

Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Chairman
Shannon Hume, Vice-Chair
Julia Flaherty, Member
Charles Ryan, Member

AGENDA

Wednesday, November 1, 2023

Starting Time – 7:00 p.m.

Remote via Zoom Webinar

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89241057158>

Or Telephone: Dial +1 312 626 6799 US

Webinar ID: **892 4105 7158**

International numbers available: <https://us02web.zoom.us/j/89241057158>

Roll Call

Approval of Minutes

- July 27, 2023
- August 23, 2023
- October 17, 2023

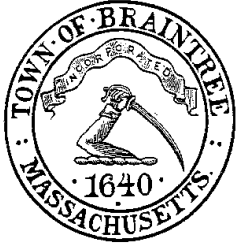
Old Business

- None

New Business

- 016 23 Councilor Maglio: Humane Pet Shop Ordinance (aka Puppy Mill Ban) or take up any action relative thereto

Adjournment



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Jr, Chairman
Shannon Hume, Vice- Chairman
Julia Flaherty, Member
Charles Ryan, Member

Wednesday, July 26, 2023 MINUTES

A meeting of the Committee on Ordinance & Rules was held Remote via Zoom Webinar on Wednesday, July 26, 2023, beginning at 5:00pm.

Chairman Ringius was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call to begin the meeting

Present: David Ringius, Jr, Chairman
Shannon Hume, Vice-Chairwoman
Julia Flaherty, Member
Charles Ryan, Member
Meredith Boericke, Council President

Also Present: Margaret Laforest, Chief of Staff
Melissa SantucciRozzi, Director of Planning & Community Development

David Ringius, Jr, Chairman of the Committee on Ordinance & Rules asked for a moment of silence for our first responders and all those serving home and abroad.

Approval of Minutes

- **February 1, 2023**

Motion made by Councilor Ryan to approve Minutes of February 1, 2023

Motion: by Councilor Ryan to approve Minutes of February 1, 2023

Second: by Councilor Flaherty

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

- **April 5, 2023**

Motion made by Councilor Ryan to approve Minutes of April 5, 2023.

Motion: by Councilor Ryan to approve Minutes of April 5, 2023

Second: by Councilor Flaherty

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

Old Business

- **None**

New Business

- **23 041 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-102 Definitions or take up any action related thereto**

Chairman Ringius asked if there is anyone from the Mayor's staff that would like to speak.

Director SantucciRozzi on behalf of the Planning Board who submitted some zoning text amendments on May 23, 2023 to the Town Council. What is in front of you is some definitions for some new uses we would like to create. We have the use table and how these uses would fall into the various zoning districts and also some parking requirements to go along with these uses as well.

Production Studio

A full-service enterprise offering the entire range of production and post-production services necessary to create a motion picture and all other forms of movie, television and streaming material, including costumes, props, cameras, sound recording, crafts, sets, lighting, special effects, dressing and bathing facilities and food service.

Brewery with Tap Room

An establishment that produces and packages alcoholic and non-alcoholic ales, beers, hard ciders, and/or other craft beverages to be purchased, served and consumed on-site and off-site. Retail and

wholesale sales of beverages for off-site consumption is permitted in keeping with the codes and regulations of the Town of Braintree and State of Massachusetts. Brewery Production Tours and Tastings are allowed to be served and consumed on site. Service of craft beverages must be in conjunction with and provide for the service of food (in house or mobile).

Brewery Production

An establishment that produces ales, beers, hard ciders, and/or other crafty beverages to be consumed off-site. Retail and wholesale sales of beverages for off-site consumption is permitted in keeping with the codes and regulations of the Town of Braintree and State of Massachusetts. On site service and consumption is allowed only for Brewery Production Tours and Tastings

Function/Conference Facility

An establishment that contains rooms and spaces both Indoor and Outdoor, which is available for rent or lease by the public for the holding of banquets, meetings, conferences, receptions, parties, or other similar events

Chairman Ringius asked if there were any committee members that would like to speak.

Councilor Ryan asked if the Planning Board voted in favor of this?

Director SantucciRozzi stated it was a favorable recommendation 3/1/0 with member Grove voting in opposition.

Councilor Hume asked if there are any particular businesses that these are being put forward to accommodate?

Director SantucciRozzi stated we started working on this about the time of the potential studio over at Banner Park. The brewery front we had an inquiry about a year and a half ago from a group of young individuals who wanted to do something on a more smaller scale in South Braintree Square and we didn't have the definition in place. We can't do light manufacturing there. We are trying to listen to the community. The owner of Alba is looking at the location at 589 Granite Street for potential function facilities as well.

Councilor Hume asked that a brewery will be allowed in the Landing?

