

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, designation, 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 01/10/09 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 01/10/09 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 01/10/09 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 01/10/09 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 01/10/09 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 on 02/21/08 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 appraised 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