adds § 12.04.070, utility poles	12.04.070
ATM 5-9-2001	19	Amends § 2.04.170, voting	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-9-2001	28	Amends Chs. 1.08 and 10.04, parking for disabled veterans and handicapped persons	Table 1.08; Ch. 10.04
ATM 5-15-2001	51	Amends Ch. 6.04, dogs and other animals	6.100.170 and 6.100.180
ATM 5-16-2001	62	Amends Ch. 6.04, dogs and other animals	6.100.190
ATM 5-22-2001	26	Adds § 5.24.050, gasoline storage permits	5.550.050
ATM 5-22-2001	27	Amends § 2.08.055, hiring procedure	Repealed 5-18-2010 by Ord. No. 09-053
ATM 5-14-2002	25	Amends § 2.48.050, performance bond	3.100.050
ATM 5-14-2002	26	Amends § 2.16.020, duties of Town Counsel	2.290.030
ATM 5-14-2002	29	Amends § 6.04.040, late licensing of dogs	6.100.040
ATM 5-14-2002	31	Repeals and replaces § 12.12.040, Historical Commission; amends §§ 12.12.050 and 12.12.060	2.775.030, 2.775.040
ATM 5-14-2002	39	Amends Ch. 8.16	Ch. 8.600
ATM 5-15-2002	47	Adds Ch. 2.64, Department of Public Works, and amends Table 1.08; §§ 2.56.010 and 12.08.010; and Chs. 13.04, 13.08 and 13.12	Table 1.08; 2.220.020 and 2.220.030; 12.08.010; 13.04.010; 13.08.020, 13.08.030 and 13.08.040; Ch. 13.12

Meeting Date	Article	Description/Town Bylaws	Herein
STM 10-8-2002	18	Amends § 5.32.070, solicitation and canvassing	5.565.050
STM 1-27-2003	4	Amends § 3.08.020, water and sewer user fees	3.100.020
STM 5-5-2003	12	Amends § 8.04.040, penalty for false alarms	8.100.040
ATM 5-5-2003	15	Amends § 2.20.010, department head and committee reports	2.100.060
STM 5-5-2003	18	Adds § 5.14.010, fees for licenses, and accepts MGL Ch. 40, § 22F	Ch. 5.14 was repealed 6-15-2010 by Ord. No. 10-012
ATM 5-5-2003	24	Amends §§ 5.12.020 and 5.36.030, increased license fees	5.400.020; former § 5.36.030 was repealed 10-19-2010 by Ord. No. 10-012, see now Ch. 5.570
ATM 5-7-2003	34	Adds Ch. 13.06, Cellar Drains; amends Ch. 1.08, penalties	Table 1.08; Ch. 13.06
ATM 5-21-2003	23	Adds Ch. 8.05, flammable storage license fees	Ch. 8.200
STM 10-7-2003	6	Amends §§ 12.16.030 and 12.16.040, vessels in town waterways, and Ch. 1.08 penalties	Table 1.08; 12.16.030 and 12.16.040
STM 5-3-2004	7	Amends Ch. 1.08, penalties	Table 1.08
ATM 5-4-2004	7	Adds § 3.04.040, use of certified free cash	Repealed 5-18-2010 by Ord. No. 10-010
ATM 5-10-2004	27	Adds Ch. 8.13, mandatory recycling	Ch. 8.500
ATM 5-10-2004	32	Adds § 12.04.090, snow removal	12.04.090
STM 10-5-2004	19	Amends § 2.04.060, closing of warrant	Repealed 5-18-2010 by Ord. No. 09-053
STM 10-5-2004	20	Adds § 13.04.020, meter reading fee	13.04.020

Meeting Date	Article	Description/Town Bylaws	Herein
STM 10-5-2004	21	Adds §§ 13.04.030 to 13.04.080, water shutoff for failure to pay charges	13.04.030 to 13.04.080
STM 10-5-2004	30	Amends Ch. 5.40, taxicabs	Ch. 5.580
ATM 5-10-2005	37	Amends § 5.32.010 and repeals § 5.32.020, peddling and soliciting	5.565.010
ATM 5-10-2005	38	Adds Ch. 9.10, release of impounded vehicles	Ch. 9.300
ATM 5-10-2005	39	Amends Ch. § 5.40.010, taxicab licensing	5.580.010
ATM 5-2-2006	32	Adds Ch. 13.07, Grease Treatment, and amends Table 1.08	Table 1.08; Ch. 13.07
ATM 5-10-2006	44	Adds Ch. 3.06, Town Collector	Repealed 5-18-2010 by Ord. No. 10-010
STM 10-3-2006	13	Amends § 13.04.060, termination of water and sewer service	13.04.060
STM 11-14-2007	22	Adds Ch. 13.05, Condominium Conversions	Ch. 13.05

Derivation Table

Chapter DT**DERIVATION TABLE**

This Derivation Table indicates where chapters of the Town Bylaws have been included in the 2013 Town Code, or the reason for exclusion.

§ DT-1. Derivation Table of Town Bylaws to 2013 Code

Title/Chapter From Town Bylaws	Location in 2013 Code
Title 1, General Provisions	
Ch. 1.01, Code Adoption (Reserved)	NLP; see Ch. 1.10
Ch. 1.04, General Provisions (Reserved)	—
Ch. 1.08, General Penalty	Repealed 5-18-2010 by Ord. No. 08-012; see now Ch. 1.08
Title 2, Administration and Personnel	
Ch. 2.04, Town Meetings	Repealed 5-18-2010 by Ord. No. 09-053
Ch. 2.08, Executive Secretary	Repealed 5-18-2010 by Ord. No. 09-053
Ch. 2.12, Inspector of Gas Piping and Appliances	Repealed 5-18-2010 by Ord. No. 09-053; see now Ch. 2.585
Ch. 2.16, Legal Affairs	Repealed 5-18-2010 by Ord. No. 09-053; see now Ch. 2.290

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 2.20, Annual Reports

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.100

Ch. 2.24, Conflict of Interest

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.206

Ch. 2.28, Planning Board

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.770

Ch. 2.32, Capital Planning and Financial Committee

Repealed
5-18-2010
by Ord. No.
09-053

Ch. 2.36, Fair Housing Committee

Repealed
5-18-2010
by Ord. No.
09-053

Ch. 2.40, Finance Committee

Repealed
5-18-2010
by Ord. No.
09-053

Ch. 2.44, Council on Aging

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.735

Ch. 2.46, Government Study Committee

Repealed
5-18-2010
by Ord. No.
09-053

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 2.48, Contracts, Purchasing and Property Sales

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
3.100

Ch. 2.52, Library

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.765

Ch. 2.56, Cemetery

Repealed
5-18-2010
by Ord. No.
09-053

Ch. 2.60, Town Vehicles

Repealed
5-18-2010
by Ord. No.
09-053

Ch. 2.64, Department of Public Works

Repealed
5-18-2010
by Ord. No.
09-053; see
now Ch.
2.220**Title 3, Revenue and Finance**

Ch. 3.04, Fiscal Provisions Generally

Repealed
5-18-2010
by Ord. No.
10-010; see
now Ch.
3.100

Ch. 3.06, Town Collector

Repealed
5-18-2010
by Ord. No.
10-010; see
now Ch.
2.630

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 3.08, Water/Sewer Rehabilitation Fund

Repealed
5-18-2010
by Ord. No.
10-010; see
now Ch.
3.110

Title 4 (Reserved)

Title 4

Title 5, Business Licenses and Regulations

Ch. 5.04, Local Licenses and Permits Generally

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.200

Ch. 5.08, Alcoholic Beverages

Repealed
6-15-2010
by Ord. No.
10-012

Ch. 5.12, Amusement Games

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.400

Ch. 5.14, Fees

Repealed
6-15-2010
by Ord. No.
10-012

Ch. 5.16, Food Sales

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.450

Ch. 5.20, Fortunetellers, Palmists and Similar Practitioners

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.500

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 5.24, Gasoline Stations

Repealed
10-19-2010
by Ord. No.
10-012; see
now Ch.
5.550

Ch. 5.28, Junk, Secondhand and Salvage Dealers

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.560

Ch. 5.32, Peddling and Soliciting

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.565

Ch. 5.36, Precious Metal Dealers

Repealed
10-19-2010
by Ord. No.
10-012; see
now Ch.
5.570

Ch. 5.38, Printed Matter Vending Machines

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.575

Ch. 5.40, Taxicabs

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.580

Ch. 5.44, Yard Sales

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.585

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 5.50, Trash Haulers

Repealed
6-15-2010
by Ord. No.
10-012; see
now Ch.
5.590

Title 6, Animals

Ch. 6.04, Dogs and Other Animals

Repealed
12-7-2010
by Ord. No.
10-038; see
now Ch.
6.100

Ch. 6.08, Migratory Waterfowl

Repealed
12-7-2010
by Ord. No.
10-038; see
now Ch.
6.200

Title 7 (Reserved)

Title 7

Title 8, Health and Safety

Ch. 8.04, Burglar Alarm Systems

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.100

Ch. 8.05, Flammable Storage License Fees

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.200

Ch. 8.08, Fire Alarm and Fire Protection Systems

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.300

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 8.12, Garage Collection and Disposal

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.400

Ch. 8.13, Mandatory Recycling

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.500

Ch. 8.16, Hazardous Materials

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.600

Ch. 8.20, Smoking

Repealed
12-7-2010
by Ord. No.
10-040

Ch. 8.24, Swimming Pools

Repealed
12-7-2010
by Ord. No.
10-040; see
now Ch.
8.700**Title 9, Public Peace, Morals and Welfare**

Ch. 9.04, Offenses Against Public Peace and Decency

Repealed
12-7-2010
by Ord. No.
10-041; see
now Ch.
9.100

Ch. 9.08, Public Consumption of Alcoholic Beverages

Repealed
12-7-2010
by Ord. No.
10-041; see
now Ch.
9.200

Title/Chapter From Town Bylaws**Location in
2013 Code**

Ch. 9.10, Release of Impounded Vehicles

Repealed
12-7-2010
by Ord. No.
10-041; see
now Ch.
9.300

Ch. 9.12, Property Offenses

Repealed
12-7-2010
by Ord. No.
10-041; see
now Ch.
9.400

Ch. 9.16, Weapons

Repealed
12-7-2010
by Ord. No.
10-041; see
now Ch.
9.500

Title 10, Vehicles and Traffic

Ch. 10.04, Parking for Disabled Veterans and Handicapped Persons

Ch. 10.04

Title 11 (Reserved)

Title 11

Title 12, Streets, Sidewalks and Public Places

Ch. 12.04, Streets and Sidewalks Generally

Ch. 12.04

Ch. 12.08, Excavations and Obstructions

Ch. 12.08

Ch. 12.12, Historical Commission

Superseded
5-18-2010
by Ord. No.
09-053; see
Ch. 2.755

Ch. 12.16, Waterways

Ch. 12.16

Ch. 12.20, Wetlands

Ch. 12.20

Title 13, Public Services

Ch. 13.04, Water and Sewer Charges

Ch. 13.04

Ch. 13.05, Condominium Conversions

Ch. 13.05

Ch. 13.06, Cellar Drains

Ch. 13.06

Ch. 13.07, Grease Treatment

Ch. 13.07

Ch. 13.08, Water Emergencies and Conservation

Ch. 13.08

Ch. 13.12, Cross-Connection Control

Ch. 13.12

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Town of Braintree adopted since 2008, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2013 republication of the Code was Ord. No. 13-008, adopted 5-21-2013. § DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
08-004	1-22-2008	Chief of Staff and Operations	Ch. 2.207
08-005	1-22-2008	Assistant to Mayor	Ch. 2.209
08-012	5-18-2010	Repeal all bylaws under Title 1, except Table 1.08; adopt new Title 1	Ch. 1.08
08-013	3-18-2008	Town elections	Ch. 2.100
08-014	3-18-2008	Mayor	Ch. 2.200
08-015	2-6-2008	Designating Chief of Staff and Operations Ordinance as Ch. 2.207	Ch. 2.207
08-016	3-18-2008	Acting Mayor	Ch. 2.208
08-017	3-18-2008	Designating Assistant to Mayor Ordinance as Ch. 2.209	Ch. 2.209
08-048	8-19-2008	Accept MGL c. 44, § 64	Appendix A
08-053	9-23-2008	Accept MGL c. 32B, § 19	Appendix A
09-011	4-28-2009	Public consumption of marihuana	Ch. 9.600
09-047	8-11-2009	Amend acceptance of MGL c. 64G, § 3A	Appendix A
09-048	12-1-2009	Responsible employer	Ch. 3.120
09-053	5-18-2010	Repeal all bylaws under Title 2; adopt new Title 2	Ch. 2.205; Ch. 2.206; Ch. 2.220 to 2.780
10-002	1-5-2010	Accept Chapter 183 of the Acts of 2009	Appendix A

Ord. No.	Adoption Date	Subject	Disposition
10-010	5-18-2010	Repeal all bylaws under Title 3; adopt new Title 3	Ch. 3.100; Ch. 3.110
10-011	5-18-2010	Designating Title 4 as reserved for future use	Reserved page only
10-012	6-15-2010; 10-19-2010; 11-18-2010	Repeal all bylaws under Title 5; adopt new Title 5	Ch. 5.100; Ch. 5.200; Ch. 5.400; Ch. 5.450; Ch. 5.500; Ch. 5.550; Ch. 5.560; Ch. 5.565; Ch. 5.570; Ch. 5.575; Ch. 5.580; Ch. 5.585; Ch. 5.590
10-038	12-7-2010	Repeal all bylaws under Title 6; adopt new Title 6	Ch. 6.100; Ch. 6.200
10-039	12-7-2010	Designating Title 7 as reserved for future use	Reserved page only
10-040	12-7-2010	Repeal all bylaws under Title 8; adopt new Title 8	Ch. 8.100; Ch. 8.200; Ch. 8.300; Ch. 8.400; Ch. 8.500; Ch. 8.600; Ch. 8.700
10-041	12-7-2010	Repeal all bylaws under Title 9; adopt new Title 9	Ch. 9.100; Ch. 9.200; Ch. 9.300; Ch. 9.400; Ch. 9.500
10-045	12-7-2010	Sex offender residency restrictions	Ch. 9.800
10-056	8-17-2010	Accept MGL c. 48, § 59A	Appendix A
10-070	11-18-2010	Accept MGL c. 41, § 100G1/4	Appendix A
10-071	11-18-2010	Accept MGL c. 41, § 91	Appendix A
11-034	10-18-2011	Accept MGL c. 32, § 101	Appendix A
11-041	11-15-2011	Town Clerk amendment	Ch. 2.320
12-004	2-28-2012	Extend Chapter 134 of the Acts of 2008	Appendix A
12-040	9-20-2012	Accept MGL c. 54, § 16A	Appendix A
12-052A	12-4-2012	Accept MGL c. 59, § 5, Clause 41C	Appendix A

Ord. No.	Adoption Date	Subject	Disposition
12-052B	12-4-2012	Accept MGL c. 59, § 5, Clause 41D	Appendix A
12-035	2-5-2013	Mayor amendment	Ch. 2.200
13-006	3-19-2013	Dogs and other animals	Ch. 6.100
13-008	5-21-2013	Accept MGL c. 64L, § 2	Appendix A
14-012(1)	3-18-2014	Parking penalties	Ch. 10.06
14-012(2)	3-18-2014	Parking ticket late fees	Ch. 10.08
14-022	9-15-2015	Peddling and soliciting amendment	Ch. 5.565
14-022(R)	3-2-2016	Peddling and soliciting amendment	Ch. 5.565
14-040	5-27-2014	Dogs and other animals amendment	Ch. 6.100
15-033	8-11-2015	Excavations and obstructions amendment	Ch. 12.08
15-038	10-6-2015	Extend Chapter 134 of the Acts of 2008	Appendix A
17-002	2-7-2017	Accept MGL c. 39, § 23D	Appendix A
17-019	4-25-2017	Fiscal Provisions Generally Amendment	Ch. 3.100
17-055(1)	3-27-2017	Marijuana Not Medically Prescribed	Ch. 5.600
17-057(1)	10-4-2017	Accept MGL c. 90, § 17C	Appendix A
17-057(2)	10-4-2017	Accept MGL c. 90, § 18B	Appendix A
18-017	3-20-2018	Amusement Games Amendment	Ch. 5.400
18-018	3-20-2018	Extend Chapter 134 of the Acts of 2008	Appendix A
18-025	4-2-2019	Demolition Delay	Ch. 5.700
18-026(4)	5-29-2018	Stormwater Enterprise Fee	Ch. 3.130
18-026(5)	5-29-2018	Stormwater Management	Ch. 13.14
18-026(6)	5-29-2018	Accept MGL c. 44, § 53F	Appendix A

Ord. No.	Adoption Date	Subject	Disposition
18-029(2)	7-9-2018	Planning Board Amendment	Ch. 2.770
18-048	2-5-2019	Reclassification of Positions Within Town Clerk's Office	NCM
19-001	3-5-2019	Taxicabs Amendment	Ch. 5.580
19-015(5)	5-28-2019	Legislative Acts Accepted by the Town	Appendix A
19-025	7-16-2019	Hazardous Mitigation Plan Amendment	NCM
19-031	10-1-2019	Inspector of Buildings and Local Inspectors Amendment	Ch. 2.520

Order No.	Adoption Date	Subject	Disposition	Supp. No.
20-035	4-7-2020	Legislative Acts Accepted by the Town	Apx. A	5
20-075	11-17-2020	Legislative Acts Accepted by the Town	Apx. A	5
21-018	5-18-2021	Department of Revolving Funds	Ch. 3.140	5
21-027	12-7-2021	Department of Public Works Amendment	Ch. 2.220	5
21-028	11-3-2021	Anti-Blight Program	Ch. 8.800	5
21-029	6-15-2021	Dogs and Other Animals Amendment	Ch. 6.100	5
21-030	7-13-2021	Legislative Acts Accepted by the Town	Apx. A	5
22-037	4-25-2023	Tree Committee; Public Tree Protection	Ch. 2.800; Ch. 12.30	6
22-049	10-18-2022	Marijuana Retailers	Ch. 5.600	5

Order No.	Adoption Date	Subject	Disposition	Supp. No.
22-050	10-3-2022	Legislative Acts Accepted by the Town	Apx. A	5
22-051	10-3-2022	Legislative Acts Accepted by the Town	Apx. A	5
23-028	5-2-2023	LGBTQ+ Pride Month	Ch. 14.04	5
23-029(1)	6-6-2023	Department of Revolving Funds Amendment	Ch. 3.140	5
23-029(2)	6-6-2023	Legislative Acts Accepted by the Town	Apx. A	5
23-034	6-6-2023	Legislative Acts Accepted by the Town	Apx. A	5
23-044	6-20-2023	Heavy Commercial Vehicles Excluded	Ch. 10.10	5
23-083	12-19-2023	Legislative Acts Accepted by the Town	Apx. A	5

Zoning Ordinances

Chapter 135

ZONING ORDINANCES

[HISTORY: Adopted by the Town Meeting of the Town of Braintree. Amendments noted where applicable.]

ARTICLE I

Purpose and Definitions**[Amended 10-1992 STM by Art. 11]****§135-101. Purpose.**

This chapter is hereby established for the following purposes: to promote the health, safety, convenience and welfare of the Town's inhabitants; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, sewerage system, schools, parks, open space and other public requirements; to conserve the value of lands and buildings; to encourage the most appropriate use of land throughout the Town; to conserve natural resources; to prevent blight and pollution of the environment; and to preserve and increase its amenities.

§135-102. Definitions. [Amended 5-10-1994 ATM by Art. 50; 10-29-1996 STM by Art. 18; 5-27-1998 ATM by Art. 48; 5-16-2001 ATM by Art. 56; 10-8-2002 STM by Art. 22; 5-7-2003 ATM by Art. 36]

As used in this chapter, certain terms shall have specific meanings as defined below. Terms and words not defined herein but defined in the Subdivision Control Law¹¹⁹ shall have the meanings given therein. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, latest edition.

ACCESSORY BUILDING OR STRUCTURE — A detached building or structure which is incidental to and customarily associated with a principal use or building on the same site.

ACCESSORY USE — A use which is incidental to and customarily associated with a principal use on the same site.

ACCESS STREET — A street designated on a plan for transporting grading equipment or hauling material.

ACRE — Forty-three thousand five hundred sixty square feet.

ADDITION — Any construction which increases the size of a building or structure in terms of site coverage, height, length, width or gross floor area.

ADDRESS — The official street number assigned by the Town Engineer for a specific lot, building or portion thereof.

ADJOINING LOT — A lot or parcel of land that shares all or part of a common lot line with another parcel of land.

AGENT OF OWNER — Any person providing written verification that he/she is acting for, and with the knowledge and consent of, a property owner. (See "developer.")

AGRICULTURE, HORTICULTURE AND FLORICULTURE — Land primarily and directly used in raising animals, growing food for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, forest products or ornamental plants and shrubs to sell.

AISLE — The traveled way by which cars enter and depart parking spaces.

ALTERATION — Any change or rearrangement in the structural members of an existing building, such as bearing walls, columns, beams or girders or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another

119.Editor's Note: See MGL c. 41, § 81K et seq.

location on site.

AMUSEMENT OR ASSEMBLY, PLACE OF — An establishment including but not limited to video game arcades, bowling alleys, movie theaters, miniature golf facilities and similar activities.

ANIMAL CLINIC OR HOSPITAL — Any facility maintained or used by a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases and that provides other medical services where the animals include but are not limited to dogs, cats or other comparable household pets or other domesticated animals, where the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. Such establishment shall not allow animal boarding (day or overnight). **[Amended 6-15-2021 by Order No. 21-031]**

ANIMAL RETAIL AND ANIMAL GROOMING SERVICE — Any commercial establishment engaged in the business of operating a pet shop as defined by MGL c. 129, § 39A, and the supporting regulations and/or has retail operations that specialize in food, grooming products, toys, and other such merchandise for household pets or other domesticated animals and/or that is engaged in the washing, brushing, trimming of fur or nails, or other such cosmetic and spa services for domestic pets. Such establishments may not perform medical services or allow animal boarding (day or overnight). **[Added 6-15-2021 by Order No. 21-031]**

APARTMENT HOUSE — A multiunit dwelling consisting of three or more families living independently of each other.

ASTM — American Society of Testing Materials.

AUTOBODY SHOP — An establishment primarily engaged in the repair, painting or refinishing of body, fender or frame of motor vehicles.

AUTOMOTIVE REPAIR SERVICE — An establishment primarily engaged in the repair of automobiles, noncommercial vehicles, motorcycles, recreational vehicles or boats, including the sale, installation and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, lubrication shops and similar repair and service activities. Said uses shall not include vehicle dismantling or salvage, autobody services or the sale/dispensing of motor fuels.

AVIATION FIELD — A facility for the housing, maintenance and operation of small aircraft. In no instance shall this definition be construed to allow aircraft with more than two propellers, helicopters or aircraft powered by jet engines.

BACKFILLING — Returning a site to its existing or approved grades after land disturbance activities.

BANK — An establishment where money is stored for savings or commercial purposes or is invested, supplied for loans or exchanged.

BASEMENT — That portion of a building or structure which is partly below and partly above grade, and having at least 1/2 its height above grade.

BEDROCK — Solid undisturbed rock in place either at the ground or beneath surficial deposits of loose rock, soil, sand or gravel.

BEGINNING OF CONSTRUCTION — The start of permanent construction of a structure on a site; the pouring of slabs, footings or foundations, installation of piles, construction of columns, or any work beyond the stage of excavation. Construction does not include site preparation, such as clearing, grading, filling; excavation for a basement, footings, piers, or foundations; or the erection of temporary forms.

BENCH — A relatively level step excavated into earth material on which fill is to be placed.

BERM — A raised area used to screen a site or control runoff.

BILLBOARD — A fixed or dynamic single- or multiple-sided, freestanding sign larger than 40 square feet in gross area, which does not advertise a business or profession conducted, a service offered or a commodity sold upon the premises where such sign is located, and which is subjected to MGL c. 93, §§ 29 to 33, and the rules and regulations of the Office of Outdoor Advertising. **[Added 3-17-2015 by Ord. No. 14-066(1)]**

BOATHOUSE/MARINA — A facility located on the waterfront for storing, servicing, fueling, launching, berthing and securing pleasure boats. Said facility may include accessory retail and eating facilities for owners, crews, and guests.

BODY ART — The practice of physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine in the Commonwealth, such as implants under the skin, which shall not be performed in a body art establishment.

BODY ART ESTABLISHMENT — A place or premises where the practices of body art are performed. A body art establishment shall not be located within 1,000 feet of any school. Any body art establishment located within any shopping center shall require a special permit independent of any special permit issued for a shopping center use.

BODY PIERCING — The puncturing or penetration of the skin of a person with single-use needles and the insertion of jewelry or other adornment thereto in the opening. This definition does not include the piercing of ears.

BORROW — Earth material acquired from an off-site location for use in grading activities on a site.

BRANDING — Inducing a pattern of scar tissue by use of a heated material to the skin.

BREWERY PRODUCTION — An establishment that produces ales, beers, hard ciders, and/or other craft beverages to be consumed off-site. Retail and wholesale sales of beverages for off-site consumption are permitted in keeping with the codes and regulations of the Town of Braintree and State of Massachusetts. On-site service and consumption is allowed only for brewery production tours and tastings. **[Added 8-1-2023 by Order No. 23-041]**

BREWERY WITH TAP ROOM — An establishment that produces and packages alcoholic and nonalcoholic ales, beers, hard ciders, and/or other craft beverages to be purchased, served and consumed on-site and off-site. Retail and wholesale sales of beverages for off-site consumption is permitted in keeping with the codes and regulations of the Town of Braintree and State of Massachusetts. Brewery production tours and tastings are allowed to be served and consumed on site. Service of craft beverages must be in conjunction with and provide for the service of food (in-house or mobile). **[Added 8-1-2023 by Order No. 23-041]**

BUFFER STRIP — An area between two adjacent land uses or properties intended to separate and partially obstruct the view from one to the other. Said areas shall be maintained open, unpaved, not built upon and not used for parking or for storage of any kind.

BUILDABLE AREA — The area of a lot remaining after the minimum yard, buffer strip and open space requirements of this chapter have been met.

BUILDING — A structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers and other roofed structures on wheels or other supports used for residential, business, mercantile storage, commercial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include an awning or similar covering whether temporary or permanent in nature.

BUILDING COVERAGE — The horizontal area measured within the outside face of the exterior walls of

all principal and accessory structures and buildings on a lot.

BUILDING LINE — The line generally parallel to the street or lot line at a distance equal to the minimum setback requirement. No building or structure, or portion thereof, may be constructed outside the building line.

BUILDING PERMIT — Written permission issued by the proper Town authority for the construction, repair, alteration or addition to a structure.

BUSINESS/COMMERCIAL BUILDING — Any building or structure which is not used for a residential dwelling or essential service.

BUSINESS/PROFESSIONAL OFFICE(S) — A building or portion thereof where services, clerical work, professional duties and related activities are carried out. Services offered are on an individual basis as opposed to services performed on objects or personal property. Business/professional offices include, but are not limited to, brokerage offices, insurance offices, professional offices (i.e., accountants, engineers, lawyers, etc.), real estate offices, ticket offices and travel agencies. Business/professional offices do not include banks or "medical centers or clinics."

CATERING SERVICE — Preparation from a commercial kitchen of foodstuffs for service elsewhere.

CELLAR — That portion of a building which is partly or completely below grade and having at least 1/2 its height below grade.

CEMETERY — An area for the interment of deceased human beings.

CERTIFICATE OF OCCUPANCY — The certificate issued by the Inspector of Buildings which permits the use of a building in accordance with approved plans and in compliance with the Zoning Bylaw.

CHANGE OF USE — Any use which differs from the existing use of a building or land.

CHURCH, SYNAGOGUE AND SIMILAR USE — A building used for the purpose of religious assembly.

CLEARING — Removing the vegetative ground cover and/or trees, including, but not limited to, root or topsoil removal.

CLUB OR LODGE — A building, structure and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational or athletic purposes which are not conducted primarily for gain. For the purposes of this chapter, a yacht club shall be considered a club or lodge.

CLUSTER DEVELOPMENT — A residential development in which buildings and accessory uses are clustered together in one or more groups, separated from adjacent property by open space, or open space landscaped, as authorized by the Special Permit Granting Authority.

COMMERCIAL DISTRICT — An area included within a district zoned commercial where activities concerned with the fabrication, assembling, finishing or packaging of products are allowed. The processing or alteration of raw materials is not allowed in a commercial district.

COMMERCIAL OPEN STORAGE OF BOATS AND RECREATIONAL VEHICLES — The storage of boats and recreational vehicles in designated areas. Said areas shall be surrounded by a fence at least six feet in height.

COMMERCIAL RECREATION — Any establishment providing recreation facilities for admission or by subscription, such as health clubs, racket clubs, skating rinks, etc., whether such facilities are enclosed or not.

COMMERCIAL VEHICLE — Any motor vehicle, designed for medium or heavy use, that is 10,000 pounds' gross vehicle weight or greater.

COMMON RESIDENTIAL DRIVEWAY — An improved area providing access and egress for vehicles to parking spaces, garages, dwellings or other structures.

COMMUNITY CENTER — Recreation-oriented center or facility such as drop-in center or senior center, open to a broad public, excluding private membership clubs.

COMPACTION — The densification of soil or rock fill by mechanical means.

COMPENSATORY STORAGE — A volume of space created to replace losses in flood storage.

COMPREHENSIVE DEVELOPMENT — A housing development meeting all the requirements necessary to make said development eligible for application for a comprehensive permit under MGL c. 40B.

CONGREGATE LIVING FACILITY — A noninstitutional, shared living environment which integrates shelter and service needs for functionally impaired and older persons who can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care as provided by an institution. Each congregate unit has its own bedroom and may have a separate or shared living room, kitchen, dining area or bathroom.

CONTRACTOR YARD — Premises used by a construction contractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled or tracked equipment. Said yards shall be fenced and secured.

CONVALESCENT HOME OR NURSING HOME — An extended- or intermediate-care facility licensed and approved to provide full-time convalescent or chronic care to individuals who are unable to care for themselves.

CONVERSION OF CONVALESCENT HOME OR NURSING HOME — The change in use of an existing convalescent home or nursing home to an apartment house/two-family use.**[Added 5-10-2006 ATM by Art. 39]**

CRITICAL FACILITY — Those facilities for which even a slight chance of flooding could endanger public safety. Critical facilities include the following three categories:

- (1) Facilities such as liquefied natural gas terminals and facilities which produce and/or store highly volatile, toxic or water-reactive materials.
- (2) Hospitals, schools, nursing homes and other similar facilities where the safety of the occupants may be threatened by floodwaters.
- (3) Those facilities which if flooded would cause the loss of irreplaceable public records or cause the loss of, or disruption to, utilities or emergency services.

CUT — The changing of a grade by excavation.

DATA CENTER, COMMUNICATIONS FACILITY — The housing of equipment used in connection with a data center, data storage, telephone exchange, switching, relay or transmission purpose. Accessory office space may be included. A communication tower, if any, shall be regulated under Article XVI of the Braintree Zoning Bylaw.

DAY CARE, ACCESSORY — The daytime custodial care, for a fee, of no more than six children. Said center shall be accessory to a residential use.

DAY CARE, COMMERCIAL — The daytime custodial care, for a fee, of more than six children in a facility licensed by the commonwealth.

DEPTH OF CUT — The vertical distance of the exposed cut surface.

DEPTH OF FILL — The vertical distance of the exposed fill surface.

DETACHED — Separate from any other building or structure.

DEVELOPER — The legal or beneficial owner of a lot or parcel of land proposed for inclusion in a development, including the holder of an option or contract to purchase. (See also "agent of owner.")

DEVELOPMENT — Any man-made change to a site, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DIGITAL/ELECTRONIC BILLBOARD — An electronic message display utilizing light-emitting diodes (LEDs), plasma or other technology that presents static or multiple static advertisements on a rotating basis, freestanding, which does not advertise a business or profession conducted, a service offered or commodity sold upon the premises where such sign is located, and which is subjected to the rules and regulations of the Office of Outdoor Advertising. **[Added 3-17-2015 by Ord. No. 14-066(1)]**

DISTURBED AREA — An area where the ground cover is destroyed or removed or where grading occurs.

DRAINAGE — The removal of surface water or groundwater from land by drains, grading, or other means. "Drainage" includes the control of runoff to minimize erosion, sedimentation and flooding during or after development.

DRAINAGE AREA — The area contributing runoff water to a watercourse, drainage system or detention basin.

DRAINAGE SYSTEM — The system of inlets, conduits, channels, ditches and other man-made improvements which serve to collect and convey stormwater through and from a given drainage area.

DRIVE-UP SERVICE — Use which involves the sale of products or provision of services to occupants in vehicles.

DRIVEWAY — An improved area providing access and egress for vehicles to a parking space, garage, dwelling or other structure.

DWELLING, MULTIFAMILY — A building designed and used for the living quarters for more than two families.

DWELLING, ONE-FAMILY — A building designed or used as the living quarters for one family.

DWELLING, TWO-FAMILY — A building designed and used for the living quarters for two families.

DWELLING UNIT — Living quarters with separate access and egress, cooking facilities, sleeping accommodations and bathroom.

EAR PIERCING — The puncturing of the ear lobe with a presterilized single-use stud-and-clasp ear piercing system following manufacturer's instructions.

EARTH MATERIAL — Any soil, sand, gravel, rock, organic material, mulch cover or other natural material or fill.

EASEMENT — A right of use granted on, above, under, or across a particular tract of land by one owner to another.

ELEVATION — A vertical distance above or below a fixed reference level.

EROSION — Detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EROSION PREVENTION — Measures to prevent or minimize erosion, sedimentation and other impacts associated with construction activities.

ESSENTIAL SERVICE — The erection, construction, alteration or maintenance of systems, underground

or overhead, for distribution of gas, steam, water or communication systems or transmission of electricity by public utilities or municipal departments or commissions. Said systems may include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar installations. Buildings necessary for the furnishing of services by such services shall not be included. For the purposes of this bylaw, all wireless communication facilities as defined in § 135-1602 of this bylaw shall not be included in this definition as an Essential Service.

EXCAVATION — The mechanical removal of earth material.

FACTORY OUTLET STORE — Retail sale activity at a warehouse or manufacturing establishment, offering for sale only those goods manufactured or wholesaled from that establishment. Said activity shall not be more than 25% of the total floor area of the parent establishment.

FAMILY — One or more individuals living together and sharing sleeping, cooking and eating facilities within an individual housing unit, as distinguished from a group occupying a lodging, fraternity or sorority house, club, hotel or motel.

FAST-FOOD ESTABLISHMENT — An establishment in which 40% or more of its annual sales (projected or actual) are derived from the sale of food and beverages in a ready-to-consume state directly to a customer from a servicing counter for consumption off premises or for consumption on premises if said food or beverage is served in single service/disposal containers.

FENCE — A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary, as a means of protection or confinement or as a means of screening. A hedge or other vegetation shall not be considered a fence.

FILL — The stockpiling or depositing of earth materials on land, whether submerged or not.

FILL MATERIAL — Soil free from refuse, concrete, asphalt, construction materials, wood, wood products or by-products, wood waste, organic matter, petroleum products or by-products or substance that causes contamination; clean sand; grout or sand/grout mixtures.

FIRE LANE — An open space designated for emergency vehicles in which no building or structure may be erected and in which no other automotive vehicles may be parked.

FLOODPLAIN, FIVE-HUNDRED-YEAR — That area subject to 0.2% chance of flooding in any given year as referenced on the most recently produced Flood Insurance Study and Flood Insurance Rate Map (FIRM).

FLOODPLAIN, ONE-HUNDRED-YEAR — Any areas subject to periodic water inundation during a one hundred year storm level. See § 135-608.

FLOODPROOF — Watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

FLOODWAY — That portion of the 100-year floodplain, as referenced on the most recently produced Flood Insurance Rate Map (FIRM), which must be kept free of encroachment so that the 100-year flood can be carried with an increase in flood height of less than 1.00 foot, provided that hazardous velocities are not produced.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of the several floors of a building, excluding areas used for accessory garage purposes, and such basement and cellar areas that are devoted exclusively to activities accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures or enclosed porches.

FRONTAGE OF A LOT — A contiguous line separating a lot from a street or way to which physical

access to the principal building on the lot can be provided. (If a lot is bounded by more than one way, the frontage shall extend to the intersection of the side lines of such ways or to the middle of the curve connecting such side lines.) (See definition sketches, Appendix B.¹²⁰)

FRONTAGE REQUIREMENT — The minimum frontage required under § 135-701 of this chapter. No lot shall be allowed to have frontage on more than one way for the purposes of meeting the frontage requirements for building lots.

FULL SERVICE ANIMAL ESTABLISHMENT — Any commercial establishment that provides for any combination of animal retail, animal grooming service, animal clinic or hospital and also provides any of the following services and amenities: animal boarding (day and overnight), animal play groups, animal instruction/training/exercise programs and other animal care services, both indoors and outdoors where services are provided in exchange for a fee and the animal owner is and is not on site. This use shall not include an animal shelter or animal control facility. **[Added 6-15-2021 by Order No. 21-031]**

FUNERAL HOME — An establishment for the conducting of funerals and wakes and related activities such as embalming.

GARAGE, NONRESIDENTIAL — A building/structure or part thereof, other than a residential garage, for the storage of motor vehicles and in which vehicle maintenance activities may be carried on.

GARAGE, RESIDENTIAL — A building/structure or part thereof accessory to the main building, providing for the storage of motor vehicles and in which no occupation or business for profit is carried on. Said garage shall not exceed three parking spaces.

GARDEN CENTER — An establishment where retail and wholesale products and produce are sold. The items sold may include nursery products and stock, soil and fertilizers, light power equipment and machines, garden and farm tools and utensils. This definition shall include nurseries and greenhouses.

GOLF COURSE — A facility for the game of golf. In no instance shall this definition include miniature courses or golf driving or practice ranges.

GRADE — The elevation of the ground surface.

GRADE, EXISTING — The elevation of the ground surface at a given point prior to grading activities.

GRADE, FINISH — The elevation of ground surface at a given point after grading activities.

GRADE, NATURAL — The elevation of the ground surface in its natural state prior to any site work.

GRADING — Any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography. Grading includes but not is limited to excavating; stockpiling of fill; clearing of trees and vegetation for the purpose of constructing roads, site improvements or structures, installing utility lines or using the land in other than its natural state.

GRUBBING — The clearing of roots, stumps or other underground vegetative matter at a depth of less than 3 feet.

HAZARDOUS WASTE FACILITY — The site or works for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal or other processes where hazardous wastes can be stored, treated or disposed of; however, not including a municipal or industrial wastewater treatment facility if permitted under MGL c. 21, § 43.

HAZARDOUS WASTE TRANSFER STATION — The intermediate point in the transport of hazardous wastes where such wastes are brought, stored and transferred to vehicles for movement to other

120.Editor's Note: The sketches are included as an attachment to this chapter.

intermediate points or to the point of ultimate storage, treatment or disposal.

HEIGHT OF BUILDING OR STRUCTURE — For buildings, the vertical distance above the mean finished grade ten feet out from each face of the building to the highest point of the roof beams or trusses of a flat roof or to the top of the rafters at the ridge of a sloping roof; for other structures, the vertical distance above the mean finished grade 10 feet out from each face of the structure to the topmost part of the structure.

HELIPORT — A facility for the operation and/or maintenance of not more than three helicopters.

HIGHLY ERODIBLE SOILS — Soil map units classified as such by the Natural Resources Conservation Service.

HOSPITAL — A medical service facility where at least 50% of the total floor area is devoted to overnight medical accommodations and is licensed by the Commonwealth of Massachusetts to operate as a hospital.

HOTEL or MOTEL — A building containing rooms which are rented to be occupied on a temporary basis operating under an innkeeper license per the Massachusetts General Laws.

IMPERVIOUS SURFACE — Any man-made area that does not readily absorb or retain water.

INSTITUTION OF HISTORIC, PHILANTHROPIC OR CHARITABLE CHARACTER — A building use certified by local, state or federal agencies as to its historic importance. Also, those buildings whose use is essentially private in character but whose purpose is to benefit the general public on a nonprofit basis.

JUNK — Any old, secondhand, previously used, discarded or scrapped metals, bottles, glassware, tinware, paper bags, rubber goods, plumbing, heating and electrical equipment, fixtures and appliances, building materials, whole motor vehicles which are unregistered or, if registered, no longer fit for reconditioning for use in highway transportation, or motor or other vehicles which are wholly or partly dismantled or used parts or scraps therefrom or any other old, secondhand, used, discarded scrapped material commonly called "junk salvage material."**[Amended 5-10-2004 ATM by Art. 41]**

JUNKYARD — The use of more than four hundred square feet of the area of any lot, whether inside or outside of a building, or the use of any portion of that half of any lot which adjoins any street, for the storage, keeping of junk.

KIOSK, FREESTANDING EXTERIOR — Freestanding exterior building or structure of less than 500 square feet for drive-up or walk-up window services or retail sales.

LAND DISTURBANCE — Activities that change the physical conditions of landform, vegetation or hydrology including but not limited to clearing, grading, grubbing, excavation, filling and storing of materials.

LANDSCAPING — The use of walks, terraces, trees, shrubs, ground covers, grass and other landscape elements such as natural features. (See "open space, landscaped.")

LIBRARY — A facility for the storage of books, films, manuscripts, videos, records and similar materials whose purpose is to allow free public use of said materials.

LIGHT MANUFACTURING — The fabrication, assembling, and finishing or packaging of products and not the processing or alteration of raw materials. Such use may include office space up to 25% of the gross floor area of a facility as long as such office use is directly in support of the manufacturing activity and is located on the same site.

LOADING SPACE/BAY — An off-street space or berth on the same lot with a building or a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

LODGING HOUSE — Any dwelling or part thereof in which rooms or suites of rooms are rented for human habitation to more than three individuals. Lodging house shall not include congregate living facility, hotel or motel, hospital or convalescent home or nursing home.

LOT — A designated parcel, tract or area of land established by plan, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit.

LOT AREA — The total area within the perimeter of a lot, excluding any street or way.

LOT, CORNER — A lot or parcel of land abutting two or more streets at their intersection or abutting two parts of the same street forming an interior angle of less than 135°.

LOT COVERAGE — That portion of a lot covered by structures or impervious surfaces.

