

# TOWN OF BRAINTREE

## IN COUNCIL

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ORDER NO: 10 040

DATE: March 31, 2010

ORDERED: Mayor

### TITLE 8, CHAPTER 8: HEALTH AND SAFETY

HIS HONOR, MAYOR SULLIVAN HAS SUBMITTED TO THE BRAINTREE TOWN COUNCIL THE MUNICIPAL CODE, TITLE 8, CHAPTER 8 ORDINANCE FOR THE TOWN OF BRAINTREE.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-100 BURGLAR ALARM SYSTEMS GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

### Chapter 8-100 BURGLAR ALARM SYSTEMS

(Former By-law Chapter 8.04)

#### SECTION 8.100.010 Purpose

False alarms have a deleterious effect on the local law enforcement effort. They are costly and disruptive; costly in the sense of the deployment of our people to non-bona fide calls, detrimental by subjecting our personnel and equipment to injury or other negative impacts when responding. They cause a drain on the allocation of personnel to designated areas by leaving certain other areas of the town vulnerable. This is a situation that must be met, modified and dealt with in a manner consistent with the efficient and effective running of the Braintree Police Department, by specific means as set forth herein. (Prior code § 68-1)

#### SECTION 8.100.020 Definitions

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

- A. Automatic dialing device: an alarm system which automatically sends, over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal, indicating the existence of the emergency situation that the alarm system is designated to detect.

- C. Burglar alarm system: means an assembly of equipment and devices, or a single device such as a solid state unit, which plugs directly into a one hundred ten volt AC line, arranged to signal the presence of a hazard requiring urgent attention to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises, are specifically excluded from the provisions of this ordinance. Provisions of Section 8.100.030.C of this ordinance shall apply to all users.
- C. False alarm:
  - 1. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents;
  - 2. Any signal or automatic dialing device transferred to the Braintree Police Department requesting, or inquiring, or resulting in a response on the part of the Braintree Police Department, when in fact there has been no unauthorized intrusion, robbery, or burglary, or attempted threat. For the purpose of this definition, activation of alarm systems by acts of God, including but not limited to: power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm. (Prior code § 68-2)

#### **SECTION 8.100.030 Control and Curtailment of Signals Emitted by Alarm Systems**

- A. Every alarm user shall submit, to the Police Chief, the names and telephone numbers of at least two other persons, in addition to the user, who are authorized to respond, after notification by the Police Department to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of such premises to immediately notify the Braintree Police Department of any changes in the list of authorized employees or other persons to respond to alarms.
- B. All alarm systems installed after the effective date of this Ordinance, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within fifteen (15) minutes after activation of the alarm system. All existing alarm systems in the Town must have a shut-off device installed within six months after passage of this Ordinance.
- C. Any alarm system, emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between seven p.m. and six a.m. which cannot be shut off or otherwise curtailed, due to the absence or unavailability of the alarm user or those persons designated by him under subsection A of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood, or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Braintree Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under subsection A of this section, in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

- E. No alarm system which is designed to transmit emergency messages or signals of intrusion to the Braintree Police Department will be tested until police headquarters has been notified.
- F. Provisions of this Ordinance shall not apply to alarm devices or premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer. (Prior code § 68-3)

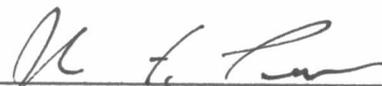
**SECTION 8.100.040 Violation-Penalty**

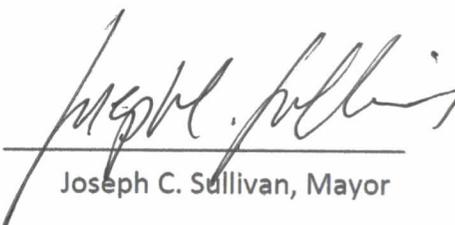
- A. The user shall be assessed fifty dollars (\$50.00) as a false alarm service fee for each false alarm in excess of three occurring in a calendar year. The Police Chief shall notify the alarm user, either by certified mail or by service in hand by a Police Officer of such violation. The user shall submit payment within fifteen (15) days of such notice to the Town Treasurer/Collector for deposit to the general fund. If the user fails to pay the fine within fifteen days, the assessed fine shall be doubled, up to a maximum of \$300.
- B. The user of a system, which occasions six or more false alarms within a calendar year, or fails to pay the fine(s) after such notice, may be ordered to disconnect and otherwise discontinue the use of same by the Police Chief. The order to disconnect shall not eliminate any fines previously assessed. (STM 5-5-2003 Art. 12; prior code § 68-4)

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
 NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
 ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: December 7, 2010  
 Presented to Mayor: December 8, 2010  
 A True Copy, Attest:

DECEMBER 15, 2010  
 Date Approved

  
 \_\_\_\_\_  
 Joseph F. Powers, Town Clerk

  
 \_\_\_\_\_  
 Joseph C. Sullivan, Mayor

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### TITLE 8, CHAPTER 8: HEALTH AND SAFETY

HIS HONOR, MAYOR SULLIVAN HAS SUBMITTED TO THE BRAINTREE TOWN COUNCIL THE MUNICIPAL CODE, TITLE 8, CHAPTER 8 ORDINANCE FOR THE TOWN OF BRAINTREE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-200 FLAMMABLE STORAGE LICENSE FEES GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.

