

1. 7:00 P.M. Committee Of Ways & Means

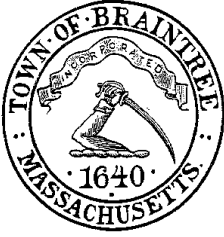
Documents:

[2021 DEC 13 OR MTG.PDF](#)

1.1. 7:00 PM Committee On Ordinance & Rules

Documents:

[2021 DEC 13 ZOOM ORDINANCE AND RULES AGENDA.PDF](#)



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Chairman
Steven Sciascia, Vice-Chairman
Julia Flaherty, Member
Lawrence Mackin, Member

AGENDA

Monday, DECEMBER 13, 2021

Starting Time – 7:00 p.m.

Remote via Zoom

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83498052465>

Telephone: Dial US: +1 312 626 6799

Webinar ID: **834 9805 2465**

International numbers available: <https://us02web.zoom.us/j/83498052465>

Roll Call

Approval of Minutes

- None

Old Business

- 20 034 Councilor O'Brien: 8.800 Single-Use Plastic Bag Reduction Bylaw or take up any action related thereto
- 002 21 Councilor Sciascia/Councilor Connors: Amendment to By-law Section 135-1101 or take up any action relative thereto (Update)
- 003 21 Councilor Sciascia: Inclusionary Amendment or take up any action relative thereto (Update)
- 031 21 Councilor Mackin: Municipal Oversight Committee or take up any action relative thereto

New Business

- None

Adjournment

8.800 Single-Use Plastic Bag Reduction Bylaw (Draft)

Proposed Bylaw:

8.800.010 Authority.

This chapter is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under MGL c. 40, § 21.

8.800.020 Purpose.

This chapter is intended to protect the public health, safety and welfare, and the environment as the production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of aquatic and land animals through ingestion and entanglement; contributing to pollution of the natural environment; creating a burden to solid waste collection and recycling facilities, increasing the amount of plastic that is causing Braintree's recycling waste to impact waste collection costs, clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to protect the Town's unique natural beauty and its water and natural resources by eliminating single-use plastic check-out bags that are distributed in the Town of Braintree and to promote the use of reusable bags.

8.800.030 Definitions:

BYLAW NAME

This bylaw shall be known as the Single-Use Plastic Bag Reduction Bylaw.

CHECKOUT BAGS

Checkout bag means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

GROCERY STORE

Grocery Store means a retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

RECYCLABLE PAPER BAG

Recyclable paper bag means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

RETAIL STORE

Retail Store means any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

REUSABLE CHECKOUT BAG

Reusable checkout bags means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 4.0 mils in thickness. Handled checkout bags should also be offered upon request in consideration of Americans with Disabilities.

THIN-FILM SINGLE-USE PLASTIC BAG

Thin-film single-use plastic bags are bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said is less than 4.0 mils in thickness.

8.800.040 Use Regulations:

(A) Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail store or grocery store within the Town of Braintree.

(B) Retail stores shall provide checkout bags to customers, the bags must be one of the following (1) recyclable paper bags, or (2) reusable checkout recyclable bags. Reusable checkout bags may also be available for sale at a reasonable price, but shall not be the only available checkout container for customers.

(C) Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

8.800.050 Effective Date.

This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or July 1, 2020, whichever is later. Upon application of the owner or the owner's representative, the Board of Health may exempt a retail store from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Health that 1) the requirements of this section would cause undue hardship; or 2) a retail store requires additional time in order to draw down an existing inventory of checkout bags.

8.800.060 Enforcement.

(A) Enforcement of this bylaw shall be the responsibility of the Board of Health or its Agent. The Board of Health shall determine the monitoring process to be followed, which may be limited to responding to citizen reports and/or incorporating the process into other town duties as appropriate.

(B) Any retail or grocery store distributing plastic checkout bags in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in the chapter titled violations and penalties. Any such fines shall be paid to the Town of Braintree for use in the general fund.