LOT DEPTH — The distance between front and rear lot lines as measured along a perpendicular bisector of the smallest possible rectangle enclosing that lot. One side of the rectangle shall be located along the street line from which frontage is derived. In the case of an irregularly shaped lot and for the purposes of this definition, the "rear lot line" shall be a line which is at least as long as the minimum frontage requirement for the district in which the lot is located, which is entirely within the lot, and which is perpendicular to the bisector. When the bisector does not touch the front lot line, the measurement shall be made from the point on the front lot line closest to the bisector. The line from that point to the "rear" lot line shall be parallel to the bisector. (See Appendix Sketch E.¹²¹)

LOT LINE — The division line between adjoining properties or streets or ways.

LOT LINE, FRONT — The dividing line between a public or private way and an adjacent lot.

LOT LINE, REAR — The lot line(s) opposite and most distant from the front lot line. In the case of a corner lot, the rear lot line shall be the lot line opposite the street line of the street on which the principal building faces. For a triangularly-shaped lot, the rear lot line is a line 10 feet in length within the lot, parallel to the front lot line or parallel to the cord of a curved front lot line and located the maximum distance from the front lot line. For other irregularly shaped lots, the rear lot line is composed of all lot lines that are parallel to, or closely parallel to, the front lot line. **[Amended 5-3-2005 STM by Art. 26]**

LOT LINE, SIDE — Lot lines connecting front and rear lot lines.

LOT WIDTH — The distance measured between side lot lines at a right angle to lot depth. (See Appendix Sketch E.¹²²)

MARINE-DEPENDENT USE — Dry docks and other facilities related to the construction, servicing, maintenance, repair or storage of vessels or other marine structures.

MEDICAL CENTER OR CLINIC — A facility for the office(s) of doctors, nurses, dentists or psychiatrists, whose primary functions are outpatient in nature.

MODULAR STORAGE — A commercial facility containing individual units which may be rented or leased by the general public for the storage of personal belongings. Said facility shall be completely enclosed with direct access to the individual units.

MOTOR VEHICLE LEASE AND SALES — Premises for the sale and/or lease of new and/or used motor vehicles. Said use may include the servicing and auto body repair of said vehicles. Said use shall not include the sale of fuel to the general public.

MUNICIPAL BUILDING — Town of Braintree public buildings, excluding garages, storage areas, repair

121.Editor's Note: The sketches are included as an attachment to this chapter.

122.Editor's Note: The sketches are included as an attachment to this chapter.

shops and gasoline dispensing facilities.

MUNICIPAL PUBLIC PARK — A municipal outdoor use as a public playground, public recreation center or area, and other public areas, created, established, designated, maintained, provided or set aside by the Town of Braintree separate from any other use located on a lot of any size, for the purposes of public rest, play, recreation, enjoyment or assembly, and all parking located thereon or therein. The Town of Braintree may construct or place one building with a footprint of no more than 1,000 square feet for purposes of providing public restrooms. **[Added 8-10-2011 by Ord. No. 11-032]**

MUSEUM — A use which entails the display of educational, scientific, or historic and similar materials (including the structure itself) open to the public, and nonprofit in its operation.

NONCONFORMING STRUCTURE — A building, structure or improvement which does not comply with the regulations for its zoning district but which complied with the zoning regulations at the time of its construction.

NONCONFORMING USE — The use of any building, structure or land, other than a sign, that does not conform to the regulations for its zoning district, provided that such use was in existence and lawful at the time the applicable provisions of this or prior zoning bylaws became effective.

OFFICE PARK — Business/professional office(s) having 50,000 square feet or greater of gross floor area, the site of which is under common management. The business/professional office(s) may be located in single or multiple structures and may be located on single or multiple contiguous lots. An area equal to no more than 5% of the gross floor areas may be used for accessory activities such as retail, cafeterias and fitness centers to service on-site uses.

OPEN SPACE — Undeveloped land maintained in a natural state.

OPEN SPACE LANDSCAPED — The parts of a lot designed and developed for pleasant appearance with landscaped elements and walks and terraces designed for nonvehicular use. Such space may not include lot area used for parking, access drives, other hard-surface areas and walks and terraces that are in excess of 50% of the total required open space.

ORGANIC MATERIAL — The top matted and partially decomposed soil surface layer, which contains a high percentage of organic matter.

OVERLAY DISTRICT — A district established by this chapter which prescribes additional regulations to be applied in conjunction with the regulations for the base zoning district.

PARKING FACILITY — An area on a lot which includes five or more parking spaces along with provisions for access, circulation, maneuvering and landscaping.

PARKING FACILITY, COMMERCIAL — A building or lot or any part thereof for the storage of licensed motor vehicles for a fee. No service station activities may be carried on in said facility. Off-site parking authorized under § 135-805B shall not be defined as a commercial parking facility.

PARKING SPACE — An area, exclusive of ramps or columns, used exclusively for temporary storage of one motor vehicle. Truck loading/unloading space shall not be considered a parking space.

PARKING STRUCTURE — A building or structure or part thereof providing for four or more parking spaces, along with provision for access, circulation and maneuvering.

PERIMETER — The boundaries or borders of a lot, tract, or parcel of land.

PERMIT GRANTING AUTHORITY — The Zoning Board of Appeal.

PERMITTED USE — A use of land allowed as a matter of right in a zoning district, subject only to special requirements of this chapter.

PLANNED UNIT DEVELOPMENT — A mixed-use development that contains at least two of the following: residential use, business use, commercial use and open space as authorized by the Special Permit Granting Authority.

PREEXISTING USE — The use of land legally existing at the enactment of this chapter and subsequent amendments.

PRINTING FACILITY — A commercial facility of 10,000 square feet or more for designing and reproducing written, typed or graphic materials.

PRODUCTION STUDIO — A full-service enterprise offering the entire range of production and post-production services necessary to create a motion picture and all other forms of movie, television and streaming material, including costumes, props, cameras, sound recording, crafts, sets, lighting, special effects, dressing and bathing facilities and food service. **[Added 8-1-2023 by Order No. 23-041]**

PUBLIC HEARING — An open meeting, advertised and held in accordance with the provisions of the Massachusetts General Laws.

PUBLIC UTILITY OR PUBLIC WORKS STORAGE YARD OR REPAIR SHOP — A Town, state or federal facility for the storage and maintenance of vehicles and/or equipment.

QUARRY OPERATION — Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, excavated, blasted, uncovered, removed, displaced, relocated, bulldozed or dredged for commercial purposes for removal from the site.

RECREATIONAL VEHICLE — A unit which may be driven, towed or mounted on a motor vehicle and which functions as temporary living quarters for people while camping or traveling. For the purpose of this definition, snowmobiles, boats, and off-the-road vehicles shall be considered recreational vehicles.

REGISTERED PROFESSIONAL ENGINEER (RPE) — An individual registered as a civil engineer with the Board of Registration of Professional Engineers and of Land Surveyors as described in MGL c. 112, § 81-D.

RESEARCH FACILITY — Premises used for scientific research and/or development of technical processes and/or products.

RESTAURANT — A building or portion thereof containing a kitchen and tables and/or booths which is used for the sale and consumption of food on the premises. The term "restaurant" shall not include "fast-food establishment."

RETAIL STORE(S) AND SERVICE(S) — Commercial enterprise that provides goods and/or services directly to the consumer where such goods and services are available for immediate purchase and immediate use on or removal from the premises by the purchaser. Such uses may include barbershops, beauty and hairdressing shops, drugstores, florist shops, food stores, furniture stores, home appliance stores for retail sales, laundromats, copy centers, newsstands, photographic studios, shoe repair shops, tailor shops, upholstery shops, variety stores, gift shops and antique shops.

RETAINING WALL — A wall, two feet or greater in height, designed to withstand lateral and hydrostatic pressures and built to keep earth from sliding.

RIDING STABLE/ACADEMY — An establishment for the housing and maintenance of horses and ponies. Said establishment may also include riding trails, courses or tracks.

ROD AND GUN CLUB — A facility for the controlled use of firearms, including bows and arrows, which provides target ranges and associated buildings.

SCARIFICATION — Altering skin texture by cutting the skin and controlling the body's healing process

in order to produce wounds, which result in permanently raised wheals or bumps known as "keloids."

SCHOOL — A facility for general education which meets all local, state, and federal licensing and certification requirements.

SCREENING — The method by which the view of one site is shielded, concealed from another site. Screening techniques include fences, walls, hedges, berms or landscape features.

SERVICE STATION — An establishment used for the sale of motor fuel directly to the public which may include facilities for the repair and maintenance of motor vehicles and engines.

SETBACK — The distance from a lot line to a structure.

SHED — A small accessory building used for the storage of tools and materials related to on-site maintenance.

SHOPPING CENTER — A group of retail, service and/or consumer-oriented establishments having 80,000 square feet or greater, the site of which is under common management. The establishments may be in single or multiple structures and may be on single or multiple contiguous lots.

SHOPPING CENTER, REGIONAL — A shopping center having in excess of 500,000 square feet of gross floor area.

SIGN — Any permanent or temporary structure, billboard, devices, letter, word, illuminated fixture, electric bulb, tube or similar contrivance, medal, banner, pennant, insignia, flag or any other representation used as or which is in the nature of an advertisement, announcement, attraction or direction which is on a public way or on private property within public view of a public way, public park or reservation.

SITE — A lot or street right-of-way or contiguous combination thereof under the same ownership.

SITE PLAN — A plan prepared in accordance with the requirements of § 135-711 of this chapter.

SLOPE — Incline of ground surface expressed as a ratio of horizontal to vertical distance.

SOIL — Earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock that can be excavated readily by mechanical equipment.

SOLID WASTE DISPOSAL FACILITY — A facility for the disposal of solid waste materials, excluding toxic or hazardous materials.

SPECIAL FLOOD HAZARD AREAS (SFHA) — Those areas designated on the July 17, 2012, Flood Rate Insurance Maps (FIRM) subject to flooding by the one-percent annual chance flood. Areas of special flood hazard include Zones A, AE, and VE. **[Added 8-14-2012 by Ord. No. 12-030R]**

SPECIAL PERMIT GRANTING AUTHORITY — The Braintree Planning Board.

STOCKPILE — The storage of uncompacted earth material.

STORMWATER RUNOFF — The direct runoff of water resulting from precipitation in any form.

STORY — That portion of a building or structure included between the surface of any floor and the upper surface of the floor or roof next above.

STORY ABOVE GRADE — Any story having its finished floor surface entirely above grade. A basement shall be considered a story above grade when the distance from the exterior grade to the finished surface of the floor above is more than six feet for more than 50% of the total perimeter.

STREET or WAY —

(1) (1) Any way accepted by Town Meeting;

- (2) (2) Any way shown on a plan approved under the provisions of the Subdivision Control Law¹²³ and which has been constructed in accordance with the Subdivision Plan; **[Amended 5-3-2005 STM by Art. 25]**
- (3) (3) Any private way in existence when the provisions of the Subdivision Control Law became effective and, in the opinion of the Planning Board, having suitable grades and being adequate for the uses of land which it serves, including the installation of municipal services for such land. For the purpose of Article IX, Signs, the word "street" shall mean any way to which the public has a right of access.

STRUCTURE — Anything constructed or erected on the ground, including signs, billboards and swimming pools, but not including masonry walls under six feet in height used as fences.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, or alteration of a structure, the cost of which equals or exceeds 50% of the replacement value of the structure either before the alteration or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The calculation of "substantial improvement" shall include the value of all work performed on the structure within the past five years.

TATTOOING — Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

TERRACE — A relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

TOPSOIL — The weathered surface soil, usually including the organic layer, in which plants have most of their roots.

TOXIC OR HAZARDOUS MATERIALS — Toxic and hazardous materials are those substances identified as being toxic or hazardous under the provisions of MGL c. 21.

TRAINING SCHOOL — A school for instruction in a particular skill or craft.

TRANSPORTATION TERMINAL — Any facility such as a bus or rail terminal or any facility such as, but not limited to, railroad yards and truck terminals which are used primarily for the distribution or transshipment of goods.

TWO-FAMILY CONVERSION — The change in use from single-family to two-family of any dwelling existing on June 18, 1940, which contains more than six rooms, exclusive of halls and bathrooms, provided that the living space of such building has not been enlarged during the ten-year period prior to application and will not be enlarged for a ten-year period subsequent to permitting a two-family use. **[Amended 5-10-2004 ATM by Art. 43]**

USE — The purpose for which land, building or structure is arranged, designed or intended, or for which a lot of land, a building or a structure is or may be occupied or maintained.

WAREHOUSE — A fully enclosed building used for the storage of materials and/or equipment.

WATER BODY — Permanent or intermittent bodies of water including creeks, streams, ponds, rivers, lakes, drainage channels and wetlands.

WETLANDS — As defined in MGL c. 131, § 40, and/or Chapter 132 of the Braintree Bylaws.

YARD — The space between a lot line and building line.

123. Editor's Note: See MGL c. 41, § 81K et seq.

YARD, FRONT — An open, unoccupied space on the same lot with a building, extending the full width of the lot and situated between the street line and the front line of the building projected to the sidelines of the lot.

YARD, REAR — An open, unoccupied space on the same lot with a building between the rear of the building and the rear line of the lot projected to the sidelines of the lot.

YARD, SIDE — An open, unoccupied space on the same lot with a building, situated between the building and the sideline of the lot and extending from the front yard to the rear yard.

ZONING DISTRICT — A designated specified land use classification, within which all sites are subject to a unified group of use and site development regulations as set forth in this chapter.

ARTICLE II

Administrative Provisions**[Amended 10-1992 STM by Art. 11; 5-11-1994 ATM by Art. 56]****§135-201. Building Inspector.**

- A. Except as otherwise herein provided, this chapter shall be administered and enforced by the Building Inspector. The Building Inspector shall issue no permit unless the plans, specifications and intended use of the premises comply in all respects with the provisions of the Braintree Zoning Bylaw.
- B. Every application for a building permit shall be accompanied by a plot plan showing:
 - (1) The dimensions and area of the lot;
 - (2) The structures to be erected; and
 - (3) The location of all ways adjacent to the lot.

Plot plans will show accurate distances from all lot lines and ways; existing and proposed street grades; existing and proposed contours at two-foot intervals; all wetlands; provisions for adequate drainage; the location of existing sewers, gas, water and other utilities in the street; the location of existing buildings on the lot; and the location of all easements. Each such plan shall be certified by a registered professional engineer or a registered land surveyor.

- C. Upon completion of the foundation, a registered land surveyor or registered professional engineer shall certify the location of the foundation as constructed. This certification shall be submitted to the Building Inspector for his approval before construction is resumed.
- D. No construction shall start prior to issuance of a building permit. No building shall be occupied or used until an occupancy permit has been issued by the Building Inspector. Said permits shall not be issued until the building and its uses comply fully with this chapter and the rules and regulations of other boards or agencies having jurisdiction.
- E. The Building Inspector shall review the progress of work from time to time to ensure compliance. If he concludes that there has been a violation of this chapter, he shall send to the offender a notice ordering a cessation of improper activities. Said notice shall be sent by registered or certified mail to the address stated on the initial application. If the offender holds a permit issued under this chapter, such permit may be revoked according to law. If a permit holder or other offender persists in such violation, the Building Inspector shall seek the imposition of the penalties authorized by MGL c. 40A.
- F. The Building Inspector shall act upon all written requests to enforce this chapter. Within 14 days of receipt of such request, the Building Inspector shall provide to the party requesting enforcement written notification of any action, or refusal to act, and the reasons for the decision.
- G. Every application for a building permit for a new single-family or new multifamily residential dwelling shall include the sill elevation of the proposed structure(s) and sufficient information to

delineate the elevation of the sill and basement of the proposed structure(s) in relation to the grade of all abutting ways. All elevations of the proposed structure(s) as referenced above must be approved by the Town Engineer prior to the issuance of a building permit.

§135-202. Appeals to the Zoning Board of Appeal (for variance see § 135-406).

- A. Based on the provisions of this chapter, a person aggrieved by the refusal of the Building Inspector to issue a building or occupancy permit or by the issuance of a building or occupancy permit to another may appeal the Building Inspector's action by filing a written claim of appeal to the Zoning Board of Appeal. Said appeal shall be filed with Town Clerk within 30 days of the Building Inspector's action.
- B. The Zoning Board of Appeal shall hold a public hearing to review the Building Inspector's action in accordance with the provisions of MGL c. 40A, § 15. The Zoning Board of Appeal shall give notice as required by the MGL.
- C. The Zoning Board of Appeal shall not take final action on an appeal until the Planning Board has submitted to the Zoning Board of Appeal a written report with recommendations on the matter or until the expiration of 30 days from the date of notice to the Planning Board.

§135-203. Special permits and site plan reviews (see Article V).

The Planning Board, in addition to its duties under the Municipal Planning and Subdivision Control Law, MGL c. 41, shall also be responsible for acting on special permits and site plan reviews as required under the Braintree Zoning Bylaw.

§135-204. Zoning Board of Appeal.

The Zoning Board of Appeal shall consist of three members and two associate members appointed as provided in MGL c. 40A, § 12. The Zoning Board of Appeal shall be responsible for hearing appeals of zoning decision(s) of the Building Inspector, acting on requests to modify or alter preexisting nonconforming structures, acting on requests for variances from the bulk and dimensional requirements of this chapter, and the issuance of earth removal permits, as authorized under this chapter.

§135-205. Repetitive petitions.

- A. Any petition for a variance or application for a special permit may be withdrawn, without prejudice, prior to the publication of the notice of public hearing. After publication of the notice of public hearing, a petition for variance or special permit may be withdrawn without prejudice only with the approval of the special permit granting authority (SPGA) or the permit granting authority (PGA).
- B. Any appeal, application or petition which has been denied by the SPGA or PGA shall not be acted favorably upon within two years after the date of denial unless:
 - (1) A minimum of four members of the Planning Board consents; and
 - (2) The PGA finds by unanimous vote or the SPGA finds by a vote of at least four members that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the recording of its proceedings.
- C. The actions of the boards identified above may occur only after notice is given to parties of interest of the time and place of the meeting at which the petition will be considered.

§135-206. Disposition of violations.

- A. Criminal complaint. Whosoever violates any provision of these bylaws may be penalized by indictment or criminal complaint brought in the District Court. The penalty shall be not less than \$50 nor more than \$100 for each offense. Each day that willful violation continues shall constitute a separate offense.
- B. Noncriminal disposition. Whosoever violates any provision of these bylaws may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D, as the same is now or may hereafter be amended or supplemented. The specific penalties listed herein shall apply in such cases and the Building Inspector and his assistants, the local inspector and his assistants or persons serving the functions of same shall be enforcing persons for such violations. Each day which any violation or offense continues shall be deemed to be a separate violation or offense. Nothing contained herein shall be deemed to require the use of the noncriminal disposition method. At the option of the enforcement officer, criminal and/or civil action may also be utilized. The penalty shall be \$50 for each violation or offense.

§135-207. Notification of parties in interest.

Whenever any applicant or petitioner before any board or commission pursuant to these Zoning Bylaws is required to provide notice to parties in interest, said parties in interest shall be limited to those defined in MGL c. 40A, § 11 and to specific parties such as schools, churches, and hospitals, where applicable.

ARTICLE III
General Regulatory Provisions
[Amended 10-1992 STM by Art. 13]

§135-301. Districts established. [Amended 5-6-2002 STM by Art. 10; 3-17-2015 by Ord. No. 14-066(2); 2-7-2023 by Order No. 22-073; 12-19-2023 by Order No. 23-076(1); 11-19-2024 by Order No. 24-034]

For the purpose of this chapter, the Town is hereby divided into use districts, as hereinafter provided. The boundaries of these districts are hereby established as shown on the Town's Zoning Map, dated December 10, 1986, as revised, and on file in the office of the Town Engineer. This map is by reference incorporated into and made a part of this chapter. Any changes in the number of districts or in district boundaries shall be noted on the Zoning Map as each such change is adopted through a Zoning Bylaw amendment. It shall be the responsibility of the Planning Board to update this Zoning Map. The districts are as follows:

Residence A Districts

Residence B Districts

Residence C Districts

Billboard Zoning Overlay District

General Business Districts

Highway Business Districts

Highway Business Retail Districts

Commercial Districts

Fire Protection Districts

Floodplain Protection District (§ 135-608)

Watershed Protection District (§ 135-609)

Open Space and Conservancy Districts

Cluster I (§ 135-610)

Cluster II (§ 135-610)

Cluster III (§ 135-610)

Planned Unit Development (PUD) (§ 135-612)

Historic District

MBTA Communities Multi-Family Overlay Districts (MCMOD) (§ 135-616)

Village Zoning Overlay District, superimposed on selected portions of the existing General Business Zoning District and centered around the intersections of Pearl, Hancock and Washington Streets in South Braintree Square and Elm and Washington Streets in Braintree Square

Mixed Use Planned Unit Development District (§ 135-617)

§135-302. Use and structures to comply with density and use requirements.

- A. No building, structure, premises or part thereof shall be used or occupied in whole or in part except in conformity with the regulations specified for the district in which it is located.

- B. No building, structure, premises, or part thereof shall be erected, moved, placed, reconstructed, enlarged or otherwise altered except in conformity with the zoning requirements for the district in which it is located.

§135-305. Construction to commence or be subject to zoning amendments.

Any alteration, construction or operation allowed by building permit or special permit under this chapter shall conform to any amendment of this chapter unless construction or operation is commenced within a period of six months of the issuance of the permit and construction is continued through to completion as continuously and expeditiously as is reasonable.

§135-306. Lots in more than one district.

When a boundary line between use districts, height districts or area districts, as established by this chapter and the Town's Zoning Map, divides a lot in single ownership on the effective date of this chapter, the requirements applying to the least restricted portion of such lot shall be considered as applying to the entire lot, provided that the most restricted portion of such lot is entirely within 150 feet of the district dividing boundary line. The use so extended shall be deemed to be conforming.

ARTICLE IV
Nonconforming Structures and Uses; Variances
[Amended 10-1992 STM by Art. 14]

§135-401. Permit granting authority.

For the purpose of this chapter, the Braintree Zoning Board of Appeal shall be the permit granting authority for the issuance of zoning variances and for authorizing alterations or changes to preexisting nonconforming structures.

§135-402. Continuation of nonconforming structures or uses.

Any use of land, building or structure, existing and lawful at the time of the original adoption of the Town's Zoning Bylaw or the adoption of subsequent amendments, which does not conform to the current requirements for the district in which such land, building or structure is situated may be continued except as hereinafter provided. Signs shall not be permitted as a nonconforming use.

§135-403. Alterations or reconstruction of nonconforming structures or uses.

- A. Preexisting nonconforming structures and structures containing a nonconforming use may be extended or altered only if there is a finding by the Zoning Board of Appeal (permit granting authority) that such extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use. The proposed extension or structural change must itself comply with the Zoning Bylaw.
- B. In the event a nonconforming structure or a building or structure containing a nonconforming use is damaged or destroyed in whole or in part by fire or other casualty, it may within two years of the date of the demolition permit be replaced by a building or structure to be used for the same purpose as the one destroyed. The building or structure reconstructed shall not exceed in cubic content or footprint that of the original building. The use resumed shall begin within one year of the completion of such replacement or reconstruction. "Original building or structure," for the purpose hereof, shall be deemed to be the building or structure legally existing at the time of destruction. **[Amended 5-3-2005 STM by Art. 27]**
- C. Nonconforming one- and two-family dwellings shall be allowed, as a matter of right, extensions or structural changes which meet all current zoning requirements for setbacks, building coverage, lot coverage, height and use for a district in which they are located. **[Amended 5-3-1993 ATM by Art. 38]**

§135-404. Abandonment.

In the event a nonconforming building or structure is not used or a nonconforming use is not exercised for a period of two years, the right to maintain such nonconforming building or structure or to carry on such nonconforming use shall be deemed to have been abandoned and extinguished. Thereafter, the premises shall be subject to all regulations applying to the zoning district in which it is located.

§135-405. Reversion to nonconforming status prohibited.

If a nonconforming structure or use or part thereof is changed to a conforming structure or use, no reversion to the nonconforming status shall be permitted.

§135-406. Variances.

- A. When, in its judgment, the public welfare and convenience will be substantially served and where the status of the neighborhood will be improved, the Zoning Board of Appeal (permit granting authority) may, after a public hearing and subject to such terms and conditions as it may impose, vary the application of this chapter as follows: Allow variance from the applicable provisions of this chapter if the permit granting authority finds that a literal enforcement of the provisions of this chapter would involve substantial hardship to the petitioner, financial or otherwise, owing to site-specific soil conditions, shape or topography of land or structures which do not generally affect the zoning district in which it is located and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.
- B. The Zoning Board of Appeal (permit granting authority) shall hold a public hearing in accordance with the provisions of MGL c. 40A. The Zoning Board of Appeal (permit granting authority) shall give notice as required by MGL.
- C. If the rights authorized by a variance are not exercised within one year of the date of granting of such variance, such rights shall lapse. However, the permit granting authority in its discretion and upon written application by the grantee may extend the time to exercise such rights for a period not to exceed six months. The application for such extension shall be filed with the permit granting authority prior to the expiration of the one-year period. If the permit granting authority does not grant such extension within 30 days of the date of application for extension, the extension shall be deemed denied.
- D. No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located. However, such variances properly granted prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.¹²⁴

124. Editor's Note: Former Subsection E, which required a Planning Board report prior to final action by the Zoning Board of Appeal and immediately followed this subsection, was repealed 12-7-2021 by Order No. 21-054.

ARTICLE V
Special Permits
[Amended 10-1992 STM by Art. 15]

(See also §§ 135-601, 135-608, 135-609, 135-610, 135-611, 135-612 and 135-711 and Article XIV.)

§135-501. Special permit granting authority (SPGA). [Amended 7-9-2018 by Order No. 18-029(1)]

The special permit granting authority (SPGA) shall be the Braintree Planning Board. The Planning Board shall consist of five members and one associate member, appointed by the Mayor, as provided by Section 2.770.010 of the General Ordinances. The Planning Board Chair shall designate the associate member to sit on the Planning Board for the purpose of acting on a special permit application or site plan review in the case of absence, inability to act, or conflict of interest on the part of a member of the Planning Board, or in the event of a vacancy on the Planning Board.

§135-502. Site plan review requirement.

All applications for special permit shall include a site plan review per § 135-711 of Braintree Zoning Bylaw.

§135-503. Special permit procedures.

- A. In every instance where it is provided that a specific use of land or building requires approval by the special permit granting authority (SPGA) and such approval is given, the Building Inspector shall issue a permit for such use, subject to the terms and conditions by which the SPGA has qualified the approval.
- B. No special permit shall be approved or issued, however, for the use of the premises for a commercial garage, automobile service station, billiard or pool room, skating rink, dance hall or amusement park, if any portion to be so used is within 300 feet of any portion of a premises devoted directly to church or school use.
- C. Application for special permit(s) shall be acted upon by the SPGA only after notice and advertisement as required by MGL c. 40A, § 9 have been given. The SPGA shall conduct a public hearing on an application within 65 days of the date of application and shall render a decision within 90 days of the close of the public hearing. Constructive approval shall be deemed to be granted if the SPGA does not act upon said application within 90 days of the close of the public hearing.
- D. Approval of special permit(s) shall require the affirmative vote of at least four members of the SPGA.
- E. A special permit granted under this section shall lapse at the end of two years if, except for good cause, a substantial use has not commenced or if construction has not begun. The two-year period shall commence with the filing of the special permit decision with Town Clerk and shall not include such time required to pursue or await the determination of an appeal from the granting thereof.
- F. No special permit shall take effect until:
 - (1) The Town Clerk certifies on a copy of the decision that 20 days have elapsed and no appeal has been filed; and
 - (2) The certified decision has been recorded in the Registry of Deeds.

- G. Where, in the opinion of the SPGA, an independent engineering evaluation is needed to assist the SPGA in rendering its decision, the evaluation shall be at the expense of the petitioner.
- H. An application for special permit shall not be accepted unless it includes the following:
- (1) Two original copies of the application for special permit;
 - (2) Eleven copies of the plan set, including the site plan, grading plan, signage, building elevations and typical floor plan;
 - (3) Application fee;
 - (4) A written statement responding to the criteria set forth in Subsection I of this section; and
 - (5) A Form D (abutters list) certified by the Town Assessors' office.
- I. The SPGA shall not render a decision on an application for a special permit until it has made its findings. Said findings shall include but not be limited to the following: (These criteria do not apply to applications reviewed solely under § 135-711; the Board shall consider the additional criteria in §§ 135-910-01 through 135-910-05 when considering applications for billboards of any type.) **[Amended 3-17-2015 by Ord. No. 14-066(3)]**
- (1) The proposal for special permit shall be in harmony with and shall not derogate from the general purpose and intent of the Braintree Zoning Bylaw.
 - (2) There shall be adequate ingress and egress to the property and proposed structures with particular reference to automotive and pedestrian safety and convenience, off-street parking and loading, traffic flow and control, access in case of fire or catastrophe, and the capacity of public roads to support the added traffic safely.
 - (3) The proposed use shall not create any danger or pollution to public or private water facilities. The SPGA shall consider the adequacy of the methods of drainage at the proposed site and the public water and sewer systems serving the site. No excessive demand shall be imposed on the water system.
 - (4) The project shall conform to the signage, lighting and environmental standards set forth in this chapter. In particular, the SPGA shall review the project with regards to off-site impacts from glare, noise, vibration, smoke, heat and odor.
 - (5) The site plan shall provide for refuse collection or disposal and service areas, with particular reference to items in Paragraphs (2) and (3) above.
 - (6) The site plan shall provide for screening and buffering.
 - (7) The site plan shall provide yards and other open space as required by this chapter.
 - (8) The SPGA shall review for economic effect on and general compatibility and harmony with adjacent properties and other property in the district.
- J. Reference to other boards. Within 10 days after receipt of the application for a special permit, the SPGA shall transmit copies of the application with the accompanying plan(s) to all appropriate Town boards and commissions. Such boards and commissions shall review the application and report in writing their recommendations to the SPGA. The SPGA shall not take final action on such application until it has received reports from the boards and commissions or until 35 days have elapsed after

receipt of said application without the submission of a report.

§135-504. Accessory uses for scientific research and development authorized as special permit.

The special permit granting authority (SPGA) may issue a special permit for construction of facilities to be used for scientific research and scientific development on a separate lot as an accessory use to a related production operation on another lot in the Town, provided that this accessory use does not substantially derogate from the public good.

ARTICLE VI
Permitted Uses in Districts

§135-601. Table of Principal Uses.

(Editor's Note: The Table of Principal Uses is now located at the end of this chapter.)

§135-602. Accessory uses; conditions.

Accessory uses shall be such that they do not alter the character of or impair the neighborhood. They shall be on the same lot with the principal use. (See definition, § 135-102.)

§135-603. Permitted accessory uses in residential districts.

- A. There shall be permitted as accessory uses a garage for not more than three cars, a shed and a swimming pool. Other buildings or structures may be authorized by the special permit granting authority (SPGA).
- B. It shall be permitted for a household to park on its driveway one registered motor vehicle per household, plus one registered motor vehicle per household resident having a valid driver's license. Each vehicle shall be 10,000 pounds gross weight or less.
- C. The outdoor storage of one unregistered motor vehicle (not defined as junk) with a valid inspection sticker for a period not to exceed 90 days within one calendar year. **[Added 5-10-2004 ATM by Art. 38]**
- D. The storage of one of the following items registered to the address of the site on which it is stored—one camper, one recreational vehicle, or one registered boat on a trailer—and no longer than 35 feet in length, provided that said storage is not located closer than 10 feet from a front lot line and five feet from a side lot line. **[Added 5-10-2004 ATM by Art. 38]**

§135-604. Uses not considered accessory in residential districts (not allowed). [Amended 5-27-1998 ATM by Art. 40; 5-10-2004 ATM by Art. 39]

- A. The parking or storage of more than one commercial motor vehicle registered or unregistered.
- B. The accommodation of, or the renting of space to, more than three lodgers, boarders or paying guests.
- C. Roadside stands.
- D. An advertising sign, except a temporary real estate sign less than four square feet advertising the property on which it is placed.
- E. The outdoor storage at any time of parts or bodies of motor vehicles.
- F. The outdoor storage of "junk," as defined in § 135-102.
- G. Common driveways are not allowed for more than two lots, except for cluster or multifamily developments.

§135-605. Accessory uses in business and commercial districts. [Amended 5-3-1993 ATM by Art. 40; 10-29-1996 STM by Art. 20]

- A. Exterior kiosks shall not be considered accessory uses.
- B. Drive-through windows shall not be considered accessory uses. They shall be considered part of the principal use.
- C. Accessory uses shall not adversely impact the flow of traffic on or off site.
- D. Billboards shall not be considered an accessory use. **[Added 3-17-2015 by Ord. No. 14-066(5)]**

§135-607. Establishment of fire districts.

- A. To assure protection from damage by fire, the Town of Braintree is hereby divided into two fire districts. Said districts shall be superimposed over existing zones and shall be shown on Zoning Maps.
- B. The following fire districts are hereby established:
 - (1) Fire District No. 1.
 - (a) North by a line from Ivory Street to Franklin Street, through Union Place and Central Avenue, westerly by Franklin Street and Washington Street to Plain Street, southerly by Plain Street to Ivory Street Extension, easterly by Ivory Street to the point of beginning.
 - (b) Southerly by a line from Washington on Church Street to Conrail Tracks to Clark Street, easterly by Clark Street across Washington Street, to a point on Hollis Avenue 100 feet west of Washington Street, northerly by a line 100 feet west of and parallel to Washington Street to the point of beginning.
 - (c) North by the Penn Central tracing, easterly by Smelt Brook and Weymouth line, southerly by a line 200 feet south of and parallel to Commercial Street, westerly by Peregrine Road and a line from the junction of Peregrine Road and Commercial Street to the junction of Shaw Street and the railroad.
 - (2) Fire District No. 2. All areas not included in Fire District No. 1.

§135-608. Floodplain Protection District. [Amended 5-3-2004 STM by Art. 18; 5-3-2004 STM by Art. 19; 8-14-2012 by Ord. No. 12-030R; 2-7-2023 by Order No. 22-073; 4-30-2024 by Order No. 24-016]

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

- A. Purpose. The purpose of the Floodplain Protection District is to:
 - (1) Protect the health and safety of persons and property against 100-year-frequency flooding and the hazard of water inundation;
 - (2) Eliminate new hazards to emergency response officials;
 - (3) Control 100-year-frequency flooding and regulate the development of land and the construction of buildings and structures within the district;
 - (4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.

B. Definitions. For the purpose of this section, the following terms shall have the meanings indicated:

CRITICAL FACILITY — Those facilities for which even a slight chance of flooding could endanger public safety. Critical facilities include the following three categories:

- (1) Facilities such as liquefied natural gas terminals and facilities which produce and/or store highly volatile, toxic or water-reactive materials.
- (2) Hospitals, schools, nursing homes and other similar facilities where the safety of the occupants may be threatened by floodwaters.
- (3) Those facilities which if flooded would cause the loss of irreplaceable public records or cause the loss of, or disruption to, utilities or emergency services.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [44 CFR Part 59]

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

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

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [44 CFR Part 59]

HISTORIC STRUCTURE — Is any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) by an approved state program as determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in states without approved programs. [44 CFR Part 59]

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

RECREATIONAL VEHICLE — Means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [44 CFR Part 59]
- (5) For the purpose of this definition, snowmobiles, boats, and off-the-road vehicles shall be considered recreational vehicles.

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [44 CFR Part 59]

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

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation. [44 CFR Part 59]

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [44 CFR Part 59]

C. Definitions of flood zones.

ZONE A — An area of special flood hazard without water surface elevations determined.

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

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

ZONE AH — Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between one and three feet, and with water surface elevations determined.

ZONE AO — Area of special flood hazards having shallow water depths and/or unpredictable flow paths between one and three feet. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE V — Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

ZONE V1-30 and ZONE VE — Area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area).

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

- D. Disclaimer. The degree of flood protection required by this section is considered reasonable but does not imply total flood protection.
- E. Severability. If any section, provision, or portion of this section is deemed to be unconstitutional or invalid by a court, the remainder of the section shall be effective.
- F. Designation. The Town of Braintree hereby designates the position of Director of Planning and Community Development, or their designee within the Department, to be the official floodplain administrator.
- G. Floodplain District.
 - (1) The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Braintree designated as Zone A, AE, AH, AO, A99, V, or VE on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 6, 2021, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 6, 2021, or most recently enacted map as amended. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning and Community Development Department (Planning Board and Conservation Commission), Department of Municipal License and Inspections, and the Department of Public Works - Engineering Division.
 - (2) In the absence of Subsection G(1) above and if the SPGA determines that flooding exists the Floodplain Protection District boundary shall be 50 feet from any wetlands as defined in MGL c. 131. Wet meadows, marshes, swamps or bogs that have an area less than 1,000 square feet shall be exempt from this section.
 - (3) In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data, current or projected, available from a federal, state, or other source as criteria for requiring new

construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

- (4) In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (5) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Braintree's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (6) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

H. Uses.

- (1) For the purpose of this section, the Floodplain Protection District shall be considered to be overlaid on the other zoning districts.
- (2) No permit shall be issued for the construction of a critical facility within the special flood hazard areas (SFHAs) and/or 500-year floodplain.
- (3) In the Floodplain Protection District, no building or structure shall be constructed, improved, altered or modified and no land shall be filled, excavated or otherwise changed in grade except pursuant to a special permit authorized by the SPGA. An alteration to an existing structure which does not affect flood storage or the floodway, as determined by the Planning staff, shall not require a special permit under this section as determined by the Director of Planning and Community Development or the SPGA. The Town of Braintree shall require a Building Permit from the Department of Municipal License and Inspection - Building Division, for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- (4) All new buildings built on fill must be:
 - (a) Constructed on properly designed and compacted fill (e.g., ASTM D-698 or equivalent); and
 - (b) Fill extends at least five feet beyond the building walls before dropping below base flood elevation; and
 - (c) The fill has appropriate protection from erosion and scour.
- (5) Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

- (6) All new construction within Zone VE must be located landward of the reach of mean high tide.
- (7) All subdivision proposals must be designed to assure that:
 - (a) Such proposals minimize flood damage;
 - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - (c) Adequate drainage is provided to reduce exposure to flood hazards.
- (8) When proposing subdivisions or other developments greater than 50 lots or five acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

I. Application for special permit and exceptions.

- (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.
- (2) Development occurring in any jurisdictional floodplain areas located in any of the four MBTA Communities Multi-Family Overlay Districts (MCMOD), § 135-616, shall not be subject to the filing of a special permit and will be reviewed for compliance with § 135-608 as part of the site plan review process.
- (3) In addition to the submission requirements stipulated in Article V, the plan(s) submitted shall show:
 - (a) The location dimensions and elevation, based on North American Vertical Datum (NAVD 88), of existing and proposed buildings and structures;
 - (b) Existing and proposed contours at one-foot intervals of the land based on NAVD datum;
 - (c) A contour delineating the 100-year-storm frequency elevation shall be distinctly designated;
 - (d) Other information deemed necessary by the SPGA to indicate the complete physical characteristics of the area and the proposed construction and/or grading.

J. Criteria for approval. The SPGA may issue a special permit pursuant to this section provided the SPGA finds that:

- (1) All structures shall be elevated per the requirements of the most recent version of the MA State Building Code based on the Floodplain Zone designation;
- (2) The proposed construction and/or change in grade will not derogate from the intent and purpose of the Floodplain Protection District;
- (3) The proposed construction and/or change in grade will not endanger the health and safety of the public;
- (4) The proposed construction and/or change in grade shall not obstruct or divert flood flow or reduce natural storage or increase stormwater runoff to the extent of raising the base flood

- elevation. Written certification of such shall be provided by a registered professional engineer;
- (5) The proposed system of drainage and sewage disposal shall not cause pollution or otherwise endanger public health;
 - (6) The proposed structures shall be constructed to counteract any buoyancy or water impacts;
 - (7) The proposed construction shall have street or other appropriate vehicular access at least one foot above the base flood elevation.
- K. Conditions of permit. In granting a special permit consistent with uses permitted in the district in which the site is located, the SPGA shall impose conditions designed to:
- (1) Safeguard the health and safety of occupants of the premises and of other land in and adjacent to the district;
 - (2) Ensure that the requirements of all local, state and federal government agencies that will be necessary in order to carry out the proposed development in the floodplain overlay district have been met regarding, but not limited to, the following:
 - (a) Placement of building or structure;
 - (b) Type of foundation such as posts with blowout panels;
 - (c) Elevation of floors;
 - (d) Method of anchoring building to foundation;
 - (e) Design of drainage system, including private sewage disposal work;
 - (f) Occupancy of buildings;
 - (g) Area and depth of any excavation of fill;
 - (h) All floodproofing methods or proposals.
- L. Compliance with other regulations. All development in the district including structural and nonstructural activities whether permitted by right or by special permit must be in compliance with the following (where applicable):
- (1) 780 CMR, Massachusetts State Building Code, sections of which address floodplain and coastal high hazard areas.
 - (2) 310 CMR 10.00, Wetlands Protection Regulations - Department of Environmental Protection (DEP).
 - (3) 310 CMR 13.00, Inland Wetlands Restriction - DEP.
 - (4) 310 CMR 12.00, Coastal Wetlands Restrictions - DEP.
 - (5) 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage - DEP.
- M. Recreation vehicles. In A1-30, AH, AE Zones, V1-30, VE and V Zones, all recreation vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully

licensed and highway ready.

- N. Watercourse alterations or relocations in riverine areas. In a riverine situation, the Town of Braintree Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- (1) Adjacent communities, especially upstream and downstream.
- (2) Bordering states, if affected.
- (3) NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th Floor
Boston, MA 02114

- (4) NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

- O. Variances to building code floodplain standards.

- (1) The Town of Braintree shall request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
- (2) The Town of Braintree shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage.
 - (b) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

- P. Variances to local zoning bylaws related to community compliance with the National Flood Insurance Program (NFIP). For the purposes of this section, § 135-407 of the Braintree Zoning Bylaw shall not apply. The Town of Braintree Floodplain Administrator may issue variances from § 135-608 in accordance with the requirements set forth below. A variance from these floodplain bylaws must meet the requirements set out by state law, and may only be granted if:

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

- Q. Requirement to submit new technical data. If the Town/City acquires data that changes the base flood

elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High Street - 6th floor
Boston, MA 02110

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation
251 Causeway Street
Boston, MA 02114

§135-609. Watershed Protection District.