#### Chapter 8 – 200 FLAMMABLE STORAGE LICENSE FEES (Former By-law Chapter 8.05)

##### SECTION 8.200.010 Fees for Licenses and Certificates of Registration

Fees for Licenses and Certificates of Registration issued pursuant to General Laws Chapter 148, Section 13 for keeping, storage, manufacture or sale of crude oil petroleum and its products or explosive or inflammable fluids shall be as follows:

<u>Storage Capacity</u>	<u>License</u> <u>(1<sup>st</sup> year)</u>	<u>Registration</u> <u>(Subsequent Years)</u>
Up to 5,000 gallons	\$200	\$100
5,001-50,000 gallons	\$400	\$200
Above 50,000 gallons	\$400 plus \$4 for each 10,000 gallons above 50,000 gallons.	\$200 plus \$2 for each 10,000 gallons above 50,000 gallons.

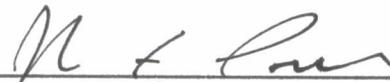
(ATM 5-21-2003 Art. 23)

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
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**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-300 FIRE ALARM AND FIRE PROTECTION SYSTEMS GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 8 – 300 FIRE ALARM AND FIRE PROTECTION SYSTEMS (Former By-Law Chapter 8.08)**

##### **SECTION 8.300.010 Purpose**

Present requirements relating to fire alarms and fire alarm systems are nonexistent, creating Town-wide problems with Fire Department personnel gaining access to buildings with such fire alarm systems to either reset them or shut off the alarm. The practice of carrying keys for all buildings with alarm systems is no longer practical due to the great numbers of systems. Forced entry is not reasonable unless there are visible signs of fire or other emergency. The need to regulate abuses is due to the numerous number of false alarms from private alarm systems and the growing increase of homeowners' or renters' alarm systems that are connected to the Fire Department's emergency telephones. (ATM 5-8-89 Art. 22 (part): prior code § 67-1)

##### **SECTION 8.300.020 Definitions**

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

- A. Alarm actuating: any device such as a smoke or heat detector, pull station or sprinkler flow switch that causes the alarm to sound.
  
- B. Automatic device: a fire protection device that requires no manual operation during activation.

- C. False alarm:
  - 1. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents; or
  - 2. Any signal or automatic dialing device transmitted to the Braintree Fire Department requesting, or requiring, or resulting in a response on the part of the Braintree Fire Department.
- D. Fire alarm control panel: the electrical and electronic center of a system that detects alarm conditions, sounds signals, and provides power and supervisory features.
- E. Fire alarm service company: a commercial firm that specializes primarily in the installation and service of fire alarm devices.
- F. Fire alarm system: an assembly of equipment and devices, or a single device such as a solid state unit, which plugs directly into a one hundred ten (110) volt AC line, arranged to signal the presence of a hazard requiring urgent attention to which the Fire Department is expected to respond. Also, any system which is designed to monitor temperature, smoke, humidity, or any other conditions directly related to the detection of fire or explosion hazards.
- G. Fire watch: a Braintree firefighter having knowledge of fire safety rules and regulations and having the ability and knowledge to properly sound an alarm, and one who tours the property being protected in the event of fire.
- H. Manual device: a fire alarm pull station or other device that requires manual activation for operation.
- I. Service individual: an individual having extensive knowledge in the repair and maintenance of fire alarm systems, such as an electrician who specialized in signaling systems.
- J. Signaling circuit: the electrical circuit that connects and operates all fire alarm system horns, bells, or other devices.
- K. Single station unit: a self-contained fire protection device equipped with all features of a system within a small housing, such as a battery-operated smoke detector (i.e., detector, power supply and signal).
- L. Standby battery: an emergency power supply in case of loss of commercial power to the fire alarm panel.
- M. Supervisory circuit: any alarm circuit that passes a small current through a device and detects a fault on that circuit, such as a ground open or short.

- N. Type I system: a total fire alarm system that includes detecting devices, annunciator, signals, power supply and control panel, that sounds the local signals at the structure being protected, and trips a master fire alarm box connected to the Braintree Fire Department.
- O. Type II system: the same as Type I, except no direct connection to the Fire Department is required. (ATM 5-8-89 Art. 22 (part))(Prior code § 67-2)

**SECTION 8.300.030 Authority to Inspect for Fire and Explosion Hazards**

The Chief of the Fire Department shall be vested with the authority to inspect all buildings and premises for the purpose of eliminating fire or explosion hazards. If any building or premises contains a condition that in the judgment of the Chief of the Fire Department can be classed as fire or explosion hazards, he shall forthwith issue a written order for the elimination of such fire and explosion hazards as may exist. (ATM 5-8-89 Art. 22 (part))(Prior code § 67-3(A))

**SECTION 8.300.040 Special Fire Alarm Signal Services - Permit Required**

All special fire alarm signal services which provide direct contact, including telephone, to the Braintree Fire Department shall be regulated by permit under the jurisdiction of the Fire Chief. The fee for such permit shall be fifty dollars (\$50.00). (ATM 5-14-91 Art. 30 (part): ATM 5-8-89 Art. 22 (part): prior code § 67-3(B))

**SECTION 8.300.050 Special Fire Alarm Signal Services - Access**

Users of such special fire alarm signal services shall provide access to the Braintree Fire Department only via connections to telephone lines approved by the Fire Chief. In no case shall direct access be provided via the Fire Department emergency telephone numbers. (ATM 5-8-89 Art. 22 (part))(Prior code § 67-3 (C))

**SECTION 8.300.060 False Alarms - Fines**

To regulate the use of Braintree Fire Department emergency telephone lines by unauthorized special fire alarm signal services or by home owners/renters, the following provides a system of fines to reduce and control false alarms through mechanical failure, malfunction, improper installation or negligence of the user of a fire alarm system which may occur over a twelve (12) month period.