8.800.070 Violations and Penalties

Violation of any provision of this chapter shall be punished as follows:

1. Penalty: First Offense – Warning;
 - A. Second Offense - \$50 per day;
 - B. Third and each subsequent offense - \$100 per day.
2. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

8.800.070 Severability.

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby. Non-substantive changes to the numbering of this bylaw may be permitted in order that it be in compliance with the numbering format of the Town of Braintree Bylaws, or take any other action related thereto.

From: [Sternman, Mark \(SEN\)](#)
To: [Cimino, Susan M.](#); [Hume, Shannon L.](#); [Ringius, David](#)
Subject: RE: Letter from Town of Braintree/Committee on Ordinance & Rules
Date: Tuesday, November 2, 2021 1:33:05 PM

CAUTION: This email was sent from an external source. Please be extra vigilant when replying, opening attachments or clicking links.

Thank you for writing Sen. Keenan about the plastic-bag ban. He asked me to reply on his behalf.

First, I wanted to share with you a few bills under consideration this session:

[H.992](#) [Pignatelli, Smitty](#) [An Act reducing plastic bag pollution](#)
House, No. 992) of Smitty Pignatelli and others relative to reducing **plastic bag** pollution ...

[S.525](#) [Eldridge, James B.](#) [An Act relative to plastic bag reduction](#)
and other members of the General Court for legislation relative to **plastic bag** reduction ...

[H.902](#) [Ehrlich, Lori A.](#) [An Act relative to plastic bag reduction](#)
902) of Lori A. Ehrlich, James B. Eldridge and others relative to **plastic bag** reduction ...

Please feel free to click on the hyperlinks if you want more details on the bills (or ask me any questions about them). Having talked to staff from one of the bill sponsors, I do not expect any of these bills to pass this calendar year, but do anticipate a push to get a ban into law by the end of July.

Please also note that the Senate did pass a version of this ban a little less than two years ago (see <https://malegislature.gov/Bills/191/S2410/BillHistory>), which Sen. Keenan supported, but the House declined to take up this bill.

I hope that this information is useful; please let me know if you need anything else from our office.

Best,

Mark S. Sternman

Chief of Staff

Office of Senator John F. Keenan

State House, Room 413-F

Boston, MA 02133

(617) 722-1494

Replying to message from <scimino@braintreema.gov> sent 2021-10-29 13:53:13:

You don't often get email from scimino@braintreema.gov. [Learn why this is important](#)

Senator Keenan,

Please see attached letter regarding the discussions taking place on a potential ban on plastic bags.

Let me know if you have any questions or would like to attend a meeting.

Thank you,

Susan

Susan M. Cimino

Clerk of the Council

TOWN of BRAINTREE

781-794-8152

339-987-2726



§135-616 Inclusionary Housing

A. Purposes. The purposes of this section are:

- (1) To increase the supply of housing stock in the Town of Braintree that is permanently available to and affordable by low- and moderate-income households;
- (2) To encourage greater diversity of housing accommodations to meet the needs of Braintree residents and local employees; and
- (3) To develop and maintain a satisfactory proportion of the Town's housing stock as affordable housing units, deed restricted per eligibility on the Subsidized Housing Inventory (SHI).

B. Applicability.

- (1) This section shall apply to all residential development that would result in a net increase of five (5) or more dwelling units on a parcel or contiguous parcels under common ownership or control except for one family or two family dwellings within a subdivision as defined in M.G.L. c. 41 §§81K-V.
- (2) Development shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land or buildings that cumulatively result in a net increase of five dwelling units above the number existing 36 months prior to an application to develop any parcel or set of contiguous parcels in common ownership or under common control, on or after the effective date of this section.