- A. Purpose of district. A Watershed Protection District (WPD) is established for the following purposes:
- (1) To protect, preserve and maintain the water table and water recharge areas within the Town and potential sources of water supply for public health and safety;
 - (2) To preserve and protect lakes, ponds, streams, brooks, wetlands, and other water bodies and watercourses within the district;
 - (3) To protect the community from the detrimental uses of land and waters within the district; and
 - (4) To conserve the watershed areas for the health, safety, welfare and enjoyment of the public.
- B. Establishment and definition of district.
- (1) The WPD shall include all lands which comprise the catchment or drainage areas for Braintree's water supply. The district includes all areas designated on the Watershed Protection District Map for the Town of Braintree as most recently amended. Said map is hereby made part of the Town Zoning Map(s).
 - (2) The WPD is an overlay district and shall be superimposed on the other districts established by this chapter. Uses not authorized in the underlying district are not authorized within the overlay district.
- C. Permitted uses. The following uses are authorized within the WPD:
- (1) Conservation of soil, water, plants and wildlife.
 - (2) Outdoor recreation, nature study, boating and fishing.
 - (3) Boat docks, landings, footpaths, bicycle paths, horse paths and bridges.
 - (4) Proper operation and maintenance of existing dams, splash boards and other water control, supply and conservation devices.
 - (5) Residential development as authorized in the underlying districts. Said development shall have a minimum lot size of one acre and such lot shall not have more than 20% impervious surface.
 - (6) Repair, maintenance and reconstruction of structures and uses lawfully existing prior to the May 1982 adoption of this section.

- (a) Preexisting dwellings in residential districts may be expanded provided said expansion is in compliance with the dimensional and density requirements for the underlying zoning district set forth in § 135-701, and provided that coverage by impervious surface does not exceed 50% total lot area.
 - (b) Preexisting structures in General Business and Highway Business Zoning Districts may be expanded provided said expansion:
 - [1] Is in compliance with density and dimensional requirements for the underlying zoning districts as set forth in § 135-701; and
 - [2] Does not increase the amount of impervious surface by 2,000 square feet or by 10% of the existing impervious surface, whichever is less.
 - (7) Farming, gardening, nursery, conservation, forestry, harvesting and grazing.
- D. Prohibited uses. The following uses are prohibited within the Watershed Protection District:
 - (1) Landfills and the storage of salt and road deicing chemicals.
 - (2) Disposal of leachable solid waste other than brush.
 - (3) Disposal of hazardous wastes.
 - (4) Dumping of snow brought in from outside the district.
 - (5) Junkyards and salvage operations.
 - (6) Animal feedlots, pastures or confinement areas, the storage of manure or drainage from such activities if the site is also located within the one-hundred-year floodplain as defined by the National Flood Insurance Program.
- E. Special permit uses. The issuance of a special permit shall be in accordance with § 135-609F, Article V, and any additional conditions the special permit granting authority (SPGA) may impose. The SPGA may allow by special permit the following uses within the WPD:
 - (1) Development in a commercial district, provided that there is a minimum lot size of 43,560 square feet and that 40% open space per total area is retained;
 - (2) Development in business districts, provided that there is a minimum lot size of 43,560 square feet and that a minimum of 30% open space per total lot area is retained;
 - (3) The construction of dams or other water-control devices, excluding the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning;
 - (4) Creating ponds or other changes in water bodies or watercourses for swimming, fishing or other recreational uses, agricultural uses or drainage improvements.
- F. Procedures for issuance of special permit.
 - (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.

- (2) The SPGA may grant a special permit provided that it finds that the proposed use:
 - (a) Is in harmony with the purpose and intent of this bylaw and will promote the purpose of the WPD;
 - (b) Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
 - (c) Will not, during construction or thereafter, have an adverse impact on any water body or watercourse in the district; and
 - (d) Will not adversely affect an existing or potential water supply.

§135-610. Cluster Zoning I, II, III.

A. Purposes. Cluster development districts are established for the following purposes:

- (1) To promote the more efficient use of land in harmony with its natural features;
- (2) To encourage the preservation of valuable open space;
- (3) To promote diverse and energy-efficient housing at a variety of costs;
- (4) To protect water bodies and water supplies, wetlands, floodplains, agricultural lands, wildlife and other natural resources;
- (5) To promote aesthetics and other amenities;
- (6) To permit greater flexibility and creative design.

B. Rezoning criteria.

- (1) Permitted density in a cluster zone shall be determined at the time land is rezoned and shall be based on the following:
 - (a) The current zoning in adjacent areas;
 - (b) The current zoning of the site being rezoned;
 - (c) The suitability of the land for an increase or decrease in the intensity of development, including:
 - [1] Extent of wetlands and drainage areas.
 - [2] Availability of utilities, including sewer and water.
 - [3] Impact on roads, on schools and/or on other public facilities.
 - [4] Other overlay zoning districts which affect the area to be rezoned.
 - [5] Extent of steep slopes and ledge or other topographical characteristics of the land.

C. Density requirements. Cluster zoning map shall permit a density of development as follows:

- (a) Cluster I Zone: one unit per 43,560 square feet of developable land.
- (b) Cluster II Zone: one unit per 25,000 square feet of developable land.

- (c) Cluster III zone: one unit per 15,000 square feet of developable land.

Developable land shall include all the land in the parcel excluding that area defined as wetlands in MGL c. 131, § 40, and floodplain areas as shown on the National Flood Insurance Program Flood Boundary and Floodway Map (as most recently amended).

- D. Regulations. The special permit granting authority (SPGA) shall adopt regulations for carrying out its duties under this section.
- E. Procedures for issuance of special permit.
- (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.
 - (2) Contents of application. Applications for cluster development shall include a plan prepared in accordance with the provisions of Article V and § 135-711 of this chapter. In addition, the applicant shall provide the following information:
 - (a) The number of dwellings which could be constructed by means of a conventional development plan, considering the whole tract.
 - (b) An environmental analysis of the site to include at a minimum wetlands, slopes, soil conditions, areas within the one-hundred-year flood, trees over five inches in diameter at 4.5 feet above the ground and such other natural features as the SPGA may request. A copy of the environmental impact report shall be furnished with the application if required by law.
 - (c) A description of the neighborhood adjacent to the project, including the adequacy of utilities and other public facilities and the impact of the proposed development upon them.
 - (d) Evaluation of the open land proposed within the development with respect to its size, shape, location, natural resource values and accessibility to the residents of both the Town and the cluster development.
 - (e) Traffic report if required by Article XIV of Braintree Zoning Bylaw or by the SPGA.
 - (3) Relation to Subdivision Control Act.¹²⁵ SPGA approval of a special permit shall not substitute for compliance with the Subdivision Control Act, nor obligate the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, act concurrently on a request for both definitive subdivision plan and special permit approval.
- F. Findings of the Board. In addition to the requirements specified in Article V, the Board may grant a special permit under this section only if it finds that the cluster development meets the following

125. Editor's Note: See MGL c. 41, § 81K et seq.

criteria:

- (1) It is in harmony with the general purpose of this bylaw, the requirements of MGL c. 40A, and the long-range plan(s) of the Town.
- (2) It will not have a detrimental impact on the neighborhood.
- (3) It is designed with due consideration for health and safety and is superior to conventional development in preserving open space, minimizing environmental disruption, allowing for more efficient provisions of services or allowing for greater variety in prices or types of housing.
- (4) The plan meets the requirements specified in § 135-610G, H and I.

G. Minimum dimensional requirements.

- (1) The minimum lot size for a cluster development shall be five acres.
- (2) A cluster development shall meet all the dimensional and density requirements as set forth in § 135-701 of this chapter.
- (3) All single-family detached dwellings within a cluster development shall have:
 - (a) A minimum side yard separation between buildings of 20 feet;
 - (b) A minimum rear yard separation between buildings of 40 feet;
 - (c) A minimum front yard setback from the edge of pavement on accessways of 15 feet.
- (4) All multifamily two-family dwellings within a cluster development shall have:
 - (a) A minimum side yard separation between buildings of 20 feet;
 - (b) A minimum rear yard separation between buildings of 40 feet;
 - (c) A minimum front yard setback from the edge of pavement on accessways of 15 feet.

H. Required open land.

- (1) At least 50% of the site, exclusive of land set aside for accessways and parking, shall be open space. At least 30% of the open space shall be suitable for passive or active recreational use.
- (2) The open space and such other facilities as may be held in common shall be conveyed to one of the following with notification to the SPGA:
 - (a) To a corporation or trust comprising a homeowners' association whose membership includes the owners of individual lots or units contained in the tract.

[1] The developer shall include in the deed to owners of individual lots or units beneficial rights in said open land. The developer shall grant a conservation restriction to the Town of Braintree over such land pursuant to MGL c. 184, §§ 31 to 33, to ensure that such land be kept in an open or natural state. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by MGL c. 184, § 33.

[2] In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homeowners'

association assumes said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall record at the Norfolk Registry of Deeds a declaration of covenants and restrictions which shall provide for the following: mandatory membership in an established homeowners' association as a requirement of ownership of any lot or unit in the tract and provisions for maintenance assessments of all lots or units in order to ensure that the open land is maintained in a condition suitable for the approved uses.

- (b) To a nonprofit organization, the principal purpose of which is the conservation of said open space. The developer or charity shall grant a conservation restriction as set out in (a) above.
- (c) To the Conservation Commission of the Town for open space use. Said conveyance shall be subject to the approval of the Selectmen, with a trust clause ensuring that it be maintained as open space.
- (3) Subject to the above, the open space may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens and swimming pools.

I. Further requirements.

- (1) No use other than residential or recreational shall be permitted in a cluster development.
- (2) Any lot shown on a plan for which a permit for cluster development has been granted shall not be further subdivided, and a notation to this effect shall be shown upon the plan.
- (3) A certificate of occupancy shall not be issued by the Building Inspector until he/she has certified to the SPGA that the premises have been built in accordance with the plan as approved by the SPGA.
- (4) The SPGA may impose conditions, safeguards, limitations on time and use.
- (5) The SPGA may grant a special permit for clustering even if the proposed development is not subject to the Subdivision Control Law.¹²⁶
- (6) Subsequent to granting of a special permit, the SPGA may permit relocation of lot lines within the cluster. However, any change in overall density, street layout, or open space layout will require further public hearings.

§135-611. (Reserved)¹²⁷

§135-612. Planned unit development regulations applying to Planned Unit Development (PUD) Districts. [Amended 5-1991 ATM by Art. 36]

- A. Purpose. The intent of the Planned Unit Development (PUD) Districts is to provide a greater degree of flexibility for the development of large tracts of land which provide residential, commercial, and business activities on the same parcel of land in a planned, controlled environment. A PUD proposal may contain both individual building sites and common property which are developed as an integrated mixed land use unit. The purposes of the PUD bylaw are to:

¹²⁶Editor's Note: See MGL c. 41, § 81K et seq.

¹²⁷Editor's Note: Former § 135-611, Commercial day care, was repealed 5-3-2004 STM by Art. 20.

- (1) Allow for greater variety and flexibility in the development of housing types.
 - (2) Make housing units available to moderate-income residents who might otherwise have difficulty finding homes within the Town.
 - (3) Promote the permanent preservation of open space.
 - (4) Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
 - (5) Promote retail and service uses closely related to the residential sections of the PUD in a manner which blends all land uses into an aesthetically complementary whole.
- B. Authority to grant permits. The Planning Board as special permit granting authority (SPGA) may grant a special permit for the construction of a PUD in a PUD Zoning District. A special permit granted under this section shall conform to MGL c. 40A, § 9, to § 135-502 of the Braintree Zoning Bylaw, and to any rules and regulations which the SPGA shall from time to time adopt for the purpose of carrying out its requirements under this section.
- C. Minimum standards. To implement the intent of the PUD provision, the following criteria shall be met:
- (1) The site under review shall be located in a PUD zoning overlay district as approved by Town Meeting.
 - (2) The proposed project areas shall encompass a contiguous minimum land area of three acres.
 - (3) The concept plans for the property must be submitted to Town Meeting for approval prior to submission to the SPGA.
 - (4) In no case shall there be less than 25% of the total land area in open space and greater than 25% lot coverage. The SPGA shall have the right, based on the individual project, to increase the above minimum standards.
 - (5) Retail/service activities shall be planned and constructed in a manner architecturally similar and complementary to the residential units within the proposed development.
 - (6) The site under review shall be in single or consolidated ownership at the time of application.
 - (7) The PUD shall contain at a minimum two of the following uses: residential, open space, business, or commercial.
 - (8) The PUD shall have a minimum frontage of 100 feet.
- D. Submission process.
- (1) Preapplication conference. Prior to the submission of an application for a special permit under this section, the applicant shall confer with the SPGA to obtain information and guidance on the preparation of plans, surveys and other data.
 - (2) Application process:
 - (a) The applicant for a PUD shall submit an application for a special permit as required in § 135-502 of the Braintree Zoning Bylaw. Said application shall be acted upon in accordance with the provisions set forth in § 135-502 of the Braintree Zoning Bylaw.

- (3) Information required. An application for a PUD shall include a plan or plans which meet the following specifications and provide the following data:
- (a) All plans shall be drawn at a scale of one inch equals 40 feet by a professional engineer, registered architect or registered landscape architect.
 - (b) The boundary plan shall be stamped by the registered land surveyor who shall certify the accuracy of the location of the buildings, setbacks and all other required dimensions, elevations and measurements.
 - (c) PUD district boundaries, North arrow, date, scale, legend and project title, the name or names of applicants and engineer or designer.
 - (d) Names of all abutters, abutting land uses, and the approximate location and width of all adjacent streets.
 - (e) The location and extent of all proposed land uses including open space, the number and types of residential units, the density for each housing type, and overall project density.
 - (f) All interior streets, roads, easements and their planned public or private ownership, as well as all points of access and egress from existing public rights-of-way.
 - (g) Description of the manner in which any areas that are not publicly owned are to be maintained, including open space, streets, lighting and others according to the proposal.
 - (h) The location of existing or proposed buildings on the lot which shall include the total square footage and dimensions of all buildings (including height), all building elevations and floor plans, and perspective renderings, which depict the materials and colors to be used.
 - (i) The location of the natural features of the site, including wetlands, floodplains, slopes over 10%, soil conditions and other features requested by the SPGA or required by the regulations of the SPGA.
 - (j) The overall water and sanitary sewer system with proposed points of attachment to existing systems. The proposed stormwater drainage systems and their relation to the existing systems.
 - (k) The boundary lines of existing and proposed lots with areas and dimensions. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
 - (l) Existing and proposed topographical lines at two-foot intervals.
 - (m) The location and number of parking spaces, loading spaces, and handicapped spaces.
 - (n) A landscape plan which shall include the total square feet of all landscape and recreation areas, and a depiction of materials to be used, including the quantity, size and species of all plantings.
 - (o) A description of the neighborhood in which the tract lies, including utilities and other public facilities and the general impact of the proposed PUD upon them.
 - (p) Deed or other recorded instrument that shows the applicant to be the owner of the land to

be designated as a PUD or proof that the applicant has the site under a purchase and sales agreement.

- (q) If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and manner of units or activities completed per phase.
- (r) Evidence as required by the reviewing boards of the applicant's ability to complete the proposed PUD.
- (s) A written statement by the applicant setting forth the reason why, in his opinion, the proposal would be in the public interest and would be consistent with the Town goals and objectives.
- (t) A description of any covenants, grants of easement, or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
- (u) A traffic report as required under Braintree Zoning Bylaw Article XIV.
- (v) The applicant shall provide graphic and/or narrative descriptions of the differences, if any, that would occur if the site were not to be developed with a special permit under this chapter.

E. Density and dimensional requirements.

- (1) A PUD shall meet the lot size, the open space, lot coverage and frontage requirements as set forth in § 135-611C of the Braintree Zoning Bylaw.
- (2) Other dimensional and density requirements, including but not limited to residential density, yard and height requirements, and parking and loading dock requirements, shall be determined by the SPGA. In no case shall there be less than 25% of the total land area in open space and greater than 25% lot coverage. In determining other dimensional and density requirements, the SPGA shall consider the following factors:
 - (a) Character of development in the abutting neighborhoods.
 - (b) Individual characteristics of the project and the site.
 - (c) Degree of open space proposed and the quality of the open space.
 - (d) The percentage of lot coverage.
 - (e) The public amenities to be provided.
 - (f) The amount of affordable housing to be provided.

F. Factors to be considered by the SPGA. The SPGA review of a PUD application shall include, but is not limited to, the following considerations:

- (1) Relationship of the PUD to the abutting neighborhoods to insure the PUD is in harmony with and does not derogate from the neighborhoods.
- (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic control.

- (3) Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.
 - (4) Location, arrangement, size and design of buildings, lighting and signs.
 - (5) Location, arrangement, appearance, and sufficiency of off-street parking and loading.
 - (6) Adequacy, type, and arrangement of trees, shrubs and other landscaping constituting visual and/or noise-deterring buffer between adjacent land uses and adjacent land.
 - (7) In the case of multiple-family dwellings, the adequacy of usable open space for playgrounds and informal recreation.
 - (8) Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
 - (9) Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.
 - (10) The presence of fair housing policies and a marketing plan to promote fair housing.
- G. In a PUD overlay district, all the zoning requirements of the underlying zoning districts shall apply unless and until a special permit for a PUD has been issued by the SPGA.

§135-613. Village Zoning Overlay District. [Added 5-7-2002 STM by Art. 12]

- A. Definition. The Village Zoning Overlay District is a set of requirements which are superimposed on selected portions of the existing General Business Zoning District centered around the intersections of Pearl Street and Hancock Street and Washington Street in South Braintree Square and Elm Street and Washington Street in Braintree Square (as referenced on the Braintree Zoning Map).

- B. Purpose.

The purpose of the Village Zoning Overlay District is to regulate the quality and scale of future development in selected areas of the General Business District in order to maintain and/or create a harmonious and consistent image for the development along Washington Street and adjacent streets.

The regulation specifically preserves the predominant scale and character of the existing development by allowing site dimensions tailored for the Village Zoning Overlay District.

The regulation specifically provides a set of development standards which promote a collective identity and encourage visual harmony.

- C. Applicability.

As SPGA, the Planning Board may grant a special permit for nonresidential construction in the Village Zoning District Overlay area. The provisions of the Village Zoning Overlay District shall apply in addition to the standard application requirement of special permits of the Braintree Zoning Bylaw.

A special permit granted under this section shall apply in accordance with MGL c. 40A, § 9 and Article V, § 135-502 of the Braintree Zoning Bylaw (site plan review), and to any rules and regulations which the SPGA shall from time to time adopt for the purpose of carrying out its requirements under this section.

Provisions of the Braintree Zoning Bylaw and the following criteria shall apply to development within the Village Zoning District Overlay District. Where conflict exists between this section and other sections of the Braintree Zoning Bylaw, the Village Zoning Overlay District criteria shall supersede.

- D. Permitted uses. Except as herein provided, all uses allowed, regulated, or prohibited in the underlying General Business Zoning District shall be allowed, regulated, or prohibited in the Village Zoning Overlay District.
- E. Prohibited uses. No single use business structure of 10,000 square feet or more shall be allowed.
- F. Dimensional requirements.
 - (1) General Business District requirements.
 - (2) Under this section, the SPGA may waive strict compliance with dimensions as established in § 135-701 of the Braintree Bylaw. If SPGA waives compliance with § 135-701, then the SPGA shall determine dimensions within the range established below during the public hearing process.

	GB
Minimum lot size	5,000 to 15,000
Lot width	25 to 50
Minimum frontage	25 to 50
Minimum depth	60 to 85
Maximum setback	15
Front yard	0 to 10
Side yard	0 to 10
Rear yard	20

GB

Maximum height	45/50*
Maximum stories	3
Maximum building coverage	80%
Maximum lot coverage	90%
Minimum open space	10%

* In business districts, the height limitation is 50 feet for habitable buildings and 45 feet for nonhabitable buildings.

GB = General Business

- (3) No building shall be located more than 15 feet from the front property line.
- (4) Front yard setbacks may be zero to 10 feet (General Business) if the proposed structure is located in such away that it could form a consistent building line or street wall line* in relation to directly abutting properties within the Village Zoning Overlay District.
- (5) If a structure is located in such a way that it could form a street wall in the Village Zoning Overlay District, then the lot line adjoining other street wall properties may be zero. This provision may apply in all cases except for structures located adjacent to public open space or driveways.

* "Street wall line" defined: The main wall of a structure or set of structures that is closest to and most nearly parallel with an adjacent street.

G. Submission requirements. Submission requirement shall be the same as required under Article V, Article VIII, and Article XIV of the Braintree Zoning Bylaw.

H. Criteria for the Village Zoning Overlay District.

- (1) Parking regulation. (See § 135-815.)
- (2) Sign regulation. (See § 135-904.6, Sign Regulations.)
- (3) General provisions.
 - (a) Buildings within the General Business District shall provide pedestrian entrances that open to the front sidewalk and may provide other entrances to the side or rear.
 - (b) For all nonresidential and noninstitutional uses, a minimum of 60% of the first floor level frontage shall be transparent. Additionally, building facades must contain street level windows and main entrances from the sidewalk. The street side facade of a building shall not consist of an unarticulated blank wall or an unbroken series of garage doors.
 - (c) Applicants who wish to build a structure or rehabilitate an existing structure shall select materials and textures which are compatible with and complementary to neighboring

buildings. For this reason, the SPGA shall reserve the right to require an elevation view illustration of the proposed improvement.

- (d) New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following methods:

[1] Through a common driveway serving adjacent lots of premises; or

[2] Through an existing side or rear street.

- (e) Refuse containers, heating-ventilation-air conditioning, transformers, lift stations, utility meters, shall be located on the side or at the rear of the principal structure. The record plan or landscaping plan shall include provisions for these items. Screening, to the extent possible, shall be accomplished through:

[1] Landscaping; and

[2] Materials integrating the design, material type, and colors of the existing building with the screening structure.

If roof-mounted mechanical equipment is used, such equipment shall be screened from public view on all sides.

- (f) Access to buildings through rear entrances from parking lots is encouraged. The rear facade shall receive appropriate design treatment.
- (g) Buffering elements in the form of plantings, walls, fences, screens, and other designed or natural features that provide a logical transition to adjoining existing or permitted uses shall be provided by the applicant.
- (h) In order to maintain consistency in front setbacks, rhythm, and scale, the SPGA shall reserve the right to require revised plans for building setback, spacing, and building width.

§135-614. Conversion of convalescent home or nursing home. [Added 5-10-2006 ATM by Art. 38]

- A. Applicability. As authorized in § 135-601, Table of Principal Uses, an existing convalescent home or nursing home use may be changed to an apartment house/two-family use provided the following conditions are met:

1. A convalescent home or nursing home was in operation on the site for a minimum of 10 years immediately preceding the date of application for conversion.
2. The convalescent home or nursing home was vacant for at least one year immediately preceding the date of application for conversion.
3. The structures housing or being used in support of the convalescent home or nursing home use were not enlarged during the ten-year period immediately preceding the date of application for conversion.
4. The site [lot(s)] containing convalescent home or nursing home use has not been enlarged during the ten-year period immediately preceding the date of application for conversion.
5. The building or buildings which contained the convalescent home or nursing home were in

existence as of May 10, 2006.

- B. Affordable units. The conversion of the convalescent home or nursing home shall provide the minimum required percent of the residential units created for low- and moderate-income housing as defined by the Massachusetts Department of Housing and Community Development (DHCD). Said units shall be created through the Local Initiative Program (LIP) 760 CMR 45.00 as amended and administered by DHCD.
- C. Density standards. In granting a special permit the SPGA shall specifically find that the number of residential units to be created through the conversion can be accommodated on site. The density standards set under § 135-705 shall not apply to a conversion of convalescent home or nursing home.
- D. Criteria for granting a special permit. The SPGA shall assure that the following criteria are met:
 - 1. The size of the site [lot(s)] on which the convalescent home or nursing home is currently located shall not be enlarged for the proposed conversion.
 - 2. There shall be no expansion of the structures housing or being used in support of the convalescent home or nursing home except for cosmetic alterations such as construction of a foyer. No living space shall be expanded.
 - 3. Off-street parking shall be provided as required by Braintree Zoning Bylaw § 135-806.
 - 4. The proposed conversion shall not generate more than 50 vehicle trips for any peak hour.
 - 5. Adequate screening between the site and abutting properties shall be provided.

§135-615-01. Braintree-Weymouth Landing District. [Added 1-8-2011 by Ord. No. 10-067]

The Town of Braintree shall have a designated Braintree-Weymouth Landing District (BWLD) as established pursuant to § 135-301 (Districts established) described herein and as shown on the Braintree Zoning Map dated January 8, 2011, as revised and amended to date on file in the office of Town Clerk.

§135-615-02. Purpose. [Added 1-8-2011 by Ord. No. 10-067]

- A. The purpose of the Braintree-Weymouth Landing District (BWLD) is to establish a specific zoning district for the unique needs of a small mixed-use commercial area that spans two municipalities. The BWLD shall establish reasonable standards in accordance with the following purpose and intent:
 - 1. Encourage an appropriate density of land uses for commercial, governmental, institution, and residential uses to support a vibrant village center to benefit and utilize the existing commuter rail station and public surface transportation.
 - 2. Create a friendly multimodal transportation environment so that commercial enterprises and consumer services do not rely solely on automobile traffic to bring consumers and employees into the area.
 - 3. Promote mixed-use and compact development within a single structure both vertically and horizontally that maintains the visual character and architectural scale of development within the district.
 - 4. Encourage the re-use and upgrade of existing properties with efforts to promote more efficient and economical parking facilities to complement existing and new development within the district.

5. Encourage mixed uses that promote small business establishments and local job creation that complement the needs of the surrounding residential neighborhoods and the general population of the Town of Braintree and the Town of Weymouth.
6. Provide a range of housing options for people of different stages of life, income levels and work/live options.
7. Promote an active and publicly accessible waterfront.

§135-615-03. Applicability. [Added 1-8-2011 by Ord. No. 10-067]

Land located within the Braintree-Weymouth Landing District (BWLD) as designated on the official Town Zoning Map shall be subject to the provisions of §§ 135-615-01 through 135-615-14 relative to all new development, demolition, substantial improvement and/or exterior renovation.

The following sections of the Zoning Ordinance are not applicable to properties located within the Braintree-Weymouth District (BWLD), unless otherwise specified within §§ 135-615-01 through 135-615-14.

Zoning Ordinance § 135-203 (See § 135-615-09)

Zoning Ordinance § 135-605

Zoning Ordinance §§ 135-701, 135-702, 135-705, 135-707, 135-708, 135-710, 135-711

Zoning Ordinance §§ 135-802, 135-803, 135-804, 135-807, 135-808, 135-809, 135-812, 135-814

Zoning Ordinance §§ 135-905, 135-907, 135-908A

Zoning Ordinance § 135-1001

Zoning Ordinance § 135-1403

§135-615-04. Uses (permitted by right, special permit or prohibited) within Braintree-Weymouth Landing District. [Added 1-8-2011 by Ord. No. 10-067]

Pursuant to the provisions of the Zoning Ordinances, § 601 (Table of Principal Uses) describes those uses allowed by right, special permit or that are not allowed/prohibited. (See table.)

See Article V of Zoning Ordinances, Special Permits, for procedures, provisions and guidelines for submission of a special permit application. The special permit granting authority may, where deemed necessary, require a traffic study be prepared for issuance of a use special permit.

Site plan review pursuant to Zoning Ordinance § 135-711 is not applicable to properties located in the Braintree-Weymouth Landing District; rather, development in this district is pursuant to administrative site plan review as defined under § 135-615-09 of this Zoning Ordinance.

§135-615-05. Density and dimensional requirements. [Added 1-8-2011 by Ord. No. 10-067]

The required minimum lot size for lots created after January 8, 2011, in the Braintree-Weymouth Landing District (BWLD) is 5,000 square feet.

The following density and dimensional requirements apply to all new development and/or substantial improvement of an existing structure within the BWLD District:

Table 1 - Building Setbacks/Density and Dimensional

	Front (Min-Max) (feet)	Side	Rear (feet)	Lot coverage (Min - Max Lot)
BWLD	0 - 10	---	0 - 15	80% - 90%
BWLD Special Permit	10 - 25	---	---	100%
NOTE	(1)	(3)(4)	(2)(3)	(5)

"---" indicates no dimensional requirement applies

NOTES:

- (1) Landscaping, pedestrian walkways, seasonal outdoor dining areas and five feet of a deck or balcony may be located within any building setback area. Parking is prohibited within the front building setback.
- (2) A fifteen-foot minimum rear buffer setback (see § 135-702B of the Zoning Ordinance) applies only where a parcel and/or lot abuts a residential zoning district.
- (3) A fifteen-foot minimum waterway zoning setback is measured from the top of the bank as delineated by the Conservation Commission for the Monatiquot River and estuarine segment of Smelt Run (north of the MBTA tracks) area only.
- (4) An eight-foot minimum to fifteen-foot maximum side setback from the corporate municipal boundary applies only in the Landing Center east of Commercial Street. Parking is prohibited within a side building setback of the municipal corporate line.
- (5) Impervious land area is defined as land use alteration that prevents the natural infiltration of water into the soil. Examples of common impervious surfaces include, but are not limited to, paved area, walkways, and patios in addition to building footprint.

Table 2 - Additional Density and Dimensional Requirements

	Story Height(Max) (feet)	Highest Floor Height Max Above Ground (feet)	Roof Height (Max) (feet)	Residential Units (Max) (acre)	Street Wall Transparency First Floor (Min)
BWLD	2.5	30	40	19	60%
BWLD Special Permit	4	45	54	---	---
NOTES	(9)				

(9) The maximum height is measured in both stories and feet.

- a. The building height is measured as the vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level at all elevations of a building.
- b. A half story is a finished living floor which is contained wholly or predominantly within the roof of a structure and is subject to the regulations of the local Building Code.
- c. Towers, widow's walks, cupolas, and other similar building features may extend one story above the normal height limits.

§135-615-06. General requirements. [Added 1-8-2011 by Ord. No. 10-067]

- Vehicle drive-through windows, in conjunction with any use, is prohibited in those portions the Braintree-Weymouth Landing District located in the Town of Braintree.
- The ground floor of a multi-use building shall have both front and rear facades occupied by business uses only.
- Buildings must have a primary entrance door facing a public sidewalk (entrances at building corners are acceptable). Building entrances may include doors to individual businesses, lobby entrances, entrances to pedestrian-oriented plazas or courtyards servicing clusters of businesses.
- Underground utility lines are required for new and substantially approved buildings unless applicants can demonstrate a physical restriction or installation will be blocked by existing underground obstructions.

5. All external units for heating, cooling, etc., mechanical units shall be located in a screened structure on rooftops.
6. All refuse disposal (dumpsters, etc.) shall be located in an enclosure and/or with a locked top; no outdoor refuse storage will be permitted unless in an enclosure.
7. Appropriate landscaping and design shall be incorporated into new and expanded development within the BWLD. Landscaped design plans shall be prepared by a landscape architect for all special permit applications. For administrative site plan reviews, the Planning Director may at their discretion accept a plan prepared by someone other than a landscape architect if said plan shows the type, size and location of all proposed plantings. Side yards between structures less than 10 feet apart shall be screened from public view by a solid fence or tight landscaping not less than five feet in height. Chain link fences are not permissible. Side yards between structures greater than 10 feet apart shall be landscaped appropriately.

§135-615-07. Uses and structures subject to special permit requirements. [Added 1-8-2011 by Ord. No. 10-067]

Pursuant to the provisions of § 135-601 (Table of Principal Uses) of the Zoning Ordinances, special permit uses identified in the Braintree-Weymouth Landing District (BWLD) shall only be permitted by a special permit issued by the Braintree Planning Board (special permit granting authority) in accordance with the procedure identified under § 135-503 (Special permit procedures) of the Zoning Ordinances.

§135-615-08. Special permit for design, development and parking. [Added 1-8-2011 by Ord. No. 10-067]

In addition to a use specified in § 135-615-04, the special permit granting authority may also consider issuance of a special permit in the Braintree-Weymouth Landing District for the following:

1. The Planning Board may issue a special permit for development rights over and above those allowed by the base density and dimensional requirements of § 135-615-05, Tables 1 and 2, based on the extent to which the development satisfies the following criteria:
 - a. Provision of a publicly accessible waterfront walkway with direct connections to adjacent sidewalks and existing or potential walkways on adjacent properties. Publicly accessible walkways and open space shall be defined as those which, whenever possible, shall be accessible to and usable by the general public during daylight hours without undue restriction.
 - b. Provision of up to 100% of the lot area as publicly accessible open space. Open space shall be designed as an integral part of any development and shall enhance the development and the area in which the development is located. Open space may include pedestrian walkways and recreational open space open to the public. Open space shall not include paved streets, sidewalks abutting streets, parking areas or recreational open space not open to the public.
 - c. Preservation and reuse of historic buildings on the site.
2. The Planning Board may issue a special permit for relief from parking requirements set forth in § 135-615-12.

§135-615-09. Administrative site plan review only in Braintree-Weymouth Landing District

(BWLD). [Added 1-8-2011 by Ord. No. 10-067]

Site plan review pursuant to the Zoning Ordinances shall not apply to property located within the Braintree-Weymouth Landing District; rather, site plan review within the BWLD District shall be accomplished by administrative site plan as follows:

1. The following activities in the Braintree-Weymouth Landing District shall be subject to administrative site plan review, whether they occur in conjunction with new development, or whether occurring in conjunction with continuation of an existing use:
 - a. Any new construction or exterior alterations requiring a building permit, excluding replacement of existing roofing with similar materials.
 - b. Any signage, including new or altered existing signs and awnings.
 - c. Freestanding ground lighting.
 - d. Fencing of any height.
 - e. New curb cuts or relocation of an existing curb cut that does not require a special permit.
 - f. New paving for two or more vehicles.
 - g. Creation of outdoor seating and dining areas for existing restaurants.
2. Site plan review for those properties located within the Town of Braintree jurisdiction and in the Braintree-Weymouth Landing District shall be conducted administratively by the Braintree Director of Planning and Community Development Department in accordance with following:
 - a. The memo of understanding between the Towns of Braintree and Weymouth signed by both Mayors and dated March 25, 2010.
 - b. The Director of Planning and Community Development shall be responsible for approving and/or conditionally approving a site plan, based on its consistency with the provisions of the Braintree-Weymouth Landing District, other official plans for the district and surrounding areas, and the Town's design guidelines. Applicants that do not provide required information as to any site plan review request may be disapproved by the Director for lack of sufficient information to render an administrative decision.
 - c. The Director of Planning and Community Development is given authority pursuant to this section of the Zoning Ordinances to develop regulations for the processing of administrative site plan review.
 - d. The Director may choose to send any request for site plan review, pursuant to this section, for action by the Planning Board within 45 days of receipt, if he/she determines a public meeting is necessary under the provision of §§ 135-615-01 through 135-615-14.

§135-615-10. Parking requirements of the Braintree-Weymouth Landing District. [Added 1-8-2011 by Ord. No. 10-067]

The following uses identified in § 135-601 of the Braintree Zoning Ordinance, for the Braintree-Weymouth Landing District, shall comply with required parking under § 135-806 of the Zoning Ordinances. Except for those uses specifically identified below that will be located within 1,000 feet of the East Braintree/Weymouth commuter rail station and a municipal parking lot, parking requirements are permissible by the

following requirements:

Residential uses above first floor only: 0.8 spaces per unit

Retail uses: 1 space per 500 GSF (retail uses less than or equal to 30,000 GSF)

Professional and business office: 1.7 spaces per 1,000 GSF

Restaurant: 1 space per 6 seats

Administrative site plan review is required for new paving for two or more vehicles (see § 135-615-09).

§135-615-11. Site access, parking and bicycle requirements of the Braintree-Weymouth Landing District. [Added 1-8-2011 by Ord. No. 10-067]

The following criteria are included to ensure that new and redesigned site access is constructed in accordance with the BWLD character and the provisions of §§ 135-615-01 through 135-615-14.

1. New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided through one of the following methods: either through a common driveway serving adjacent lots/premises or through an existing side or rear street, thus avoiding the principal thoroughfare. Garage doors or loading docks on the front facade are prohibited.
 - A. Proposed curb cuts within 200 feet of intersections are subject to administrative site plan review.
 - B. Proposed curb cuts greater than 30 feet in width and driveway openings greater than 20 feet in width are subject to administrative site plan review. Full-width curb cuts are prohibited.

The following criteria are included to ensure that new and redesigned off-street parking areas are constructed in accordance with the BWLD character and the provisions of §§ 135-615-01 through 135-615-14.

2. Parking and bicycle requirements:
 - a) Parking areas shall be located to the side and rear of the structure. Parking areas shall be designed such that parking is prohibited within the required front yard setback.
 - b) Full-size parking spaces (See Figure 1 at the end of the Zoning Ordinances). Each full-size parking space shall be a minimum of 8.5 feet in width and 18 feet in length. Handicap parking spaces shall be designed and laid out as required by 521 CMR or any successive regulations.
 - c) Driveways shall be located so as to minimize conflict with traffic on public streets and to maintain good visibility and sight distance.
 - d) Parking areas shall include provisions for the "parking" of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking. For parking areas of 10 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces or fraction thereof.
 - e) Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between businesses and the parking areas.

- f) Large parking areas (e.g., greater than 20 parking spaces) shall be separated by landscaped islands of eight feet to 10 feet in width or in the alternative shall devote at least 5% of the interior of the parking lot to landscaping. In addition, a minimum of one shade tree shall be planted for every six parking spaces required or built, within appropriate locations on the lot(s). The plan shall show the location of plantings, including use of plantings to buffer neighboring properties, and along the street frontage and pedestrian ways. Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet of area.
- g) Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans noted below. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with consideration of pedestrian safety, handicapped access and visual quality. Where appropriate, applicants are encouraged to provide pedestrian and/or bicycle paths connecting their site with abutting areas in order to promote pedestrian and bicycle circulation and safety in the district. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

§135-615-12. Special permit - parking reduction. [Added 1-8-2011 by Ord. No. 10-067]

Reductions in "off-street" parking may be eligible for issuance of a special permit and considered waived when applicants can demonstrate options described as follows to the special permit granting authority:

- 1) Shared parking agreements within the Braintree-Weymouth Landing District with other landowners/businesses for peak and non-peak demand hours.
- 2) Shared access between properties.
- 3) Shared or co-location for refuse facilities of multi-businesses.
- 4) Financial commuter incentives for employees to use public transit and bus systems.
- 5) Accommodations for bike parking and users beyond the installation of a simple bike rack.
- 6) Provide parking accommodations for small motorized nonvehicle modes of transportation such as motorcycles, scooters, mopeds, etc.
- 7) Any other transportation demand management (TDM) alternative or option proposed by an applicant and reviewed/recommended by the Planning and Community Development Director.

§135-615-13. Signage and advertising devices within the Braintree-Weymouth Landing District. [Added 1-8-2011 by Ord. No. 10-067]

- (1) For purposes of the Braintree-Weymouth Landing District the following definitions shall be applicable in reference to external advertising devices regulated by §§ 135-615-01 through 135-615-14:

AWNING — A retractable type structure of flexible material (canvas) on a frame attached to the facade of a building and projecting therefrom as a protection against sun or rain.

AWNING SIGN AREA — The area encompassed by any wording, logo, or design distinct from the awning background color. Awning signs are measured and included within the allowances for parallel wall signs.

SIGN — An advertising device that includes any lettering, word, numeral design, emblem, device,

trademark, picture, pennant, flag, streamer, banner, or other object or method of construction used to indicate, direct, announce, advertise, attract or promote.

- (2) Permissible signage types within the Braintree-Weymouth Landing District allow for use of only the following:

Wall sign

Awnings

Projecting sign

Multi-tenant sign

Applicants are encouraged to review the Braintree-Weymouth Landing District design guidelines before submitting a sign application or displaying other means of advertising devices. In the BWLD, signage is subject to administrative site plan review pursuant to § 135-615-09.

- (a) Wall sign. Each place of business shall be allowed one permanent wall sign parallel to the exterior building facade, projecting not more than 12 inches from said wall and having an aggregate area of two square feet for each horizontal foot of building frontage of said business, provided that the area of said sign shall not exceed 20 square feet. Businesses located over the first floor shall not exceed 20 square feet as well. If such business establishment has more than one public entrance, a secondary sign may be affixed to the building side having a public entrance.
- (b) Awnings. Awnings are permissible only at street level and are considered signage if writing and/or a logo are located on the awning. For purposes of this bylaw awnings utilized for advertising shall be considered a wall sign subject to the requirements of a wall sign. Applicants shall consult the BWLD design guidelines for guidance on the preferred material, coloring and dimensional requirements.
- (c) Projecting sign. Each lot shall be allowed one projecting sign, mounted to the front building line, provided that the foremost building on the lot is set back from the front lot no greater than 10 feet, subject to the following criteria:
- (1) The sign shall have the bottommost edge no lower than 10 feet above grade, nor more than 12 feet above grade; the uppermost edge of the sign shall be no greater than 20 feet above grade or below the roofline, whichever is lower in height; the sign shall project no more than 4.5 feet from the front building line.
 - (2) The sign area shall not exceed 15 square feet per side with a total surface area of all sides not exceeding 30 square feet.
 - (3) Projecting signs over public property shall be subject to administrative site plan review as well in accordance with the following conditions.
 - (a) A projecting sign shall only be placed over a public sidewalk or walkway, and in no case shall a projecting sign extend over any portion of a vehicular travel lane.
- (d) Multi-tenant directory sign. Multi-tenant and/or directory wall signs shall be located at the entrance to a multi-tenant building, affixed to the exterior wall of the building, not exceeding a height of nine feet above finished grade. Said sign shall include the building street address and

provide one square foot of area for each tenant listed in an orderly and legible manner. Said signs shall be constructed with provisions to allow for changes in occupancy without reconstruction of the entire sign.

(3) General provisions:

- a) Sign material shall be in accordance with the provisions of the design guidelines set forth for the Braintree-Weymouth Landing District.
- b) The source of illumination for any sign shall be a white, steady, stationary light of reasonable intensity, shielded and directed solely at the sign, or a white interior light underneath the sign. Neon tubing or similar devices are prohibited. Illumination of signage is also permissible by outdoor lighting attached to said building in accordance with approved with the BWLD design guidelines. Lighting shall be steady, stationary, shielded and of an appropriate location and intensity. Any projecting lights used for illumination shall be so arranged to reflect light away from any adjoining residential district or public way.
- c) Roof signs and marquee signage are prohibited within the Braintree-Weymouth Landing District.
- d) Window signs shall not occupy more than 25% of the total area of the window in which they are displayed.
- e) Moving, changing electronic digital signs are prohibited within the Braintree-Weymouth Landing District.
- f) Existing electronic signs lawfully in existence prior to January 8, 2011, are not grandfathered for conversion to another form of electronic technology.
- g) Placement of temporary signage on sidewalks and public areas is prohibited.
- h) Off-premises commercial signs (including rooftop and billboard signs) are prohibited from any location within the Braintree-Weymouth Landing District.