First offense: No charge

Second offense: \$50.00

Third offense: \$100.00

Fourth offense and each subsequent offense: \$200.00

(ATM 5-8-89 Art. 22 (part))(Prior code § 67-4)

**SECTION 8.300.070 Key Box Required**

Any residential building of six or more units, or any business or commercial property which has a fire alarm system or other fire protection system that transmits a signal through a private central station alarm company or directly to the Braintree Fire Department through the Fire Department alarm system shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control

panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the Braintree Fire Department and shall be located and installed as approved by the Chief. Any building owner violating this ordinance after receiving due notice by the Fire Department shall be subject to a fine of fifty dollars (\$50.00). (Prior code § 67-5)

#### **SECTION 8.300.080 Underground Installation Required**

- A. All fire alarm cables and fire alarm equipment installed in new subdivisions shall be placed underground.
- B. Such installation is to be done at the expense of the developer and the work performed under the supervision of the Fire Chief who shall notify the Planning Board in writing upon satisfactory completion of such installation. (ATM 5-8-89 Art. 22 (part))(Prior code § 67-6)

#### **SECTION 8.300.090 Fee Schedule**

For inspections and related services not covered by statutory law, the following fees, based on a department-certified inspection form, shall apply for those uses listed below:

- A. Lumberyards: \$50.00 per year.
- B. Junk or salvage yards: \$50.00 per year.
- C. Theater inspection: \$50.00 per year.
- D. Inspection of commercial garages: \$50.00 per year.
- E. Gasoline stations: \$50.00 per year.
- F. Review of sprinkler and/or fire protection plans and specifications: \$30.00 per hour.
- G. On-site inspections/fire protection inspections:
  - 1. Single-family: \$25.00 as prescribed under General Laws Chapter 148  
Re-inspection or call-back visit: \$25.00 each
  - 2. Multiple dwelling: \$25.00 Additional units: \$10.00 each
  - 3. Commercial: \$50.00 per zone of fire protection system
  - 4. Reinspection or call-back visit-Multiple dwelling or commercial: \$25.00 per zone of fire protection system
- H. Nursing and convalescent homes - quarterly inspections:
  - 1. 25 beds or less: \$50.00
  - 2. Over 25 beds: \$100.00
- I. Clinics/HMO's: \$50.00 per licensing certificate of inspection
- J. Kindergartens: \$50.00 per licensing certificate of inspection
- K. Private schools: \$50.00 per licensing certificate of inspection
- L. Hotels/motels - quarterly inspections:
  - 1. 100 rooms or less: \$100.00
  - 2. Over 100 rooms: \$150.00
- M. Master box:
  - 1. Initial connection: \$250.00
  - 2. Annual fee: \$150.00
- N. Re-inspection for licensed facilities or those requiring quarterly inspections: \$50.00
- O. Underground Storage Tanks - Removal or Relocation: Any underground storage tank which has been used for keeping or storage of gasoline or hazardous chemicals, as prescribed by

the Environmental Protection Agency or the Massachusetts Department of Environmental Protection, shall not be removed or relocated unless a permit has been obtained from the Chief of the Braintree Fire Department, i.e., a permit to remove or relocate an underground storage tank under the provisions of General Law Chapter 148, Section 38A, and 527 CMR 9:00 and 502 CMR 3:00 as amended.

1. Permit fee: \$200.00 (All steel, fiberglass UST and gasoline and heating fuel)
2. Fuel oil tank under 1,100 gallons removal permit: \$25.00 (Heating fuel No.2 only)

P. General Laws Chapter 21E inquiry and record review: \$25.00/hour

Q. All other permits not addressed by statute: \$25.00

(ATM 5-14-91 Art. 30 (part)(Prior code § 67-7)

### **SECTION 8.300.100 Fire Alarm Systems - Testing and Maintenance**

- A. All buildings that are required to be equipped with Type I or Type II fire alarm systems as determined and described by the Massachusetts State Building Code Regulations, Massachusetts Fire Prevention Regulations or Town of Braintree Ordinances, shall have all fire alarm system devices tested no less than two times each calendar year by a qualified fire alarm service company. Lodging homes having thirteen (13) or more tenants shall be equipped with a Type I system. Lodging homes having twelve (12) or fewer tenants shall be equipped with a Type II system. Devices to be tested are all alarms (automatic or manual), signaling, supervisory circuits, standby battery supplies and other system and single station units within the structure installed for the purpose of fire protection. The building owner shall be responsible for maintaining proper written records of the tests, indicating dates, time and signature of the qualified tester, and such records shall be available to be viewed by any public safety representative employed by the Town. The Chief of the Braintree Fire Department, his representative or the Braintree assistant superintendent of fire alarm systems shall determine the qualifications of the fire alarm service organization or individual. The owner shall have written proof of a maintenance contract or agreement with a qualified fire alarm company and such agreement or contract shall indicate that the service company is on twenty-four (24) hour call and will respond within twenty-four (24) hours for maintenance or repair of the fire alarm system.
- B. Should a fire alarm system require maintenance or repair, it is the responsibility of the owner or his representative that such system be repaired and placed back into service within twenty-four (24) hours of the discovery of the fault by the owner, service company, or Braintree public safety official. Notification of such fault to the owner or his representative may be written or verbal.
- C. Should the system provide protection for a structure where a life hazard exists including but not limited to apartments (six units or more), hotels, motels, lodging houses, hospitals, nursing homes, schools, day care centers or nurseries, it is the responsibility of the owners to have the system in proper operation within the twenty-four (24) hour period or, at his expense provide a Braintree firefighter during the nighttime hours or when a life hazard exists. Those failing to comply shall be considered in violation of this ordinance. The Chief of the Fire Department shall determine when a life hazard exists. When such condition exists, the Chief of the Fire Department or his representative shall determine when the fire watch will be removed.