Director SantucciRozzi stated yes with a special permit, understanding that smaller sites and smaller buildings we might need a bit more review.

Councilor Hume stated that is good because parking is already bad in that area.

Councilor Flaherty stated is the Widow Maker light manufacturing and not why they have food?

Director SantucciRozzi stated we were under the impression that the production would have tastings. They have a special permit and do the food trucks.

Councilor Flaherty stated I support this and think it is good to pair food with alcohol.

Chairman Reynolds stated during the budget we recognized we need to be open to new forms to bring revenue into town. These are all uses to bring revenue into town. Its been hard to find function facilities since some closed during COVID. For Function/Conference Facilities, I agree to have the parking needs be on a case by case basis.

Margaret Laforest stated the Mayor offers his support of these Definitions and updates of the Use Table. Braintree is well positioned to bring in some of these businesses. This is a great step forward.

Chairman Ringius asked if there is a motion for Order 23 041
 Motion made by Councilor Hume for favorable recommendation to the full Council Order 23 041.

MOTION: To amend Section 135-102 Definitions as submitted

Motion: by Councilor Hume for favorable recommendation to the full Council to approve Order 23 041

Second: by Councilor Ryan

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

• **23 042 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-601 Table of Principle Uses or take up any action related thereto**

Chairman Ringius asked if there is anyone from the Mayor’s staff that would like to speak.
 Director SantucciRozzi explained the Table of Principle Uses:

Amend Section 135-601 Table of Principle Uses (add the following new uses):

Use:	RA	RB	RC	C123	GB	HB	C	OSC	BWLD
Production Studio	NO	NO	NO	NO	NO	YES	YES	NO	NO
Brewery with Tap Room	NO	NO	NO	NO	SP	YES	YES	NO	SP
Brewery Production	NO	NO	NO	NO	NO	YES	YES	NO	NO
Function/Conference Facility	NO	NO	NO	NO	NO	SP	SP	NO	NO

Chairman Ringius asked if there were any committee members that would like to speak.

Chairman Ringius asked if there is a motion for Order 23 042
 Motion made by Councilor Hume for favorable recommendation to the full Council Order 23 042.

MOTION: To amend Section 135-601 Table of Uses as submitted

Motion: by Councilor Hume for favorable recommendation to the full Council to approve Order 23 042

Second: by Councilor Ryan

Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

• **23 043 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-806 Schedule of Off-Street Parking Requirement or take up any action related thereto**

Chairman Ringius asked if there is anyone from the Mayor’s staff that would like to speak. Director SantucciRozzi explained the Schedule of Off-Street Parking Requirements:

Amend Section 135-806 Schedule of Off-Street Parking Requirements (to add the following Parking Requirements)

Use:	Parking Requirement
Production Studio	1 Parking Space per 700 Sq. Ft.
Brewery with Tap Room	Production Area: 1 Parking Space per 1,000 Sq. Ft. Tap Room: 1 Parking Space per 3.5 Seats
Brewery Production	Production Area: 1 Parking Space per 1,000 Sq. Ft. Dedicated Tasting Area: 1 Parking Space per 500 Sq. Ft.
Function/Conference Facility	To be set by the Planning Board per 135-806B

Director SantucciRozzi stated the reason for the Function/Conference Facility parking requirements being set on a case-by-case basis is the days of your traditional function has progressed to all different kinds of functionality. Based on if a seated function, stadium style or lecture hall or more of a cocktail style.

Chairman Ringius asked if there were any committee members that would like to speak.

Chairman Ringius asked if there is a motion for Order 23 043

Motion made by Councilor Hume for favorable recommendation to the full Council Order 23 043.

MOTION: To amend Section 135-806 Schedule of Off-Street Parking Requirements as submitted.

Motion: by Councilor Hume for favorable recommendation to the full Council to approve Order 23 043

Second: by Councilor Ryan

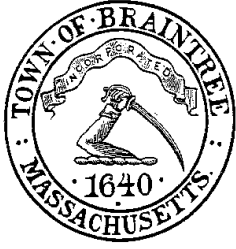
Roll Call Vote: For (4 – Flaherty, Hume, Ringius, Ryan), Against (0), Absent (0), Abstain (0)

It was unanimously voted by Roll Call to adjourn the meeting at 5:31 p.m.