C. Basic Requirements.

- (1) Amount of Affordable Units. In any multi-family dwellings or other dwellings subject to this section, at least 15 percent of the dwelling units shall be affordable housing units as defined in §135-102 Definitions. Fractions shall be rounded up to the next whole number.
- (2) Selection Process. The selection of qualified purchasers or qualified renters shall be carried out under an affirmative fair housing marketing plan. The affirmative fair housing marketing plan shall comply with the Department of Housing and Community Development (DHDC) requirements in effect on the date the application was filed with the Town and be SHI eligible.
- (3) Comparability. Unless otherwise approved by the Planning Board, all affordable housing units shall be dispersed throughout the site and shall be indistinguishable from market-rate units. The number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate units in the development.
- (4) Building Permit and Occupancy Conditions.
 - (a) Building Permit Conditions. An agreement with the Town of Braintree, acknowledging understanding of and commitment to all of the occupancy conditions listed below in §135-616(C)(4)(b) shall be executed and delivered to

the DPCD prior to and as a condition of the issuance of any approval required to commence construction. The Building Inspector shall not issue a building permit with respect to any project or development subject to this article unless and until the DPCD has verified in writing to the Building Inspector that such agreement has been executed and delivered. Where a Special Permit or Site Plan Review is required, this agreement shall be entered into the record as a condition of approval.

- (b) Occupancy Conditions. No certificate of occupancy shall be issued for any market-rate units in a development subject to this section until all documents necessary to ensure compliance by the applicant (and any purchasers of the affordable housing units) with the requirements of this §135-616, Inclusionary Housing have been executed and recorded, including:
 - (i) The applicant has an approved Local Initiative Program Application for Local Action Units from DHCD;
 - (ii) Agreement with the Town of Braintree per §135-616(C)(4)(a) if a Special Permit or Site Plan Review is not required;
 - (iii) Agreement with a third-party Affordability Monitoring Agent (Monitoring Agent)

(5) Timing of Construction: Where feasible, affordable housing units may be provided coincident with the development of market-rate units, but in no event shall the development of affordable housing units be delayed beyond the following schedule:

Market rate units (%)	Affordable units (constructed)
Up to 30%	None required
30% up to 50%	At least 10%
50% up to 75%	At least 40%
75 up to 90%	At least 70%
By 90%	100%

Fractions of units shall not be counted.

D. Procedures and Decision Standards.

- (1) Submission requirements and procedures shall be in accordance with §135-503 Special Permits and § 135-502 Site Plan Review as applicable.
- (2) The applicant shall provide sufficient information for the Planning Board to be able to determine that the proposed project complies with this section and all other applicable requirements of this chapter.
- (3) When the Planning Board grants § 135-503 Special Permits and § 135-502 Site Plan Review as applicable, the following shall be conditions of approval:
 - (a) The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD in order for the units to be eligible for the Subsidized Housing Inventory.

- (b) The applicant will demonstrate compliance with the occupancy conditions of §135-616(C)(4)(b).

§135-102 Definitions

Affordable Housing Unit: A dwelling unit that is affordable to and occupied by an eligible household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Subsidized Housing Inventory (SHI). Affordable units shall remain as affordable units in perpetuity or for the maximum period allowed by law. Such units shall have the same construction methods and exterior physical characteristics as, and be intermingled with, other units in the development.

Table of Uses:

Amend to split multi-family and two family into 2 sections. Remove 2 family from HB/C and multi-family from Commercial.

****Remove “Apartment House” from Definitions & Table of Uses.****

031 21

(Councilor Mackin)

Municipal Oversight Committee

Objective:

Establishment of a 3-member committee to provide independent review of all Town of Braintree managed construction projects over \$50,000 in value.

Responsibilities/Function:

Ensure proper procedures are being followed.

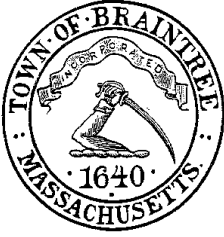
Ensure responsible spending of taxpayer money.

Establish a report detailing the failures of the Peterson Sports Complex project.

Monitor future projects to ensure these failures do not happen again.

Committee Makeup:

Each member will be a Town Councilor appointed by the Council president



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One JFK Memorial Drive
Braintree, Massachusetts 02184

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Julia Flaherty, Member
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Webinar ID: **834 9805 2465**

International numbers available: <https://us02web.zoom.us/j/83498052465>

Roll Call

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