- D. Any owner to be found in violation of this ordinance shall be fined the sum of no less than three hundred dollars (\$300.00) per day for each day of violation until the fire alarm system is placed in service to the satisfaction of the Chief of the Fire Department or his representative. All residential structures of five units or less are exempted from the requirement to procure a formal maintenance contract. However, it is the responsibility of the owner of such structure to properly maintain and keep in good working order all fire protection and fire alarm devices.
- G. The name and emergency telephone number of both the owner and the qualified service organization shall be posted in a conspicuous place, preferably on the fire alarm control panel. (ATM 5-8-89 Art. 22 (part): prior code § 67-8)

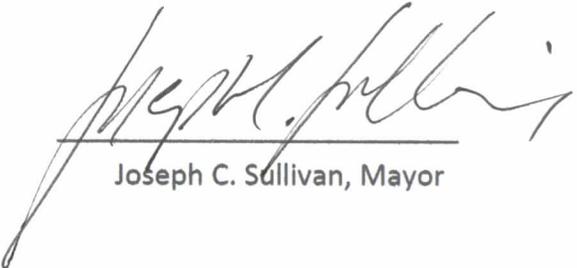
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**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-400 GARBAGE COLLECTION AND DISPOSAL GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 8 - 400 GARBAGE COLLECTION AND DISPOSAL (Former By-law Chapter 8.12)**

##### **SECTION 8.400.010 Applicability**

For purposes of this Ordinance only, "commercial properties" shall be defined as any business, firm, store, shopping plaza, property dedicated to business use, any residential dwelling of more than four units, nursing home, congregate living facility, hospital, hotel, motel, or lodging house.

##### **SECTION 8.400.020 Enclosure of Containers Required**

- A. Any business, firm, store, group of stores, shopping center, shopping plaza, or residential dwelling of more than four units, which stores or disposes of its refuse in bins, dumpsters or similar containers, are required to fence off or otherwise enclose such containers if, in the opinion of the Health Department the conditions in and around such containers constitute a public nuisance or if so required pursuant to a permit issued by the Planning Board.
- B. The Health Department may direct the property owner in question to maintain the containers within an enclosure created by a solid fence or wall, in such a manner that the containers are screened from public view and constructed so as to effectively trap any refuse which may accidentally be spilled from the containers. (Prior code § 75-1, 75-2)

**SECTION 8.400.030 Garbage Placed for Collection to be in Custody of Town - Penalties**

Solid waste, including recyclable materials and garbage placed upon the sidewalk for collection by any residential property owner or a commercial property owner, if said commercial property owner is permitted by the Department of Public Works Advisory Board to avail itself of the Town's curbside collection, shall become the property of the Town. It shall be a violation of this Ordinance if any person, other than authorized agents of the Town, acting in the course of their employment or contract, collects or causes to be collected any solid waste or recyclables so placed. For a first offense, the fine shall be fifty dollars (\$50.00); for a second offense, the fine shall be one hundred dollars (\$100.00); and for a third or subsequent offenses, the fine shall be three hundred dollars (\$300.00). Each and every such collection in violation of this Section shall constitute a separate offense. (Prior code § 75-3)

**SECTION 8.400.040 License Required for Garbage Removal**

No person other than the Town, its agents, or a person duly licensed by the Board of Health, in writing, pursuant to reasonable rules and regulations for the issuance of such license as promulgated by the Board of Health, shall collect, take away or remove any such rubbish, including recyclable materials, or garbage so placed, except that the depositor may reclaim any or all of it prior to removal thereof by the Town, its agents or duly licensed person. (Prior code § 75-4)

**SECTION 8.400.050 Removal of Vehicles Impeding Collection of Solid Waste and Recyclable Materials**

The Mayor, or his designee, for the purpose of facilitating the collection of solid waste, recyclable materials, and refuse, may request the Police Department to remove or cause to be removed to some convenient place in the Town, including in such term a public garage, from any portion of a public way therein or from any private way therein open to public use, any vehicle parked contrary to a sign within one hundred (100) feet banning parking at such time and place or any other vehicle parked in such a manner as to impede an authorized solid waste or recycling hauler from collecting said solid waste and recyclable materials. The cost of removing the vehicle and the cost of the resulting storage charges, if any, shall be assessed against the owner of such vehicle. (Prior code §75-5)

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**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-500 MANDATORY RECYCLING FOR RESIDENTIAL PROPERTIES GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 8 - 500 MANDATORY RECYCLING FOR RESIDENTIAL PROPERTIES (Former By-Law Chapter 8.13)**

##### **SECTION 8.500.010 Purpose**

This ordinance is enacted in order to preserve the environment by reducing the amount of refuse sent to landfills and incinerators, and to comply with Department of Environmental Protection waste ban regulations. It is the policy of the Town to reduce the amount of solid waste generated and to require the recycling of recyclable materials to the fullest extent possible. (ATM 5-10-2004 Art. 27)

##### **SECTION 8.500.020 Applicability**

For purposes of this Ordinance only, "residential properties" shall include one and two-family dwellings, as defined in the Town's Zoning By-laws or Ordinances, and residential properties with four (4) units or less, regardless of whether owner-occupied or rented, or any other residential property as may be permitted by the Department of Public Works Advisory Board to participate in the Town's curbside collection program.