§135-615-14. Separation. [Added 1-8-2011 by Ord. No. 10-067]

Should any provision of §§ 135-615-01 through 135-615-14 be declared to be invalid, said provision shall not invalidate any other provision of §§ 135-615-01 through 135-615-14.

§135-616. MBTA Communities Multi-Family Overlay Districts (MCMOD). [Added 12-19-2023 by Order No. 23-076(2)]

- A. Purpose. The purpose of the MBTA Communities Multi-Family Overlay Districts is to allow multifamily housing by right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multifamily housing to accomplish the following purposes:
- (1) Encourage the production of a variety of housing sizes and types to provide equal access to new housing throughout the community for people with a wide variety of housing needs and income levels;
 - (2) Locate housing within walking distance of public transit and village centers to promote public and social health, reduce the number of vehicular miles travelled, support economic

development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.

- (3) Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
- (4) Increase the municipal tax base through private investment in new residential developments.

B. Establishment and applicability. This MCMOD overlay district consists of four sub-districts, that are superimposed over the underlying zoning district(s) and are shown on the Zoning Map.

- (1) Applicability of MCMOD. All multifamily dwelling/housing and mixed-use developments within an MCMOD Sub-District shall be built in accordance with the provisions of Section 135-616.
- (2) Underlying zoning.
 - (a) The MCMOD Sub-Districts are overlay districts superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the respective underlying zoning district(s) shall remain in full force, unless and when a development consists of multifamily dwelling/housing uses allowed by right or mixed-use development allowed by right or by special permit in the MCMOD overlay districts.
 - (b) Uses that are not identified in Section 135-616D are not allowed within developments utilizing the MCMOD Zoning.
- (3) Exclusions. Non-applicable sections of the Zoning Ordinance. In order to comply with the requirements and guidelines for MGL c. 40A, § 3A, as most recently amended, the following sections of the Zoning Ordinance do not apply to any multifamily dwelling/housing uses allowed by right or mixed-use development allowed by right or by special permit in the MCMOD overlay districts.

Section 135-504

Section 135-601

Section 135-603

Section 135-605

Section 135-609

Section 135-610

Section 135-612

Section 135-613

Section 135-614

Section 135-615

Section 135-701 (only the table not the notes)

Section 135-705

Section 135-710

Section 135-804B

Section 135-815

Section 135-910

Article X

Article XIII

- C. Definitions. For purposes of this Section 135-616, the following definitions shall apply. Please refer to Section 135-102 for other definitions of terms already defined within the Zoning Ordinance.

AFFORDABLE HOUSING — A structure that contains affordable units as defined by Section 135-616G.

AFFORDABLE HOUSING UNIT — A dwelling unit that is affordable to and occupied by an eligible household and meets all requirements for inclusion on the Massachusetts Executive Office of Housing and Livable Communities Subsidized Housing Inventory (SHI). Affordable units shall remain as affordable units in perpetuity or for the maximum period allowed by law. Such units shall have the same construction methods and exterior physical characteristics as, and be intermingled with, other units in the development.

AREA MEDIAN INCOME (AMI) — The median family income for the metropolitan statistical region that includes the Town of Braintree as defined by the U.S. Department of Housing and Urban development (HUD).

BY RIGHT USE — Development/use that may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

COMMUTER RAIL STATION — Any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service.

COMPLIANCE GUIDELINES — Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act as further revised or amended from time to time.

DEVELOPMENT STANDARDS — Provisions of Subsection H, General development standards, that are applicable to all multifamily dwelling/housing uses allowed by right or mixed-use development allowed by right or by special permit in the MCMOD overlay districts.

EOHLC — The Massachusetts Executive Office of Housing and Livable Communities, DHCD's successor agency.

FERRY TERMINAL — The location where passengers embark and disembark from regular, year-round MBTA ferry service.

MBTA — Massachusetts Bay Transportation Authority.

MIXED-USE DEVELOPMENT — A development containing vertical or horizontal mix of multifamily dwelling/housing residential uses and nonresidential uses, including institutional, recreational, commercial, and business as contained within the Section 135-616D, within a single building or in separate buildings.

MULTIFAMILY DWELLING/HOUSING — A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

MULTI-FAMILY ZONING DISTRICT — A zoning district, either a base district or an overlay

district, in which multifamily housing is allowed as of right.

SECTION 3A — Section 3A of the Zoning Act (MGL Chapter 40A).

SITE PLAN REVIEW AUTHORITY — Braintree Planning Board.

SUB-DISTRICT — An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

SUBSIDIZED HOUSING INVENTORY (SHI) — A list of qualified affordable housing units maintained by EOHLC used to measure a community's stock of low- or moderate-income housing for the purposes of MGL Chapter 40B, the Comprehensive Permit Law.¹²⁸

SUBWAY STATION — Any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line.

TRANSIT STATION — An MBTA subway station, commuter rail station, or ferry terminal.

D. Permitted Uses - Table of Principal and Accessory Uses.

Principal Uses	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Residential Uses				
Multifamily dwelling/housing	Y	Y	Y	Y
Mixed-use development (Note 1)	Y	Y	SP	Y
Institutional Uses				
Community center	Y	Y	Y	Y
Congregate living facility	Y	Y	N	N
Municipal public park	Y	Y	Y	Y
School	Y	Y	Y	Y
Museum	Y	Y	N	Y
Recreational Uses				
Boathouse marina	N	N	N	Y
Club of lodge	Y	Y	N	Y
Business Uses				
Amusement or assembly, place of	SP	SP	N	SP

128.Editor's Note: See MGL c. 40B, §§ 20 through 23.

Principal Uses	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Animal clinic or hospital	Y	Y	N	SP
Animal retail and animal grooming service <15,000 sq. ft.	Y	Y	N	Y
Animal retail and animal grooming service >15,000 sq. ft.	Y	Y	N	N
Full-service animal establishment	SP	SP	N	N
Bank	Y	Y	N	Y
Body art establishment	N	N	N	SP
Business/ professional offices	Y	Y	Y	Y
Catering service	Y	Y	N	Y
Commercial recreation	SP	SP	N	SP
Day care, commercial	Y	Y	Y	Y
Fast-food establishments w drive-through	Y	Y	N	N
Fast-food establishments w/o drive-through	Y	Y	Y	Y
Hotel or motel	Y	Y	N	SP
Drive-through for any other nonfood use	SP	SP	N	N
Freestanding, exterior kiosks	Y	Y	N	N
Medical center/clinic	Y	Y	N	SP
Office park	SP	SP	N	N
Restaurant	Y	Y	Y	Y

Principal Uses	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Retail store(s)/service(s) (< 15,000 sq. ft.)	Y	Y	Y	Y
Retail store(s)/service(s) (>15,000 sq. ft.)	Y	Y	N	SP
Shopping center	Y	Y	N	N
Function/conference facility	SP	SP	N	SP
Brewery with tap room	Y	Y	SP	SP
Commercial				
Research facility	Y	Y	N	SP
Light manufacturing	SP	SP	N	N

Permitted Uses

Y = By-Right

SP = Special Permit

N = Not Allowed

Note (1): mixed-use development. All mixed-use development shall comply with the definition in Section 135-616C. In order for a mixed-use development to be by right, all of the uses proposed in the mixed-use development must also be by right as noted in the Use table in this section. If a mixed-use development contains use(s) that require a special permit, the special permit is only applicable to the non-residential use. See Zoning Bylaw Ordinance Section 135-503 for special permit procedures and criteria.

Accessory Uses	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Swimming pool	Y	Y	Y	Y
Shed (maximize size 300 sq. ft.)	Y	Y	Y	Y
Storage of an unregistered vehicle	N	N	N	N
Structured parking	Y	Y	Y	Y
Exterior storage of recreational vehicle, boat or camper	N	N	N	N

Accessory Uses	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Separate storage/ garage building maintenance (maximum size 1,000 sq. ft.)	Y	Y	N	N
Dumpster enclosure	Y	Y	Y	Y
Exterior storage on any kind	N	N	N	N
Surface parking spaces	Y	Y	Y	Y
Playground	Y	Y	Y	Y
Building-mounted solar panels	Y	Y	Y	Y
Ground-mounted HVAC or similar utility units	Y	Y	N	N
Ground-mounted solar panels	Y	Y	N	N

E. Dimensional standards.

- (1) Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable in the MCMOD Sub-Districts are as follows:

Dimensional Criteria	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Minimum lot size	25,000 sq. ft.	25,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
Frontage	100 Ft.	100 Ft.	50 Ft.	50 Ft.
*Building height (stories)	4	4	4	5
*Building height (feet)	50	50	50	60
Building coverage	60%	60%	70%	70%
Lot coverage	70%	70%	80%	80%
Open space	30%	30%	20%	20%
Open space per unit	500 sq. ft.	500 sq. ft.	150 sq. ft.	150 sq. ft.
Front yard setback	30 Ft.	30 Ft.	5 Ft.	5 Ft.
Rear yard setback	20 Ft.	20 Ft.	5 Ft.	5 Ft.

Dimensional Criteria	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Side yard setback	20 Ft.	20 Ft.	5 Ft.	5 Ft.
Dwelling units per acre maximum	30	30	35	40
*Maximum number of units per lot	325	325	150	150

Dimensional Table Notes:

1. All mixed-use developments in the MCMOD Sub-Districts have no limitations on the number of accessory or principal buildings on a lot.
2. In multifamily dwelling/housing developments the Planning Board has the authority as part of the site plan review process to limit accessory uses and structures.
3. Parking garages must be vertically integrated into a building or surrounded by other non-parking uses on all sides.
4. All exceptions in the Section 135-701 notes shall apply to the dimensional criteria in Section 135-616E, except for accessory structures and accessory uses, which shall be set back the same distance from any lot line as the principal structures.
5. No use of any portion of a lot's front yard/land area within the required setback, in front of the principal dwelling(s) on the lot shall be used for surface or structured parking.
6. In accordance with the requirements in Section 135-702, any portion of a lot within the MBTA 1 Redline North and MBTA 2 Redline South MCMOD subdistricts that are within the vicinity of a Residence A or B Zone line shall be required to have 100-foot buffer for all principal buildings as measured from the Zoning District Boundary with the MCMOD Overlay and a fifty-foot buffer for any accessory use, site improvement, structure or buildings as measured from the Zoning District Boundary with the MCMOD Overlay. The fifty-foot buffer shall be left in a nature state is undisturbed or restored to landscape/open space in accordance with the provisions of Section 135-702.

Dimensional Table Notes:

7.	Renewable Energy Installations: The Planning Board may waive the height and setbacks in the Dimensional Standards and in the Section 135-701 notes to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create any detriment or impact to abutters in terms of visual occurrence, noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.
8.	*Special permit for exceptions to building height (stories), building height (feet), and maximum number of units per lot. The special permit Granting Authority may issue a special permit for a multifamily dwelling/housing or mixed-use developments in the MBTA 1 Redline North and MBTA 2 Redline South MCMOD subdistricts that exceed the Dimensional Criteria in Section 135-616E, noted with an*.

The multifamily dwelling/housing or mixed-use developments exceptions requested are prohibited from exceeding two additional stories or 25 additional feet. There are no restrictions on the request to exceed the maximum number of units per lot.

(2) Special permit criteria:

- (a) When issuing a special permit for any exception noted above in this Section, the special permit Granting Authority shall evaluate how the proposed building mass, design and form is compatible with and enhances the area in relationship to the existing built environment, context, mass, and surrounding land uses. All multifamily dwelling/housing or mixed-use developments shall clearly demonstrate that any exceptions requested are in harmony with and satisfy this criteria in order to be further evaluated under the criteria below.
- (b) If the Planning Board determines that the exceptions satisfy the multifamily dwelling/housing or mixed-use developments must demonstrate that a minimum of three criteria are satisfied.

[1] Preservation and reuse of historic buildings on the site.

[2] Public amenities: newly created public open space, pocket parks, walking paths, playgrounds, conservation restrictions or municipal parks. Said public amenities shall be accessible and usable by general public without undue restriction and shall be subject to and include all required restrictions, easements and agreements determined to be required by the Planning Board/special permit granting authority, and may include a donation of land to the Town of Braintree.

[3] Achievement of Gold or Platinum LEED certification or other equivalent standard related to green building technologies.

- [4] Community space: newly created interior building space that is accessible and suitable for use by the Town of Braintree to host gatherings, meetings, public meetings and community events and shall be subject to and include all required restrictions, easements and agreements determined to be required by the Planning Board/special permit granting authority.
- [5] Workforce housing units: In addition to the requirements in Section 135-616G, the multifamily dwelling/housing or mixed-use development provides for an additional 10% of the total unit count as workforce housing units available to households earning 81% to 120% of AMI.
- [6] Commitment to publicly benefiting beautification, public art or wayfinding projects in or adjacent to the district.
- F. Transportation, vehicle, pedestrian and bicycle requirements. In order to comply with the goals and objectives of MGL c. 40A, § 3A, this section of the Ordinance takes into account the locations of the MCMOD Sub-District and their proximity to commuter rail, Red Line and bus service. In addition to public transportation the MCMOD Sub-Districts are located in close proximity to the Town's civic and open space areas, the South Braintree and Braintree Weymouth Landing Squares as well as employment and larger commercial nodes. The movement of people, bicycles and vehicles is important in the MCMOD Sub-Districts.
- (1) Number of vehicle parking and loading bays and spaces: The following minimum number of off-street parking spaces shall be required for each use, either in surface parking areas or structured parking. For specific uses not listed please see Section 135-806A, B and C.

MCMOD Sub-Districts				
USES	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Residential Uses				
Multifamily dwelling/ housing	1.5 per Unit	1.5 per Unit	1.5 per Unit	1.25 per Unit
Mixed-Use Development (Note 1)	Per Use	Per Use	Per Use	Per Use
Institutional Uses				
Community center	See § 135-806	See § 135-806	See § 135-806	See § 135-806
Congregate living facility	0.4 per Unit	0.4 per Unit		
Municipal public park	Set by PB	Set by PB	Set by PB	Set by PB
School	See § 135-806	See § 135-806	See § 135-806	See § 135-806
Museum	See § 135-806	See § 135-806		See § 135-806
Recreational Uses				
Boathouse marina				See § 135-806

MCMOD Sub-Districts				
USES	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Club or lodge	See § 135-806	See § 135-806		See § 135-806
Business Uses				
Amusement or assembly, place of	See § 135-806	See § 135-806		See § 135-806
Animal clinic or hospital	See § 135-806	See § 135-806		See § 135-806
Animal retail and animal grooming service <15,000 sq. ft.	See § 135-806	See § 135-806		1 per 500 sq. ft.
Animal retail and animal grooming service <15,000 sq. ft. or >	See § 135-806	See § 135-806		
Full service animal establishment	See § 135-806	See § 135-806		
Bank	1 per 250 sq. ft.	1 per 250 sq. ft.		1 per 400 sq. ft.
Body art establishment				1 per 300 sq. ft.
Business/professional offices	1 per 350 sq. ft.	1 per 350 sq. ft.	1 per 350 sq. ft.	See § 135-615-10
Catering service	1 per 500 sq. ft.	1 per 500 sq. ft.		1 per 500 sq. ft.
Commercial recreation	See § 135-806	See § 135-806		See § 135-806
Day care, commercial	1 per 500 sq. ft.	1 per 500 sq. ft.	1 per 500 sq. ft.	1 per 500 sq. ft.
Fast-food establishments with drive-through	See § 135-806	See § 135-806		
Fast-food establishments without drive-through	1 per 150 sq. ft.	1 per 150 sq. ft.	1 per 150 sq. ft.	1 per 150 sq. ft.
Hotel or motel	1 per guest room	1 per guest room		1 per guest room
Freestanding, exterior kiosks	See § 135-806C	See § 135-806C		See § 135-806C
Medical center/clinic	1 per 175 sq. ft.	1 per 175 sq. ft.		1 per 200 sq. ft.
Office park	1 per 350 sq. ft.	1 per 350 sq. ft.		
Restaurant	1 per 3.5 seats	1 per 3.5 seats	1 per 3.5 seats	1 per 5 seats

MCMOD Sub-Districts				
USES	MBTA 1 Red Line North	MBTA 2 Red Line South	MBTA 3 Red Line Village	MBTA 4 Greenbush BWLD
Retail store(s)/service(s) (<15,000 sq. ft.)	1 per 250 sq. ft.	1 per 250 sq. ft.	1 per 350 sq. ft.	1 per 500 sq. ft.
Retail store(s)/service(s) (>15,000 sq. ft.)	1 per 250 sq. ft.	1 per 250 sq. ft.		1 per 500 sq. ft.
Shopping center	See § 135-806C	See § 135-806C		
Function/conference facility	See § 135-806C	See § 135-806C		See § 135-806C
Brewery with tap room	See § 135-806C	See § 135-806	See § 135-806	See § 135-806
Commercial				
Research facility	1 per 400 sq. ft.	1 per 400 sq. ft.		1 per 400 sq. ft.
Light manufacturing	See § 135-806	See § 135-806		

(2) Vehicle parking and loading bays and spaces requirements:

- (a) All uses within a development shall provide for vehicle charging stations as required in the IECC 2015 International Energy Conservation Code (as most recently amended) including vehicles charging stations that are ADA accessible.
- (b) All uses shall provide for internal or external loading spaces and loading bays pursuant to Section 135-814. In mixed-use developments the Planning Board may allow the use of shared loading spaces and loading bays.
- (c) All multifamily dwelling/housing and mixed-use developments shall provide short-term dedicated parking spaces for package delivery, transportation (ride share, livery, pick up/drop off), and food dropoff and pickup. The number and location of the parking spaces will be determined by the Planning Board as part of the site plan review process.
- (d) Parking requirements for a mixed-use development on a single site may be adjusted through the site plan review process, if the combination of uses proposed demonstrates that shared spaces will meet parking demands of the uses proposed on site. Any mixed-use development seeking permission to utilize shared parking shall submit:

- [1] A parking report prepared by a professional traffic engineer, that includes both ITE (Institute of Traffic Engineers) and empirical data to demonstrate the parking demands of all proposed uses and the peak periods. Said report shall include all proposed uses parking requirements per this Ordinance, each uses peak demand, the fifty-percentile demand and total daily demands. The mixed-use development peak demand shall clearly demonstrate that at no time during the day will the peak demand of the mixed-use development exceed the supply for the Planning Board to allow any form of shared parking plan.

(3) Bicycle parking/storage requirements:

- (a) All multifamily dwelling/housing developments and mixed-use developments must provide on-site accommodations for the parking and storage of bicycles.
- (b) All multifamily dwelling/housing developments shall provide interior bicycle parking/storage within the residential building or parking structure in a secured area for residents and staff. One bicycle parking/storage space shall be provided for every eight residential units in the development.
- (c) All multifamily dwelling/housing developments shall provide exterior bicycle parking spaces for visitors and guests. One exterior bicycle parking space shall be provided for every 16 residential units in the development.
- (d) All interior and exterior bicycle parking/storage space requirements in multifamily dwelling/housing developments with less than eight residential units shall be determined by the Planning Board.
- (e) All nonresidential uses in a mixed-use development shall provide for interior and exterior bicycle parking. One bicycle parking space shall be provided for every 10 required vehicle parking spaces. The location of the spaces (interior or exterior) shall be determined by the Planning Board based on the uses within the mixed-use development.

(4) Pedestrian, vehicle and bicycle access requirements:

- (a) All multifamily dwelling/housing developments and mixed-use developments shall include a well-designed internal network of sidewalks and or a multiuse path that connects to other uses in the development and the public sidewalk. Access to common areas, plazas, parking areas and open spaces shall be provided for.
- (b) All multifamily dwelling/housing developments and mixed-use developments shall be designed to provide bicycle and pedestrian connections or a multiuse path that connects to abutting properties and other compatible land uses within the MCMOD Sub-District.
- (c) All multifamily dwelling/housing developments and mixed-use developments shall provide for and construct or upgrade as determined by DPW a sidewalk or a multi-use path along the entirety of the property's frontage, including the use of private property through an easement if needed. The Planning Board may waive this requirement if an alternative location interior to the property provides a better option for public access to the MCMOD Sub-District and surrounding neighborhood.
- (d) Curb cuts from all public ways and streets and any other vehicular access points to properties, structures, buildings, and parking structures shall be minimized and shared where possible. Shared driveways for abutting properties and developments are strongly encouraged and may be required by the Planning Board.

G. Affordable housing requirements. The purposes of this subsection are:

To increase the supply of housing stock in the Town of Braintree that is permanently available and affordable to low- and moderate-income (>80% of the AMI) households;

To encourage greater diversity of housing accommodations to meet the needs of Braintree residents and local employees; and

To develop and maintain a satisfactory proportion of the Town's housing stock as affordable housing units, deed restricted per eligibility on the Subsidized Housing Inventory (SHI).

- (1) **Applicability.** This requirement is applicable to all site plan review applications for multifamily dwelling/housing developments and mixed-use developments with 10 or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion. No project may be segmented, divided or phased to avoid the requirements of this section. Segmentation shall mean one or more divisions of land or buildings that cumulatively result in a net increase of 10 dwelling units above the number existing 24 months prior to an application to develop any parcel or set of contiguous parcels in common ownership or under common control, on or after the effective date of this section.
- (2) **Percentage and level of affordable housing.** In applicable projects, not fewer than 10% of housing units constructed shall be affordable housing units. For purposes of calculating the number of units of affordable housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to 80% of the AMI.
- (3) **Selection process for affordable units.** The selection of qualified purchasers or qualified renters for the affordable units shall be carried out under an affirmative fair housing marketing plan (AFHMP). The AFHMP shall comply with the EOHLC's requirements in effect on the date the application was filed with the Town and shall be complied with to ensure that all affordable units are SHI eligible.
- (4) **Comparability.** Unless otherwise approved by the Planning Board, all affordable and workforce housing units in all multifamily dwelling/housing developments and mixed-use developments shall be:
 - (a) Dispersed throughout the development and buildings and shall be indistinguishable from market-rate units (floating and fixed are permitted).
 - (b) The number of bedrooms in affordable and workforce housing units shall be comparable to the bedroom mix in market-rate units in the development.
 - (c) Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and buildings.
 - (d) Located such that the units have equal access to shared amenities and common areas including light and air, outdoor areas, open space, other areas of the development and utilities within the development.
 - (e) Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development.
- (5) **Building permit and occupancy conditions.**
 - (a) **Building permit conditions.** An agreement with the Town of Braintree, acknowledging understanding of and commitment to all of the occupancy conditions contained here within shall be executed and delivered to the Department of Planning and Community development (DPCD) prior to and as a condition of the issuance of any building permit required to commence construction. The Building Inspector shall not issue a building permit with respect to any project or development subject to this article unless and until

the DPCD has verified in writing to the Building Inspector that such agreement has been executed and delivered.

- (b) Occupancy conditions. No certificate of occupancy shall be issued for any market-rate units in a development subject to this section until all documents necessary to ensure compliance by the applicant (and any purchasers of the affordable housing units) with the requirements of this Inclusionary Housing section have been executed and recorded, including:
- [1] The applicant has an approved Local Initiative Program application for local action units from EOHLIC;
 - [2] The applicant has satisfied all of the fair and affirmative marketing requirements for occupancy including conducting the lottery for the affordable units.
 - [3] Ongoing requirement for and agreement with a third-party affordability monitoring agent (monitoring agent).
- (6) Timing of construction. Where feasible, affordable and workforce housing units may be provided coincident with the development of market-rate units, but in no event shall the development of affordable and workforce housing units be delayed beyond the following schedule:

Market Rate Units % Ready For Occupancy	Affordable and Workforce Unit % Ready For Occupancy
Up to 30	None required
30 up to 50	At least 10
50 up to 75	At least 40
75 up to 90	At least 70
By 90	100

H. General development standards for the MCMOD Sub-Districts. In addition to all other applicable sections of the Braintree Zoning Ordinance, the following general development standards are applicable in the MCMOD Sub-Districts. These special zoning provisions are required in order to ensure that the requirements of MGL c. 40A, § 3A, are fulfilled and that the public good and well-being of Braintree is being promoted, protected and served in doing so.

- (1) Lighting. Light levels shall be designed to provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.
- (2) Mechanicals. All mechanical equipment at ground level and on any rooftop shall be screened for visual and sound impacts. A combination of sound panels, fencing and plantings shall be utilized as determined.
- (3) Dumpsters. External dumpsters shall be located on a hard surface, such as asphalt, pavers or concrete and screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located and stored within the building.
- (4) Building orientation and design. The principal building(s) shall have its principal facade and

main pedestrian entrance facing a street. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building facade(s) shall be designed with attention to entries, fenestration, and compatible materials.

- (5) Outdoor areas. Multifamily housing and mixed-use developments shall have common outdoor areas that all residents can access. Outdoor space can consist of recreation areas, fields, open space, courtyards, parks, playgrounds, outdoor dining, terraces and roof decks.

I. Site plan review.

- (1) Applicability. Site plan review is required for all multifamily dwelling/housing developments and all mixed-use developments. An application for site plan review shall be reviewed by the Planning Board for consistency with Section 135-616 and other applicable sections of the Ordinance.
- (2) Submission requirements and approval criteria. See Braintree Zoning Ordinance Section 135-711C(3) and D. Site plan approval shall be granted upon determination by the Planning Board that all applicable requirements and criteria in the Ordinance have been satisfied. The Planning Board may impose reasonable conditions prior to the applicant receiving a building permit or certificate of occupancy, at the expense of the applicant, to ensure that requirements and criteria will be satisfied.

- (3) Timeline and process.

- (a) Within 45 days of the Department of Planning and Community development determining that all site plan review materials are complete and fees have been submitted, including the Town Clerk stamp, the Planning Board shall hold a public hearing. All site plan review applications in all MCMOD Sub-Districts will require a public hearing. Notice of a public hearing is required and shall be given by publication in a newspaper of general circulation in the city or Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than 14 days before the day of such hearing. In all cases notice shall be sent by mail, postage prepaid. "Parties in interest" as used in this section shall mean the petitioner and all abutters within 300 feet of the property line of the lot(s) as they appear on the most recent applicable tax list including land of any such owner even if located in another city or town.
- (b) The Department of Planning and Community development and/or the Planning Board may, when appropriate, seek the input of other municipal boards or Town officials, including but not limited to:

Water and Sewer Department

Engineering Division

Stormwater Division

Building Division

Health Division

ADA Coordinator and Commission on Disabilities

Braintree Electric Light Department

Braintree Police Department

Braintree Fire Department

Legal Department

Mayor's Office

Treasurer/Collector

- (4) Voting requirements: All site plan review applications submitted pursuant to Section 135-616 must receive a simple majority vote of the Planning Board to be approved.
 - (5) Fees. Please refer to the Planning Board Fee Schedule at the time of application for the Planning Board.
 - (6) Peer review. Multifamily dwelling/housing developments and mixed-use developments may be subject to peer reviews pursuant to MGL c. 44, § 53G, as determined by the Town of Braintree or the Planning Board.
- J. Severability. If any provision of Section 135-616 is found to be invalid by a court of competent jurisdiction, the remainder of Section 135-616 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 135-616 shall not affect the validity of the remainder of the Zoning Ordinance.

§135-617. Mixed Use Planned Unit Development District. [Added 11-19-2024 by Order No. 24-034]

The Town of Braintree shall have a designated Mixed Use Planned Unit Development District (the "MUPUD") described herein and added to § 135-301 (Districts established) and shall be shown on the Braintree Zoning Map dated January 8, 2011, as revised and amended to date on file in the office of the Town Clerk.

- A. Purpose. The purpose of the Mixed Use Planned Unit Development District (the "MUPUD") is to establish a specific zoning overlay district for the development of multi-family housing at the approximate 10.3-acre site, uniquely situated within the southeasterly portion of the existing regional shopping center property and adjacent to the Old Quincy Reservoir property (the "MUPUD"), generally in accordance with the intent and purpose(s) set forth in § 135-612A, Braintree Zoning Ordinances ("BZO"). Per § 135-102, BZO, the MUPUD contains at least two of the following: residential use, business use, commercial use and open space.
- (1) Provide new multi-family housing for people of different stages of life and create work/live/recreate options for residents of the MUPUD.
 - (2) Provide housing for a variety of multi-generational residents in the MUPUD and promote synergy with adjacent businesses, the regional shopping center and the proximate Granite/Forbes/Wood Road commercial area; to attract potential new businesses, augment the tax base and promote a sustainable work/live/recreate MUPUD community within the Town.
 - (3) Provide multi-family housing in the MUPUD a) where employees and potential employees of new and existing area business and commercial establishments can live; and b) where resident consumers of the MUPUD can walk to/from retail locations (goods and services) dining locations and public bus transportation.
 - (4) Provide affordable housing units in addition to market rate multi-family housing units.

- (5) Promote compact design in the development of new multi-family housing; provide flexibility regarding dimensional and density requirements to improve the development of multi-family housing, particularly where public and/or private open space is provided and/or improved as part of the development.
- (6) Assist the regional shopping center in evolving in a reasonable manner by constructing housing at, or proximate to, the regional shopping center; and to promote the prevalence and benefit of housing at regional shopping centers.
- (7) Integrate a higher and better use of underutilized infrastructure and/or vacant acreage (or portion thereof) in the MUPUD and at the regional shopping center by allowing multi-family housing to be constructed at the regional shopping center; promote the development of underutilized existing property and/or infrastructure to create a mixed-use environment that includes multi-family housing located within the regional shopping center, proximate to businesses and open space.
- (8) Provide efficient parking and lower impact design that reduces impervious coverage and promotes a transportation environment including the use of buses, vans, ride share and/or uber-type services.
- (9) Provide publicly accessible open space, walking path and/or accessible community space.
- (10) Enable the development of multi-acre sites that provide residential, commercial and business uses, and which may contain individual building sites developed as an integrated mixed-use venue.
- (11) Facilitate construction and maintenance of drives, streets, utilities and public services in an efficient manner; promote retail and service uses closely related to the residential section of the planned unit development.

B. Applicability.

- (1) Land located within the Mixed Use Planned Unit Development District (the "MUPUD") shall be subject to the provisions of §§ 135-612 and 135-617 relative to new development. The following sections of the Zoning Ordinance are not applicable to land within the MUPUD:

BZO Section: 135-601, 135-603, 135-604, 135-605 and 135-610.

BZO Section: 135-701, 135-702B, 135-703, 135-705, 135-707A, 135-708, 135-709 and 135-710.

BZO Section: 135-802, 135-803, 135-804, 135-806.

BZO Section: 135-904.1, 135-904.2A.

- (2) Section 135-617 shall control in the event of any conflict with other articles of the BZO. As set forth in § 135-612G, in a PUD overlay district, all the zoning requirements of the underlying zoning districts shall apply unless and until a special permit for a PUD has been issued by the SPGA.

C. Process. The Braintree Town Council (Town Council) shall consider and may approve the MUPUD (a PUD zoning overlay district), concept plan(s) for the PUD and provisions of § 135-617 BZO (collectively the "MUPUD"). Pursuant to §§ 135-612 and 135-503 the Braintree Planning Board (the "SPGA") may grant a special permit for development within the MUPUD, and in doing so must find

that the application as submitted is in keeping with the concept plan as approved and most recently amended.

- D. Uses permitted by right and by special permit within the MUPUD. Table of Principal Uses in the MUPUD. Fitness center, management offices and other interior and exterior amenities accessory to multi-family housing are permitted as part of the principal use in the MUPUD. Principal business use(s) are listed in Table 1.

Table 1: Table of Principal Uses		
Use	By-Right	Special Permit
Multi-family dwellings	Yes	No
Public open space	Yes	No
Access across a zone to serve a different zone	Yes	No
Public amenities or community space (interior or exterior)	Yes	No
Restaurant	Yes	No
Brewery with tap room	Yes	No
Fast food establishment	Yes	No
Retail store and services (not elsewhere classified) < 30,000 sq. ft.	Yes	No
Retail store and services (not elsewhere classified) > 30,000 sq. ft.	No	Yes
Commercial recreation < 16,000 sq. ft.	Yes	No
Commercial recreation > 16,000 sq. ft.	No	Yes
Place of amusement or assembly < 16,000 sq. ft.	Yes	No
Place of amusement or assembly > 16,000 sq. ft.	No	Yes
Business or professional office	Yes	No
Medical center/clinic	Yes	No
Hotel or motel	No	Yes
Day care, commercial	Yes	No
Animal clinic/hospital	Yes	No
Animal retail and grooming service	Yes	No

- E. Dimensional and density requirements for development in the MUPUD. Dimensional and density requirements for development in the MUPUD are set forth in Table 2: Table of Dimensional and

Density Requirements.

Table 2: Dimensional and Density Requirements	
Criteria	Requirements
Lot area	Minimum of 3 acres
Lot width	Minimum of 100 feet
Lot frontage	Minimum of 100 feet
Lot depth	Minimum of 100 feet
Height (stories)	Maximum 4
Building coverage	Maximum 50%
Lot coverage	Maximum 70%
Open space	Minimum 30%
Yards (front/rear and side)	Minimum 10 feet

The Table of Dimensional and Density Requirements shall control development in the MUPUD. Noting that pursuant to § 135-612E(2) final dimensional and density requirements, including but not limited to setbacks, residential density, yard and height requirements, and parking and loading dock requirements, shall be determined by the SPGA.

- (1) The SPGA can waive dimensional, and density requirements outlined in Table 2 above, based upon, without limitation, whether the common boundary line is within the regional shopping center (i.e., internal) or with a different property owner.
- (2) Nothing contained herein shall prevent the projection into any determined setback of balconies, steps, stoops, eaves, cornices, belt courses, windowsills or like projections. The limitation of height shall not apply to chimneys, elevator penthouses or equipment rooms which extend 12 feet or less above the roof, parapets which are four feet or less in height. The sum of the footprints of all chimneys, elevator penthouses or equipment rooms shall not exceed 25% of the roof area of any building.
- (3) No setback from any property line is required for monument ground or blade signage, which are allowed, but said signage shall be wholly contained within the property limits and shall not overhang any sidewalks.
- (4) Renewable energy installations shall not be considered a story and may be located on any building rooftop in the MUPUD. This applies to the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create any detriment or impact to abutters in terms of visual occurrence, noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.
- (5) Parking garages/structures do not count towards building coverage unless they contain residential units that are vertically integrated above or below them.

F. General requirements.

- (1) Underground utility lines and connections are required for all new buildings; unless BELD confirms a physical restriction or that underground installation would not be possible due to existing underground obstructions.
- (2) All external units for heating, cooling (HVAC), other mechanical units shall be screened and located on rooftops or within the building or parking garage.
- (3) All development shall provide multi-use (pedestrian/bicycle) paths connecting their site with abutting areas in order to promote pedestrian and bicycle use, circulation and safety.

G. Parking requirements in the MUPUD.

- (1) Vehicle parking requirements.

Use	Requirement
Multi-family dwellings	1 space per bedroom
Hotel/motel	1 space per guest room
Retail and services Office Medical office Restaurant Fast food Commercial recreation Place of amusement or assembly Animal retail and grooming service Animal clinic/hospital	1 space per 250 sq. ft.
Public amenities or community space (interior or exterior)	Set by the SPGA
Brewery with tap room	Production area: 1 parking space/1,000 sq. ft. Tap room: 1 parking space/3.5 seats
Day care, commercial	1 space per 500 sq. ft.

- (2) Bicycle parking requirements. All multi-family dwellings shall provide interior bicycle parking/storage within the residential building or parking structure in a secured area for residents and staff. One bicycle parking/storage space shall be provided for every eight residential units in the development.

H. Market rate and affordable housing units.

- (1) Applicability. This requirement is applicable to all multi-family dwelling developments and mixed-use developments with 10 or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion. No project may be segmented, divided or phased to avoid the requirements of this section. Segmentation shall mean one or more divisions of land or buildings that cumulatively result in a net increase of 10 dwelling units above the number existing 24 months prior to an application to develop any parcel or set of contiguous parcels in common ownership or under common control, on or after the effective date of this section.

- (2) Percentage and level of affordable housing. In applicable projects, not fewer than 10% of housing units constructed shall be affordable housing units. For purposes of calculating the number of units of affordable housing required within a development project, a fractional unit shall be rounded down to the next whole number. The affordable units shall be available to households earning income up to 80% of the AMI.
- (3) Selection process for affordable units. The selection of qualified purchasers or qualified renters for the affordable units shall be carried out under an Affirmative Fair Housing Marketing Plan (AFHMP). The AFHMP shall comply with the EOHLC's requirements in effect on the date the application was filed with the Town and shall be complied with to ensure that all affordable units are SHI eligible, or otherwise in compliance with the EOHLC's requirements in effect on the date the application was filed with the Town to ensure that all affordable units are SHI eligible.
- (4) Comparability. Unless otherwise approved by the SPGA, all affordable housing units in all multi-family dwelling developments shall be:
 - (a) Dispersed throughout the development and buildings and shall be indistinguishable from market-rate units. (Floating and fixed are permitted.)
 - (b) The number of bedrooms in affordable and workforce housing units shall be comparable to the bedroom mix in market-rate units in the development.
 - (c) Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and buildings.
 - (d) Located such that the units have equal access to shared amenities and common areas including light and air, outdoor areas, open space, other areas of the development and utilities within the development.
 - (e) Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development.
- (5) Building permit and occupancy conditions.
 - (a) Building permit conditions. An agreement with the Town of Braintree, acknowledging understanding of and commitment to all of the occupancy conditions contained here within shall be executed and delivered to the Department of Planning and Community Development (DPCD) prior to and as a condition of the issuance of any building permit required to commence construction. The Building Inspector shall not issue a building permit with respect to any project or development subject to this article unless and until the DPCD has verified in writing to the Building Inspector that such agreement has been executed and delivered.
 - (b) Occupancy conditions. No certificate of occupancy shall be issued for any market-rate units in a development subject to this section until all documents necessary to ensure compliance by the applicant (and any purchasers of the affordable housing units) with the requirements of this inclusionary housing section have been executed and recorded, including:
 - [1] The applicant has an approved Local Initiative Program Application for Local Action Units from EOHLC;

- [2] The applicant has satisfied all of the fair and affirmative marketing requirements for occupancy including conducting the lottery for the affordable units.
 - [3] Ongoing requirement for and agreement with a third-party affordability monitoring agent (monitoring agent).
- (6) Timing of construction. Where feasible, affordable housing units may be provided coincident with the development of market-rate units, but in no event shall the development of affordable and workforce housing units be delayed beyond the following schedule:

Market Rate Units % Ready For Occupancy	Affordable and Workforce Unit % Ready for Occupancy
Up to 30%	None required
30% up to 50%	At least 10%
50% up to 75%	At least 40%
75 up to 90%	At least 70%
By 90%	100%

- I. Signage. The SPGA shall have authority to approve MUPUD signage as part of any special permit and/or site plan review applications in the MUPUD.
- (1) Wall signage. The SPGA shall approve wall signage of appropriate dimensions for buildings and uses in the MUPUD which provide reasonable identification for both pedestrians and motorists. Two wall signs are permitted per building, which may include blade-style signage. Total wall signage per building shall not exceed 150 square feet.
 - (2) Monument signage. The SPGA shall approve monument-type signage of appropriate dimensions for buildings and uses in the MUPUD which provide reasonable identification for both pedestrians and motorists. Two monument-type signs are permitted per building. Total monument signage per building shall not exceed 100 square feet.
 - (3) Wayfinding signage. Ground level wayfinding and directional signage are allowed of such customary size and in locations deemed appropriate by the SPGA to facilitate the safety and convenience of pedestrians and motorists and to identify amenities and open space areas.
 - (4) Note: Illumination is allowed by internally or externally lit channel letters, halo lighting and gooseneck-type lighting. Neon illumination, animated, moving or bulletin board-type signage are prohibited.
- J. Definitions. For purposes of this § 135-617, the following definitions shall apply. Please refer to § 135-102 for other definitions of terms already defined within the BZO.

AFFORDABLE HOUSING UNIT — A dwelling unit that is affordable to and occupied by an eligible household and meets all requirements for inclusion on the Massachusetts Executive Office of Housing and Livable Communities Subsidized Housing Inventory (SHI). Affordable units shall remain as affordable units in perpetuity or for the maximum period allowed by law. Such units shall have the same construction methods and exterior physical characteristics as, and be intermingled with, other units in the development.

AREA MEDIAN INCOME (AMI) — The median family income for the metropolitan statistical

region that includes the Town of Braintree as defined by the U.S. Department of Housing and Urban Development (HUD).

MULTI-FAMILY DWELLING/HOUSING — A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

PUBLIC AMENITY OR COMMUNITY SPACE (INTERIOR AND/OR EXTERIOR) — Exterior, publicly accessible open space areas and/or interior meeting space as designated by the development.

SUBSIDIZED HOUSING INVENTORY (SHI) — A list of qualified affordable housing units maintained by EOHLC used to measure a community's stock of low- or moderate-income housing for the purposes of MGL c. 40B, the Comprehensive Permit Law.

ARTICLE VII
Area Regulations
[Amended 10-27-1992 STM by Art. 17]

§135-701. Table of Dimensional and Density Regulations: Notes. [Amended 5-11-1994 ATM by Art. 56]

Editor's Note: The Table of Dimensional and Density Regulations is now located at the end of this chapter.

- (1) In an established neighborhood, the front setback may be the average of the setbacks of the other buildings within 200 feet of the locus on the same side of the street.
- (2) At no point shall the lot width between the street line and the principal building be less than 40% of the minimum lot width. No portion of a principal building shall be located on a portion of a lot where the lot width is less than the minimum lot width, and said minimum lot width shall be maintained to a point 20 feet beyond the rear portion of the principal building. **[Amended 5-15-2002 ATM by Art. 44]**
- (3) For one- and two-family residences, the limitation of height shall not apply to chimneys, ventilators or other ornamental features which are not used for living purposes. For other buildings, the limitation of height shall not apply to chimneys, elevator penthouses or equipment rooms which extend 12 feet or less above the roof, parapets which are four feet or less in height, and building-mounted wireless communication links [authorized under § 135-1603B(1)] which extend 10 feet or less above the height of the building. The sum of the footprints of all chimneys, elevator penthouses or equipment rooms, parapets and building-mounted wireless communication links shall not exceed 25% of the roof area of any building. **[Amended 10-4-2004 STM by Art. 13]**
- (4) No swimming pool (above or below ground) shall be built within 10 feet of any side or rear lot line. No other building of accessory use shall be built within five feet of any lot line.
- (5) No driveway shall exceed a maximum grade of 12%. All changes in grade shall be by means of smooth transitional vertical curves. Driveways shall be graded or drained so as to prevent rainwater from entering a structure.
- (6) An attached garage or other attached structure shall be considered part of the main building and shall comply with all the dimensional and density requirements for that building.
- (7) Nothing herein shall prevent the projection into any required yard of steps, stoops not exceeding 30 square feet in area, eaves to 18 inches, cornices, windowsills or belt courses.
- (8) Water storage towers under the care, custody and control of the Braintree Water and Sewer Department shall be exempt from the height restrictions of this section provided such exemption is granted by the Zoning Board of Appeal after a public hearing on a finding by said Board that such exemption is consistent with the furtherance of a municipal purpose.
- (9) Any parcel of land in separate ownership on the date of this amendment shall not be used to satisfy maximum lot coverage, maximum building coverage or minimum open space requirements listed in § 135-701 for another parcel of land located in a different zoning district.
 - (a) This shall apply to parcels of land in separate ownership and in different zoning districts that are combined subsequent to the adoption of this amendment.
 - (b) Parcels of land in separate ownership and in different zoning districts that are combined

subsequent to the adoption of this amendment shall be subject to the most restrictive of the zoning requirements of § 135-701 (except maximum lot coverage, maximum building coverage and minimum open space) for the zoning that is applicable to any portion of the combined parcel.

