

**Code
of the
Town of Braintree**

COUNTY OF NORFOLK
COMMONWEALTH OF MASSACHUSETTS

SERIAL NO. **5**

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PREFACE

The Bylaws of the Town of Braintree is a codification of the bylaws of the Town of Braintree, Massachusetts. The bylaws were compiled, edited and indexed under the direction of Saran Gillies, Town Clerk; Arthur A. Smith, Town Counsel; and Carolyn Hebert, paralegal.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 2.08.040 is Section .040, located in Chapter 2.08 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by a prior code cross-reference table, which sets out the location of individual sections of the prior code, and bylaw list and disposition table, following the text of the code, listing by number all bylaws, their subjects, and where they appear in the codification.

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

TABLE OF CONTENTS

	Code Instructions
	Act Establishing Form of Government
Title 1	General Provisions
Title 2	Administration and Personnel
Title 3	Revenue and Finance
Title 4	(Reserved)
Title 5	Business Licenses and Regulations
Title 6	Animals
Title 7	(Reserved)
Title 8	Health and Safety
Title 9	Public Peace, Morals and Welfare
Title 10	Vehicles and Traffic
Title 11	(Reserved)
Title 12	Streets, Sidewalks and Public Places
Title 13	Public Services
Appendix A	Legislative Acts Accepted by the Town
Appendix B	Statutory References
Appendix C	Cross-Reference Table
Appendix D	Bylaw List and Disposition Table
Index	

I. HOW TO USE YOUR CODE

This Code is organized to make the laws of the Town as accessible as possible to town officials, Town employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this Code.

Numbering System. The numbering system is the backbone of a code of ordinances. The unique and versatile numbering structure allows for easy expansion and amendment of this Code. It is based on three tiers, beginning with title, then chapter, and ending with section. Each part is represented in the Code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

Title. A title is a broad category under which ordinances on a related subject are compiled. This Code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this Code are separated by tabbed divider pages for quick reference. Some titles are Reserved for later use.

Chapter. Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material. For example, Chapter 2.06, Town Manager, can be added between 2.04, Town Council, and Chapter 2.08, Town Attorney.

Section. Each section of the Code contains substantive bylaw material. The sections are numbered by “tens” to allow for expansion of the Code without renumbering.

Tables of Contents. There are many tables of contents in this Code to assist in locating specific information. At the beginning of the Code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

History Note. At the end of each Code section, you will find an “history note,” which lists the underlying bylaws for that section. The bylaws are listed by Town Meeting date and Town Meeting Article Number. [Example: (STM 5-11-1987 Art. 2).] This note will be updated as each section is amended, with the most recent amendment added to the beginning. The notation “(part)” is used when the Code section contains only part of the bylaw (or section of the bylaw) specified; this indicates that there are other areas of the Code affected by the same bylaw (or section of the bylaw). If the Code section was derived from an earlier codification, the last entry in the note indicates the old or “prior Code” section number.

Statutory References. The statutory references direct the Code user to those portions of the state statutes that are applicable to the laws of the municipality. As the statutes are revised, these references will be updated.

Cross-Reference Table. When a Code is based on an earlier codification, the cross-reference table will help users find older or “prior” Code references in the new code. The cross-reference table is located near the end of the Code, under the tabbed divider “Tables.” This table lists the

BRAINTREE CODE

prior Code section in the column labeled "Prior Code Section" and the new Code section in the column labeled "Herein."

Bylaw List and Disposition Table. To find a specific bylaw in the Code, turn to the section called "Tables" for the Bylaw List and Disposition Table. This very useful table tells you the status of every bylaw reviewed. The table is organized by bylaw number and provides a brief description and the disposition of the bylaw. If the bylaw is codified, the chapter (or chapters) will be indicated. [Example: (2.04, 6.12, 9.04).] If the bylaw is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be "(Special)." If the bylaw is for some reason omitted from the Code, usually at the direction of the municipality, the disposition will be "(Not codified)." When a bylaw is repealed, the disposition will be changed to "(Repealed by. . .)" with the appropriate Town Meeting and Article number information. Other dispositions sometimes used are "(Tabled)," "(Pending)," "(Number Not Used)" or "(Missing)."