##### **SECTION 8.500.030 Preparation and Placement.**

Each residential owner or occupant who receives solid waste collection services from the Town's solid waste contractor shall comply with all regulations of the Department of Public Works or the Massachusetts Department of Environmental Protection relative to the collection of solid waste and recyclable materials. The preparation and placement of solid waste and recyclables shall be accomplished in accordance with rules and regulations issued by the Department of Public Works Director or his designee. (ATM 5-10-2004 Art. 27)

**SECTION 8.500.040 Collection Limited to Authorized Agents**

Upon placement of solid waste and recyclables for the Town or its contractor at curbside, pursuant to this Ordinance, such solid waste and recyclables shall become the property of the Town. It shall be a violation of this Ordinance if any person, other than authorized agents of the Town acting in the course of their employment or contract, collects or causes to be collected any solid waste or recyclables so placed. For a first offense, the fine shall be fifty dollars (\$50.00); for a second offense, the fine shall be one hundred dollars (\$100.00); and for a third or subsequent offenses, the fine shall be three hundred dollars (\$300.00). Each and every such collection in violation of this Section shall constitute a separate violation. (ATM 5-10-2004 Art. 27)

**SECTION 8.500.050 Promulgation of Rules and Regulations**

The Department of Public Works Director may promulgate rules and regulations for the implementation for this Ordinance. (ATM 5-10-2004 Art. 27)

**SECTION 8.500.060 Violations and Penalties**

Whoever violates any provision of this Ordinance, including any rule or regulation promulgated hereunder, may be penalized by a fine of up to three hundred dollars (\$300). In the alternative, the Town may impose a non-criminal disposition penalty pursuant to General Laws Chapter 40, §21D in the amount of fifty dollars (\$50.00). The designated enforcing persons under General Laws Chapter 40, §21D for this Ordinance shall be any Police Officer of the Town and any designated staff of the Department of Public Works. A non-criminal disposition penalty will be imposed under this Ordinance only after the violator receives a written warning regarding the violation indicating the method of correction. (ATM 5-10-2004 Art. 27)

**SECTION 8.500.070 Severability**

This Ordinance and the various parts, sentences and clauses are declared to be severable. If any part, sentence or clause is adjudged to be invalid, the remainder of this Ordinance shall not be affected thereby. (ATM 5-10-2004 Art. 27, Chapter 8.16)

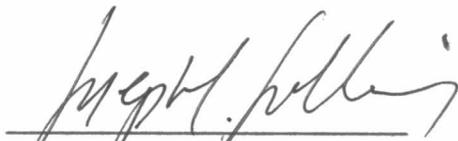
- YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan
- NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan
- ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: December 7, 2010  
Presented to Mayor: December 8, 2010  
A True Copy, Attest:

DECEMBER 15, 2010

Date Approved

  
Joseph F. Powers, Town Clerk

  
Joseph C. Sullivan, Mayor

# TOWN OF BRAINTREE

## IN COUNCIL

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ORDER NO: 10 040

DATE: March 31, 2010

ORDERED: Mayor

### **TITLE 8, CHAPTER 8: HEALTH AND SAFETY**

HIS HONOR, MAYOR SULLIVAN HAS SUBMITTED TO THE BRAINTREE TOWN COUNCIL THE MUNICIPAL CODE, TITLE 8, CHAPTER 8 ORDINANCE FOR THE TOWN OF BRAINTREE.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-600 HAZARDOUS MATERIALS GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 8 -600 HAZARDOUS MATERIALS (former By-law Chapter 8.16)**

##### **SECTION 8.600.010 Authority**

This Ordinance is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under General Laws Chapter 40, Section 21. (Prior code § 92-1)

##### **SECTION 8.600.020 Purpose**

This Ordinance is intended to protect the public health, safety and welfare, and the environment, as well as to preserve and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface waters within the Town from contamination with hazardous materials. (Prior code § 92-2)

##### **SECTION 8.600.030 Definitions**

The following definitions shall apply in the interpretation and implementation of this Ordinance:

- A. Biodegradable: a product or material which decomposes at a significant rate into nontoxic materials by natural biological processes.
- B. CMR: the Code of Massachusetts Regulations.

- C. Combustible: any liquid having a flash point above one hundred (100) degrees Fahrenheit and below two hundred (200) degrees Fahrenheit.
- D. Container: any portable device, in which hazardous materials or wastes are stored, transported, treated, disposed of or otherwise handled.
- E. Corrosive: any liquid or solid that causes destruction of human skin tissue or a material that has a severe corrosive rate on steel.
- F. DEP: the Department of Environmental Protection and/or its successors.
- G. Discharge: the disposal, deposit, injection, dumping, spilling, escape, incineration or placing of any hazardous material or waste into or on any land, water or air. Discharge includes, without limitation, leakage of such hazardous material or wastes from containers, tanks or storage systems, or disposal of such materials or wastes into any sewage disposal systems, dry well, catch basin or landfill.
- H. Double-walled tank: a container with two complete shells, which provide both primary and secondary containment. The container shall have continued 360 degrees interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed (Underwriters Laboratory).
- I. Emergency response plan: a document setting an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous materials which could threaten public health, safety, welfare or the environment. A contingency plan prepared in accordance with 310CMR 30.520 through 30.524 (Massachusetts Hazardous Waste Regulations), may be submitted in lieu of this plan.
- J. Etiologic agent: any viable micro-organism, or its toxin which causes or may cause human disease.
- K. Facility: a commercial or industrial facility, including a home business that is registered in accordance with this regulation.
- L. Fire Chief: the Fire Chief of the Town of Braintree and shall include any designee of the Fire Chief.
- M. Flammable:
  - 1. Any solid material, other than an explosive, which is liable to cause fires through friction, absorption of moisture, spontaneous chemical change, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation hazard;