- (c) This shall not prohibit the rezoning of any parcel of land in accordance with the bylaws of the Town of Braintree.
- (d) This note shall not apply to any parcel of land which falls under the jurisdiction of § 135-306 of the Braintree Zoning Bylaw. **[Amended 5-3-1993 ATM by Art. 41]**
- (10) All billboards shall require a front yard setback of 20 feet, a side yard setback of 20 feet and a rear yard setback of 30 feet. Freestanding billboards shall not be erected in excess of 75 feet in height as measured from the ground to the top edge of the billboard. **[Added 3-17-2015 by Ord. No. 14-066(6)]**
- (11) Properties located in a Highway Business District that use parking structures to meet off-street parking requirements set forth in § 135-806, with or without building area above or below such parking structure, may increase the allowable building coverage by 5% for a total maximum building coverage of 30% so long as the site provides at least the 25% open space and 75% lot coverage. **[Added 8-11-2015 by Ord. No. 15-019]**

§135-702. Landscaping, tree protection and buffer zones. [Amended 10-27-1998 STM by Art. 31; 3-17-2015 by Ord. No. 14-066(7);10-17-2023 by Order No. 23-051]

(Please refer to Braintree General Ordinance Section 12.30¹²⁹ for definitions that apply to Section 135-702)

A. Landscaping.

- (1) Purpose. It is the purpose of this section to establish certain regulations pertaining to landscaping and tree protection that must be provided in connection with a special permit or site plan review. These regulations provide standards and criteria for landscaping which are intended to enhance the value of property, provide buffers between dissimilar uses, preserve existing trees, improve the physical appearance of the Town and maintain an ecological balance. Maintaining and recreating an ecological balance is of increasing concern because of land coverage of pavement and structures. These impervious surfaces create an increase in air temperatures, water runoff, flooding, erosion, water pollution and groundwater depletion. Vegetation effectively alters these imbalances through oxygen replenishment, water absorption, and abatement of noise, glare and heat. Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques are encouraged.
- (2) Applicability. The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all proposed development which will require a definitive subdivision approval, site plan review or special permit.
- (3) Submission requirements for landscape and tree protection plans.
 - (a) The landscape and tree protection plans shall be submitted concurrently with the Definitive Subdivision application, special permit or site plan review application, as required by the Planning Board. The Planning Board shall review landscape and tree protection plans in

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accordance with the plan requirements and standards below.

- (b) Landscape and tree protection plans shall contain the following information:
 - [1] Scale and North arrow.
 - [2] Title block with applicant's name and the name, address and stamp of the landscape professional who prepared the plan(s).
 - [3] A base layer that shows proposed building and structure footprints, walls, fences, terrace, circulation, parking and loading layouts, curb cuts, all subsurface utilities and easements.
 - [4] An existing tree layer and schedule, that depicts all existing tree canopy and denotes trees eight inches or greater in diameter at breast height with a measurement. Said layer shall highlight all trees to remain and all trees proposed to be removed as part of the site development. All trees removed with eight inches or greater in diameter breast height within 18 months or proposed to be removed as part of a development shall be replanted on the property at a 1:1 ratio. If the application is not able to replant on site at a 1:1 ratio then the application shall be required to make a payment in lieu of replacement. (See General Ordinance Section 12.30.060.¹³⁰)
 - [5] A proposed tree and planting layer that includes the location and method of any excavation and preparation all proposed trees, shrubs and ground cover. Details including location, species, size and number of trees, shrubs, ground cover and structural landscaping elements.
 - [6] Landscape methods which conserve water through the use of native species and drought-tolerant plants are encouraged.
 - [7] A proposed tree and planting table that includes botanical (and Latin) common names of plants to be used, size at the time of planting, mature size and quantity of each, broken down by category of deciduous, conifer, shrubs, perennials, and annuals.
 - [8] At a scale no greater than one inch equals 50 feet.
- (4) Standards. The following criteria and standards shall apply to landscape materials and installation:
 - (a) Landscape and tree protection plans shall provide, to the maximum extent practicable, for the preservation of existing trees. It is the intent to discourage the practice of removing all existing trees in the improvement or development of properties within the Town. A landscape and tree protection plan which provides for clear-cutting of existing trees shall not be approved by the Planning Board unless the application establishes by clear and convincing evidence that the prohibition of clear-cutting substantially and unreasonably restricts the ability to develop the property, and that the development will not be economically viable unless clear-cutting is permitted.
 - (b) Maintenance. The owner of the property shall be responsible for maintaining, in a healthy and well pruned manner at all times, the landscaping and tree protection plans required by

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this section. Plant materials shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials which die shall be replaced in the spring with healthy plant material of similar variety and meeting the size requirement of this section.

- (c) **Quality.** All trees and shrubs used in conformance with the provisions of this section shall have well-developed leaders and tops, and roots characteristic of the non-cultivar, native species, or variety and shall show evidence of proper nursery pruning. All plant materials must be free of insects and diseases.
- (d) **Coverage.** Grass, ground cover, shrubs and other living landscape materials shall be used to cover all open ground. Landscaping materials, such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate.
- (e) **Trees.** Trees referred to in this section shall be of a species common to or adapted to this area of Massachusetts, on the tree list provided in the General Ordinance Section Chapter 12.30 Appendix A¹³¹ or as approved by the Planning Board or Department of Planning and Community Development. Caliper measurements shall be taken two inches above grade. Trees shall have the following characteristics:
 - [1] Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of three inches to 3.5 inches at time of planting.
 - [2] Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of one inch to 1.5 inches at time of planting.
 - [3] Ornamental trees shall be flowering deciduous trees. All ornamental trees shall have a caliper width of one inch to 1.5 inches at time of planting.
 - [4] Evergreen or conifer trees shall have a minimum height of 20 feet at maturity. All evergreen or conifer trees shall be at least five feet to six feet high at time of planting.
- (f) **Shrubs and hedges.** Shrubs shall be a minimum of 18 inches in height when measured immediately after planting. Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen.
- (g) **Ground cover.** Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonable complete coverage within one year after time of planting.
- (h) **Lawn grass.** Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales, berms or other areas subject to erosion.
- (5) **Maintenance requirements.**
 - (a) All newly planted vegetative material shall be guaranteed for one year thereafter.
 - (b) Any agreement for long-term maintenance of any landscaping project must be negotiated prior to site plan or special permit approval based on the following criteria: vegetation

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replacement; irrigation; pruning; fertilizing; insect and disease protection; litter/debris cleanup; drainage; tree protection if grade change.

- (c) A maintenance program shall be established. Pruning should be started early and kept up at regular intervals. Trees should be pruned and shaped to avoid splitting later in life. Broken tops and branches should be removed as soon as possible after injury. Broken, weak or diseased branches should be removed first, dead branches second and healthy branches last.
- (d) Trees and shrubs should be protected against damage incurred with lawn mower and garden equipment. Keeping grass away from tree trunks with the use of mulch is recommended.
- (e) Avoid or minimize the use of road salt around the trees and shrubs.
- (f) Required landscaped areas shall be routinely maintained free of debris and litter and in good condition, with regular mowing of grass, so as to present a neat, healthy and orderly appearance. Maintenance shall include the replacement of all dead plant material within the guaranteed contract period.

B. Buffer zones.

(1) Applicability.

- (a) In Commercial Districts and Highway Business Districts no building, structure or part thereof shall be erected or placed within 100 feet of any residential or Open Space and Conservancy District line.
- (b) In General Business Districts no building, structure or part thereof shall be erected or placed within 10 feet of any residential district.
- (c) Any building in a Residence A or B District shall be set back at least 30 feet from the Open Space and Conservancy District and, in the case of Residence C District, at least 50 feet.

[1] Further, the required buffer strips described in Subsection B(1)(a), (b) and (c) above shall not be used for parking or for any other accessory structure or use except for access.

[2] Landscaping and screening of parking areas shall be provided in accordance with Article VIII.

- (2) Composition of buffer zones. A buffer zone shall consist of a landscaped strip and may include fences, walls or berms which shall serve to provide an effective year-round visual screen at the time of installation.
- (3) Height of screening. Visual screening comprised of a mixed planting of deciduous and coniferous trees and shrubs and walls or fences shall have a minimum overall height of six feet at the time of installation except in a required front yard where the maximum height shall not interfere with sight distance.
- (4) Sight distance. In order to provide an unobstructed sight distance for motorists, there shall be a triangle which is at least 30 feet on two sides of the intersection of a street with a driveway or an interior drive that shall be clear of visual obstructions. The triangle shall be measured from the point of intersection of the street with the driveway or interior drive for a distance of at least

30 feet along the street line; along the side line of the driveway or interior drive for a distance of at least 30 feet; and by a third line connecting these two points. Within this triangle so described, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision for motorists between a height of 2.5 feet and 10 feet above the grade of the center lines of the street and the driveway or interior drive.

(5) Type of plant materials.

- (a) A variety of plant materials shall be selected to provide an effective visual screen to be maintained at a minimum height of six feet. Plantings shall be a mixture of deciduous and coniferous trees and shrubs for the screening to maintain its effectiveness throughout the winter months.
- (b) Ground cover, grass, mulch or other equivalent landscape treatment shall be provided in all landscaped buffer zones. Where the width of a transition area exceeds 20 feet, and where existing vegetation is used as the required planting, no ground cover, grass, mulch or equivalent treatment shall be required, provided all man-made debris has been removed from within the buffer zone.
- (c) The substitution of artificial plant materials is not permitted.
- (d) Existing vegetation in a healthy condition which provides an effective year-round visual screen may be used as the required planting provided it is approved by the SPGA, which may require supplemental planting.

(6) Size of plant materials. All trees required by this section shall have a minimum caliper of two inches to 2.5 inches at the time of planting. All conifers shall be a minimum of five feet to six feet.

(7) Spacing of plant materials. The arrangement of plant materials shall consider the relationship of plants in size, form, texture and color. The configuration and combinations of plant materials shall be in accordance with sound horticultural and landscape architectural practices.

(8) Protection of landscaping and screening areas. Whenever required landscaping, transition or screening areas are adjacent to parking areas or driveways such areas shall be protected by curbing or wheel stops to avoid damage to the plant materials and other structures by vehicles.

(9) Structures within buffer zones.

- (a) Walls or fences may be erected within a transition area to supplement the required planting to provide an effective visual screen as determined by the SPGA. Billboards of any type are prohibited in buffer zones.
- (b) When walls or fences are required by the SPGA, they shall be of the following type:
 - [1] Solid masonry wall faced with visually attractive materials on the side which faces the residential or less intensive use.
 - [2] Wood stockade or other opaque wooden fence installed so that the attractive side faces the residential or less intensive use. Between such fence and the lot line there shall be planted a minimum of one shrub or vine per 10 LF, and a minimum of one small deciduous tree per 40 LF.
 - [3] Fence or wall of an alternate material which may be appropriate to the site which

may be proposed by the applicant's landscape architect.

- (c) Walls or fences may not be substituted for plant materials to reduce the required width of a transition and screening area. A wall or fence may be added only where a mass of plant materials would not provide an adequate screen or where required by the SPGA.
- (10) Earthen berms.
- (a) The SPGA may require that earthen berms be constructed within a transition area as part of a residential development adjacent to an arterial street or limited access highway. The berms shall be planted. Whenever a wall or fence is required in addition to a berm, the wall or fence shall be located between the berm and the higher intensity use in order to improve sound absorption.
 - (b) The use of earthen berms and similar grading techniques in combination with the standard landscaping requirement is encouraged.
 - (c) Berms shall be constructed of earth and shall be between three feet and six feet in height.
- (11) Use of buffer zones. Only necessary driveways or interior drives shall be located across a required transition area. No structure, parking area, play area, interior street or driveway may be located in this transition area. A transition area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided they do not reduce the effectiveness of the transition area as a year-round visual screen. No other uses are permitted in transition areas.
- (12) Exceptions, special permits.
- (a) Where, due to the size, shape or topography of a lot, the strict provisions of this section would reduce the usable area of a lot so as to preclude a reasonable use of the lot, the SPGA may grant a special permit to modify the transition area requirements where the side of a building, a barrier, and/or the land between the building and the lot line has been specifically designed, through a combination of architectural and landscaping techniques, to minimize potential adverse impacts on abutting lots.
 - (b) The application for a special permit must demonstrate in detail the problems imposed by these requirements and provide an effective alternative.
 - (c) Any modification of the required transition areas may be made subject to such conditions as are determined by the SPGA to assure adequate screening and buffering between particular uses. In determining what, if any, such conditions are necessary, the SPGA shall consider:
 - [1] Proximity to a residential development.
 - [2] Topography of the site and the adjacent property.
 - [3] Nature of the use and/or activity on the site.
 - [4] Land use of adjacent property.
 - [5] Width and use of all abutting public rights-of-way.
 - [6] Potential for impact of any nuisance activities such as noise, light, or glare.

- (13) Maintenance.

- (a) The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with the approved landscape plan.
- (b) All plant material shall be maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. After the initial planting, all plant materials not surviving after the first winter and through the following growing season shall be replaced in kind.
- (c) Fences and walls shall be maintained in good repair. Gates or openings may be provided where necessary for access to area for maintenance.

§135-703. Additional front yard requirements.

- A. No area, other than driveways, required for front yards in Residence A or B Districts shall be used for any accessory use including off-street parking of motor vehicles and/or recreational vehicles. Driveway location and arrangement shall be as approved by the Building Inspector. **[Amended 5-10-2004 ATM by Art. 40]**
- B. No area required for a front yard in Residence C shall be used for any accessory use including off-street parking, except for that portion necessary for access and egress.

§135-704. Frontage requirement.

A building permit for construction of any structure shall be issued by the Building Inspector only if the land on which construction is proposed:

- (1) Has frontage on any accepted Town way; or
- (2) Is on a street on a duly approved and recorded subdivision plan; or
- (3) Lies on a way having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to service such land and proposed buildings.

Where a constructed way requires upgrading, said upgrading shall be performed in accordance with the Braintree Subdivision Rules and Regulations and the Planning Board shall require a performance guarantee in accordance with the provisions of MGL c. 41, § 81U.

§135-705. Multifamily dwellings. [Amended 10-21-1997 STM by Art. 18; 5-5-2003 STM by Art. 14]

As authorized in § 135-601, multifamily dwellings may be erected in Residence C, Cluster I, II, and III, General Business, Highway Business and Commercial Districts. Minimum lot size shall be 43,560 square feet (except Cluster I, II, and III which shall be five acres); minimum frontage shall be 100 feet; minimum open space shall be 2,000 square feet per dwelling unit. For Residence C, General Business, Highway Business and Commercial Zoning Districts the number of multifamily units to be allowed on site shall be determined as follows: 5,000 square feet for each one-bedroom or studio unit plus 1,000 square feet for each additional bedroom in each unit. The two-thousand-square-foot open space requirement is not in addition to the five-thousand-square-foot space requirement. For Cluster I, II, and III Zoning Districts, the number of multifamily units to be allowed on site shall be determined by the standards established in § 135-610C of this chapter.

§135-706. Preexisting lots.

Any increase in area, frontage, width, yard or depth requirements shall not apply to a lot for single- and two-family residential use which at the time of recording or endorsement, whichever occurred sooner:

- (1) Was not held in common ownership with any adjoining land;
- (2) Conformed to the then existing zoning requirements; and
- (3) Had at least 5,000 square feet and 50 feet of frontage.

§135-707. Corner lots.

- A. On corner lots (see definition, § 135-102), the area between the building or structure and each street line shall be defined as a front yard. For corner lots where intersecting streets are rounded, no building or structure shall be located less than 15 feet from the street measured radially from the circular arc.
- B. Traffic visibility across corners. In any district, no fence, planting, foliage or other shrubbery shall be maintained between a plane 2 1/2 feet above the curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner or side yard which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such lot line 25 feet from the intersection of said lines or extension thereof.

§135-708. Open space.

- A. No yard, court or open space, or part thereof, used to satisfy the zoning requirements for a site shall be used as part of the yard, court, or open space similarly required to meet zoning requirements for another site.
- B. The minimum dimensions required of any single area of a lot to qualify as open space required for a building, structure or lot shall be not less than 300 square feet in area and not less than 10 feet in any one dimension.

§135-709. Height restrictions.

No building shall exceed three stories or 35 feet in height in residence districts. No building shall exceed four stories and 50 feet for habitable buildings or four stories and 45 feet for nonhabitable buildings in business and commercial districts. Water storage towers under the care, custody and control of the Braintree Water and Sewer Department shall be exempt from height restrictions of this section provided such exemption is granted by the Zoning Board of Appeal after a public hearing on a finding by said Board that such exemption is consistent with the furtherance of a municipal purpose.

§135-710. Limitations on number of buildings for dwelling purposes on each lot.

- A. There shall not be more than one building, designed or available for dwelling purposes, erected, placed or converted for use on any lot unless, after a public hearing, the Planning Board determines that such use may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning Bylaws. Such approval will be conditional on the providing of adequate ways and utilities, furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.
- B. Notice of a public hearing shall be given in accordance with the procedures stipulated in Article V.

§135-711. Site plan review (SPR) of multifamily, apartment, business and commercial developments.

A. Purpose. The purpose of a site plan review conducted under this section is to:

- (1) Ensure that the design and construction of developments will not create detrimental impacts to the neighborhood or the environment;
- (2) Ensure a development will be in harmony with surrounding areas;
- (3) Ensure compliance with all the requirements set forth in this chapter.

B. Applicability. A site plan review shall be required prior to the issuance of a building permit for:

- (1) All special permits as required under this chapter;
- (2) All multifamily or apartment developments; and
- (3) All developments where the area of any new structure or extension of an existing structure is 500 square feet or more excluding single- and two-family homes that are not subject to special permit and related accessory structures. **[Amended 5-3-1993 ATM by Art. 55]**
- (4) Any municipal public park as defined in § 135-102 where the area of said lot is greater than 1,000 square feet. **[Added 8-10-2011 by Ord. No. 11-032]**

C. Procedure for application.

- (1) Each application for a SPR shall be filed with the special permit granting authority (SPGA) in accordance with the provisions of Article V of this chapter and with any rules and regulations as have been adopted by the SPGA.
- (2) Each application for a SPR filed with the SPGA shall be administratively processed in accordance with the provisions of Article V of this chapter and with any rules and regulations as adopted by the SPGA. Approval of a site plan review shall require the affirmative vote of at least four members of the SPGA. **[Amended 5-11-1994 ATM by Art. 56]**
- (3) All plans submitted by an applicant in support of a SPR shall be signed and stamped by a professional engineer registered in Massachusetts or by a professional land surveyor registered in Massachusetts. Each application for a SPR shall include site plan(s) and profile drawings of the proposed development for SPGA review. At a minimum, the site plan(s) and profile drawings shall show both existing and proposed (if applicable):
 - (a) Access and egress to and from the site.
 - (b) Lot lines and easements.
 - (c) Buildings and structures.
 - (d) Topography in one-foot contour intervals.
 - (e) Surface water bodies, wetlands, areas subject to the one-hundred-year flood.
 - (f) Soil profile with depth to groundwater.
 - (g) Landscape features such as fences, walls, walks and lighting.

- (h) Landscaping and tree protection plans as required pursuant to § 135-702. **[Amended 10-17-2023 by Order No. 23-051]**
 - (i) Parking areas and facilities for internal vehicular and pedestrian circulation.
 - (j) Site drainage and drainage calculations.
 - (k) The location, capacity and projected usage of utilities.
 - (l) Lighting.
 - (m) Loading facilities.
 - (n) Provisions for refuse removal.
 - (o) Traffic study (if required by Article XIV).
 - (p) Evidence as to the status of all permit applications for the project to other local, state and federal agencies.
 - (q) Architectural drawings showing proposed buildings and structures and how they relate to the surrounding neighborhood.
 - (r) Other information as may be necessary to assist the SPGA in review of the project.
- D. Criteria for approval. Prior to approving a SPR, the SPGA shall ensure that there will be a reasonable use of the site subject to the following criteria:
- (1) Adequacy of the capacity of local streets to accommodate the traffic to be generated by the proposed use. In addressing this criteria, the SPGA may consider projections of increased traffic volumes due to the proposed development and their impacts on existing streets.
 - (2) Adequacy of the public infrastructure to service the project and the area in the immediate vicinity of the site. The public infrastructure includes the Town's water distribution system, its sewage collection system and fire protection.
 - (3) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area.
 - (4) Protection of adjoining property against serious detrimental uses by providing for adequate site drainage, sound and sight buffers and the preservation of views, light and air quality.
 - (5) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with regulations for the handicapped.
 - (6) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses on site.
 - (7) Adequacy of the methods of treatment, service and disposal of water, refuse and other wastes resulting from the uses permitted on the site.
 - (8) Compliance with all the requirements set forth in this chapter.
- E. Any person aggrieved by a decision of SPGA or failure of the SPGA to take final action concerning any application for site plan review under this section may appeal to Superior Court or District Court

pursuant to MGL c. 40A, § 17. Said appeal shall be filed within 20 days after the decision has been filed in the office of the Town Clerk or, in the absence of a decision, within 20 days after constructive approval has been deemed granted in accordance with MGL c. 40A. **[Added 5-4-1999 STM by Art. 25]**

ARTICLE VIII

Off-Street Parking and Loading**[Amended 10-27-1992 STM by Art. 18; 5-11-1994 ATM by Arts. 55 and 56]****§135-801. Purpose.**

The purpose of this section is to promote the general welfare and public convenience by:

- (1) Providing adequate off-street parking facilities;
- (2) Ensuring the safe access and egress and movement within the development; and
- (3) Protecting abutting residential uses from the adverse impact of vehicular uses.

§135-802. Applicability.

- A. Off-street parking and loading facilities as specified in §§ 135-806A and 135-814A shall be provided for any new building or structure constructed, for any new uses established and for any change of use in an existing building or on a site which would require the provision of additional parking spaces. Any construction of a new parking facility shall comply with all the requirements set forth in Article VIII. Any reconstruction of an existing parking facility which cumulatively exceeds 25% of the parking area (excluding resurfacing) shall comply with all the requirements set forth in Article VIII.
- B. For the purposes of this chapter, "off-street parking facility" shall mean a surface parking lot, and "parking structure" shall mean a parking garage.

§135-803. Decreases in parking requirements.

- A. A decrease in the number of off-street parking spaces required by this section may be granted as a condition for the issuance of a special permit or a site plan review provided that the following criteria have been met:
 - (1) The intent of this section is preserved.
 - (2) The amount of off-street parking to be provided will be sufficient to serve the uses for which it is intended.
 - (3) The decrease in required off-street parking is based on a parking study prepared by a registered professional engineer. Said study shall include, at a minimum, the following:
 - (a) Size and type of uses or activities on site;
 - (b) Composition of tenancy on site;
 - (c) Rate of parking turnover;
 - (d) Peak traffic and parking loads to be encountered;
 - (e) Local parking habits;
 - (f) Availability of public transportation.
- B. Should the special permit granting authority (SPGA) allow a decrease in the amount of required off-street parking, the SPGA shall require that a portion of the site be reserved to meet the off-street

parking spaces required by this section. This reserved area shall not be developed and shall be either landscaped or maintained in a natural state. Said area shall not contribute towards the open space requirements as set in § 135-701.

§135-804. Multiple uses.

- A. In those cases where a combination of principal uses as identified in § 135-806A exists on one site, off-street parking shall be provided for each use in accordance with the requirements set in § 135-806A, Schedule of Off-Street Parking Requirements.
- B. In those cases where a retail use as identified in § 135-806A contains separate nonretail areas (excluding office uses) within the same structure as the retail use, the SPGA, at its discretion, may treat the nonretail areas as a separate use which shall require one off-street parking space per 1,000 square feet of area provided the following criteria are met:
 - (1) The retail use including all nonretail areas has a minimum area of 25,000 square feet;
 - (2) Each individual nonretail area to be treated as a separate use must have a minimum area of 3,000 square feet;
 - (3) The site on which the retail use is located conforms to the lot size, lot coverage and open space requirements set in § 135-701;
 - (4) There is a constructed separation between the retail and nonretail areas; and
 - (5) There shall be no direct sale of goods or services from the nonretail areas.

§135-805. Location of required off-street parking facilities.

- A. All off-street parking spaces as required by this section shall be located on the same site that they are intended to serve, except as authorized under § 135-805B.
- B. Required off-street parking for business or commercial developments may at the option of the applicant be located off site provided that the following criteria are met:
 - (1) The required parking is located within 800 feet of the uses which it is intended to serve.
 - (2) There shall be no traffic hazards for pedestrians utilizing the off-site parking facility as determined by the Braintree Police Department.
 - (3) Off-site parking facilities for retail uses shall not be permitted except for designated employee parking.
 - (4) A parking covenant, deed or agreement shall be submitted to the appropriate Town authority for review and approval. Said covenant, deed or agreement shall ensure that as long as a building or use is dependent upon off-site parking, the off-site parking facility will be available to serve the building or use.
 - (a) No covenant or agreement regarding off-site parking shall be terminated, modified or otherwise varied without the assent of the appropriate Town authority.
 - (b) The execution and recording of all covenants, deeds or documents shall be a condition of the use of off-site parking.

- C. Off-street parking and loading required for business or commercial uses shall not be allowed in residential, cluster or open space conservancy zoning districts except lots authorized under § 135-306.

§135-806. Schedule of off-street parking requirements.

- A. Off-street parking for the following uses shall be provided as follows: **[Amended 8-10-2011 by Ord. No. 11-032; 6-15-2021 by Order No. 21-033; 8-2-2022 by Order No. 22-015; 8-1-2023 by Order No. 23-043]**

Use	Parking Required
Single-family	2
Two-family	4
Multifamily	2 per unit
Hotel, motel	1.25 spaces/guest unit plus additional spaces for other commercial uses as required
Club or lodge	1 space/100 gross sq. ft.*
Fraternities, sororities, dormitories	1 space/200 gross sq. ft.
Hospital	1 space/bed plus 1 space/100 gross sq. ft. devoted to medical uses and/or office space
Sanatorium, nursing,	1 space/2 beds plus 1 space/
Convalescent home, home for the aged	250 gross sq. ft. devoted to adult day care and/or office space
Funeral home, mortuary	1 space/250 gross sq. ft. (entire structure)
Museum, library, community center	1 space/250 gross sq. ft.
Commercial post office	1 space/200 gross sq. ft.
Bowling alley	3 spaces/bowling lane
Theater, auditorium	1 space/4 seats
Church	1 space/4 seats
Elementary and middle school	1.5 spaces/employee
High school	1.5 spaces/employee plus 1 space per 5 students of designed capacity
General office, professional or public building	1 space/250 gross sq. ft.
Heliport	As required by the special permit granting authority
Restaurant	1 space/3.5 seats
Fast-food establishment	1 space/100 gross sq. ft.
Filling station, motor vehicle repair shop	1 space/500 gross sq. ft.

Use	Parking Required
General business, retail and personal service establishments	1 space/200 gross sq. ft.
Commercial and manufacturing establishments	1 space/1,000 gross sq. ft.
Private school	1 space/500 gross sq. ft.
Training school	1 space/500 gross sq. ft. including outside training areas
Institution of historic, philanthropic, charitable character	Board of Appeal (see § 135-806C)
Riding academy or stable	1 space/horse stall
Boathouse, marina	.75 space/boat
Golf course	2 spaces/green plus 50% of requirements for any associated uses
Motor vehicle sales	1 space/250 gross sq. ft. (exclusive of outside sales area)
Amusement/place of assembly	1 space/250 gross sq. ft.
Newspaper or job printing	1 space/250 gross sq. ft.
Open storage, boats	1 space/5 boats
Medical office/clinic	1 space/150 gross sq. ft.
Greenhouse	1.25 spaces/employee
Animal clinic/hospital	1 space/250 gross sq. ft.
Animal retail and animal grooming service < 15,000 sq. ft.	1 space/250 gross sq. ft.
Animal retail and animal grooming service 15,000 sq. ft. or >	1 space/250 gross sq. ft.
Full service animal establishment	1 space/350 gross sq. ft.
Indoor commercial recreation	1 space/250 gross sq. ft.
Outdoor commercial recreation	Board of Appeal (see § 135-806C)
Fair, carnival, similar events	As required by the special permit granting authority
Data center, communications facility	1 space per 1,000 gross sq. ft., together with parking as required for any portion devoted to office space
Municipal public park	As required under site plan review
Marijuana establishments	1/250 sq. ft. for all non-cultivation areas 1/1,000 sq. ft. – 1/2,000 sq. ft. for canopy area used for cultivation*

Use	Parking Required
Medical marijuana treatment center	1/250 sq. ft. for area used for sale, dispensing and all other non-cultivation areas 1/1,000 sq. ft. – 1/2,000 sq. ft. for canopy area used for cultivation*
Production studio	1 parking space/700 sq. ft.
Brewery with tap room	Production area: 1 parking space/1,000 sq. ft. Tap room: 1 parking space/3.5 seats
Brewery production	Production area: 1 parking space/1,000 sq. ft. Dedicated tasting area: 1 parking space/500 sq. ft.
Function/conference facility	To be set by the Planning Board per Section 135-806B

* Gross square feet is the sum of the gross horizontal areas of all the floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

- B. Off-street parking requirements for uses not specifically listed in the preceding schedule shall be determined by the Zoning Board of Appeal. Said determination shall be based on the requirements set for similar uses and on any appropriate traffic engineering and planning data. For projects requiring a special permit or site plan review, the SPGA shall be the determining board.
- C. For those uses for which the parking requirements are to be determined by the Zoning Board of Appeal as specified in § 135-806A, an applicant proposing to develop or expand said uses shall submit a parking study which provides justification for the off-street parking being proposed. The Zoning Board of Appeal, in making its determination, shall review this study and any appropriate engineering and planning data. For projects requiring a special permit or site plan review, the SPGA shall be the determining board.

§135-807. Submission of parking plan.

A parking plan shall be submitted for any development of or expansion of a building or structure or use which will require a special permit or site plan review. Said plan shall include the following as appropriate or required:

- (1) A locus map locating the proposed development;
- (2) Dimensioned property lines;
- (3) Streets and land uses bordering the development;
- (4) Name and address of the designer;
- (5) Scale and North arrow;
- (6) Existing or proposed obstructions (e.g., buildings, trees, landscaping, utility and lighting poles,

walls);

- (7) Width and existing configuration of streets (including striping layout if any) from which the development has access;
- (8) Location and dimensions of proposed and existing curb cuts on site and within 50 feet of the development on both sides of the streets;
- (9) Intended users (e.g., employees, customers, general public);
- (10) Loading and unloading areas;
- (11) Type of paving material to be used;
- (12) On-site directional signing, pavement and parking striping, and the identification and location of handicapped spaces;
- (13) Number of regular and handicapped spaces required and number of spaces provided;
- (14) The location of median channelization (e.g., left turn pockets or raised islands).

§135-808. Standards for parking facilities.

- A. Backing out onto a public street or sidewalk from a parking space shall be permitted only for single- and two-family residences.
- B. Parking facilities shall be designed so that each vehicle may enter or exit from any parking space without requiring the moving of any other vehicle.
- C. All parking facilities shall be designed and constructed with internal circulation so that each parking space can be accessed without using a public street.
- D. Curbs, bollards and/or wheel stops shall be located so as to:
 - (1) Protect adjacent property from damage; and
 - (2) Protect landscaped areas.
- E. For parking structures, all aisles and ramps shall be constructed so as to provide a minimum of 10 feet of clearance along all points along the wheel base of a car or van.
- F. Parking structures shall be designed and constructed so as to provide adequate access for emergency vehicles.

§135-809. Dimensions for parking spaces, bays, and aisles.

- A. Full-size parking spaces (Figure 1).¹³² Each full-size parking space shall be a minimum of 8 1/2 feet in width and 18 feet in length.
- B. Handicapped parking spaces. Each handicapped parking space shall be designed and laid out as required by 521 CMR or any successive regulations.
- C. Parking bays and aisles. The minimum dimensions for parking bays and maneuvering aisles shall

132.Editor's Note: Figure 1 is included at the end of this article.

conform to the dimensions specified in Figure 2.¹³³

D. Entrance and exit driveway widths.

(1) Entrance and exit driveway widths shall conform to the dimensions specified in Figure 3.¹³⁴ The SPGA in its review of a special permit or site plan review may vary these dimensions as circumstances warrant.

(2) Driveways shall be located so as to minimize conflict with traffic on public streets and to maintain good visibility and sight distances.

E. Distances between driveways. There shall be a minimum of 75 feet between driveways on a parcel. Said distances shall be measured along the street line.

F. Driveway set back from curblines on a curblines of an intersecting street. No driveway shall be located within 25 feet of the curblines point of curvature of an intersecting street.

G. Visibility. Site drive shall have the minimum unobstructed line of sight for the public way that it enters as follows: **[Amended 5-8-1995 ATM by Art. 44]**

Design Speed (mph)	Stopping Sight Distances (feet)*
20	125
25	150
30	200
35	225 to 250
40	275 to 325
45	325 to 400
50	450 to 550

* Data taken from "A Policy on Geometric Design of Highways and Streets," Table III.1, published by the American Association of State Highway and Transportation Officials, 1990.

§135-810. Operation and maintenance of parking areas.

A. It shall be the responsibility of the owner or operator of a parking facility to ensure that the facility is maintained in good operating condition and operated as follows:

(1) Said facility shall be used only for the parking of vehicles.

(2) Said facility shall not be used for storage.

(3) Said facility shall not be used for the storage or repair of vehicles or equipment.

133.Editor's Note: Figure 2 is included at the end of this article.

134.Editor's Note: Figure 3 is included at the end of this article.

- (4) Said facility shall not be used for the sale of merchandise except on a temporary basis for special events as authorized by the Board of Selectmen.
 - (5) Said facility shall maintain clear and unobstructed travel and fire lanes at all times.
 - (6) Said facility shall be periodically swept and cleaned.
 - (7) Said facility shall be kept free of rubbish and debris.
 - (8) Said facility shall be plowed and kept free of snow.
 - (9) All landscaped areas shall be kept free of weeds and debris. All vegetation within said areas shall be maintained free of physical damage caused by chemicals, insects, lack of water, or other causes. Damaged plants shall be replaced with the same or similar vegetation on an annual basis.
- B. All paving surfaces, lighting, fences, barriers and walls shall be maintained in good repair and replaced if necessary.

§135-811. Submission of landscaping plans.

A landscaping plan(s) shall be submitted for any development of or extension of a building, structure or use which will require a special permit or site plan review. Said plan(s) shall be prepared by a design professional and shall include the following as appropriate or required:

- (1) Scale and North arrow;
- (2) Title block with applicant's name and the name and address of the design professional who prepared the plan(s);
- (3) Location and name of streets abutting the development;
- (4) Location of all trees in and within 50 feet of any area to be graded, and the location of any trees to be removed;
- (5) Proposed landscaping details including location, species, size and number of trees, shrubs, ground cover and structural landscaping elements.

§135-812. Landscaping requirements (see § 135-708).

In reviewing a landscaping plan for a parking facility the SPGA may waive the following standards upon showing of good cause.

A. Landscaping for parking areas shall:

- (1) Use trees as the primary landscaping material.
- (2) Use shrubs and ground cover to complement trees.
- (3) Where practical incorporate earthen berms and existing topography into the landscaping.
- (4) Where practical use existing landscaping as a design element.
- (5) Have all interior planting areas bounded by a concrete curb with a minimum height of six inches.

- (6) No landscape materials shall be installed at curb cuts which will hamper the line of sight at the curb cut.
- B. A storage area shall be provided on site to accommodate snow removal from a six-inch storm.
- C. A minimum ten-foot-wide landscaped strip shall be provided along property lines parallel to any public or private street when parking or circulation areas abut said street.
- D. A minimum of 5% of the gross area of an off-street parking facility, not including the setback required in § 135-812C, shall be landscaped.
- E. A continuous landscaped strip shall be provided at a minimum between every six rows of parking spaces. Said strip shall be a minimum of eight feet in width.
- F. Planting islands shall be provided at the beginning and end of at least every third parking row. Said islands shall be a minimum of nine feet wide and shall be planted with one shade tree having a clear trunk height of at least six feet.
- G. Landscaping shall be used to delineate vehicular and pedestrian circulation patterns. Clear and legible signs, different color and texture paving materials, raised areas, and other techniques should be used to further direct the flow of both vehicular and pedestrian traffic within the lot.
- H. A minimum five-foot-wide buffer strip which may include a sidewalk shall be provided between the parking facility and buildings when parking or circulation areas abut said buildings.
- I. Parking facilities located in a commercial or business zoning district shall have peripheral landscaping along any interior (side) property line not along a public right-of-way. Peripheral landscaping shall:
- (1) Have a five-foot-wide landscaped strip located between the parking area and the abutting property line.
 - (2) Have a minimum of one tree planted for each 40 linear feet of property line.

§135-813. Construction standards.

- A. Surfacing. All parking spaces and maneuvering areas shall be paved and permanently maintained with asphalt, concrete or any other all-weather surfacing approved by the Town's Building Inspector.
- B. Wheel stops. A continuous six-inch curb or Cape Cod berm shall be installed around the perimeter of the parking lot, at all planting areas and at all landscaped islands. Said curbs shall serve as wheel stops and protection for planting areas/landscaped islands and walls. Where curbs are not installed adjacent to public sidewalks, wheel stops shall be installed to prevent vehicles from encroaching into or onto a public right-of-way.
- C. Directional arrows and signage. Aisles, approach lanes and maneuvering areas shall be clearly marked with directional arrows and lines to expedite traffic movement.
- D. Drainage. Parking facilities shall be graded and drained so that no surface water drains onto a public way.
- E. Lighting.
- (1) Parking facilities which are used at night shall have security lighting.

- (2) Lighting shall be arranged and shielded so as to prevent glare from the light sources onto adjacent properties.

§135-814. Off-street loading and unloading areas.

- A. All business and commercial uses shall provide and maintain off-street loading areas as provided below:

Use	Loading Space	Loading Bay
Single-family	0	0
Two-family	0	0
Multifamily	0	0
Hotel, motel	1	0
Club or lodge	1	0
Fraternities, sororities	1	0
Hospital	2	*
Sanatorium, nursing convalescent home, home for the aged	1	1
Funeral home, mortuary	1	0
Community center, library, museum	1	0
Commercial post office	1	**
Bowling alley	1	0
Theater, auditorium	1	0
Church	0	0
Elementary and middle school	1	0
High school	1	0
General office, professional or public building	1	0
Heliport	1	0
Restaurant	1	0
Fast-food establishment	1	0
Filling station, motor vehicle repair shop, roadside service establishment	1	0
General business, retail and personal service establishments	1	0
Commercial and manufacturing	1	*
Private school	1	0
Training school	1	0

Use	Loading Space	Loading Bay
Institution of historic, philanthropic, charitable character	na	na
Riding academy or stable	1	0
Boathouse, marina	1	1
Golf course	1	0
Motor vehicle sales	1	1
Amusement/place of assembly	1	0
Newspaper, job printing	0	1
Open storage, boat	1	0
Medical center/clinic	1	0
Indoor commercial recreation	1	0
Outdoor commercial recreation	1	0
Animal clinic/hospital	1	0
Greenhouse	1	1

* When the use in question requires loading bays, the total number of bays shall be calculated as follows:

Number of Loading Bays Per Establishment	Size of Establishment (gross square feet - GSF)
--	---

1	0 to 25,000
---	-------------

2	25,001 to 75,000
---	------------------

3	75,001 to 150,000
---	-------------------

4	150,001 to 250,000
---	--------------------

1 additional bay per establishment for each additional 100,000 over 250,000 GSF

** To be determined by the SPGA

B. General provisions.

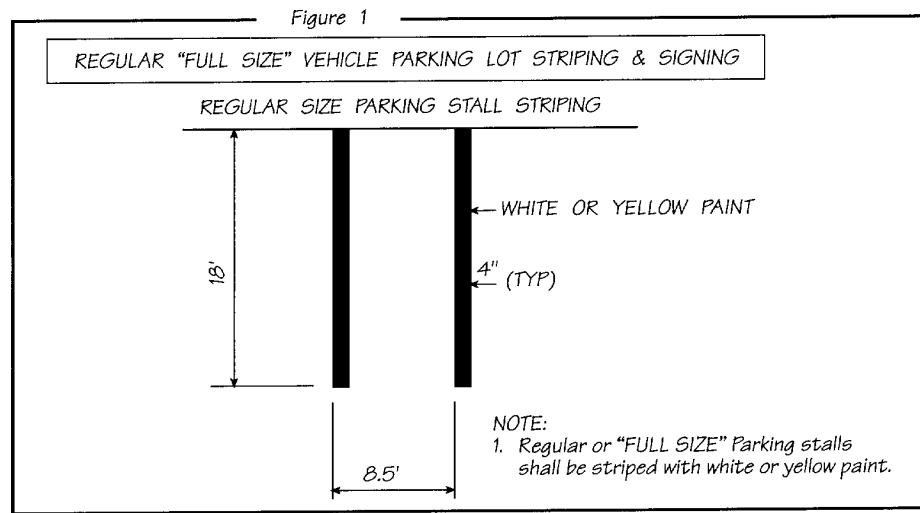
- (1) The minimum size for a loading space shall be at least nine feet in width and 24 feet in length exclusive of driveways.
- (2) The minimum size for a loading bay shall be at least 12 feet in width, 36 feet in length, and with 14 feet in vertical clearance.
- (3) Loading areas shall be located so commercial vehicles shall not back into a public street.
- (4) Each commercial or business site shall be self-contained and capable of handling its own truck maneuvering and docking requirements. The use of public streets for staging and/or

maneuvering is prohibited.

- (5) Required loading areas shall not be used to satisfy off-street parking requirements.
- (6) All driveways and loading areas shall be graded, surfaced, and maintained so as to avoid nuisance from dust, erosion or excessive water flow across public ways.
- (7) All lighting for said facilities shall be arranged and shielded so as to prevent glare from the light sources onto adjacent properties.