Index. If you're not certain where to look for a particular subject in this Code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

BUSINESS LICENSE

Fee 5.04.030

Required when 5.04.010

See also BUSINESS TAX

The index will be updated as necessary when the Code text is amended.

Instruction Page. Each supplement to the new Code will be accompanied by an Instruction Page. This page will tell the Code user the date of the most recent supplement and the last Town Meeting Article number contained in that supplement. It will also list the pages that must be pulled from the Code and the new pages that must be inserted. Following these instructions carefully will assure that the Code is kept accurate and current.

Page Numbers: A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a dash and the numeral "1." Thus, Chapter 2.20 begins on page 2.20-1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

II. PROCEDURE FOR DRAFTING ORDINANCES

This code has been codified using a logical, expandable numbering system to allow for additions, repeals or amendments. When drafting bylaws, it is important to designate, within the bylaw, what specific portions of the Code are affected. The bylaw underlying the section being changed can be determined from the history note in parentheses at the end of each section.

Effect of Title. The title of a bylaw and any introductory language appearing before the ordaining clause has no legal effect. The title may state that the bylaw repeals (or amends or adds) certain

CODE INSTRUCTIONS

provisions, but in order for these changes to be effective, the intended repeal, amendment or addition must be set out following the ordaining clause.

Procedure When Amending Existing Code Material. Amend the Code section specifically. The underlying bylaw section may also be included.

Examples: § 3.04.020 of the _____ Municipal Code is amended to read as follows:
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are amended to read as follows:

If only a portion of a section is being amended, designate the specific portion:

Example: § 3.04.050(A)(2) of the _____ Municipal Code is amended to read as follows:

Procedure When Repealing Existing Code Material. When repealing material, designate the specific portion of the Code to be repealed. Include the underlying bylaw section if you wish; however, we consider both code section and underlying bylaw to be repealed whether you mention the underlying bylaw or not.

Examples: § 3.04.020 of the _____ Municipal Code is repealed.
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are repealed.
Subsection B of § 3.04.030 of the _____ Municipal Code is repealed.

Procedure When Adding New Material to Code. When new provisions are to be added to the Code, you should determine where the material would best fit within the subject matter of the existing section, chapter or title. If there is no existing section, chapter or title, you should assign a new section, chapter or title number. Our expandable decimal numbering system is designed to allow for the incorporation of new material without disturbing the numbering system of existing material.

The following language is sufficient to locate new material in the Code:

Subsection D is added to § 5.10.040 of the _____ Municipal Code, to read as follows:
§ 5.10.033 is added to the _____ Municipal Code, to read as follows:
Chapter 12.07 is added to the _____ Municipal Code, to read as follows:

TOWN OF BRAINTREE

Representative Town Meeting Form of Government

CHAPTER 17—Acts of 1937

AN ACT ESTABLISHING IN THE TOWN OF BRAINTREE REPRESENTATIVE TOWN GOVERNMENT BY LIMITED TOWN MEETINGS:

PART I.

Section 1. There is hereby established in the town of Braintree the form of representative town government by limited town meetings hereinafter set forth.

Section 2. Upon the acceptance of Part I of this act by the town of Braintree as hereinafter provided, the selectmen shall forthwith divide the territory of said town into not less than nine nor more than twelve voting precincts, each of which shall be plainly designated and shall contain not less than four hundred registered voters. All precincts shall also contain approximately an equal number of registered voters. The precincts shall be so established as to consist of compact and contiguous territory to be bounded, as far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed, and, if need be, wholly or partly revised, by the selectmen in December, once in five years, or in December of any year when so directed by a vote of a representative town meeting held not later than November twentieth of that year.

The selectmen shall, within ten days after any establishment or revision of the precincts, file a report of their doings with the town clerk, the registrars of voters and the assessors, with a map or maps or description of the precincts and the names and residences of the registered voters therein. The selectmen shall also cause to be posted in the town hall a map or maps of description of the precincts as established or revised from time to time with the names and residences of the registered voters therein; and they shall also cause to be posted in at least one public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein. The division of the town into voting precincts and any revision of such precincts shall take effect upon the date of the filing of the report thereof by the selectmen with the town clerk. Wherever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts. Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all the registered voters of the town, shall be held on the same day and at the same hour and at such place or places within the town as the selectmen shall in the warrant for such meetings direct. The provisions of chapters fifty to fifty-six, inclusive, of the General Laws relating to precinct voting at elections, so far as the same are not inconsistent with this act, shall apply to all elections and primaries in the town upon the establishment of voting precincts as hereinbefore provided.