2. Any liquid having a flash point below one hundred (100) degrees Fahrenheit;
  3. Any liquid that ignites spontaneously in dry or moist air at or below one hundred thirty (130) degrees Fahrenheit;
  4. Any compressed gas meeting that requirement for lower flammability limit range, flame projection or flame propagation criteria as specified by the United States Department of Transportation ("DOT").
- N. Hazardous material: a product or waste or combination of substances which because of quantity, concentration, physical, chemical or infectious characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to the human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance which may create a special hazard in the event of a spill, leak, fire or exposure, and all substances regulated as radioactive, explosive, combustible, corrosive, flammable, oxidizer, poison, an etiologic agent or any other material defined by, but not limited to, the United States Department of Transportation shall be considered a hazardous material for the purpose of this Ordinance.
- O. Fuel Oil: oil of grades 1, 2, 4, 5 and 6 in accordance with General Laws Chapter 94, Section 249H.
- P. Hazardous Material Generator: any commercial enterprise, government agency, owner or operator who produces, prepares, imports or compounds hazardous material or waste by combining previously non-hazardous materials to create hazardous materials.
- Q. Hazardous Material User: any commercial enterprise, government agency, owner or operator who utilizes hazardous materials or waste, for any purposes other than those specifically exempt from the requirements of this Ordinance.
- R. Health Hazard: any chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees. The term "health hazard" includes but is not limited to chemicals which are carcinogens, mutagens, toxins, irritants, corrosives, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which sensitize, or damage the lungs, skin, eyes or mucous membranes.
- S. Irritant: any liquid or solid substance which upon contact with fire, or when exposed to air, gives off dangerous or intensely irritating fumes, but is not a poisonous material.
- T. Label: any written, printed or graphic material displayed or affixed to containers of toxic or hazardous materials.
- U. LEPC: the Local Emergency Planning Committee.

- V. **Material Safety Data Sheet (MSDS):** a form containing data on physical, chemical and hazardous characteristics, health and safety hazards of specific chemicals, procedures recommended for spills and leaks of specific chemicals, and special protection and precautions to be taken in the handling of specific chemicals.
- W. **Operator:** the lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.
- X. **Other regulated materials (ORM):** any material that does not meet any other definition of a hazardous material, but is an anesthetic, noxious, toxic or contains any other similar property, or has a characteristic which makes it unsuitable for shipment or storage unless properly identified and prepared for transportation or storage, or presents a limited hazard during transportation or storage due to its form, quantity or packaging, or has otherwise been classified as a hazardous material.
- Y. **Owner:** any person with effective control or legal ownership of a site, facility, or activity.
- Z. **Oxidizer:** any substance that yields oxygen readily to stimulate the combustion of organic matter.
- AA. **Physically Hazardous:** a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.
- BB. **Poison:** any poisonous gas or liquid of such nature that a very small amount of the gas or vapor of the liquid, mixed with air is dangerous to life; or any substance, liquid or solid, which is known to be so toxic to man as to afford a hazard to health during transportation or storage; or which in the absence of adequate data on human toxicity, is presumed to be toxic to man.
- CC. **Radioactive:** any material, or combination of materials, that spontaneously emits ionizing radiation, and having a specific activity greater than 0.002 microcuries per gram.
- DD. **Release:** any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic or hazardous material into the environment.
- EE. **Reportable discharge:** any discharge which could threaten public health or safety or the environment by entering the surface water, ground waters, or water recharge areas or by emitting toxic fumes or gases into the air. Discharges which are in compliance with all federal, state and local regulations or which are permitted by governing federal, state or local agencies are not considered reportable discharges.
- FF. **Storage:** the holding of any hazardous materials or wastes for more than 24 hours.

GG. Tanks: any stationary device used to store or to contain an accumulation of hazardous materials or wastes.

HH. Underground Storage Tank (UST): a storage tank where 10% or more of the tank volume and piping is buried below the ground surface, but shall not include storage in a freestanding container within a building.

II. Workplace: an establishment, job site, or project, at one geographical location containing one or more work areas. (ATM 5-14-2002 Art. 39 § 1; prior code § 92-3)

**SECTION 8.600.040 Registration Required**

Every owner or operator for each commercial and industrial establishment (including municipal, state and federal operations) which stores, transports, uses, handles, or otherwise manages hazardous materials shall register with the Health Department. Also required are proper permits from the Braintree Fire Department. (ATM 5-14-2002 Art. 39 § 2; prior code § 92-5)

**SECTION 8.600.050 Registration - Form and Contents**

The registration form shall be designated by the Board of Health and shall include the following information:

- A. Business/Facility Name.
- B. Business/Facility Address.
- C. 24 Hour Emergency Contact Name. This individual must be knowledgeable in the types of hazardous materials used at the business/facility, proper storage and handling procedures, familiar with emergency response procedures and authorized to enact such procedures.
- D. 24 Hour Emergency Contact Phone Number.
- E. Alternate Contact Name.
- F. Alternate Contact Phone Number.
- G. Types of Hazardous Materials, oils, or hazardous waste stored, used or generated on site which shall include the following:
  - 1. Name of Material.
  - 2. Hazard Type.
  - 3. Maximum Quantity.
  - 4. Container(s).
  - 5. Storage Location - include underground containers and material stored in each.
  - 6. Attach a Diagram of storage areas and/or process areas.
  - 7. Hazard Type: Hazard type include: Corrosive (C), **Irritant (I)**, Oxidizer (O), Combustible (D), Flammable (F), Explosive (E), Reactive (R), Toxic (T), Poison (P), Etiological Agent (A), and Radioactive (N).