§135-815. Village Zoning District off-street parking and loading. [Added 5-7-2002 STM by Art. 13]

- (1) Parking regulation. In addition to site plan review guidelines for parking, the following criteria shall be considered:
 - (a) Parking areas shall be located to the side and rear of the structure. No parking area shall be designed such that parking is within the required or authorized front yard setback.
 - (b) Parking areas of adjacent lots shall have reasonable and convenient off-street vehicular connections. Where adjacent property has not been developed, provisions shall be made for future off-street connections with adjacent properties. Reserved strips of land to preclude such connections shall be prohibited.
 - (c) If a new use cannot meet minimum off-street parking requirements, then the SPGA may require, as part of a special permit, the payment of a fee by the applicant to allow the Town to provide such additional required off-street parking in lieu of the applicant providing required off-street parking.
 - (d) If an existing use is changed in such a way that:
 - [1] A change of use of all or any portion of a building or structure from a use of one parking class to a use of another parking class; or
 - [2] An interior increase of floor area for which off-street parking must be provided and such required off-street parking cannot be provided because of the nonavailability of space in the zoning lot upon which such building or structure is located, then the SPGA may require, as part of a special permit, the payment of a fee by the applicant to allow the Town to provide such additional required off-street parking in lieu of the applicant providing required off-street parking.
 - (e) The fee to be charged shall be an annual fee (to be determined by the Planning Board at a public hearing) per space for each parking space required. The fee shall be payable in accordance with the Planning Board's administrative policies.



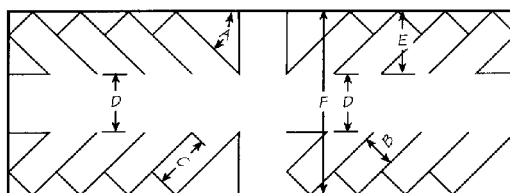
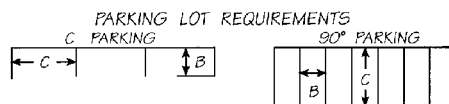
Braintree Zoning Bylaws – May 7, 2001
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Figure 2

DIMENSIONS OF PARKING STALLS & AISLES

STANDARD VEHICLE WIDTH - 8.5' DEPTH - 18'					
The minimum aisle width(D) for 2-way traffic shall be 24'. Intersecting aisles shall have minimum radii of 8'.					
A	B	C	D	E	F
0	8.5'	23'	12"	-	-
20	8.5'	18'	12"	16.5'	45'
30	8.5'	18'	12"	16.5'	45'
45	8.5'	18'	14"	19'	52'
60	8.5'	18'	18.5"	20'	58.5"
90	8.5'	18'	24"	18'	60"

*Aisle width for one way traffic only



A: PARKING ANGLE
 B: STALL WIDTH
 C: STALL LENGTH
 D: AISLE WIDTH
 E: STALL TO CURB
 F: CURB TO CURB

FIGURE 3

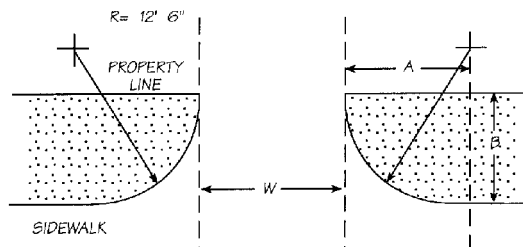
ENTRANCE & EXIT CURB RETURNS
FOR PARKING LOTS

TABLE GIVES CURB RETURNS REQUIRED TO PERMIT A CAR TRAVELING ONE FOOT FROM CURB TO TURN AND CLEAR PARKED CARS BY ONE FOOT. EXIT DIMENSIONS PERMIT THE REVERSE.

A	B	Entrance W	Exit W
9'9"	4'6"	14'9"	11'6"
10'6"	5'6"	14'0"	10'9"
11'0"	6'6"	13'6"	10'0"
11'6"	7'6"	13'0"	9'6"
12'0"	8'6"	12'6"	9'3"

ARTICLE IX
Rules and Regulations for Signs

§135-901. Purpose. [Amended 5-16-2001 ATM by Art. 54; 3-17-2015 by Ord. No. 14-066(8)]

Pursuant to the authority conferred upon the Town by MGL c. 93, § 29, and MGL c. 143, § 3, the following is adopted for the signs and advertising devices other than billboards or digital/electronic billboards as defined in § 135-102, which require a special permit and are allowed only within the Billboard Overlay District as described in §§ 135-910-01 through 135-910-05 within the Town of Braintree, under the jurisdiction of the Zoning Board of Appeals. Whereas the objectives of aesthetics and traffic safety in the Town of Braintree are considered substantial governmental interests and serve as an adequate basis for a legitimate regulation of outdoor advertising displays, the Town of Braintree enacts the following bylaw.

§135-902. Definitions. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 40; 1-8-1990 STM by Art. 12; 5-16-2001 ATM by Art. 54]

For the purpose of this article, the following terms shall have the meanings indicated:

ACCESSORY SIGN — Any on-premises billboard, sign or other advertising device that advertises, calls attention to or indicates the person occupying the premises on which the sign is erected, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or to let, and which contains no other advertising matter.

AREA OF SIGN — The area of a sign shall be computed as the overall size of the display, including all backing, frames or casings. A double-faced sign shall be computed as the area of a single face, provided that all letters or characters on both faces are identical. Any sign made up of individual letters or characters shall be computed by multiplication of the overall length of all letters including spaces between letters by the average height of the letters or characters.

COMMERCIAL AREA — A commercial area is any area used for commercial uses as defined under the Zoning Bylaw and shown on the Zoning Map of the Town of Braintree as most recently amended.

COMMERCIAL SIGN — Sign containing advertising designed to promote the sale of goods or services to the public.

ERECTED — The word "erected" shall include the words attached, built, constructed, reconstructed, altered, enlarged and/or moved.

FRONTAGE — Frontage is that portion of a building facing the access roadway. Access roadway shall be considered the side of a building to which the street address is applied.

GASOLINE SERVICE STATION AND REPAIR GARAGE — A business facility with associated equipment to repair and service motor vehicles including, but not limited to, lubrication, tire changing machinery, diagnostic equipment, etc. This definition shall not include any specialty store or business that has an incidental sale of gasoline, such as convenience stores or auto part sales or car washing facilities or lubrication specialists, etc.

GENERAL BUSINESS AREA — Any area included within a district zoned for general business as defined under the Zoning Bylaws and shown on the Zoning Map as most recently amended. It does not include any area within a district zoned for residential purposes under the Zoning Bylaw as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal, or through a nonconforming use or by any other means.

GROUND SIGN — A sign other than a billboard which does not extend or project into or over a public way and is supported by one or more uprights or braces that are in or upon the ground.[Amended

3-17-2015 by Ord. No. 14-066(9)]

HIGHWAY BUSINESS AREA — A highway business area is an area used for highway business uses as defined under the Zoning Bylaw and shown on the Zoning Map of the Town of Braintree as most recently amended.

MARQUEE SIGN — A sign which is attached to a marquee.

NONACCESSORY SIGN — Any sign or other advertising device, whether on premises or off premises, that does not come within the foregoing definition of an accessory sign. **[Amended 3-17-2015 by Ord. No. 14-066(9)]**

NONCOMMERCIAL SIGN — Sign containing any noncommercial message such as civic, philanthropic, charitable, religious, historic, cultural, recreational, political, ideological or advocacy messages and time, temperature, bus stop and traffic signs.

OFF-PREMISES SIGN — A sign other than a billboard which identifies a use, facility, or service which is not located on the premises, or identifies a product, service, activity, event, person, institution or business which either occurs, is generally conducted, or is sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. **[Amended 3-17-2015 by Ord. No. 14-066(9)]**

ON-PREMISES SIGN — A sign which is erected and maintained according to the standards set forth in § 135-907 upon the same real property that the business facility or point of interest is located. Such a sign, if commercial, shall advertise only the business, facility, or point of interest conducted thereon, or the sale, rent, or lease of the property on which it is located.

OPEN SPACE AND CONSERVANCY AREA — An open space and conservancy area is any area used for open space conservancy uses as defined in this chapter and shown on the Zoning Map of the Town of Braintree as most recently amended.

PERSON — The word "person" shall include one or more individuals, a partnership, an association or a corporation.

PROJECTING SIGN — A sign other than a billboard which is affixed to a building or structure and extends 12 inches or more beyond the building wall, structure or parts thereof. **[Amended 3-17-2015 by Ord. No. 14-066(9)]**

RESIDENTIAL AREA — A residential area is for residential purposes under the Zoning Bylaw. It includes Districts A, B and C, as defined herein. This definition is applicable only to Article IX, Signs, of this bylaw.

ROOF SIGN — A sign other than a billboard which is erected, constructed or maintained above the roof of a building and does not project more than 12 inches beyond the wall line of the building. **[Amended 3-17-2015 by Ord. No. 14-066(9)]**

SIGN — A sign means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any public way. (It does not include the flag, pennant, or insignia of any nation, state or Town.)¹³⁵

TEMPORARY SIGN — A sign or cloth or other combustible material with or without a frame, intended for a limited period of display.

WALL SIGN — A sign which is supported wholly or partially by an exterior wall of a building and extends not more than 12 inches therefrom.

135. Editor's Note: The former definition of "Sign Review Board," which immediately followed this definition, as amended 10-26-1993 STM by Art. 15, was deleted 1-27-2003 STM by Art. 11A.

WINDOW SIGN — A sign including display, lettering, logo or advertising message which is attached, painted or posted flat against window glass contained wholly within a window or similar architectural detail or opening on the primary or secondary facade of a building or structure. Such signs shall be allowed as hereinafter provided notwithstanding the provisions of § 135-907, Construction. **[Amended 5-3-1993 STM by Art. 13]**

§135-903. Residential areas.

A. Permitted signs in a residential area. No accessory sign shall be erected or maintained except as permitted herein. On-premises noncommercial signs may be erected and maintained without license, but subject to the following regulations. The following signs are permitted:

- (1) One sign displaying the street number or name of the occupant of the premises, or both, not exceeding one square foot in area. The sign may be attached to the building or may be on a rod or post not more than four feet high and at least three feet from the front lot line.
- (2) One bulletin or announcement board or identification sign for a permitted nonresidential building or use not exceeding 10 square feet in area. For churches, synagogues, schools or other institutions, two bulletin or announcement boards not to exceed 20 feet in area. Such sign may be located within the required front yard, but no closer to the front lot line than 1/2 the depth of said required front yard.
- (3) Two signs for a permitted hotel use or permitted nonresidential use, neither of which may exceed 20 square feet in area.
- (4) One sign in connection with a lawfully maintained nonconforming use, not exceeding 10 square feet in area.
- (5) One "For Sale" or "For Rent" sign, not exceeding four square feet in area, and advertising only the premises on which the sign is located.
- (6) One contractor's sign, not exceeding 10 square feet in area, maintained on the premises while a building is actually under construction.
- (7) Other temporary signs in connection with the construction or development of a building or lot, by permit of the Zoning Board of Appeals, which shall specify limits on the size and number of signs and length of time to be maintained. **[Amended 5-16-2001 ATM by Art. 54]**
- (8) An unlighted temporary real estate sign advertising the rental or sale of the premises and not exceeding four square feet in area.
- (9) A professional sign not exceeding two square feet in area. **[Amended 5-18-1987 ATM by Art. 29]**
- (10) A flagpole projecting from a building and not longer than eight feet; a roof flagpole not more than 12 feet above the top of the building; a ground flagpole not exceeding 35 feet in height, for any national, state or organization colors.
- (11) Signs not exceeding two square feet in area which indicate warnings, hazards or public conveniences such as trespass, beware of dog, or rest room signs.
- (12) Any sign requested by any board, commission, department or agency of the Town designated to be directional or concerned with safety of the public or a public convenience. Said request shall

be filed in writing with the Zoning Board of Appeals. **[Amended 5-18-1987 ATM by Art. 29; 5-16-2001 ATM by Art. 54]**

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.1. General business area. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 40; 5-3-1993 STM by Art. 13; 5-16-2001 ATM by Art. 54]

A. Permitted signs. In a general business area, accessory signs and on-premises commercial signs are subject to the regulations set forth below.

(1) Ground signs.

- (a) No ground sign shall exceed 60 square feet in area and 20 feet in height. The bottom capping of all ground signs shall be at least 30 inches above the ground.
- (b) Not more than one ground sign for each building lot shall be permitted, unless the Zoning Board of Appeals allows more than the number of signs herein permitted. Said Board may permit additional ground signs or of a larger area if it determines that the nature of the use of the premises, the architecture of the building or the location with reference to the street is such that additional ground signs or area thereof should be granted in the public interest. In shopping malls or other comparable multibuilding commercial centers, more than one ground sign may be permitted at major street entrances provided such entrances are more than 250 feet apart.

(2) Marquee signs.

- (a) No marquee signs shall exceed 150 square feet in area. Such signs shall not exceed four feet in height nor shall they project below the fascia of the marquee nor lower than 10 feet above the sidewalk.
- (b) Not more than one marquee sign for each store or building shall be permitted. A permitted marquee sign shall extend 2/3 of the length of the building fascia but in no event shall it project beyond the ends of the marquee.

(3) Roof signs. No roof signs shall be permitted.

(4) Projecting signs. No projecting signs which extend over the public way shall be permitted.

(5) Wall signs.

- (a) No wall sign shall be more than four feet overall in height and a wall sign shall not exceed the lesser of 150 square feet or one square foot in area for each linear foot of frontage for each business. Wall signs of business occupying other than the first floor shall not exceed 48 square feet in area.
- (b) Not more than one exterior wall sign for each store or business shall be permitted, except that if a store or business has a direct entrance into the store or business on a wall other than the store front, there may be a secondary wall sign affixed to such wall; however, no store or business shall have more than two such secondary wall signs in any event, provided that the total aggregate area of all such secondary wall signs shall not exceed 50% of the maximum permissible area allowed above. A directory wall sign identifying the tenants and occupants of a building affixed to the exterior wall of the building shall not

be included in the foregoing. Such directory wall sign shall not exceed an area of one square foot for each occupant or tenant. No wall sign shall be erected to extend above the top of the exterior wall, nor extend beyond the ends of the wall to which it is attached. Further the lower edge of such wall sign shall not be lower than nine feet above the grade line of an immediately adjoining building lot.

- (6) Lease, for rent, construction signs. Any sign designed to advertise for lease and/or for rent shall be restricted to the sizes defined in § 135-904. Only one such sign shall be allowed on any building and will be subject to the provisions of § 135-906. No real estate signage will be allowed for more than six months after permanent signage is granted by the Zoning Board of Appeals. Construction signs may be allowed for the period of time the building is under construction. Size limits of construction signs shall be determined by the Zoning Board of Appeals at the time of application, but no sign larger than 60 square feet shall be permitted. Said signs shall be subject to the times and fees prescribed in § 135-906.
- (7) Window sign.
 - (a) Permanent window signs shall not occupy more than 20% of the total area of the window or other architectural detail or opening in which they are displayed. If the lettering in such display occupies more than three inches in height it shall be debited against the total allowable wall sign area permitted for each business or building facade.
 - (b) Temporary window signs shall not occupy more than 15% of the total area of the window in which they are displayed. Such signs are considered temporary for the purposes of this section if the sign is applied or displayed for a limited period.

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.2. Highway business area. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 39; 5-3-1993 STM by Art. 13; 5-16-2001 ATM by Art. 54]

- A. Permitted signs. In a highway business area, accessory signs and on-premises commercial signs are subject to the regulations as set forth below:
 - (1) Ground signs.
 - (a) No ground sign shall exceed 150 square feet in area.
 - (b) No ground sign shall exceed 35 feet in overall height.
 - (c) The bottom capping of any ground sign shall be 24 inches above ground level.
 - (d) No more than one ground sign visible to the major artery for a lot shall be permitted.
 - (e) A sign visible to the major artery shall contain the name and address of the user of the property and contain no other advertising material or any commercial message unless specifically authorized by the Zoning Board of Appeals.
 - (f) One ground sign visible to the road or way which provides direct access to the property may be permitted. Said ground sign shall be no larger than 60 square feet in area and be no more than 20 feet in overall height. Bottom capping of sign shall be no less than 24 inches above ground level.
 - (g) One secondary ground sign may be permitted by the Zoning Board of Appeals if it

determines that the nature of the use of the premises, the architecture of the building, or the location with reference to the street or way is such that additional ground signs should be granted in the public interest. The total of all ground signs visible to the access road shall not exceed 150 square feet in area.

- (2) Marquee signs. No marquee signs shall be permitted.
- (3) Roof signs. No roof signs shall be permitted.
- (4) Projecting signs. No projecting signs which extend over a public way shall be permitted.
- (5) Wall signs.
 - (a) No wall sign shall exceed 150 square feet in area.
 - (b) No wall sign shall exceed four feet in overall height.
 - (c) No wall sign shall be visible to the major highway, if a ground sign has been permitted.
 - (d) A permitted wall sign visible to the major highway shall contain the name and address of the user of the property and contain no other advertising material or commercial message unless specifically authorized by the Zoning Board of Appeals.
 - (e) Sign area is further limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway.
 - (f) Wall signs for businesses occupying other than the first floor may be permitted by the Zoning Board of Appeals. Said permit shall require the written permission of the owner of the property. Secondary wall signs shall not exceed 48 square feet in area. No more than two such secondary wall signs shall be allowed for any building.
 - (g) No more than one wall sign for each store or business occupying a building shall be permitted. The aggregate total of all signage allowed shall not exceed 150 square feet in area. Sign permit may be issued only after written permission for said signs is authorized by the Zoning Board of Appeals.
- (6) Lease, for rent, construction signs.
 - (a) Any sign designed to advertise to lease or for rent may be permitted subject to the sizes authorized in § 135-904.2 above and shall comply with § 135-906 of this bylaw.
 - (b) No temporary lease or rent sign shall be permitted to display visibly to the major roadway after any permanent signage is permitted for the property.
 - (c) Temporary lease or rent signs may be displayed and visible to the access roadway for no longer than six months after permanent signage is permitted.
 - (d) Construction signs may be permitted only for the length of time the building is actually under construction.
 - (e) The size of construction signage and exact wording of said signs shall be determined by the Zoning Board of Appeals at the time of application.
 - (f) Construction signs shall comply with the provisions of § 135-906.

(7) Window sign.

- (a) Permanent window signs shall not occupy more than 20% of the total area of the window or other architectural detail or opening in which they are displayed. If the lettering in such display occupies more than three inches in height it shall be debited against the total allowable wall sign area permitted for each business or building facade.
- (b) Temporary window signs shall not occupy more than 15% of the total area of the window in which they are displayed. Such signs are considered temporary for the purposes of this section if the sign is applied or displayed for a limited period.

(8) Billboards and digital/electronic billboards. **[Added 3-17-2015 by Ord. No. 14-066(10)]**

- (a) Billboards and digital/electronic billboards, as defined in § 135-102, shall be allowed within highway business areas which are designated as the Billboard Zoning Overlay District as defined in §§ 135-910-01 through 135-910-05, only by grant of a special permit issued by the Planning Board. The Planning Board may limit the permit for a specific term of years;
- (b) No billboard shall be located more than 100 feet from any interstate highway layout and shall not be within 300 feet of another billboard;
- (c) All billboards must be permanently affixed to a pedestal or other main support structure. No portable billboards are permitted. Billboards shall not be placed on roofs or walls of buildings;
- (d) Exposed back of signs, poles or other support structures must be painted and maintained in a manner that appropriately blends with the surrounding buildings and landscape;
- (e) A billboard may be double sided. An individual sign or sign face shall not exceed 750 square feet in total area on each side and shall not exceed 15 feet in height and 50 feet in width, as calculated pursuant to this chapter.
- (f) The top of the billboard shall not exceed 75 feet in height from the ground.

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.3. Commercial area. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 39; 1-8-1990 STM by Art. 12]

A. Permitted signs.

- (1) Signage in any commercial area shall be permitted subject to the same provisions and restrictions of § 135-904.2.

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.4. Open space and conservancy areas. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 39; 5-16-2001 ATM by Art. 54]

A. Permitted signs.

- (1) In an Open Space and Conservancy District, no signs will be permitted except street signs and safety signs designed to inform the public of hazards, and name and street number for any

authorized building in said district. Any sign in an Open Space and Conservancy District must be authorized in writing by the Conservation Commission and permitted by the Zoning Board of Appeals.

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.5. Special regulations for gasoline service stations and repair garages only. [Amended 5-18-1987 ATM by Art. 29; 5-11-1988 ATM by Art. 39]

A. Gasoline service stations and repair garages may be permitted signs subject to the regulations set forth below.

(1) Service stations or garages located in a general business area, a highway business area, or an industrial area may be allowed signs only after review and as permitted by the Zoning Board of Appeals. **[Amended 5-16-2001 ATM by Art. 54]**

(a) One ground sign containing the logo of the oil company.

(i) In a general business area said ground sign shall not exceed 60 square feet in area and shall be no higher than 20 feet above ground level.

(ii) In a highway business area, not within the Billboard Overlay Zone, or industrial area said ground sign shall not exceed 150 square feet and shall be no higher than 40 feet above ground level. **[Amended 3-17-2015 by Ord. No. 14-066(11)]**

(b) One sign displaying the prices of gasoline only.

(i) Said sign shall not exceed 30 square feet in area per face.

(ii) Said sign shall be no lower than 10 feet.

(c) One permanently fixed sign advertising lubrication products not exceeding 12 square feet in area.

(d) One permanently fixed sign advertising accessories, e.g., tires, wipers, etc., not exceeding 12 square feet in area.

(e) One permanently fixed sign advertising services, e.g., lube, oil change, mufflers, etc., not exceeding 12 square feet in area.

(f) One wall sign displaying the name and/or company logo on the building not exceeding 150 square feet or one square foot of signage per each linear foot of building fronting on a way, whichever is least.

(g) Any other signage attached to canopies, coverings, pumps, etc., authorized by the Zoning Board of Appeals which is designed to assist or advise the public and required by state law as to the type of product. Such additional signage shall not exceed 150 square feet in aggregate total. **[Amended 5-16-2001 ATM by Art. 54]**

B. Prohibition of off-premises commercial signs. All off-premises commercial signs are prohibited.

§135-904.6. Village Zoning Overlay District: rules and regulations for signs. [Added 5-14-2002 STM]

by Art. 14]

Sign regulation. Applicants subject to the Village Zoning Overlay District shall comply with all provisions of the sign regulations as stated in Article IX, §§ 135-901 to 135-911 except for the following:

- (a) Signs defined as "ground signs" shall not exceed 12 feet in height.
- (b) Signs defined as "window signs" shall not exceed 10% of the window or other architectural detail.
- (c) Signs defined as "wall signs" shall not exceed two feet in height.
- (d) Sign material should be consistent with the original construction materials and architectural style of the existing or proposed building on which each sign is to be displayed.

§135-905. Illumination. [Amended 5-16-2001 ATM by Art. 54; 3-17-2015 by Ord. No. 14-066(12)]

Moving, flashing or animated signs are prohibited except for a minimum of sixty-second intervals needed for the functioning of a clock, thermometer or calendar. Automatically or manually continuous changing message signs are not permitted. The source of illumination for any sign shall be a white, steady, stationary light of reasonable intensity, shielded and directed solely at the sign, or a white interior light of reasonable intensity; however, neon tubes or similar devices are not permitted. No illuminated or spotlighted sign shall extend over a street nor shall any sign be permitted which will obstruct the free and clear vision of those traveling on a street. No sign may be illuminated between 1:00 a.m. and 6:00 a.m., except signs identifying police or fire stations or other such signs as the Zoning Board of Appeals may specifically authorize to be illuminated at other hours, if the Zoning Board of Appeals finds that the nature of the use on the premises is such that such illumination should be permitted in the public interest. No outdoor floodlighting or decorative lighting shall be permitted except lighting designed to illuminate walks, driveways, doorways, outdoor living areas or outdoor recreational facilities and excepting temporary holiday lighting in use for no longer than a four-week period in any calendar year, except for decorative floodlighting on institutional or historic buildings and on the national and state colors. The provisions of this paragraph shall apply not only to exterior signs but also to interior signs that are designed or placed so as to shine through windows or doors of the building. Billboards, as permitted pursuant to §§ 135-910-01 through 135-910-05, may, by special permit, utilize light-emitting diodes (LEDs), plasma or other technology to automatically change a display or message.

§135-906. Temporary signs [Amended 5-18-1987 ATM by Art. 29; 5-16-2001 ATM by Art. 54; 1-27-2003 STM by Art. 11D]

Temporary signs which comply with this bylaw are permitted in all districts as specified herein. Before a temporary sign shall be erected or displayed, a permit shall be obtained from the Inspector of Buildings or his designee. A fee of \$25 shall be required for such a temporary sign permit. No temporary signs except political signs shall be attached to or supported by a portable contrivance, wheeled or not wheeled. No vehicle, trailer, balloon, kite, boat, pennant, flag or similar device shall be used as a temporary or permanent means of exhibiting a sign which may circumvent or derogate from the intent of this bylaw. Temporary signs shall be freestanding and not attached to any building, tree, post or other such means. The construction of the sign or signs shall be to the satisfaction of the Inspector of Buildings or his designee as to material and public safety.

§135-907. Construction.

No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted or otherwise securely affixed to a substantial intermediary removal surface

and such surface shall be securely affixed to the wall of a building. This shall not prevent, however, installation of a sign by individual letters cut or squarely affixed to the outside wall of a building. The affixing of the sign to intermediate surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Inspector of Buildings.

§135-908. Administration. [Amended 5-18-1987 ATM by Art. 29; 10-26-1993 STM by Art. 15; 5-16-2001 ATM by Art. 54]

- A. Permits. No sign shall be erected on the exterior of any building or on any land unless and until an application for the erection of such sign has been filed with the Inspector of Buildings and or the Code Compliance Officer, with such information and drawings as he may require, and a permit for the erection of the sign has been issued by him. The fee for such permits shall be determined from time to time by the Board of Selectmen of the Town. The provisions of this section shall not apply to:
- (1) In residential areas, permitted signs, except such as by the terms of the Zoning Bylaws are permitted only with specific permission from the Zoning Board of Appeals.
 - (2) In business areas, one real estate sign of not over six square feet in total area advertising the sale or rental of the premises on which it is located.
 - (3) Billboards are only allowed within the Billboard Overlay Zone as described in §§ 135-910-01 through 135-910-05, by special permit issued by the Planning Board. **[Added 3-17-2015 by Ord. No. 14-066(13)]**
- B. Appeal. A person aggrieved by the refusal of the Inspector of Buildings to issue a permit for the erection of a sign or by any order of the Inspector of Buildings under this bylaw may appeal to the Zoning Board of Appeals. The provisions of the Zoning Bylaw as to the time for taking such appeal and as to the notice of and hearing thereon shall be the same as appeals which are otherwise made under the Zoning Bylaw to the Zoning Board of Appeal.
- (1) The Zoning Board of Appeals hearing appeals from the refusal of the Inspector of Buildings to issue a permit for the erection of a sign or from the decision of the Inspector of Buildings under this section shall have the right to grant relief from the bulk and dimensional requirements of Article IX, upon a determination that a legitimate hardship, financial or otherwise, exists which specifically relates to the shape, topography, soil condition or uniqueness of the land, building or structure to which the sign is placed or affixed and which does not derogate or detract from the goals and purposes expressed in this article or the Zoning Bylaw.
- C. Enforcement. The Inspector of Buildings is hereby designated as the officer in charge of the enforcement of this bylaw and the provisions of the Zoning Bylaw shall apply to this bylaw.

§135-909. Nonconforming signs. [Amended 5-18-1987 ATM by Art. 29]

- A. Nonconformance of accessory and nonaccessory signs. Accessory signs legally erected before the adoption of this article shall be exempt from its provisions; provided, however, that no such sign shall be permitted if it is, after the adoption of this article, enlarged, redesigned or altered in any way, excluding repainting, except to conform to the requirements of this article and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this article. Any exemption provided in this § 135-909 shall terminate with respect to any sign which:

- (1) Shall have been abandoned;
 - (2) Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or
 - (3) Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Inspector of Buildings. The time for performance of any act required shall be extended by a period equal to any delay caused by or resulting from act of God, war, civil commotion, fire, casualty, labor difficulties, shortages of labor, materials, or equipment, government regulations, act or default of Town, or other causes beyond such party's reasonable control, whether such time be designated by a fixed date, fixed time, or otherwise, provided affected parties give written notice to the Town within 10 days after occurrence of the event giving rise to applicability of this section. Shortage of funds shall in no event be deemed a cause for delay.
- B. Notwithstanding Paragraph A, any accessory sign not in conformance with § 135-905 of this article must conform within two years after the adoption of this article.
- C. Notwithstanding Paragraph A, any painted wall sign, roof sign or projecting sign existing prior to the adoption of this bylaw shall be brought into conformance with the provisions of this bylaw within two years after the adoption of this article.
- D. Nonaccessory signs not conforming with the provisions of this article shall be removed within two years after the adoption of this article.

§135-910-01. Billboard Zoning Overlay District. [Added 3-17-2015 by Ord. No. 14-066(14)]

The Town of Braintree shall have a designated Billboard Zoning Overlay District (BZOD), as established pursuant to § 135-301 (Districts established), described herein and as shown on the Braintree Zoning Map, as most recently amended and on file in the office of Town Clerk.

§135-910-02. Purpose. [Added 3-17-2015 by Ord. No. 14-066(14)]

The Billboard Zoning Overlay District is a set of requirements which are superimposed over the Highway Business Zoning Districts located along Route 93 and Route 128 as shown on the approved Zoning Map as the designated Billboard Zoning Overlay District. The BZOD shall establish reasonable standards in accordance with the following purpose and intent:

1. Responsibly address the changing technology of digital displays, and the Town desires to regulate this technology as applied in the use of off-premises signage.
2. To allow new technologies in a designated area while working through special permit and other means to address the removal of older static type billboards Town-wide in lieu of new installations.
3. To regulate the quality, scale and impact of off-premises commercial billboards in designated receiving areas in order to maintain both a competitive business market and an aesthetically attractive residential community.
4. To encourage the installation of commercial billboards along the designated highways in accordance with the federal Highway Beautification Act as most recently amended.
5. To encourage the siting of commercial billboards and electronic/digital billboards in such locations that will not cause driver distraction but can provide public service announcements in emergency

situations for the safety and welfare of the general public.

6. To preserve the residential character of the Town and protect the environmental, historic and open space resources of the community by designating defined areas of location that minimize potential adverse impacts to the Town.

§135-910-03. Special permit granting authority. [Added 3-17-2015 by Ord. No. 14-066(14)]

The special permit granting authority (SPGA) for §§ 135-910-01 through 135-910-05 of the Zoning Ordinances shall be the Braintree Planning Board.

§135-910-04. Applicability. [Added 3-17-2015 by Ord. No. 14-066(14)]

Any installation of an off-premises billboard shall require special permit approval.

All special permit applications shall be submitted in accordance with the administrative procedures specified under Article V and outlined in MGL Chapter 40A.

§135-910-05. Special permit criteria. [Added 3-17-2015 by Ord. No. 14-066(14)]

The SPGA shall not render a decision on an application for a special permit until it has made its findings. Said findings shall include but not be limited to the following:

1. Demonstrate compliance with the regulations of the Office of Outdoor Advertising.
2. Demonstrate that no residentially zoned property or pre-existing nonconforming property or other property used for residential purposes, excluding hotels or motels, is within a one-thousand-foot radius of the proposed location.
3. Demonstrate that the proposed location does not adversely interfere with the use of adjacent properties, including, but not limited to, increasing noise or vibration, casting a shadow on or causing a flicker on adjacent properties.
4. Demonstrate that the proposed billboard is in harmony with or suitable for the surrounding area and would not do significant damage to the visual environment. In making the determination, the special permit granting authority may consider, among other factors, health, safety, general welfare of the public, the scenic beauty of the area, the physical, environmental, cultural, historical or architectural characteristics of the location and area, proximity of the proposed billboard to schools, or places of worship or open space, architectural characteristics of the location and area, the structure, height, and size of the sign, and the number of signs on the premises and in the area where the billboard is to be located.
5. No flashing lighting shall be allowed. Flashing shall be defined as changing natural or artificial light or color effects by any means except as may occur when panels or messages change on electronic/digital billboards.
6. No sexually orientated, sexually provocative or adult-oriented businesses as defined in Article XIII, § 135-1302 shall be advertised on a billboard.
7. The Planning Board shall determine the amount of annual hours the billboard shall devote to public service announcements during a calendar year.
8. Financial or other compensation to the Town, including but not limited to removal of existing

nonconforming billboards, to mitigate the impact of the proposed billboard on the Town, in a form and/or amount identified in an agreement approved by the Office of the Mayor and the Town Solicitor.

§135-911. Severability.¹³⁶

The invalidity of any section or provision of this article shall not invalidate any other section or provision hereof.

§135-912. Exemption.¹³⁷

The provisions of this bylaw shall not apply to any sign, the face of which will not exceed 12 inches in height and 18 inches in width, erected pursuant to the Adopt an Island Program to be administered by the Board of Selectmen or its designee.

136.Editor's Note: This section was renumbered from § 135-910 to § 135-911 on 3 17-2015 by Ord. No. 14-066(14).

137.Editor's Note: This section was renumbered from § 135-911 to § 135-912 on 3 17-2015 by Ord. No. 14-066(14).

ARTICLE X
Service Stations; Trailers

§135-1001. Service station; requirements.

Automobile service stations shall be designed to conform to the following requirements:

- A. The minimum lot area shall be 20,000 square feet.
- B. The minimum lot area for service stations which are licensed to store in excess of 20,000 gallons of flammable fluids shall be not less than one square foot of land per gallon of fluid.
- C. No gasoline service station driveway shall be permitted to enter any street that carries traffic at such a speed or in such quantity that the Planning Board deems that access to or egress from a gasoline service station at such a location will create hazardous conditions.

§135-1002. Trailers; restrictions.

Use of trailer and mobile units as dwellings is prohibited, except that the Building Inspector may grant a permit for the temporary use of such units for living purposes for a period not to exceed 60 days. Any extension of a temporary permit issued under this section may be granted only by the special permit granting authority after a public hearing. In no case shall a temporary permit or extension thereof be granted unless adequate provisions for the protection of health, safety, convenience and welfare of the people have been made to the satisfaction of the Board of Health, the Water Department, the Wire Inspector and the Building Inspector, the Chief of Police and the Chief of Fire. The owner and occupier of a residence which has been destroyed by fire or other material holocaust may place a mobile home on the site of such residence and reside in such home for a period not to exceed 12 months while the residence is being rebuilt. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

ARTICLE XI
Environmental Performance Standards

§135-1101. Establishment of standards.

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactivity or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects or rodents; or any other substance, condition or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

- A. Emissions shall be completely and effectively confined within the building or so regulated as to prevent any nuisance, hazard or other disturbance from being perceptible, without the use of instruments, at any lot line of the premises on which the use is located.
- B. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment, as approved by the Chief of Fire Department.
- C. No activities that emit dangerous radioactivity at any point, no electrical disturbance adversely affecting the operation at any point of any equipment, other than that of the creator of such disturbance, shall be permitted.
- D. No air emission shall be permitted except in accordance with the regulations for the control of air pollution in the Metropolitan Boston Air Pollution District under MGL c. 111, § 142D.
- E. No emission which can cause any damage to the health of animals or vegetation or which can cause excessive soiling at any point, and in no event any emission of any solid or liquid particles in a concentration exceeding 0.5 milligram per liter or parts per million of conveying gas or air shall be permitted.
- F. No discharge, at any point, into a private sewer system, stream, the ground or a municipal sewage disposal system of any material in such a way or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
- G. No emissions of odorous gases or odiferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington D.C., shall be permitted. No direct sky-reflected glare, whether from floodlights or from high-temperature processes such as welding, shall be permitted.

§135-1102. Noise and vibration control.

Purpose. Pursuant to the authority conferred upon the Town by MGL c. 40, § 21, the following is adopted for the regulation and restriction of unnecessary, excessive and annoying noise and vibration in the Town of Braintree. It is declared to be the policy of the Town of Braintree to prohibit such noise and vibration from or by all sources as set forth in this bylaw. Because it has been determined that certain noise levels

and vibrations are detrimental to the public health, welfare, safety and convenience as well as contrary to the public interest, these standards have been set forth by the Town of Braintree to declare that creating, maintaining, causing or allowing to be created any noise or vibration in a manner prohibited by or not in conformance with these standards is a public nuisance punishable as set forth in this bylaw.

§135-1103. Definitions.

The terms used in this bylaw shall be defined as follows:

AMBIENT NOISE LEVEL — The all-encompassing noise level associated with a given environment, excluding any alleged condition of noise pollution.

A-WEIGHTED SOUND LEVEL — The sound pressure measured on a sound-level meter using the A-weighting network. The level read is designated DB(A) or DBA.

BUSINESS — A business area is any area included within a district zoned for business under the Braintree Zoning Bylaws. It does not include any area within a district zoned for residential purposes under the Zoning Bylaws, as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal or through a nonconforming use or by any other means.

COMMERCIAL — A commercial area is any area included within a district zoned for commercial, under the Zoning Bylaws. It does not include any area within a district zoned for residential purposes under the Zoning Bylaw, as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal or through a nonconforming use or by any other means.

CONSTRUCTION — Any site preparation, assembly, erection, substantial repair, alteration, or similar action (demolition excluded) for or of public or private right-of-way, structures, utilities or similar property.

DAYTIME — The time between the hours of 7:00 a.m. and 6:00 p.m. each weekday excepting Sunday in accordance with the time system locally in effect.

DECIBEL (DB) — The unit by which the sound level is measured.

DEMOLITION — Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

EMERGENCY WORK — Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

HEAVY MOTOR VEHICLES — All motor vehicles having a gross vehicle weight in excess of 10,000 pounds.

L 10 — The A-weighted sound level exceeded 10% of the time.

LIGHT MOTOR VEHICLES — All motor vehicles having a gross vehicle weight of 10,000 pounds or less.

MOTORCYCLE — As defined in MGL c. 90, § 1, Definitions.

MOTOR VEHICLES — As defined in MGL c. 90, § 1, Definitions.

MUFFLER OR SOUND-DISSIPATIVE DEVICE — A device for abating the sound of escaping gases of an internal combustion engine.

NOISE POLLUTION — Any sound at or above the level set forth in Article XI of this bylaw which

exceeds the ambient noise level designated for the receiving land use category when measured at or within the property boundary of the receiving land use, plus any sound which:

- (1) Endangers the safety of or could cause injury to the health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

PERSON — Any individual, association, partnership, or corporation including any officer, employee, department, agency or instrumentality of the state recognized by law as the subject of rights and duties.

RESIDENTIAL AREA — A residential area is for residential purposes under the Zoning Bylaw. It includes Districts A, B and C as defined in the Braintree Zoning Bylaw.

SOUND LEVEL — The weighted sound-pressure level obtained by the use of a sound-level meter and frequency weighting network XI-3 such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters (ANSI).

SOUND-PRESSURE LEVEL — Twenty times the logarithm to the base 10 of the pressure of the sound to a reference pressure of 20 micro-pascals, in accordance with standard engineering and scientific practices.

VIBRATION — Any movement of earth, ground or other similar surface created by a temporal and spatial oscillation of displacement, velocity or acceleration in any mechanical device or equipment located upon, attached, affixed or in conjunction with that surface. **[Amended 5-12-1987 ATM by Art. 55]**

ZONING DISTRICTS — The zoning districts and land uses established by the Zoning Bylaw of the Town of Braintree.

§135-1104. Prohibited acts.

- A. General prohibition of noise emissions. No person owning, leasing or controlling the operation of any source of noise shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution.
- B. Specific prohibitions. Except for emergency work or work covered under a permit granted by the Board of Selectmen or its designee under this Article XI, causing or allowing the occurrence of the following acts is declared to be in violation of the provisions of this bylaw:
 - (1) Operating, playing or permitting the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in a manner that disturbs the peace, quiet and comfort of the neighboring inhabitants or at a volume louder than is necessary for the convenient hearing of the person in the room, vehicle, or building in which the device is operated. The operation of any such device between the hours of 10:00 p.m. and 7:00 a.m. on the weeknights and between 12:00 p.m. and 7:00 a.m. on weekend nights in a manner that makes it clearly audible at a distance of 50 feet or approximately 15 meters from the building, structure or vehicle in which it is located is a violation of the standards set forth in this bylaw. Activities open to the public for which a proper permit has been issued are exempted from this provision.
 - (2) Yelling, shouting, hooting, whistling or singing on the public ways between the hours of 10 p.m. and 7:00 a.m. or at any time or place that annoys or disturbs the quiet, comfort or repose of a person in an office, dwelling or other type of residence or of a person in the vicinity.

- (3) The keeping of an animal or bird which frequently and for continued periods of time causes a condition of noise pollution that disturbs the comfort and repose of a reasonable person in the vicinity at any time but most specifically between the hours of 10 p.m. and 7:00 a.m.
- (4) The offering for sale or selling of anything by shouting or outcry within a residential or commercial area of the Town of Braintree.
- (5) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects in a manner that causes a condition of noise pollution at any time but most specifically between the hours of 8:00 p.m. and 7:00 a.m. across a real property boundary in any district established under the Zoning Bylaw.
- (6) Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of 8:00 p.m. and 7:00 a.m. on weekdays or at any time on Sundays or holidays so that the sound creates a condition of noise pollution across a real property boundary.
- (7) The operation of construction devices between the hours of 7:00 a.m. and 8:00 p.m., including such items as compressors, jackhammers, bulldozers, cranes, etc., in a manner that causes a condition of noise pollution that could be avoided by the application of best available technology, which might include mufflers where commercially available.
- (8) The direct discharge into the open air of the exhaust of a steam engine, internal combustion engine such as chain saws, jackhammers, etc., motor boat, or motor vehicle except through a muffler or other such device, where commercially available, designed to effectively prevent them from creating loud or explosive noises.
- (9) Operating or permitting the operation of any device that creates or causes any ground vibration which is perceptible without instruments at any point outside the property, street or sidewalk on which the vibration source is located.

§135-1105. Sound levels by receiving land use.

- A. Except as provided in § 135-1106, no person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds the ambient noise level set forth for the receiving land use category in the following table when measured at or within the property boundary of the receiving land use.

Receiving Land Use Category	Item	Sound Level Limit (DBA)
Residential A, B and C	Daytime	60
Open space	All other times	50
Business	At all times	65
Commercial	At all times	70

- B. No person shall sell or rent, or cause to be sold or rented, any structures or property to be used for human habitation where the structure or property is exposed to sound levels which are for 50% of the time in excess of the standards set forth in this bylaw without written disclosure of said condition. The Board of Selectmen shall develop a standard format for these written disclosures.