Section 3. The representative town meeting membership shall in each of the twelve (12) precincts consist of twenty-one (21) members, which will cause the total membership to be two hundred fifty-two (252).

BRAINTREE CODE

The registered voters in every precinct shall, at the first annual town election held after the establishment of such precinct, and the registered voters of any precinct affected by any revision of precincts shall, at the first annual town election following such revision, conformably to the laws relative to elections not inconsistent with this act, elect by ballot the number of registered voters in the precinct, other than the officers designated in the bylaws as town meeting members at large, provided for in the first sentence of this section, to be town meeting members of the town. The first third, in the order of votes received, of members so elected shall serve three years, the second third in such order shall serve two years, and the remaining third in such order shall serve one year, from the day of the annual town meeting in case of a tie vote affecting the division into thirds as aforesaid, the members elected from the precinct shall by ballot determine the same; and thereafter, except as is otherwise provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect, for the term of three years, one-third of the number of elected town meeting members to which such precinct is entitled, and shall at such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in such precinct.

The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election as hereinbefore provided of their successors. The town clerk shall, after every election of town meeting members, forthwith notify each member by mail of his election. (Amended by ATM 5-17-99 Art. 19 (part))

Section 3A. At the first scheduled town election after the adoption of this legislation, providing for the total membership of town meeting to be two hundred and fifty-two (252), precincts 1 through 4 shall elect nine town meeting members, the first seven of which, in the order of votes received, members so elected shall serve for three years, the eighth in such order shall serve for two years, and the ninth in such order shall serve for one year, from the day of the annual town meeting. In case of a tie vote affecting the order of votes received as aforesaid, the members elected from the precinct shall by ballot determine the same. Thereafter, except as is otherwise provided herein, at each annual town election, the registered voters of each precinct shall elect for the term of three years, seven town meeting members and shall at such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in each precinct. The town clerk, shall after every election of town meeting members, forthwith notify each member by mail of his or her election. (ATM 5-17-99 Art. 19 (part))

Section 4. Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the town meeting members elected under section three, together with such town meeting members at large as may be provided for by the by-laws of the town.

The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held, the notices to be sent by mail at least seven days before the meeting. The town meeting members, as aforesaid, shall be the judges of the election and qualifications of their members. A majority of the town meeting members shall constitute a quorum for doing business; but a less number may organize temporarily and may adjourn from time to time, but no town meeting shall adjourn over the date of an election of town meeting members. All town meetings shall be public. The town meeting members as such shall receive no

ACT ESTABLISHING FORM OF GOVERNMENT

compensation. Subject to such condition as may be determined from time to time by the members of the representative town meeting, any registered voter of the town who is not a town meeting member may speak at any representative town meeting, but shall not vote. A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member, and a town meeting member who removes from the precinct from which he was elected to another precinct may serve only until the next annual town meeting.

Section 5. Nomination of candidates for town meeting members to be elected under this act shall be made by nomination papers, which shall bear no political designation, shall be signed by not less than ten voters of the precinct in which the candidate resides, and shall be filed with the town clerk as least ten days before the election; provided that any town meeting member may become a candidate for re-election by giving written notice thereof to the town clerk at least thirty days before the election. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

Section 6. The articles in the warrant for every town meeting, so far as they relate to the election of the moderator, town officers and town meeting members, and, as herein provided, to referenda, and all matters to be acted upon and determined by ballot, shall be so acted upon and determined by the registered voters of the town in their respective precincts. All other articles in the warrant for any town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, subject to the referendum provided for by section nine.