8. Maximum Quantity: Maximum stored on site at any one time.
9. Container(s): List type, size and construction material of the containers (i.e. 1-gallon plastic bottles, 55-gallon drums, 1,000 gallon steel UST). (ATM 5-14-2002 Art. 39 § 3; prior code § 92-5:1)

**SECTION 8.600.060 Registration - Due Date**

- A. Registration required in this section shall be submitted by November 1, 1983 and annually thereafter by November 1st of each year.
- B. Owners and operators of commercial or industrial establishments who have not previously registered, if they meet registration requirements, shall register initially within thirty (30) days of meeting such requirements and thereafter by November 1st of each year. (Prior code § 92-5:4)

**SECTION 8.600.070 Registration - Fees**

Any owner/operator registering storage of hazardous materials pursuant to Section 8.600.040 shall pay to the Town a registration fee as determined by the Board of Health. Such a fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall be subject to the penalties of Section 8.600.210 of the ordinance. (ATM 5-14-2002 Art. 39 § 4; prior code § 92-10)

**SECTION 8.600.080 Use Regulations**

All hazardous materials within the Town must be stored, handled, transported and used in such a way as to minimize any discharge of any hazardous material to ensure maximum protection of the environment and the public health, safety and welfare. (Prior code § 92-6: 1)

**SECTION 8.600.090 Transportation of Hazardous Materials**

- A. The transportation of any materials listed on Environmental Protection Agency's S.A.R.A., Title III, extremely hazardous material list is prohibited on the following public ways: West Street from the Randolph/Braintree town line to its intersection with Washington Street; Pond Street, from the Randolph/Braintree town line to its intersection with Washington Street; Granite Street from its intersection with Pond Street to West Street; Washington Street from its intersection with Pond Street to its intersection with Franklin Street; Franklin Street from its intersection with Washington Street to West Street.
- B. Said vehicles shall go directly to its point of destination.
- C. This section shall be enforced by the Braintree Police Department. (ATM 5-14-2002 Art. 39 § 5; ATM 5-16-1990 Art. 46; STM 5-1-1989 Art. 4; prior code § 92-13)

**SECTION 8.600.100 Material Data Sheets Required**

Each business/facility must keep a file at a location known and accessible to all emergency response personnel, material safety data sheets on all hazardous materials stored or used at the facility. These data sheets must be available to the Health Department and Fire Department during inspections, investigations or in the event of an emergency. Data sheets must be made available to all employees (Right to Know Law). (ATM 5-14-2002 Art. 39 § 6; prior code § 92-5.2)

**SECTION 8.600.110 Emergency Response Plan Required**

Each business/facility must keep on file at a location known and accessible to all emergency response personnel an emergency response plan. This plan must detail the procedures to be used for prevention and control of emergencies, the emergency equipment available on-site, outside agencies and organizations who would be notified and/or may provide assistance in an emergency, and an evacuation plan for personnel. (ATM 5-14-2002 Art. 39 §7 (part); prior code § 92-5:3)

**SECTION 8.600.120 Employee Training Programs**

All businesses/facilities shall provide adequate employee training programs to ensure the proper use, storage, transportation and handling of hazardous materials. (ATM 5-14-2002 Art. 39 § 7 (part); prior code § 92-6:2)

**SECTION 8.600.130 Recordkeeping**

All businesses/facilities registered in accordance with Section 8.600.040 of this Ordinance must keep sufficient records to provide best estimates of quantities of hazardous materials on-site. (ATM 5-14-2002 Art. 39 § 7 (part); prior code § 92-6:3)

**SECTION 8.600.140 Discharge - Containment, Removal and Disposal Required**

In the event of a spill, leak or unexpected release, each owner or operator must take immediate steps to contain the hazardous material to ensure that such materials do not enter surface waters or ground waters, sewer or septic systems, land, or air, and shall remove and dispose of such materials in accordance with all applicable local, state and federal regulations. (Prior code § 92-6:4)

**SECTION 8.600.150 Discharge - Emergency Response by Town**

In the event that the Health Department or its agent(s) is unable to contact the owner/operator to institute emergency response procedures to contain a discharge, then the Board of Health shall invoke its emergency power as granted under Chapter 111 of the General Laws and any other authority. The owner/operator will be responsible for all costs incurred by the Town during this emergency response. (ATM 5-14-2002 Art. 39 § 8 (part); prior code § 92-6:5)

**SECTION 8.600.160 Reporting Requirements**

Any person having knowledge of a reportable discharge of hazardous material shall immediately report the discharge to the Health, Police and Fire Departments and LEPC Chairman. (ATM 5-14-2002 Art. 39 § 9 (part); prior code § 92-11)

**SECTION 8.600.170 Promulgation Authority**

The Board of Health shall establish rules and regulations consistent with, and as may be necessary, to promulgate a comprehensive code for the safe storage, use and handling of hazardous materials. (Prior code § 92-12)