§135-1106. Restrictions on noise emitted from construction sites.

- A. Except as provided in § 135-1104B, it shall be unlawful of any person to operate any construction device on any construction site if the operation of that device emits noise measured at the lot line of the affected property in excess of the following values:

Use of Affected Property	L 10 Level	Maximum Noise Level
Residential A, B and C	75 DBA	86 DBA
Business	80 DBA	—
Commercial	85 DBA	—
Public way	85 DBA	—

- B. The L 10 level shall be determined by making 100 observations on the A-weighted network with the sound-level meter at slow response at ten-second intervals. During any of these observations if a measurement is substantially affected by a source outside of the construction site, these measurements will not be considered. Observations will be continued until 100 valid observations have been recorded. The L 10 level will be equivalent to the 10th highest level recorded.

If the person taking measurements estimates that outside noise sources contribute greatly to the noise of the construction site, the aforementioned procedure shall be repeated when construction is inactive in order to correctly determine the L 10 level. The L 10 level during construction must be greater than the background L 10 level by at least five DBA to be considered in violation of the provisions of this regulation.

§135-1107. Motor vehicles and motorcycles on public rights-of-way.

No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the following limits. Motor vehicle and motorcycle sound limits to be measured would be at a distance of 50 feet or approximately 15 meters from the center line of travel.

Vehicle Class	Sound level in DBA	
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph
Vehicles in excess of 10,000 pounds engaged in interstate commerce as permitted by 40 CFR 303, Environmental Protection Agency (Noise emission standards for motor vehicles engaged in interstate commerce)	86	90
All other vehicles of 10,000 pounds or more	86	90
Any other motor vehicle or combination of vehicles towed by any motor vehicle	78	82
Motorcycles	82	86

§135-1108. Enforcement.

The Braintree Police Department and/or the Inspector of Buildings shall be charged with the enforcement of this bylaw.

§135-1109. Permits and exemptions.

- A. Provisions in this bylaw shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.
- B. The Board of Selectmen or its designee may give a permit for any activity otherwise forbidden by the provisions of this bylaw. A person seeking such a permit should make written application to the Board of Selectmen or its designee on the appropriate form which is available at the office of the Selectmen.
- C. The Board of Selectmen or its designee shall issue guidelines defining the procedures to be followed in applying for a permit and the criteria to be considered in the decision of whether to grant one.
- D. The Board of Selectmen or its designee shall issue guidelines defining procedures to be followed in applying for an extension of time to comply with the provisions of these regulations and the criteria to be considered in the decision of whether to grant it. The guideline should include reasonable time frames for compliance.
- E. Application for a permit for construction or repair work to be performed on a Sunday shall be made to the Inspector of Buildings.
- F. In some instances, when it can be demonstrated that bringing a source of noise into compliance with the provisions of this bylaw would create undue hardship on a person or the community, a permit may be granted for continuing the noise pollution. A person seeking a permit must make written application to the Board of Selectmen or its designee within five days of receiving notification that s(he) is in violation of the provisions of this bylaw. The application shall contain the necessary information to support the applicant's claim. If the Board of Selectmen or its designee finds that

sufficient controversy exists regarding the application, a public hearing shall be held by the Board of Selectmen or its designee. A person who claims that allowance of such continuance would have adverse effects may file a statement with the Board of Selectmen or its designee to support this claim.

- G. If the Board of Selectmen or its designee orders abatement of a source of noise pollution, a person who feels (s)he cannot meet the stated time schedule for compliance may file an application for an extension of time. A written application must be filed within five days of receipt of notification of violation and shall contain information that supports the request for additional time to comply and shall propose a new compliance schedule. If the Board of Selectmen or its designee finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that the allowance of an extension of time would have adverse effects may file a statement with the Board of Selectmen or its designee to support this claim.

§135-1110. Hearings.

- A. The Board of Selectmen or its designee shall hold a public hearing if sufficient controversy exists regarding the issuance of a permit under this bylaw and may hold a public hearing if an extension of time to comply under the provision of this bylaw is requested.
- B. Resolution of the controversy will be based upon the information supplied by both sides in support of their individual claims and will be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen.

§135-1111. Appeals.

Appeals of an adverse decision shall be made to the Superior Court. The Court's review shall be limited to whether the decision was supported by substantial evidence.

§135-1112. Penalties.

- A. Any person who violates any provisions of this bylaw, if convicted, shall be fined an amount not to exceed \$50 a day.
- B. Each day that the offense continues shall be considered to be a separate violation.

§135-1113. Conflict with other regulations.

The provisions contained within this bylaw shall not relieve any person from complying with other laws, statutes, codes, regulations or bylaws of the Commonwealth of Massachusetts or the Town of Braintree.

§135-1114. Severability.

If any of the provisions of this bylaw are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions will remain in force.

ARTICLE XII

Grading Regulations, Quarry Operations and Erosion Control Regulations**[Amended 5-11-1994 ATM by Art. 56; 10-18-1999 STM by Art. 29; 5-7-2003 ATM by Art. 37]****§135-1201. Grading regulations.****A. Purpose.** The purposes of the grading regulations are to:

- (1) Protect the safety, health and welfare of the residents of Braintree by regulating grading activities;
- (2) Minimize adverse impacts associated with grading;
- (3) Prevent damage to property, public facilities and utilities;
- (4) Prevent the destruction of vegetation and the loss of soils by minimizing soil erosion and sedimentation;
- (5) Minimize surface water runoff and diversion that may contribute to flooding and loss of water quality.

B. Applicability.

- (1) With the exception of the activities listed in § 135-1201C, no grading shall occur on a site without a building permit or grading permit (Quarries are further regulated under § 135-1202.)
- (2) The Inspector of Buildings may issue a building permit for grading, where grading:
 - (a) Has cuts or fills of less than two feet in depth at the deepest points measured from existing grade;
 - (b) Imports or exports less than 150 cubic yards (cy) of material;
 - (c) Cumulatively disturbs less than 5,000 square feet of area;
 - (d) Does not obstruct a drainage course; and
 - (e) Does not create unstable slopes.
- (3) Grading for which a building permit cannot be issued shall require a grading permit issued by the SPGA.

C. Exemptions. The following activities do not require the issuance of a grading permit:

- (1) Grading undertaken as part of a special permit or site plan reviews approved after the date of adoption of § 135-1201;
- (2) Constructing a street shown on a subdivision plan endorsed by the Planning Board after the date of adoption of § 135-1201;
- (3) Maintaining, resurfacing or reconstructing an existing street, provided said activity is supervised by the Town;
- (4) Installing, reconstructing or repairing underground public utilities, provided said work shall be backfilled to existing grade upon completion of work or within 45 days after start of the work,

whichever is sooner;

- (5) Maintaining or reconstructing municipal parks, playgrounds and golf courses;
- (6) Removing or replacing an underground storage tank that is subject to regulation by a state or federal agency;
- (7) Excavating for geological investigation supervised by an RPE or licensed site professional, provided said work shall be backfilled to existing grade at the end of each work day;
- (8) Maintaining a private driveway or accessway existing prior to the date of adoption of § 135-1201, provided said maintenance involves less than 150 cy of material;
- (9) Maintaining existing private lawns, including adding or removing less than 12 cy/acre of topsoil, compost, sand, loam or other soil amendments in a calendar year, provided any increase in elevation shall not exceed six inches;
- (10) Grading for construction of a single-family residence authorized by a valid building permit, provided that less than 150 cy earth material are removed or added to the site in connection with the building permit.

D. Denial of permit.

- (1) The SPGA shall not issue a grading permit where the proposed grading:
 - (a) Would cause hazard to the public health, safety or welfare;
 - (b) Would endanger an adjoining lot, result in the deposition of debris or sediment on a public street, endanger public utilities or result in any hazard of contamination;
 - (c) Will occur in an area that is subject to geological hazard;
 - (d) Would foul, obstruct or impede the flow of any water body, drain or sewer.
- (2) If it can be shown to the satisfaction of the SPGA that implementing mitigative measures can eliminate the hazard, a grading permit may be issued conditioned on the elimination of said hazard.

E. Emergency situation.

- (1) If the Inspector of Buildings determines there is an immediate danger to the public health or safety from a landslide, flood, earthquake or other natural calamity requiring grading, he may authorize corrective action.
- (2) If grading occurring under a grading permit creates an immediate danger to the public health or safety, the SPGA may revoke the grading permit or require corrective action.

F. Time frame.

- (1) Grading shall be completed within the time frame specified in the grading permit or within 180 days if no time limit is specified.
- (2) If an applicant presents satisfactory evidence that unusual circumstances have prevented completion of grading within the specified time, the SPGA may extend a grading permit one time only for a period not to exceed one year.

G. Procedures for application.

- (1) A grading permit may be issued by affirmative vote of a majority of the SPGA only after a public hearing with public notice given in accordance with c. 40A § 11.
- (2) Application for a grading permit shall include a grading plan and report prepared and stamped by an RPE.

The grading plan shall be of appropriate scale to show location and details of all proposed grading activities and shall include, where applicable:

- (a) A general vicinity map, scale, North arrow, benchmark and datum;
- (b) The legal names and addresses of the owner of the property involved, the petitioner and abutting property owners, including those across a street;
- (c) Property lines, easements and dimensions, building setbacks and total area of the lot;
- (d) Existing and finish grades at two-foot contours with the contour lines extended a minimum of 50 feet beyond the site's boundaries;
- (e) Location, dimensions and elevation of existing and proposed buildings and structures, retaining walls, roads, driveways, parking lots, utilities and drainage structures on site and within 50 feet of the site's boundaries;
- (f) Location of water bodies, wetlands, wetland buffers, floodplains, drainage structures and any proposed alteration to drainage on site and within 50 feet of the site's boundaries;
- (g) Location of access streets, access points, and construction entrances;
- (h) Location of graded areas, shaded and labeled "graded area," and of on-site disposal or borrow areas;
- (i) Location of known soils and of geologic hazard areas on the site;
- (j) Location of proposed erosion and sedimentation controls;
- (k) Location of proposed mitigative measures such as revegetation, retaining walls and visual screening;
- (l) Location of vegetation to be removed with number of trees/shrubs to be removed, retained or replanted;
- (m) Plan details on utilities, drainage structures, walls, cribbing, dams, berms, settling ponds or other water control devices to be constructed;
- (n) Slopes of all cut and fill areas;
- (o) Cross section drawings (no fewer than two) that show:
 - [1] Maximum depth of fill and maximum height of cuts.
 - [2] Existing and proposed buildings and their setbacks from cut or fill slopes;

- [3] Existing and finish grades extending a minimum of 20 feet beyond the scope of work;
- [4] Retaining walls and the grade on either side of the walls for at least 20 feet.

The grading report shall include, where applicable:

- (a) Description of the work to be performed under the grading permit;
 - (b) Start and completion dates;
 - (c) Quantities of earth materials impacted by grading and area to be graded;
 - (d) Description of erosion, drainage and dust control measures to be implemented;
 - (e) Location of off-site disposal areas and quantity of earth materials and vegetation to be removed from the site;
 - (f) Description of the type of backfill to be used, using ASTM Unified Soils Classification System for identification;
 - (g) Quantity of earth materials to be imported to the site during grading and the source of the material.
- (3) If a project is so large or complex that a plan encompassing the total project cannot reasonably be prepared prior to initial groundbreaking, an applicant may seek authorization from the SPGA to undertake grading incrementally. Approval of phased grading activities shall take place in 2 steps:
- (a) An overall conceptual plan of the entire development shall be submitted to the SPGA for review and approval.
 - (b) Detailed plans showing the nature and extent of the work to be completed during each phase shall be prepared by an RPE and submitted to the SPGA for review and approval.
- (4) An applicant shall provide any additional information the SPGA may determine necessary for its review.

H. Grading standards.

- (1) General grading standards.
 - (a) Grading shall not increase turbidity, siltation or pollution in a water body or create or contribute to landslides, accelerated soil creep, settlement, subsidence, flooding, erosion.
 - (b) Grading shall expose to erosion the smallest area of soil for the least possible time.
- (2) Import and export of earth material.
 - (a) Site access shall be restricted to points designated on a plan and shall be controlled by a gate or other suitable barrier.
 - (b) Access drives shall have the minimum sight distance required under § 135-809. Absent the required sight distance police details shall be posted. Access drives shall be constructed of gravel or equivalent material to prevent mud and debris from being deposited onto access

streets. The last 50 feet of an access drive's approach to the intersection with a public street shall have a grade less than 3%.

- (c) When in excess of 150 cy of earth material is to be transported over a public street, the SPGA may restrict transporting to access streets and require:
 - [1] That water and/or dust palliative be applied to alleviate or prevent dust during loading or transport of said materials; and
 - [2] The posting of "Trucks Entering" signs on the public roadway 400 feet on each side of the site's access. The warning signs shall be covered or removed when the access intersection is not in use.
- (3) Boundary location. The SPGA may require staking of property lines, limits of grading, top and toe of the fill and all areas where construction equipment is to be excluded. Stakes shall be at least two-inch by two-inch posts 36 inches in length above existing grade and shall be maintained and viable during grading activities.
- (4) Clearing standards.
 - (a) Existing vegetation shall be preserved unless a grading permit authorizes removal of said vegetation.
 - (b) All natural drainageways shall be clearly marked, and a minimum buffer of 25 feet on each side of such drainageways shall remain undisturbed.
 - (c) Clearing activities shall be limited road or driveway construction, utility installation and building pad construction. Trees and areas of undergrowth to be removed shall be clearly identified on the grading plan. On site, clearing limits shall be clearly marked with brightly colored tape or plastic.
 - (d) Grading equipment shall be kept outside the drip line of any trees to be retained.
 - (e) Unauthorized removal of trees or other vegetation or the backfilling or compaction of soil around trees to be retained shall be a violation of § 135-1201 and require immediate restoration using five- to ten-year-old stock planted at a 3:1 ratio of new plants to removed or damaged plants.
 - (f) Filling of more than six inches shall require retaining walls around trees six inches in caliper or larger.
- (5) Excavation.
 - (a) There shall be no excavation below designed finish grade except as needed for placement of reclamation materials.
 - (b) There shall be no excavation below the estimated seasonal height of the ground water table.
- (6) Compaction.
 - (a) Nonstructural fill material shall be placed in twelve-inch uncompacted lifts and compacted throughout their full extent to 90% of the maximum dry density of the material used as determined by ASTM Method 1557 or approved equal.

- (b) Structural fill material shall be placed in twelve-inch uncompacted lifts and compacted throughout their full extent to 95% of the maximum dry density as determined by ASTM Method 1557 or approved equal.
 - (c) Fill material for landscaping is exempt from compaction requirements.
- (7) Drainage.
 - (a) Cut and fill slopes and terraces shall be provided with subsurface drainage as necessary for stability.
 - (b) Water shall not pond above cut or fill slopes or on drainage terraces. Drainage facilities shall be provided to prevent such ponding.
 - (c) Areas designed for buildings shall be graded away from the building for a minimum of six feet at a slope of 24 horizontal to one vertical.
 - (d) Dikes, swales, ditches, percolation devices or other conveyance mechanism shall be designed to control runoff and erosion from graded areas and to improve water quality by removing suspended solids. Where concentrated runoff discharges onto natural ground, measures shall be taken to dissipate the energy and release the runoff as sheet flow.
- (8) Encroachment.
 - (a) Grading shall not encroach upon an adjoining lot unless the SPGA is provided:
 - [1] Proof that the applicant owns the adjoining lot;
 - [2] An easement, granted by the owner of the lot, authorizing grading on said lot; or
 - [3] A letter signed by the owner of the lot authorizing temporary encroachment for a temporary change of grade or stockpiling.
 - (b) When grading alters an existing grade, adjoining lots shall be protected from encroachment or collapse by a retaining wall or by grading to a safe slope. The design for any retaining wall with an exposed height exceeding four feet at any point shall be stamped by an RPE acting within the area of his expertise.
- (9) Erosion control. Grading shall comply with § 135-1203, Erosion control regulations.
- (10) Expansive soils. If organic or soft cohesive soils are found within two feet of the finish grade of an intended building location, said soils shall be removed to a depth specified by an RPE and replaced with properly compacted nonexpansive gravel borrow.
- (11) Fill material. The SPGA may specify the characteristics of the fill material used, including the degree of compaction, moisture content and method of placement. Fill material shall comply with the following:
 - (a) Fill materials shall be composed of earth materials. Rock or similar irreducible material used in fill shall be of a maximum diameter of six inches and shall compose not more than 20% of the total fill material.
 - (b) Fill materials shall not contain any organic material unless approved by the SPGA, any frozen or thawing material, solid waste, building debris, asphalt, concrete or hazardous waste or material.

- (c) With the exception of the upper six inches of a fill site, topsoil shall not be used as a fill material.
- (12) Setbacks.
- (a) Cuts or fills five feet in depth or greater shall be set back a minimum of 25 feet from property lines. Setback distances shall be horizontal distances measured perpendicular to the site boundary.
 - (b) Fills shall be located so that the base edge of the fill is more than 12 feet horizontally from the top edge of an existing slope or a planned cut slope. Fill shall not be placed on top of slopes steeper than 1.5 horizontal to one vertical.
 - (c) The tops and toes of cut and fill slopes shall be set back from property lines as far as necessary for the safety of adjoining lots and to prevent damage resulting from runoff or erosion of the slopes.
 - (d) The setbacks specified above may be increased by the SPGA if necessary for safety and stability, to prevent damage to adjoining lots or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks if approved by the SPGA.
- (13) Slopes. All slopes shall conform to state and federal regulations. Cuts shall not be steeper in slope than two horizontal to one vertical. A steeper slope may be allowed if an RPE certifies that said slope will be stable, will not endanger an adjoining lot, deposit debris on a public way or interfere with any existing drainage course. The slope of cut and fill surfaces shall be no steeper than is safe for the intended uses.
- (14) Surface preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials and by scarifying the ground surface to provide a bond for the new fill. A slope that is steeper than three horizontal to one vertical and the height of which is greater than five feet shall be benched into sound bedrock or other competent material as determined by an RPE. The bench under the toe of a fill shall be at least 10 feet wide, except when an RPE determines it to be unnecessary.
- (15) Terraces.
- (a) Terraces in soil at least four feet in width shall be established at not more than ten-foot vertical intervals on all cut and fill slopes to control surface drainage and debris. Where only one terrace is required, it shall be at mid-height. Terrace widths and spacing for cut and fill slopes greater than 90 feet in height shall be designed by an RPE. Suitable access to terraces shall be provided to permit cleaning and maintenance. This may be waived by the SPGA, provided documentation is provided by an RPE.
 - (b) Terraces in rock at least six feet in width shall be established at not more than thirty-foot vertical intervals on all cut and fill slopes to control surface drainage and debris. Where only one terrace is required, it shall be at mid-height. Terrace widths and spacing for cut and fill slopes greater than 90 feet in height shall be designed by an RPE. Suitable access to terraces shall be provided to permit cleaning and maintenance. This may be waived by the SPGA, provided documentation is provided by an RPE.

§135-1202. Quarry operations.

- A. Coordination with grading regulations. An application for a special permit for a quarry operation shall comply with Braintree Zoning Bylaw § 135-1201. Where § 135-1202 has more stringent standards, § 135-1202 shall prevail.
- B. Denial of permit. The SPGA shall not issue a special permit where a proposed quarry operation would:
- (1) Cause hazard to the public safety or welfare, or constitute a nuisance;
 - (2) Produce noise or observable dust at the lot line in an amount detrimental to the normal use of an adjoining lot.
 - (3) Result in traffic hazard, particularly in residential areas, or congestion on or damage to public streets;
 - (4) Result in a change in topography or ground cover disadvantageous to the most appropriate use of the land;
 - (5) Cause surface or subsurface drainage to adversely affect an adjoining lot.
- C. Standards for quarrying.
- (1) No quarry operation shall occur within 250 feet of a property line or 300 feet of a public street as measured in a straight line from the street or property line to the area of the quarrying.
 - (2) Equipment used in a quarry operation shall not be located within 250 feet of a public street or property line.
 - (3) Topsoil shall be stripped to a depth of 12 inches and stored separately on site for use in reclamation.
 - (4) The area in which quarrying is taking place shall be clearly marked and posted with no-trespassing signs. The SPGA may require fencing or other barrier where excavations exceed a depth of four feet.
 - (5) The course or configuration of any drainageway or waterway shall not be changed unless approved by the SPGA. Quarry operations shall not cause the ponding of water unless authorized as part of a reclamation plan.
 - (6) Roadway maintenance.
 - (a) Roadways used for transportation of material must be swept clean and cleared of material spilled from trucks at least once each 48 hours, and more if required.
 - (b) Any repairs or cleaning of roadways performed by the Town as a result of the earth removal operation shall be paid for by the quarry operator.
 - (7) Within six months of termination of quarry operations, all buildings and structures used in quarrying shall be dismantled and removed at the expense of the quarry operators.
 - (8) If a quarry operation requires the use of explosives, a copy of the blaster's current license, bond and Town of Braintree permit shall be provided to the SPGA.
 - (9) The only materials that may be brought onto the site are explosives necessary for removal of earth materials and soil/landscaping materials needed to implement the approved reclamation

plan.

- D. Reclamation. Within six months of the termination of quarry activities, land areas that have been disturbed shall be reclaimed in accordance with a reclamation plan approved by the SPGA and with the following standards:
- (1) Areas from which trees have been removed and which are visible from a street shall be implanted with trees using five- to ten-year-old stock.
 - (2) Except for exposed rock ledge, disturbed areas shall be spread with a minimum of six inches of topsoil and planted with grass or other ground cover suitable to erosion.
 - (3) All earth and vegetative debris shall be removed and lawfully disposed of.
 - (4) All slopes shall be graded so as not to exceed a slope that is two horizontal to one vertical. A steeper slope may be allowed if an RPE certifies that said slope will be stable, will not endanger an adjoining lot, deposit debris on a public way or interfere with any existing drainage course. The slopes of cut and fill surfaces shall be no steeper than is safe for the intended final uses.
- E. Approval. In approving a special permit, the SPGA may impose reasonable conditions to regulate quarry operations and hours of operation.
- F. Bonding. The SPGA may require a bond or other security to be provided to the Town to insure compliance with the special permit.
- G. Time frame. Any special permit for a quarry operation shall automatically expire within the time frame specified in the special permit or within 24 months if no time limit is specified. To request an extension a quarry operator must submit a written request 60 days prior to expiration of the special permit. The SPGA, at its discretion, may extend a permit or may require a public hearing on said extension.
- H. Existing quarry operations. A quarry in lawful operation on the date of adoption of § 135-1202 may continue until such time it is abandoned. However, unless specifically authorized by a new special permit:
- (1) The depth of excavation shall not exceed the grade of the lowest point excavated on the date of adoption of § 135-1202.
 - (2) The total area of land disturbance within the quarry operation shall not be increased by more than 50% over the area disturbed on the date of adoption of § 135-1202.
 - (3) The average daily amount of materials extracted or removed shall not be increased by more than 50% over the daily average for the 12 consecutive months preceding the date of adoption of § 135-1202 or for the actual period of operation, if less than 12 months.

§135-1203. Erosion control regulations. [Added 5-7-2003 ATM by Art. 38]

- A. Preamble. Uncontrolled excavation, grading and land disturbance may cause excessive quantities of soil to erode. Erosion, and resulting sediment, requires the costly repair of roads and embankments; creates excess turbidity; clogs storm drains and swales; muddies streams; silts rivers and lakes and limits the use of water for most beneficial purposes. Sediment-choked streams are unsightly, and reduced channel capacity may result in flooding.
- B. Purpose. The purposes of the erosion control regulations are to:

- (1) Reduce damage from sediment and erosion by controlling stormwater runoff (runoff) and by protecting exposed or disturbed areas;
 - (2) Protect surface and ground water quality, minimize erosion and reduce flooding by restricting runoff to nonerosive velocities through the use of erosion and runoff control measures (control measures);
 - (3) Incorporate control measures into site planning at an early stage in the design process;
 - (4) Prevent the unnecessary stripping of vegetation and loss of soils especially adjacent to water bodies;
 - (5) Prevent land disturbance that may cause mass movement, slumping or erosion of land surfaces;
 - (6) Prevent excess turbidity in water bodies;
 - (7) Minimize maintenance and repairs to roads, embankments, swales, streams, water bodies, stormwater control facilities, and adjoining lots;
 - (8) Retain appropriate performance guaranties to ensure compliance with permits.
- C. Intent. Section 135-1203 allows broad discretion to address the impacts from land disturbance so long as control measures comply with the objectives and design standards. Section 135-1203 therefore does not specify or mandate specific control measures. They provide the flexibility to choose control measures subject to review by the SPGA. Section 135-1203 is intended to supplement provisions of the Wetlands Protection Act (Act). Where § 135-1203 is less restrictive than the Act, the provisions of the Act shall govern.
- D. Applicability.
- (1) Section 135-1203 shall apply to every land disturbance where:
 - (a) Site work involves excavating or filling more than 150 cy of material;
 - (b) Site work cumulatively disturbs more than 5,000 square feet;
 - (c) Site work will occur on a slope greater than 15%;
 - (d) A site contains highly erodible soils;
 - (e) A site directly drains into a water body; or
 - (f) The SPGA determines that there is a high potential for environmental degradation from erosion or runoff.
 - (2) A single-family residential site may be exempted from § 135-1203, provided land disturbance will not disturb more than 5,000 square feet and adequate control measures are incorporated into a development.
- E. Application for erosion control permit. Persons wishing to engage in land disturbance activities shall apply to the SPGA for an erosion control permit in accordance with these regulations and said activities shall not begin unless said permit has been issued.
- F. Erosion and stormwater runoff control plan. Application for an erosion control permit shall be accompanied by an erosion and stormwater control plan and report prepared and stamped by a RPE

in accordance with the methods and measures identified in:

"The Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas: A Guide For Planners, Designers, and Municipal Officials" (EOEA)

"Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts" (Natural Resources Conservation Service)

The erosion and stormwater control plan shall be of appropriate scale to show location and details of all proposed activities and shall include, where applicable:

- (1) North arrow, scale, benchmark and datum;
- (2) Wetlands, water bodies and floodplains;
- (3) Existing and final grades at two-foot contour intervals extending at least 50 feet beyond the site's boundary;
- (4) Existing vegetation, including existing tree lines, grassy areas and unique vegetation;
- (5) Boundaries of the different soil types on site;
- (6) Property lines;
- (7) Plans and elevations of streets, parking lots, water level of water bodies and wetlands, storm sewer inlets and outlets and the first floor of all existing and proposed structures;
- (8) Drainage dividing lines and direction of flow for the catchment areas on site during and after construction;
- (9) Areas with potentially serious erosion problems;
- (10) Limits of clearing and grading;
- (11) Location of utilities;
- (12) Location of the control measures to be installed on site illustrated with detail drawings;
- (13) Location of off-site and on-site access routes for construction and maintenance vehicles;
- (14) Locations of borrow and waste disposal areas;
- (15) Vegetation specifications for temporary and permanent stabilization;
- (16) Methods and location of concrete-wash disposal.

An erosion and stormwater control report shall include where applicable:

- (1) The nature and purpose of the development and the amount of grading involved;
- (2) The proposed stages of development including start and completion dates, the sequence of construction and grading activities, the sequence for installing control measures and for final stabilization;
- (3) Conditions on the site as they currently exist;
- (4) Neighboring areas such as roads, water bodies and residences that might be affected by the development;
- (5) The soils on site, including soil names, map unit, erodibility, permeability, texture and soil structure;
- (6) Areas with potentially serious erosion problems;
- (7) The methods which will be used to control runoff, erosion and sedimentation;
- (8) Specifications and calculations of how the site will be stabilized during and after construction;
- (9) The maintenance activities to be performed on the control measures.

G. Design standards.

- (1) Development shall be fitted to topography and soils so as to minimize erosion.
- (2) Land disturbance activity work shall not begin prior to the starting date specified in the plan.
- (3) Natural vegetation shall be retained and protected wherever possible.
- (4) Clearing, grading or other site work shall be done in a manner that will minimize erosion. Said activities shall be limited to the area required for immediate construction operations and for the shortest practical period of time.
- (5) Site drainage shall be designed to effectively treat increased runoff created during and after construction so that adjoining lots and downstream water bodies are protected from erosion.
- (6) Uncontrolled runoff shall not be diverted onto adjoining lots or into the storm drain or sewer system. Said runoff shall be disposed of at nonerosive velocities at established drainage locations.
- (7) Sediment transported by runoff shall be retained on site through the use of sediment basins, silt traps or other appropriate measures. Said measures shall be installed prior to clearing and grading to the extent practical.
- (8) Cut and fill slopes shall be constructed so as to minimize erosion. Slopes shall not be steeper than two horizontal to one vertical unless approved by the SPGA.
- (9) Diversions or other appropriate measures shall be installed at the top of cut and fill slopes to prevent uncontrolled drainage flows on the disturbed slopes.

- (10) Drainage swales used to divert runoff shall be vegetated and stabilized to control erosion in concentrated flow areas.
- (11) Storm drain inlets shall be protected so that runoff will not enter conveyance systems without first being filtered or otherwise treated to remove sediment.
- (12) Either temporary seeding, mulching or other suitable control measures shall be used to protect exposed critical areas during construction.
- (13) A site shall be maintained and/or watered to prevent dust erosion.
- (14) Grading shall not be permitted to continue if the SPGA determines that dust is significantly impacting adjacent ways or property.
- (15) Topsoil shall be stockpiled on site to the extent practicable for use on areas to be revegetated. Said soil shall be protected so that it does not erode.
- (16) Stockpiled construction materials shall be protected so that they do not erode.
- (17) Excavated materials shall not be deposited or stored near water bodies unless authorized by the SPGA.
- (18) Construction equipment shall not cross or disturb stream channels except by means of approved crossings.
- (19) In areas of the site where construction activities will cease for more than 21 days or have permanently ceased, temporary vegetation or other stabilization measures shall be initiated, weather permitting, within 14 days.
- (20) Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
- (21) Permanent protective vegetation and erosion control structures shall be installed as soon as practical in the development. Permanent vegetation shall not be considered established until the ground cover is mature enough to satisfactorily control erosion. Ground cover shall not be considered mature until at least two growing seasons have elapsed.
- (22) Whenever construction vehicle access routes intersect public roads, provisions shall be made to minimize the transport of sediment (mud) by runoff or vehicle tracking onto said roads. Where sediment is transported onto a public road surface, the road shall be cleaned thoroughly at the end of each day or more often as required by the SPGA.

H. Maintenance.

- (1) All plans shall include a maintenance element which shall:
 - (a) Identify all of the control measures that will be inspected and maintained;
 - (b) Provide an inspection schedule for each control measure;
 - (c) List typical maintenance procedures for each control measure;
 - (d) Describe steps to take if additional repair is required;
 - (e) Provide forms and instructions for record keeping;
 - (f) List the names of personnel assigned to each task and the training needed to be able to do

the job.

- (2) An applicant carrying out control measures under these regulations, and all subsequent owners of lots on which said measures have been installed, shall adequately maintain said measures in accordance with the plan.
- I. Inspection and enforcement. The Inspector of Buildings shall enforce these regulations. If the Inspector of Buildings finds that on site conditions are in violation of these regulations or not as stated in the plan, the Inspector of Buildings may issue a stop-work order and direct the applicant to take corrective measures.
- J. Construction certification by registered professional. For any site which requires a professional site plan the SPGA may require that a certified professional verify in writing that all control measures have been installed in accordance with the plan.
- K. Sequential applications. If a project is so large or complex that a plan encompassing the total project cannot reasonably be prepared prior to initial groundbreaking, an applicant may seek authorization from the SPGA to undertake major grading activities incrementally. Approval by the SPGA of phased grading activities shall take place in two steps:
 - (1) An overall conceptual plan of the entire development shall be submitted to the SPGA for review and approval.
 - (2) Detailed plans showing the nature and extent of the work to be completed during each phase shall be prepared by an RPE and submitted to the SPGA for review and approval.

§135-1204. through §135-1205. (Reserved)

ARTICLE XIII

Adult Entertainment/Bookstore/Video Store/Motion-Picture Establishments
[Amended 5-14-1996 ATM by Art. 16]**§135-1301. Purpose.**

The purpose of this bylaw is to regulate the establishment of adult entertainment, adult bookstores/video stores and adult motion-picture establishments within the Town by special permit pursuant to MGL c. 40A, § 9A in order to promote the safety and welfare of the inhabitants of Braintree.

§135-1302. Definitions.

As used in this chapter, the following words shall have the following meanings:

ADULT BOOKSTORE/VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and recorded matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT ENTERTAINMENT — An establishment providing live entertainment or dancing which is sexual in nature or conduct as defined in MGL c. 272, § 31.

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

OBSCENE ENTERTAINMENT — All entertainment which is "obscene" within the meaning of that term as defined by MGL c. 272, § 31, and final adjudication of a court of competent jurisdiction.

SPECIAL PERMIT GRANTING AUTHORITY — The special permit granting authority shall be the Planning Board.

§135-1303. Restrictions.

- A. All obscene entertainment, including bookstores/video stores and motion picture theaters that make available obscene materials, is prohibited within the Town.
- B. Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments are prohibited within any zoning district other than commercial zoning districts.
- C. Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments may not be located within 1,000 feet of each other nor within 1,000 feet of:
 - (a) A residential district;
 - (b) Any private or public school;
 - (c) Any church, temple or other place of worship;
 - (d) Any playground; and
 - (e) Any establishment licensed under the provisions of MGL c. 138, § 12.

§135-1304. Applications [Amended 5-14-1996 ATM by Art. 26]

Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments are allowed within commercial zoning districts, subject to the restrictions of § 135-1303 and subject to reasonable regulations imposed by the special permit granting authority upon application for a special permit in accordance with the following procedures:

- A. The applicant for permission to operate an adult motion-picture theater or adult bookstore/video store or adult entertainment establishment must file his application on a form approved by the special permit granting authority and the Town Clerk. Such form shall contain information as set forth in the rules and regulations established by the special permit granting authority, but shall include as a minimum:
 - (a) Name and address of the legal owner of the bookstore/video store or theater.
 - (b) Name and address of all persons having lawful equity or security interests in the bookstore/video store or theater.
 - (c) Name and address of the manager.
 - (d) The number of proposed employees.
 - (e) Proposed security precautions.
 - (f) Physical layout of the premises in a format established by the special permit granting authority.
- B. The special permit granting authority shall hold a public hearing on any application for special permit for an adult bookstore/video store, adult motion-picture theater or adult entertainment establishment within 65 days of the filing of the application with the special permit granting authority and Town Clerk. Notice of said public hearing shall be given by publication or posting as provided in MGL c. 40A, § 11 and by mailing to all parties in interest.
- C. The special permit granting authority shall act on said application within 90 days following said public hearing. The procedure for holding said public hearing and for preparing and filing a notice of decision shall be that procedure provided for in the granting of all special permits under the Zoning Bylaw and the applicable sections of MGL c. 40.
- D. Failure by the special permit granting authority to take final action upon a special permit within 90 days following the date of public hearing shall be deemed to be a grant of the permit applied for.
- E. Special permits issued by the special permit granting authority shall require a four-fifths vote of the special permit granting authority.
- F. A special permit granted under this chapter shall lapse within six months of issuance, including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced, as determined by the special permit granting authority, except for good cause, or, in the case of permit for construction, if construction has not begun by such date except for good causes.

§135-1305. Rules and regulations.

In addition to the requirements of § 135-1304, the special permit granting authority shall adopt and from time to time amend rules relative to the issuance of special permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe the size, form, contents, style and number of copies

of plans and specifications to accompany the application; the information required in the application; the procedure for submission and approval of such special permits; and other reasonable rules and regulations governing the issuance of such special permits.

§135-1306. Additional requirements.

Because of the unique hardships to the surrounding area, the following criteria shall be required:

- A. Private duty police security detail shall be provided as deemed necessary by the Chief of Police.
- B. No establishment providing adult goods or entertainment shall be open between 11:00 p.m. and 7:00 a.m. without a permit issued at the discretion of the Board of Selectmen.
- C. The parking requirement for adult entertainment and adult motion-picture theaters shall be one space for every 1.25 individuals of maximum allowed occupancy, plus one space for each employee as counted during the maximum shift.
- D. The parking requirement for adult bookstores/video stores shall be one space for each 100 square feet of gross floor space. All parking shall be located in the area between the street line and the rear line of the building projected to the side lines of the lot.
- E. No special permit shall be issued without a valid entertainment permit issued by the Board of Selectmen.
- F. All parking for adult entertainment establishments and adult motion-picture theaters shall be located in the area between the street line and the front line of the building projected to the side lines of the lot.
- G. No exterior lighting shall be flashing or sequential in nature.
- H. All building openings, entries and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the establishment. No exterior display of product or services is allowed.

§135-1307. Criteria for approval.

In considering a special permit hereunder, the special permit granting authority shall insure that the proposed adult bookstore/video store and/or adult motion-picture theater is consistent with and conforms to the then existing community standard within the Town of Braintree for such a use.

§135-1308. Accessory use.

Adult bookstores/video stores, adult movie theaters, and adult entertainment establishments and the services and goods provided by them shall not be considered accessory uses.

§135-1309. (Deleted by amendment)

§135-1310. Amenities.

- A. Except for adult bookstore/video store, a ten-foot-wide buffered landscape shall be required along the side and rear property lines which shall be a minimum of eight feet in height.
- B. Maximum building coverage shall be 10%.

- C. Minimum open space shall be 60%.

ARTICLE XIV
Rules and Regulations for Traffic
[Amended 5-6-1996 STM by Art. 16]

§135-1401. Purpose.

The purpose of this article is to manage traffic so as to:

- (1) Provide for the orderly movement of traffic, reduce accidents, allow adequate emergency response and maintain adequate and safe streets;
- (2) Discourage the use of neighborhood streets as shortcuts by promoting the use of arterial and collector streets;
- (3) Encourage the use of traffic engineering design standards appropriate for a residential suburban community;
- (4) Encourage private sector participation in managing traffic;
- (5) Create and maintain safe and convenient pedestrian access and bike paths;
- (6) Encourage the use of public transit, car pools and van pools;
- (7) Promote clean air by reducing exhaust emissions.

§135-1402. Definitions.

For the purposes of this article the following terms shall have the following meanings:

ADEQUATE CAPACITY — Level of Service (LOS) D or better on every major approach for arterial and collector streets; LOS C or better for residential and subcollector streets.

AVERAGE DAILY TRAFFIC (ADT) — The number of vehicles passing a point on a street during a twenty-four-hour period on a typical day.

CAPACITY OF AN INTERSECTION — The maximum number of vehicles which can reasonably be expected to be processed through an intersection or street segment during a one-hour peak time period.

DESIGN YEAR — The fifth year after a development is scheduled to be completed.

EXCEPTIONAL PEAK PERIOD — An exceptional hourly, daily or seasonal period of trip generation (i.e., the December holiday).

IMPACTED STREET — A residential or subcollector street or intersection receiving 25 or more peak hour trips from a development; a collector arterial street or intersection receiving 50 or more peak hour trips from a development.

LEVEL OF SERVICE (LOS) — A measure of the operating conditions of an intersection or street segment ranked on a scale from LOS A (optimum) to LOS F (failing) as defined in the Highway Capacity Manual, latest edition, Transportation Research Board.

PASS-BY TRIPS — The number of trips captured by a land use from existing traffic on an adjacent street.

PEAK PERIOD, EVENING — 3:00 p.m. to 6:00 p.m.

PEAK PERIOD, MORNING — 7:00 a.m. to 9:00 a.m.

PEAK PERIOD, SATURDAY — 12:00 noon to 4:00 p.m.

SIGNAL PHASE — That part of a traffic signal's time cycle allocated to a traffic movement or a combination of movements (including exclusive pedestrian movements) receiving the right-of-way simultaneously.

STREET —

ARTERIAL COLLECTOR — An interregional street with an ADT of more than 5,000 conveying traffic between centers.

COLLECTOR — A street carrying large volumes of traffic (maximum ADT of 5,000) between arterial streets and residential and subcollector streets and having limited direct access to lots.

SUBCOLLECTOR — A street with a maximum ADT of 1,000 to 2,000 which provides access to lots and carries residential traffic to collector and arterial streets.

RESIDENTIAL — A street with low traffic volume (maximum ADT of 1,000) which provides frontage for access to lots and carries traffic with destination or origin on the street itself.

STUDY AREA — An area which encompasses all impacted streets.

TRIP — A single or one-directional vehicle movement.

TRIP ASSIGNMENT — Assignment of development generated and through trips to municipal streets and a development's driveways.

TRIP RATE — The number of trips per unit of independent variable (e.g., trips per dwelling unit, employee or square footage).

§135-1403. Applicability.

Article XIV shall apply to every application for a special permit (SP) or site plan review (SPR).

§135-1404. Traffic study.

- A. A traffic study, prepared by a professional engineer registered in Massachusetts or other appropriate professional specializing in traffic planning, shall be submitted with each application for a SP or SPR in which the proposed activity will generate 50 or more new trips during the peak hour of the development. If no streets are impacted by a development, the SPGA may determine that a traffic study is not required. The applicant, at his discretion, may consult with the SPGA or its designees prior to the submission of a SP or SPR in order to identify the intersections to be studied and the appropriate elements to include in the study.
- B. Trip rates may be based on Institute of Transportation Engineers Trip Generation, latest edition (ITE), or data from similar developments in similar settings in Massachusetts.
 - (1) If ITE is used, the land use code, number of studies, weighted average trip rate, trip generation equation standard deviation and coefficient for each land use used shall be provided. Use of the weighted average trip rate or trip generation equation to predict trips for each land use shall be based on the procedures set forth in ITE.
 - (2) If local trip rates are used, the methodology used and the applicability of the data shall be provided.