Section 7. A moderator shall be elected by ballot at each annual town meeting, and shall serve as moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers, and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

Section 8. Any vacancy in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect, or from any other cause, may be filled until the next annual election, by the remaining members of the precinct from among the registered voters thereof. Upon petition therefor, signed by not less than ten town meeting members from the precinct, notice of any vacancy shall promptly be given by the town clerk to the remaining members from the precinct in which the vacancy or vacancies exist, and he shall call a special meeting of such members for the purpose of filling such vacancy or vacancies. He shall cause to be mailed to every such member, not less than five days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the said meeting a majority of the members from such precinct shall constitute a quorum, and they shall elect from their own number a chairman and a clerk. The choice to fill any vacancy shall be by ballot, and a majority of the votes cast shall be required for a choice. The chairman and clerk shall count the ballots and shall make a certificate of the choice and forthwith file the same with the town clerk, together with a written acceptance by the member or members so chosen, who shall thereupon be deemed elected and qualified as a town meeting member or members subject to the right of all the town meeting members to judge of the election and qualifications of the members as set forth in section four.

BRAINTREE CODE

Section 9. A vote passed by any representative town meeting authorizing the expenditure of twenty thousand dollars or more as a special appropriation, or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of office of town officers, where such term is optional or, increasing or reducing the number of members of a board, or adopting a new by-law, or amending an existing by-law, shall not be operative until after the expiration of five days, exclusive of Sundays and holidays, from the dissolution of the meeting. If, within said five days, a petition, signed by not less than five hundred registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, then the selectmen, after the expiration of 5 days, shall forthwith call a special meeting for the sole purpose of presenting to the registered voters at large the question or questions so involved. The polls shall be opened at two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the evening, and all votes upon any question so submitted shall be taken by ballot, and the checklist shall be used in the several precinct meetings in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon, but no action of the representative town meeting shall be reversed unless at least twenty percent of the total number of registered voters shall vote for such reversal. Each question so submitted shall be in the form of the following question, which shall be placed upon the official ballot:—

“Shall the town vote to approve the action of the representative town meeting whereby it was voted (brief descriptions of the substance of the vote)?” If such a petition is not filed within said period of five days, the vote of the representative town meeting shall become operative and effective upon the expiration of said period.

Section 10. The town, after the acceptance of Part I of this act, shall have the capacity to act through and to be bound by its town meeting members, who shall, when convened from time to time as herein provided, constitute representative town meeting; and the representative town meeting shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation. Action in conformity with all provision of law now or hereafter applicable to the transaction of town affairs in town meetings, shall, when taken by any representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment in said town of representative town meeting government.

Section 11. This act shall not abridge the right of the inhabitants of said town to hold general meetings, as secured to them by the constitution of this commonwealth: nor shall this act confer upon any representative town meeting in said town the power finally to commit the town to any measure affecting its municipal existence or substantially changing its form of government without action thereon by the voters of the town at large, using the ballot and the check list therefor.

Section 12. Part I of this act shall be submitted to the registered voters of the town of Braintree for acceptance at its annual town election in the year nineteen hundred and thirty-seven; and the selectmen of said town are hereby directed to insert in the regular warrant for such

ACT ESTABLISHING FORM OF GOVERNMENT

election an appropriate article relative to the matter to be acted on as aforesaid. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same may be applicable, in answer to the question which shall be placed upon the official ballot to be used in the several precincts for the election of town officers at said election:—

“Shall Part I of an act passed by the general court in the year nineteen hundred and thirty-seven, entitled ‘An act establishing in the Town of Braintree representative town government by limited town meetings.’ be accepted by this town?” If accepted by a majority of the voters voting thereon, Part I of this act shall thereupon take effect for all purposes incidental to the annual town election in said town in the year nineteen hundred and thirty-eight, and shall take full effect beginning with said election.

Section 13. If Part I of this act is rejected by the registered voters of the Town of Braintree when submitted to said voters under section twelve it may be submitted for acceptance in like manner to such voters at any annual town election in said town not later than the annual town election in the year nineteen hundred and forty, and if accepted by a majority of the voters voting thereon at such an election, shall thereupon take effect for all purposes incident to the next annual town election in said town and shall take full effect beginning with said election.

PART II.

Section 14. Chapter fifty-six of the acts of nineteen hundred and thirty-six is hereby repealed and said repeal shall take effect upon the passage of this act.

APPROVED FEBRUARY 8, 1937

The foregoing Act was accepted by the voters of the town of Braintree at the Annual Town Election held March 7, 1938.

ROBERT N. BRUYNELL,
Town Clerk.