**SECTION 8.600.180 Protection of Underground Aquifers**

All geotechnical test borings, probes, pits and wells that penetrate the ground water table shall be sealed after the investigation of the properties of the soil and rock with a cement bentonite

material from the bottom to ground surface of the test boring, probe, pit and well to prevent the potential contamination of the groundwater table by hazardous materials. The Director of Planning and Community Development, in association with the Conservation Commission and the hazardous materials coordinator of the Town, shall promulgate regulations for the issuance of permits for the investigation of soil, rock, ground water and other materials located below the surface of the earth. These regulations shall include procedures for sealing any penetrations into the water table and the methods for reporting results to the Conservation Commission of any investigations used to determine the physical properties of the soil, rock and contaminants found in the ground water to the town. (A TM 5-3-95 Art. 19: prior code § 92-14)

**SECTION 8.600.190 Variances**

The Board of Health may vary the application of any provision of this Ordinance, unless otherwise required by law, when, in its opinion, the applicant has demonstrated that an equivalent degree of environmental protection required under this Ordinance will still be achieved. The applicant at his/her own expense must notify all abutters by certified mail at least ten (10) days before the Board of Health meeting at which the variance request will be considered. The notification shall state the variance sought and the reasons therefor. Any variance granted by the Board of Health shall be in writing and shall contain a brief statement of the reasons for its decision. (ATM 5-14-2002 Art. 39 § 10 (part); prior code § 92-7)

**SECTION 8.600.200 Enforcement**

The Board of Health or its agent(s) shall be the enforcing authority of this Ordinance, and may enter upon privately owned property for the purpose of performing their duties under this Ordinance. (Prior code § 92-8)

**SECTION 8.600.210 Violation - Penalty**

Any owner/operator who violates any provision of this Ordinance shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) in addition to all costs incurred to the Town associated with each violation. Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. This Ordinance may be enforced pursuant to General Laws Chapter 40, Section 21D by the Police Department or Health Department. (Prior code § 92-9)

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: December 7, 2010

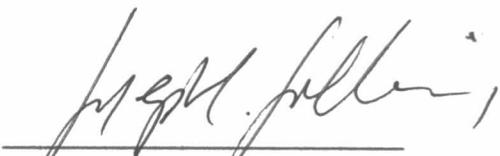
Presented to Mayor: December 8, 2010

A True Copy, Attest:

DECEMBER 15, 2010

Date Approved

  
\_\_\_\_\_  
Joseph F. Powers, Town Clerk

  
\_\_\_\_\_  
Joseph C. Sullivan, Mayor

# TOWN OF BRAINTREE

## IN COUNCIL

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ORDER NO: 10 040

DATE: March 31, 2010

ORDERED: Mayor

### **TITLE 8, CHAPTER 8: HEALTH AND SAFETY**

HIS HONOR, MAYOR SULLIVAN HAS SUBMITTED TO THE BRAINTREE TOWN COUNCIL THE MUNICIPAL CODE, TITLE 8, CHAPTER 8 ORDINANCE FOR THE TOWN OF BRAINTREE.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 8, CHAPTER 8-700 SWIMMING POOLS GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 8 – 700 SWIMMING POOLS (Former By-law Chapter 8.24)**

##### **SECTION 8.700.010 Applicability**

All of these regulations apply to existing outdoor swimming pools as well as future swimming pools. (Prior code § 119-4)

##### **SECTION 8.700.020 Fencing Required**

Every outdoor swimming pool containing twenty-four (24) inches or more of water in depth at any point shall be enclosed by a fence or structure as required by current building code regulations or health code regulations and firmly secured at ground level. (Prior code § 119-1)

##### **SECTION 8.700.030 Fencing Specifications**

Such fence or structure, including gates therein, shall be in accordance with current building code regulations or health code regulations above the underlying ground and any gate shall be self-latching with latches placed in accordance with current building code regulations or health code regulations above the ground or otherwise made inaccessible from the outside to children under eight years of age. (Prior code § 119-2)

##### **SECTION 8.700.040 Substitute Devices or Structures**

All other protective devices approved by the Building Inspector may be used as a substitute for such enclosure so long as, in the written opinion of the building inspector, the degree of protection afforded by the substituted devices or structures is equivalent to the protection afforded by the enclosure, gate and latch described herein. (Prior code § 119-3)

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: December 7, 2010  
Presented to Mayor: December 8, 2010  
A True Copy, Attest:

December 15, 2010

Date Approved

  
\_\_\_\_\_  
Joseph F. Powers, Town Clerk

  
\_\_\_\_\_  
Joseph C. Sullivan, Mayor

# TOWN OF BRAINTREE

## IN COUNCIL

ORDER NO: 10 038 /10 039 / 10 040 / 10 041

DATE: March 31, 2010

ORDERED: Mayor

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT ALL BY-LAWS UNDER TITLE 6, 7, 8 AND 9, AS APPROVED BY TOWN MEETING THROUGH DECEMBER 31, 2007 AND AS SUBSEQUENTLY APPROVED BY THE ATTORNEY GENERAL AND PRINTED IN THE GENERAL BY-LAWS OF THE TOWN THROUGH SEPTEMBER 2008 BE REPEALED.**

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: December 7, 2010  
Presented to Mayor: December 8, 2010  
A True Copy, Attest:

DECEMBER 15, 2010

Date Approved

  
\_\_\_\_\_  
Joseph F. Powers, Town Clerk

  
\_\_\_\_\_  
Joseph C. Sullivan, Mayor