- (3) If data is available from ITE and local sources, the applicant may demonstrate why the ITE data is not accurate and should not be used. The SPGA shall determine which data source will be used.
- C. All traffic counts including turning movements shall have been taken within 12 months of the date of submission and shall be adjusted for seasonal variation with an explanation as to how the adjustment was made.
- D. Projections of ADT's, turning movements and capacity analyses shall be adjusted for (where appropriate):
 - (1) Background traffic with an explanation as to how said adjustment was made;
 - (2) Truck traffic and buses;
 - (3) Vacant space in existing buildings in the study area;
 - (4) Trips generated by the proposed development on full occupancy; and
 - (5) Trips generated by developments in the study area that are under review or approved by a municipal agency or in the MEPA process.
- E. If an exceptional peak period is likely to occur, the SPGA may require analysis of traffic for said period.
- F. Trips from an existing land use that are being replaced by a new land use may be subtracted as follows:
 - (1) If trip generation and distribution for the new land use have the same characteristics as the land use being replaced, trips generated by the new land use may be reduced by an amount to exceed the trips generated by the land use being replaced.
 - (2) If trip generation and distribution for the new land use do not have the same characteristics as the land use being replaced, trips generated by the existing land use may be subtracted from the street system.
- G. Where a project accesses or impacts a state highway, evidence of consultation with MHD shall be provided.
- H. The traffic study shall have the following elements (when applicable):
 - (1) Executive summary with:
 - (a) Scope of work to include location of the project locus map and site plan, description of type and intensity of existing and proposed development and description of study area;
 - (b) Schedule for project development;
 - (c) Summary of existing and future traffic conditions including deficiencies in the street system;
 - (d) Summary of traffic impacts and proposed mitigation;
 - (e) Listing of all permits required by the project and a summary of the status of permitting process for each required permit.

- (2) Review of traffic studies undertaken within the study area in the prior five years on file in the municipalities within the study area.
- (3) Description of roadway characteristics for all impacted streets to include:
 - (a) Inventory of land uses within 500 feet of the development and on each impacted street;
 - (b) Identification of all curb cuts and driveways within 500 feet of the development;
 - (c) Physical characteristics including number of travel lanes; widths of right-of-way, travel lanes, sidewalks and shoulders; conditions of pavement, sidewalk and curbing; and roadway geometry and grades;
 - (d) Inventory of traffic control devices including regulatory parking and warning signs, traffic signal permits, control units and description of signal phasing;
 - (e) Sight distances and obstructions to sight lines;
 - (f) Location and type of streetlighting;
 - (g) Actual and posted traffic speeds;
 - (h) Number, type and location of accidents by year for the most recent three years;
 - (i) Description of transit system serving the study area including mode, frequency, schedule, routes, stop location and patronage;
 - (j) Time and peak volume of parking for the development;
 - (k) Location of pedestrian and bicycle routes;
 - (l) Location of churches, schools, parks and similar public or civic uses within the study area.
- (4) Description of traffic improvements to be completed in the study area prior to the design year with a schedule of implementation and identification of the parties responsible for implementing the improvements.
- (5) ADT's on all impacted streets for the current year and the no-build and build conditions of the design year (no-build and build conditions). Current ADT's shall be counted for a forty-eight-hour period on a typical weekday.
- (6) Existing site generated trips with a trip assignment.
- (7) Identification of the peak hours (a.m., p.m., and Saturday) of the development and for adjacent streets with an explanation as to how the peak hours were selected.
- (8) Development generated trips for the peak hours of the development and for adjacent streets and a trip assignment with an explanation as to how the assignment was made. If projected trips are adjusted for pass-by or diverted trips, an explanation as to how the adjustment was made shall be provided. Adjustment for pass-by trips shall be limited to 25% of site generated trips and 5% of the volume the traffic on the street serving the site.
- (9) Peak hour(s) turning movement counts on all impacted intersections for the current year and the no-build and build conditions.
- (10) Capacity analysis for the current year and the no-build and build conditions on all impacted

streets and street segments. Said analysis shall be based on the Highway Capacity Manual Transportation Research Board, latest edition (where applicable), and shall include a queue analysis and critical volumes by signal phase or turning movement for each intersection studied.

(11) Gap analysis for unsignalized intersections and site driveways which experience excessive delay or are approaching capacity.

(12) Measures to mitigate traffic impacts to include:

- (a) The process through which the mitigation will be authorized, financed, designed and implemented.
- (b) Capacity analysis on all impacted streets and intersections based on the mitigation proposed.
- (c) Review of potential impact to utilities, wetlands, archaeological/historical sites, etc.
- (d) Implementation schedule. If the development or the mitigation is phased, the study shall show how the mitigation will be implemented and function for each phase.
- (e) If site design and geometric changes are proposed, said changes shall be based on current engineering standards for turn pocket transition tapers, lane widths, sight distance, multiple lane configuration, and right-of-way widths. A description of said changes shall include:

[1] Scaled plan(s) (one inch equals 40 feet preferred) showing:

- [a] Existing and proposed layout lines, building footprint(s), parking lot areas and driveways;
- [b] The relationship of the site layout to existing rights-of-way with sight distances;
- [c] Proposed geometric changes and widening (driveways, storage lanes, acceleration and deceleration lanes, turning lanes, etc.).

[2] A traffic management plan to maintain traffic flow on impacted street(s) and allow access to abutting properties by vehicles, pedestrians, and handicap persons during construction.

[3] Measures to mitigate traffic-generated noise and dust pollution.

- (f) If traffic signalization is proposed, a signal warrant analysis based on Manual on Uniform Traffic Control Devices (FHWA, latest edition).
- (g) Program to monitor the effects of the mitigation for a period of three years after implementation.
- (h) If signalization of an unsignalized intersection is proposed as mitigation, the applicant shall also provide alternative mitigation for the intersection. **[Amended 5-4-1999 STM by Art. 26]**

§135-1405. Traffic capacity.

- A. Prior to granting a SP or SPR, the SPGA shall determine there will be adequate capacity on all impacted streets for the build condition.

- (1) If adequate capacity is projected on any impacted street for the no-build condition and a development causes a decrease in LOS the SPGA may require implementation of mitigative measures to restore the LOS to the no-build condition.
 - (2) If any impacted street does not have adequate capacity for the build condition, the SPGA shall take one of the following measures:
 - (a) The SPGA may require the implementation of mitigative measures to achieve adequate capacity.
 - (b) The SPGA may deny the application.
- B. Prior to granting a special permit or site plan review, the SPGA shall determine if any impacted street will be the receptor of excessive traffic. If the special permit granting authority finds that there will be an increase in projected traffic (any peak hour or ADT) between "No Build" and "Build" condition of the design year greater than that indicated in Figure 1 below, the special permit granting authority shall take one of the following measures:
- (1) The special permit granting authority may require the implementation of mitigative measures to reduce the volume of traffic.
 - (2) The special permit granting authority may deny the application.

Figure 1

ADT	Allowable Increase In % of Traffic
1 to 2,000	30%
2,001 to 5,000	20%
5,001 to 10,000	15%
10,000+	10%

- C. The SPGA may condition its approval on:
- (1) Completion of mitigation prior to issuing any occupancy permit.
 - (2) Posting surety to guarantee implementation of mitigation.
 - (3) Implementing measures to reduce trips generated by development including use of:
 - (a) Employer-subsidized passes for public transit;
 - (b) Car pools and van pools;
 - (c) Flex time or staggered work hours;
 - (d) Preferential parking for high occupancy vehicles;
 - (e) Restricting access to or egress from off-street parking areas during peak hours;
 - (f) Measures to promote pedestrian access;
 - (g) Measures to encourage bicycle commuting such as secured bike racks and locker and

shower facilities. The SPGA may require the submission of periodic reports on the effectiveness of the trip reduction programs as part of the monitoring required under § 135-1404H(12)(g).

- (4) Reducing of the size or intensity of the project.
- (5) Phasing the development of the project.
- (6) Obtaining all other permits where applicable.

§135-1406. Intermunicipal coordination.

- A. If a development impacts streets in another municipality, the traffic study shall be submitted to the municipality for review and comment concurrently with the filing. The SPGA shall not take final action on a SP or SPR until it has received comments from the municipality or until 35 days have elapsed from the transmittal of the traffic study.
- B. The SPGA may require the study and mitigation of impacted streets in an abutting municipality provided that the abutting municipality has adopted this article and the development is not being independently permitted by the municipality. An abutting municipality(ies) shall approve any mitigation proposed for any street in its jurisdiction.

§135-1407. Compliance.

If the SPGA determines that its conditions on traffic are not being met, the SPGA shall require the applicant to bring the development into compliance.

§135-1408. Waiver of the regulations.

If the SPGA finds that any section or provision of this article does not apply, it may be waived by vote of the SPGA.

§135-1409. Separation.

Should any section or provision of this article be declared to be invalid, said section or provision shall not invalidate any other section or provision of this article.

ARTICLE XV
Zoning Amendments

§135-1501. Amendments.

Any change in this chapter or the Zoning Maps shall be made in accordance with the Massachusetts General Laws (MGL). Amendments to this chapter or the Zoning Map may be presented to the Board of Selectmen for insertion into the warrant of a Town Meeting, as provided in MGL c. 40A, § 5:

- A. In accordance with the provisions of MGL c. 39, § 10,
 - (1) For the Annual Town Meeting, by petition in writing of no fewer than 10 registered voters;
 - (2) For a Special Town Meeting, by petition in writing of no fewer than 100 registered voters or 10% of the total number of registered voters of the Town, whichever number is smaller.
- B. By the Board of Selectmen on its own initiative.
- C. By the Planning Board on its own initiative.
- D. By the Zoning Board of Appeal on its own initiative.
- E. By an individual owning land to be affected by change or adoption.
- F. By a regional planning agency.

§135-1502. Submission requirements.

- A. Amendments to this chapter proposed for Annual Town Meeting shall be submitted to the Board of Selectmen no later than 90 days prior to the date of Annual Town Meeting.
- B. Amendments to this chapter proposed for a Special Town Meeting shall be submitted to the Board of Selectmen no later than 45 days prior to the date of the Special Town Meeting.
- C. A person or board proposing a rezoning of land shall submit with the application to the Board of Selectmen:
 - (a) A copy of the plan showing the proposed rezoning, drawn to a scale of one inch equals 40 feet;
 - (b) A copy of the proposed warrant article;
 - (c) A legal description of the property proposed to be rezoned sufficient for identification.

No proposed rezoning articles shall be included in the warrant until all the materials required under items (a), (b) and (c) have been submitted.

- D. A person or board proposing a rezoning of land from one zoning district to another shall submit to the Planning Board a certified abutters' list for all abutters within 300 feet of the proposed rezoning. Said certified abutters' list shall be submitted within 15 days after submission of the warrant article to the Board of Selectmen. A certified abutters' list shall not be required for proposed amendments to an overlay district such as floodplain and wetlands districts or watershed district.

§135-1503. Submission of proposed amendment to Planning Board.

The Board of Selectmen shall submit to the Planning Board all proposed amendments or changes to this chapter within 14 days of receipt of such amendment or change.

§135-1504. Public hearings on proposed amendments.

The Planning Board on its own initiative shall conduct public hearings within 65 days after receipt of the proposed amendment or change:

- A. After the publication of a notice in a newspaper of general circulation in the Town, in each of two consecutive weeks, the first publication to be at least 14 days prior to the hearing date.
- B. Said notice shall contain date, time and place of said hearing, subject matter sufficient for identification and places where texts and maps may be inspected.
- C. Said notice shall be posted in the Town Hall for a period of not less than 14 days prior to hearing date.
- D. Notice of said hearings shall be mailed postage prepaid to the Department of Community Affairs, the regional planning agency, the planning boards of all abutting cities and towns and to any nonresident property owner who has filed an annual request for such notice with the Town Clerk not later than January 1 and has paid a fee of \$5 to cover postage and handling. It shall be deemed sufficient if such notice is mailed or delivered to the last known address.
- E. For all rezonings proposing a change from one zoning district to another, notice of said hearing shall also be mailed by the Planning Board postage prepaid to the owner or owners of the property being rezoned and to those abutters within 300 feet of the property being rezoned. Said notice need not be sent in the case of an amendment or change of an overlay district such as floodplain and wetlands district or watershed district. The proposer of the rezoning shall reimburse the Town for the costs of giving notice. A certificate, signed by the Chairman of the Planning Board, that the notices have been sent shall be proof of compliance.

§135-1505. Defects in notice.

No defect in the form of any notice under this article shall invalidate any Zoning Bylaw amendment or change, unless such defect is found to be misleading.

§135-1506. Submission of report of Planning Board prior to vote; failure to adopt proposed amendment within time limit.

No vote to adopt any bylaw or amendments shall be taken until a report with recommendations by the Planning Board has been submitted at the Town Meeting or until 21 days after said hearing have elapsed without submission of such report or recommendations. If any proposed bylaw or amendment is not adopted at a Town Meeting within six months of said hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and reports as provided above.

§135-1507. Required vote for adoption.

No Zoning Bylaw or amendment shall be adopted except by two-thirds vote at a Town Meeting.

§135-1508. Limitations on reintroduction of defeated amendments.

No proposed Zoning Bylaw or amendment which has been unfavorably acted upon at a Town Meeting shall be considered at a Town Meeting within two years after the date of such unfavorable action, unless the adoption of such proposal is recommended in the final report of the Planning Board.

§135-1509. Submission of materials to Attorney General.

- A. The Planning Board, after adoption at a Town Meeting of any Zoning Bylaw or amendment, shall furnish a statement and pertinent maps or plans explaining said changes to the Town Clerk for submission to the Attorney General. The effective date of adoption of, or amendment to, any Zoning Bylaw shall be the date such adoption or amendment was voted on at the Town Meeting. If said bylaw shall be disqualified by the Attorney General, the previous bylaw or portion thereof shall be deemed to be in effect from the date of said vote.
- B. Notice to Department of Community Affairs. After approval of the Zoning Bylaw by the Attorney General, the Town Clerk shall send a copy of the amended Zoning Bylaw to the Department of Community Affairs.

§135-1510. Effect on other legislation.

- A. Conflicting provisions. This chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. If any provision of this chapter conflicts with any other provision of this chapter, any other section of the Braintree bylaw or any applicable state or federal law, the more restrictive provision shall apply.
- B. Relief from other provisions. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, site plan review or other permit issued under any Zoning Bylaw previously in effect or any other local, state or federal ordinance or statute.

§135-1511. Validity; limitations on claims of invalidity.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision hereof. No claim of invalidity of any Zoning Bylaw arising out of any possible defect in the procedure of adoption or amendments shall be made in any legal proceeding. No municipal officer shall refuse, deny or revoke any permit, approval or certification because of any such claim of invalidity, unless legal action challenging said validity has been commenced within 120 days after adoption of the bylaw. A notice specifying invalidity claim, date of filing, parties and court and a copy of the petition must be filed with Town Clerk within seven days of commencement of action.

ARTICLE XVI
Wireless Communication Facilities
[Amended 5-5-1999 ATM by Art. 41]

§135-1601. Purpose.

The purpose of this section is to promote the health, safety, convenience and welfare of the inhabitants of Braintree by providing for controlled placement and operation of certain wireless communication facilities and towers within the Town. The objectives of these regulations are: to minimize adverse impacts of wireless communication facilities on adjacent properties and residential neighborhoods; to minimize the overall number and height of such facilities to only what is essential; to promote the shared use of existing facilities to reduce the need for new facilities.

§135-1602. Definitions.

For the purposes of this section the following words shall have the following meanings:

BUILDING-MOUNTED WIRELESS COMMUNICATION LINK — Shall mean any outdoor wireless communication device mounted or erected on, and solely supported by, an existing building or structure used primarily for other purposes.

INDOOR WIRELESS COMMUNICATION LINK — Shall mean any indoor wireless communication device mounted or erected inside and solely supported by an existing building or structure used primarily for other purposes.

WIRELESS COMMUNICATION FACILITY — Shall mean any and all materials, equipment, storage structures, towers, dishes and antennas used by a commercial telecommunications carrier to provide telecommunication services.

WIRELESS COMMUNICATION FACILITY ACCESSORY BUILDING — Shall mean a structure designed to house wireless communication transmission and reception equipment that is placed at a wireless communication facility.

WIRELESS COMMUNICATION SERVICES — Shall mean the provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service.

WIRELESS COMMUNICATION TOWER — Shall mean a wireless communication monopole, including antenna and accessory structure, if any, which facilitates the provision of wireless communication services.

§135-1603. Jurisdiction.

No wireless communication facility shall be erected or installed except in compliance with the provisions of this section.

A. Indoor wireless communication link.

- (1) An indoor wireless communication link may be installed in any existing structure or building, except for schools, hospitals, convalescent and nursing homes and residential dwellings.
- (2) Application fees for an indoor mounted wireless communication link shall be as required by § 135-1611.

B. Building-mounted wireless communication link.

- (1) A building-mounted wireless communication link may be located on any municipal building or structure or any building or structure located in a Highway Business or Commercial Zoning District. No building-mounted wireless communication link shall be allowed on schools, hospitals, convalescent and nursing homes and residential dwellings.
- (2) Application fees for a building-mounted wireless communication link shall be as required by § 135-1611.
- (3) A building-mounted wireless communication link may be placed on the roof or facade of a building or structure without regard to setback requirements unless said communication link is within 500 feet of a school, hospital, convalescent and nursing home or residential dwelling. Should relief be sought from the Zoning Board of Appeal to allow construction of said communication link within 500 feet of a school, hospital, convalescent and nursing home or residential dwelling, notice (in accordance with MGL c. 40A) of the Zoning Board of Appeal hearing shall be provided to all abutters within 500 feet of the proposed location of said communication link. **[Amended 10-4-2004 STM by Art. 12]**
- (4) The height of a building-mounted wireless communication link shall not exceed 10 feet above the existing height of the building.
- (5) A building-mounted wireless communication link shall be situated on, or attached to, a building or structure in such a manner that it is screened, painted or otherwise configured to blend in with the structure or building in a manner that minimizes the visibility of the communication link.

C. Wireless communication tower.

- (1) Authorization.
 - (a) A wireless communication tower may be constructed in a Highway Business Zoning District.
 - (b) In all cases, a special permit is required from the SPGA for the construction of a wireless communication tower.
 - (c) Any proposed extension in height, any addition of cell antennas or panels, or any construction of a new or replacement tower shall be subject to a new application of a special permit.
- (2) Performance standards for wireless communication towers.
 - (a) Wireless communication towers shall be freestanding monopoles, with associated antenna and/or panels. Lattice-style towers and similar facilities requiring three or more legs and/or guy wires for support shall not be allowed.
 - (b) There shall not be a tower located within two miles of a proposed tower unless the applicant demonstrates to the satisfaction of the SPGA that placing the tower closer will result in a significantly lower tower or significantly more uses on the tower or will significantly improve protection of the viewshed of the Town of Braintree.
 - (c) In the event of conflicting applications, the SPGA shall make a judgment as to which proposed wireless communication facility, if any, is most suitable.
 - (d) The size and height of a tower shall be the minimum necessary to accommodate the proposed and anticipated future uses with the following provisions:

- [1] The tower height, including any appurtenant equipment and devices, shall not exceed 60 feet above the average grade of the existing terrain at the tower's base, unless the SPGA determines that a higher tower will result in significantly fewer towers or a significantly improved protection of the viewshed of the Town of Braintree.
- [2] In no event shall the tower height, including appurtenant equipment and devices, exceed 100 feet.
- (e) To the extent feasible, all wireless communication facilities shall be collocated on a single tower. Towers shall be designed in all respects to accommodate the maximum number of uses technologically practical, and an applicant shall agree to permit other service providers to collocate on the tower with commercially reasonable terms.
- (f) All towers shall be designed so that, if additional users require said location, the existing tower can be expanded on or replaced with the minimum of technical difficulty and disturbance to the neighbors. The maximum configuration shall be determined during the permitting process.
- (g) A tower shall not be erected closer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices) measured at the mean finished grade of the facility base.
- (h) A tower shall be erected a minimum distance of 500 feet from any school, hospital, convalescent or nursing home, playground/athletic field, residential lot line.
- (i) Siting of a tower shall be such that the view of the tower from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All towers shall be painted or otherwise colored or camouflaged so that they will blend in with the landscape on which they are located. A different coloring scheme shall be used to blend the tower with the landscape below and above the tree line.
- (j) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (k) To the extent technological feasible, all network interconnections for the tower shall be via land lines.
- (l) Fencing shall be provided to control access to towers. Said fencing shall be compatible with the scenic character of the Town and shall not be razor wire. Metallic fencing shall have vegetative screening.
- (m) There shall be no signs except for announcement signs, "No Trespassing" signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform with the Sign Bylaw (amended Article IX of the Braintree Zoning Bylaw).
- (n) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.
- (o) Night lighting of the facilities shall be prohibited.
- (p) There shall be a minimum of one parking space for each tower to be used in connection with the maintenance of the tower and the site. Said space shall not be used for the permanent storage of vehicles.

- (q) All towers shall comply with all current and future FAA and FCC rules and regulations.

§135-1604. Application for special permit.

All applications for a wireless communication tower shall be made and filed on the application forms for special permit and site plan review in compliance with the Braintree Zoning Bylaw. In addition to the requirements for site plan review under § 135-711 and the requirements for special permit under § 135-503 the following information shall be submitted for an application to be considered complete:

- A. The applicable fees as noted in the § 135-1611.
- B. A locus plan at a scale of one inch equals 200 feet which shall show all property lines, the exact location of the proposed structures, street, landscape features, residential dwellings and neighborhoods and all buildings within 500 feet of the tower.
- C. An elevation drawing of the proposed tower showing all details of its appearance, including height, shape, materials, antennas, wires and accessory building and showing the tower as it would appear on the landscape for each of its four sides.
- D. The following information prepared by a professional engineer:
 - (1) A description of the facility and the technical, economic and other justifications for the proposed location, height and design;
 - (2) Confirmation that the facility complies with all applicable federal and state standards;
 - (3) A description of the capacity of the facility including the number and types of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations;
 - (4) If applicable, a written statement that the proposed facility complies with, or is exempt from, the applicable regulations administered by the FAA, FCC, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- E. A copy of the applicant's FCC license to operate the proposed system.
- F. A copy of the applicant's coverage map detailing the applicant's plans for providing wireless communication services to the Town of Braintree and neighboring communities.
- G. Certification that the applicant is in compliance with the National Environmental Protection Act and the Massachusetts Environmental Policy Act.
- H. Proof that there is no existing, approved or proposed tower which can accommodate the wireless communication equipment planned for the applicant's tower. For the purposes of this paragraph, a proposed tower shall mean any tower for which an application for special permit has been filed with the SPGA.
- I. Proof that the proposed tower will not interfere with signals sent or received by any other facility which transmits or receives signals via wireless means.
- J. Proof of ownership of the proposed site or proof of a contract or lease with the owner of the site establishing the applicant's right to construct a tower on the site. The application must be signed by the owner of the property and the company(ies) proposing to erect the tower.
- K. A description of the soil and surficial geology at the proposed site.

- L. The projected future needs of the carrier and how the proposed tower fits with future projections to serve the Town and adjacent towns.
- M. A copy of a leasing agreement should another carrier desire to collocate on the tower.
- N. Between submittal of the application and the date of the public hearing on the application, the applicant shall, on two different dates, place a balloon or crane at the location and height of the proposed tower, in accordance with the following requirements:
 - (1) The balloon or crane shall be of a size and color that accurately reflect the appearance of the proposed tower to the extent possible.
 - (2) The balloon or crane shall remain in place at for least eight hours.
 - (3) One of the trials shall take place on a weekday. The other trial shall take place on a Saturday. All trials shall begin at 8:00 a.m.
 - (4) Prior to each trial, the applicant shall post notices of the time and place of the trials at the Town Hall at least two weeks prior to the first trial and shall publish the notice in a local newspaper of general circulation. The notice shall set a rain date in the event weather would delay or impact the results of the trial.

§135-1605. Findings.

In addition to the findings required by the § 135-503, in granting a special permit for wireless communication tower the SPGA shall find:

- A. That the applicant has demonstrated to the satisfaction of the SPGA that it has complied with the requirements of this section;
- B. That the size and height of the tower are the minimum necessary;
- C. That the proposed tower will not adversely impact scenic views;
- D. That there are no feasible alternatives to the location of the proposed tower, including collocation, that would minimize its impacts;
- E. That the applicant has exercised good faith in permitting future collocation of facilities at the site.

§135-1606. Accessory buildings.

Accessory wireless communication buildings shall be no larger than 300 square feet of total floor area and 12 feet high. They shall be designed to match other accessory buildings on site and shall be used only for the housing of equipment related to the particular site.

§135-1607. Use of Town land.

- A. For all wireless communication facilities located on municipal property, a certificate of insurance for liability coverage in amounts determined by the Town Counsel shall be provided naming the Town as an additional insured.
- B. For all wireless communication facilities located on municipal property, an agreement shall be executed whereby the user indemnifies and holds the Town harmless against all claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the

user.

- C. For all wireless communication towers located on municipal property, evidence of contractual authorization from the Town of Braintree to conduct wireless communication services on municipally owned property shall be provided as part of the special permit application.

§135-1608. Abandonment/repair.

- A. All unused wireless communication facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner's expense.
- B. For all wireless communication facilities, an agreement shall be executed with the property owner whereby the user shall, at its own expense and within 30 days of termination of the lease, restore the premises to the condition it was at the onset of the lease and remove any and all wireless communication facilities thereon.
- C. For all towers, a bond shall be issued to the Town in an amount equal to the cost of removal of any and all wireless communication facility and for the repair and restoration of the premises on which the tower is located to the condition that the premises was in at the onset of the lease, said amount to be determined by the Town. The amount of the bond shall be the total of the estimate by the Town plus an annual increase of 3% for the term of the lease. The term of the bond shall be for the full term of any lease plus 18 months. The Town shall be notified of any cancellation or change in the terms or conditions in the bond.
- D. In the event of damage to a Tower, all repairs shall be made within one month.

§135-1609. Annual certification.

For all wireless communication facilities an annual certification demonstrating structural integrity and continuing compliance with the standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector and shall be reviewed by a licensed professional engineer hired by the Town and paid for by the owner of said facility.

§135-1610. Exemptions.

The following shall be exempt for this bylaw:

- (1) Wireless communication facilities used for Town or state emergency services.
- (2) Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the FCC and used solely for amateur radio purposes. Said towers shall be no greater than 100 feet in height. Towers in existence at the time of the adoption of this section shall be allowed to continue in their current configuration.
- (3) Wireless communication hardware used expressly for home television reception, internet access and residential telecommunications that does not exceed the height limitation for the zoning district in which it is located.
- (4) Medical facilities solely for the transmission of clinical information.

§135-1611. Filing fees.

Zoning fees for wireless communication facilities shall be set by the SPGA after public hearing.

ARTICLE XVII
(Reserved)¹³⁸

§135-1701. through §135-1706. (Reserved)

138. Editor's Note: Article XVII, Temporary Moratorium Regarding Medical Marijuana Treatment Centers, adopted 9-17-2013 by Ord. No. 13-029, was not included in the Zoning Ordinances, as the provisions of said article expired on 9 17-2014.

ARTICLE XVIII

Medical and Adult Use or Non-Retail Marijuana Establishments**[Added 3-27-2017 by Ord. No. 17-055(2); amended 8-2-2022 by Order No. 22-015]****§135-1801. Purpose.**

The purpose of this article is to allow for of Cannabis Control Commission (CCC) licensed medical marijuana treatment centers as set forth in 935 CMR 501 and adult use or non-retail marijuana establishments, as defined in Section 135-1802, in the Highway Business and Commercial Zoning Districts consistent with the MGL Chapter 94G and 935 CMR 500.00 as most recently amended and all other applicable state laws and regulations. Medical marijuana treatment centers are permitted by-right in the Highway Business Zoning Districts. Non-retail marijuana establishments may be permitted by special permit in order to impose reasonable conditions and restrictions on said uses to ensure the public health, safety and well-being of the Town is preserved and to mitigate against undue impacts on the natural and built environment of the Town.

§135-1802. Definitions.

As used in this article, the following terms shall the meanings indicated:

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other marijuana establishments, but not to consumers. A craft marijuana cooperative is a type of marijuana cultivator.

MARIJUANA DELIVERY OPERATOR or DELIVERY OPERATOR — An entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, marijuana product manufacturer, microbusiness or craft marijuana cooperative, and white label, sell and deliver finished marijuana products, marijuana accessories and marijuana branded goods directly to consumers, but is not authorized to repackage marijuana or marijuana products or operate a storefront under this license. A delivery operator is an additional license type under MGL c. 94G, § 4(b)(1) that allows for limited delivery of marijuana or marijuana products to consumers; and shall not be considered to be a marijuana retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

MARIJUANA FOR MEDICAL USE — Marijuana that is designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions as defined by 935 CMR 501.

MARIJUANA INDEPENDENT TESTING LABORATORY — A laboratory that is licensed by the Commission and is:

- A. Accredited to the International Organization for Standardization 17025 (ISO.IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- B. Independent financially from any medical marijuana treatment center, marijuana establishment or licensee for which it conducts a test; and
- C. Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, § 34.

MARIJUANA LICENSEE — A person or entity licensed by the Commission to operate a marijuana establishment under 935 CMR 500.000.

MARIJUANA MANUFACTURE — To compound, blend, extract, infuse or otherwise make or prepare a

cannabis or marijuana product.

MARIJUANA MICROBUSINESS — An entity that can be either a Tier 1 marijuana cultivator or marijuana product manufacturer or both, in compliance with the operating procedures for each license and, if in receipt of a delivery endorsement issued by the Commission, may deliver marijuana or marijuana products produced at the licensed location directly to consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments for the purpose of marijuana product manufacturing by the licensee.

MARIJUANA or MARIHUANA or CANNABIS — All parts of any plant of the genus Cannabis, not exempted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant; its seeds or resin including tetrahydrocannabinol as defined in MGL c. 94G, Section 1; provided that cannabis shall not include:

- A. The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- B. Hemp; or
- C. The weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA PROCESS OR PROCESSING — To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, process, manufacture and package cannabis or marijuana products and to transfer these products to other marijuana establishments, but not to consumers.

MARIJUANA PRODUCTS — Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA RESEARCH FACILITY — An entity licensed to engage in research projects by the Commission.

MARIJUANA TRANSPORTER — An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers.

MEDICAL MARIJUANA TREATMENT CENTER (MTC) — Formerly known as a registered marijuana dispensary (RMD), means an entity licensed pursuant to MGL c. 94I and 935 CMR 501 that acquires, cultivates, possesses, processes [including the development of related products such as edibles, marijuana infused products (MIPs), tinctures, aerosols, oils or ointments], repackages, transports, sells distributes, delivers, dispenses or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers for medical use.

NON-RETAIL MARIJUANA ESTABLISHMENT — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana microbusiness, marijuana delivery operator,

marijuana independent testing laboratory, marijuana research facility, marijuana transporter, or any other type of licensed marijuana-related business, excluding marijuana retailers and social consumption establishments.

§135-1803. Prohibition.

Consistent with MGL Chapter 94G, § 3(a)(2), the Town hereby strictly prohibits in all Zoning Districts marijuana retailers, retail storefronts and all types of on-site sales at a marijuana establishment of any type directly to consumers. No building permit, special permit, variance, site plan or other permit may be issued under the Zoning Ordinance, and no use of land or structures shall be allowed, for marijuana retailers, retail storefronts and all types of on-site sales at a marijuana establishment of any type directly to consumers within the Town.

§135-1804. Special submission requirements for non-retail marijuana establishments and medical marijuana treatment centers.

- A. Copies of any provisional licenses issued to the applicant by the Cannabis Control Commission and any other licenses and/or permits issued by the Commonwealth of Massachusetts and any of its agencies for the operation of the facility;
- B. Evidence of the applicant's right to use the site of the proposed facility, such as a deed or lease;
- C. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- D. Plans for all proposed security measures for the facility, including lighting, fencing, gates, cameras, alarm systems, security monitoring, and on-site security personnel, to ensure the safety of persons and to protect the premises from theft;
- E. Plans for all proposed ventilation and air cleaning installations, including technical specifications for the equipment to be used; and
- F. A copy of the emergency response plan filed by the applicant with the Fire and Police Departments.
- G. Transportation and delivery route plans.
- H. Hours of operation.
- I. Floor plans detailing the use of specific areas within the building, including square footage of each area.
- J. Each non-retail marijuana establishment and medical marijuana treatment center permitted in Braintree shall file an annual report to the Mayor and Planning Board (if Applicable) certifying its continued compliance with the host agreement and all land use decisions granted by the Town of Braintree.

§135-1805. Restrictions on non-retail marijuana establishments and medical marijuana treatment centers.

- A. No non-retail marijuana establishment or medical marijuana treatment center, as defined in this article

shall be established except in compliance with this article.

- B. No non-retail marijuana establishment or medical marijuana treatment center shall be allowed as an accessory use in any zoning district.
- C. No non-retail marijuana establishment or medical marijuana treatment center shall be permitted within 500 feet of any pre-existing K-12 school, day-care center, or public park or playground. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the non-retail marijuana establishment entrance to the geometric center of the nearest school or day care entrance, unless there is an impassable barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly accessible pedestrian travel path from the geometric center of the non-retail marijuana establishment entrance to the geometric center of the nearest school or day care entrance. For purposes of determining the minimum distance separation to a public park or playground, the distance shall be measured by following a straight line from the outer property line of the proposed non-retail marijuana establishment or medical marijuana treatment center to the outer property line of any such public park or playground.
- D. No property containing a non-retail marijuana establishment shall be located within 100 ft. of any property that contains a residential use. The 100 ft. buffer shall be measured by following a straight line from the outer property line of the proposed non-retail marijuana establishment to the outer property line of any such residential use property.
- E. No non-retail marijuana establishment or medical marijuana treatment centers shall be permitted to have a ground sign as defined in Article IX. All non-retail marijuana establishments and medical marijuana treatment centers shall be permitted to have one wall sign on one side of the building. Said sign area shall be limited to 1/2 foot in for the length of the building wall in which the sign will be located or 60 sq. ft., whichever is less and the height of any letter, logo or symbol used in the wall sign shall not exceed two feet in height. If the non-retail marijuana establishment or medical marijuana treatment center is located in a building with multiple tenants said building wall length shall be equal to the space occupied within the building along that wall.
- F. Non-retail marijuana establishments and medical marijuana treatment centers shall be allowed wayfinding and address signage not be considered a ground sign. All wayfinding signs must be located on the property, shall not exceed three in total and no individual sign shall exceed four sq. ft. in area.
- G. No non-retail marijuana establishment or medical marijuana treatment center shall be located in any building that contains residential housing.
- H. No non-retail marijuana establishment or medical marijuana treatment center shall operate between the hours of 9:00 p.m. and 8:00 a.m. All business operations of all type shall conclude by 9:00 p.m. and all employees shall be off the premises by 9:15 p.m.
- I. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of any non-retail marijuana establishment or medical marijuana treatment center.
- J. All non-retail marijuana establishments and medical marijuana treatment centers shall be 100% indoors. No exterior non-retail marijuana establishments and medical marijuana treatment centers are permitted outdoors or exterior to any building. Loading and unloading is permitted in an approved loading bay or space.

- K. All non-retail marijuana establishments and medical marijuana treatment centers shall conform to a no-odor standard, and therefore must install, maintain, and operate sufficient ventilation and air cleaning equipment to ensure that no odors produced by the operation are detectable at any exterior areas on the site or property, or any adjacent property or street.
- L. All non-retail marijuana establishments shall provide the Chief of Police, the Inspector of Buildings, and the special permit granting authority with a list containing the names, phone numbers, and e-mail addresses of all management staff and key holders. An updated list shall be provided whenever changes occur to the information listed.
- M. Before submission of any applications to the Planning Board or Building Inspector for a non-retail marijuana establishments and medical marijuana treatment centers under this article, the applicant shall provide proof of an executed host community agreement with the Town Council or Mayor.
- N. No non-retail marijuana establishment or medical marijuana treatment center shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from the exterior of the building.
- O. If a medical marijuana treatment center does not trigger a site plan review application, all aspects of this article shall be reviewed for compliance by the Inspector of Buildings and the Director of Planning and Community Development.

§135-1806. Special permit criteria.

In addition to the standard findings for a special permit (Section 135-503I), the special permit granting authority must also find all the following:

- A. The non-retail marijuana establishment is consistent with and does not derogate from the purposes and intent of this article and the Zoning Ordinance/Bylaw.
- B. That the non-retail marijuana establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- C. That the non-retail marijuana establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- D. That the applicant has satisfied all of the conditions and requirements of this article and other applicable sections of this Bylaw/Ordinance;
- E. That the non-retail marijuana establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- F. That the non-retail marijuana establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

Zoning Disposition List

Chapter ZDL**DISPOSITION LIST**

The following is a chronological listing of zoning bylaws adopted since the publication of this volume, indicating their inclusion in the Code or the reason for exclusion. Information regarding bylaws that are not included in this volume nor on this list is available from the office of the Town Clerk. The most recent bylaws reviewed for the original publication were adopted at the January 2003 Special Town Meeting.

§ ZDL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
STM, Art. 14	5-5-2003	Multifamily dwellings	§ 135-705
ATM, Art. 36	5-7-2003	Definitions	§ 135-102
ATM, Art. 37	5-7-2003	Grading regulations and quarry operations	Article XII
ATM, Art. 38	5-7-2003	Erosion control	§ 135-1203
STM, Art 18	5-3-2004	Wetland and Floodplain District	§ 135-608
STM, Art. 19	5-3-2004	Wetland and Floodplain District	§ 135-608
STM, Art. 20	5-3-2004	Commercial day care	§ 135-611
ATM, Art. 38	5-10-2004	Accessory uses	§ 135-603
ATM, Art. 39	5-10-2004	Not accessory uses	§ 135-604
ATM, Art. 40	5-10-2004	Front yard requirements	§ 135-703
ATM, Art. 41	5-10-2004	Definition of junk	§ 135-102
ATM, Art. 43	5-10-2004	Definition of two-family conversion	§ 135-102
ATM, Art. 44	5-10-2004	Table of Principal Uses	§ 135-601
STM, Art. 12	10-4-2004	Wireless communications facilities	§ 135-1603
STM, Art. 13	10-4-2004	Table of Dimensional and Density Regulations notes	§ 135-701
STM, Art. 25	5-3-2005	Definition of street or way	§ 135-102
STM, Art. 26	5-3-2005	Definition of lot line, rear	§ 135-102
STM, Art. 27	5-3-2005	Nonconforming structures	§ 135-403

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 38	5-10-2006	Conversion of convalescent home or nursing home	§ 135-614
ATM, Art. 39	5-10-2006	Definitions	§ 135-102
ATM, Art. 40	5-10-2006	Table of Principal Uses	§ 135-601
Ord. No. 10-067	1-8-2011	Braintree-Weymouth Landing District	§§ 135-615-01 through 135-615-14
Ord. No. 11-032	8-10-2011	Definition of municipal public park; Table of Principal Uses; site plan review (SPR) of multifamily, apartment, business and commercial developments; schedule of off-street parking requirements	§ 135-102; § 135-601; § 135-711; § 135-806
Ord. No. 12-030R	8-14-2012	Definition of special flood hazard areas (SFHA); wetlands and floodplain protection districts	§ 135-102; § 135-608
Ord. No. 13-029	9-17-2013	Moratorium regarding medical marijuana treatment centers	Article XVII, footnote only
Ord. No. 14-066(1)	3-17-2015	Definitions of billboard and digital/electronic billboard	§ 135-102
Ord. No. 14-066(2)	3-17-2015	Districts established	§ 135-301
Ord. No. 14-066(3)	3-17-2015	Special permit procedures	§ 135-503
Ord. No. 14-066(4)	3-17-2015	Table of Principal Uses	§ 135-601
Ord. No. 14-066(5)	3-17-2015	Accessory uses in business and commercial districts	§ 135-605
Ord. No. 14-066(6)	3-17-2015	Table of Dimensional and Density Regulations	§ 135-701
Ord. No. 14-066(7)	3-17-2015	Landscaping and buffer zones	135-702
Ord. No. 14-066(8)	3-17-2015	Rules and Regulations for Signs: purpose	§ 135-901

Enactment	Adoption Date	Subject	Disposition
Ord. No. 14-066(9)	3-17-2015	Definitions of ground sign, nonaccessory sign, off-premises sign, projecting sign, and roof sign	§ 135-902
Ord. No. 14-066(10)	3-17-2015	Highway business area	§ 135-904.2
Ord. No. 14-066(11)	3-17-2015	Special regulations for gasoline service stations and repair garages only	§ 135-904.5
Ord. No. 14-066(12)	3-17-2015	Rules and Regulations for Signs: illumination	§ 135-905
Ord. No. 14-066(13)	3-17-2015	Rules and Regulations for Signs: administration	§ 135-908
Ord. No. 14-066(14)	3-17-2015	Rules and Regulations for Signs: Billboard Zoning Overlay District; severability; exemption	§ 135-910; § 135-911; § 135-912
Ord. No. 15-019	8-11-2015	Table of Dimensional and Density Regulations	§ 135-701
Ord. No. 17-055(2)	3-27-2017	Prohibition of Nonmedical Marijuana Establishments	Article XVIII
18-029(1)	7-9-2018	Special Permit Granting Authority (SPGA)	§135-501

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Order No. 18-041	9-5-2018	Zoning Map Amendment	NCM	4
Order No. 20-044	8-4-2020	Zoning Map Amendment	NCM	4
Order No. 21-031	6-15-2021	Definitions of Animal Clinic or Hospital, Animal Retail and Animal Grooming Service, and Full Service Animal Establishment	§ 135-102	4
Order No. 21-032	6-15-2021	Table of Principal Uses Amendment	§ 135-601	4

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Order No. 21-033	6-15-2021	Schedule of Off-Street Parking Requirements Amendment	§ 135-806	4
Order No. 21-054	12-7-2021	Variances Amendment	§ 135-406	4
Order No. 22-011	4-5-2022	Table of Principal Uses Amendment	§ 135-601	4
Order No. 22-015	8-2-2022	Table of Principal Uses Amendment; Schedule of Off-Street Parking Requirements Amendment; Medical and Adult Use or Non-Medical Marijuana Establishments	§ 135-601; § 135-806; Art. XVIII	4
Order No. 22-073	2-7-2023	Districts Established Amendment; Floodplain Protection District	§ 135-301; § 135-608	4
Order No. 23-041	8-1-2023	Definitions of Brewery with Tap Room, Brewery Production, Production Studio	§ 135-102	4
Order No. 23-042	8-1-2023	Table of Principal Uses Amendment	§ 135-601	4
Order No. 23-043	8-1-2023	Schedule of Off-Street Parking Requirements Amendment	§ 135-806	4
Order No. 23-051	10-17-2023	Landscape and Buffer Zones Amendment; Site Plan Review (SPR) of Multifamily, Apartment, Business and Commercial Developments	§ 135-702; § 135-711	4

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Order No. 23-076(1)	12-19-2023	Districts Established Amendment;	§ 135-301	4
Order No. 23-076(2)	12-19-2023	Zoning Map Amendment	NCM	4
Order No. 24-016	4-30-2024	Floodplain Protection District Amendment	§ 135-608	5
Order No. 24-034	11-19-2024	Mixed Use Planned Unit Development District	§ 135-617	5