Respectfully submitted,
Susan M. Cimino, Clerk of the Council

Documents provided for Meeting

- 23 041 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-102 Definitions or take up any action related thereto
- 23 042 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-601 Table of Principle Uses or take up any action related thereto
- 23 043 Braintree Planning Board: Proposed Zoning Bylaw Text Amendments Section 135-806 Schedule of Off-Street Parking Requirement or take up any action related thereto



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Jr, Chairman
Shannon Hume, Vice- Chairman
Julia Flaherty, Member
Charles Ryan, Member

Wednesday, August 23, 2023 MINUTES

A meeting of the Committee on Ordinance & Rules was held Remote via Zoom Webinar on Wednesday, August 23, 2023, beginning at 5:00pm.

Chairman Ringius was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call to begin the meeting

Present: David Ringius, Jr, Chairman
Shannon Hume, Vice-Chairwoman
Julia Flaherty, Member
Charles Ryan, Member

Also Present: Margaret Laforest, Chief of Staff
Marybeth McGrath, Director Municipal Licensing & Inspections
Kristina Ziniti, ADA Coordinator
Valerie Fletcher: Executive Director
Meghan Dufresne: Architectural Designer
David West: ADA Information Specialist and Accessibility Surveyor
Elizabeth Maglio, Councilor District 3
Commission on Disability members

David Ringius, Jr, Chairman of the Committee on Ordinance & Rules asked for a moment of silence for our first responders and all those serving home and abroad.

Approval of Minutes

- None

Old Business

- None

New Business

• 23 053 Mayor: Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan or take up any action relative thereto

Chairman Ringius stated you all have been sent the link to the 554 page Americans with Disabilities Act (ADA) Transition Plan. This meeting is to have the consultants answer any questions prior to making a recommendation to the full Council on September 5, 2023 – when we will be required to adopt this plan. The (consultants) representatives from the Institute for Human Centered Design who helped the Town of Braintree complete the ADA Transition Plan are:

- Valerie Fletcher: Executive Director vfletcher@ihcdesign.org
- Meghan Dufresne: Architectural Designer mdufresne@ihcdesign.org
- David West: ADA Information Specialist and Accessibility Surveyor dwest@ihcdesign.org

Here are the links:

[Town of Braintree Priority for ADA Transition Plan](#)

[Town of Braintree Priority ADA Transition Plan Spreadsheet](#)

Margaret Laforest, Chief of Staff explained Under Title II of the American with Disabilities Act (ADA), the Town of Braintree is required to complete a Self-Evaluation and Transition Plan. The self-evaluation reviews the town's public facilities, programs, services, activities and events to determine compliance with the ADA and identify any barriers to accessibility. The Transition Plan is a rolling fluid document that prioritizes the identified barriers and how they will be corrected.

The Town of Braintree received a planning grant from the Massachusetts Office on Disability (MOD) and contracted with the Institute for Human Centered Design (IHCD) to assist with the self-evaluation process. The draft transition plan was provided to the Commission on Disability, posted online and available in print at designated town buildings, between May 8 and June 22, 2023, while public commentary was being solicited. IHCD incorporated the public comments into the final transition plan. IHCD is available to provide the Town Council and Commission on Disability with a presentation of the Plan and Priority spreadsheet. A Public Hearing is required for this matter. Once the plan is adopted by the Town Council, the town will become eligible for project grant funding through MOD for up to \$250,000 to implement accessibility improvements. The Municipal Americans with Disabilities Act (ADA) Improvement Grant Program supports capital improvements specifically dedicated to improving programmatic access and/or removing barriers encountered by persons with disabilities in applicant facilities throughout the Commonwealth. The next FY24 grant cycle opens on August 1, 2023, and has a submission deadline of September 30, 2023.

Margaret Laforest, Chief of Staff stated after this presentation for the Council members to give their thoughts and input as far as priorities for your district and anything that's standing out to you.

Meghan Dufresne: Architectural Designer, from the Institute for Human Centered Design gave a PowerPoint presentation:

IHCD Scope of Work:

- ✓ Evaluation of Programs, Services and Activities – infrastructure of policies & procedures that support program access;
- ✓ Evaluation of Facilities; and
- ✓ ADA Self-Evaluation – comprehensive data about the current state of compliance that identifies both issues that need corrective action and gaps in policies and procedures.

Title II of the Americans with Disabilities Act requires that state and local government entities do not discriminate against people with disabilities in their **programs, services, and activities**.

State and local governments must take steps to examine their programs and develop a plan for compliance with the law.

Evaluation of Programs, Services and Activities:

The Part B report summarizes IHCD's findings of ADA Title II compliance. The information pertinent to the assessment was obtained from:

- ✓ An online ADA questionnaire developed by the Institute for Human Centered Design (IHCD) and submitted by eight (8) departments;
- ✓ The Commission on Disabilities;
- ✓ The Town website;
- ✓ Town employees.

Findings 1:

Designate a Responsible Employee:

- ✓ The Town has met its obligation to designate a responsible employee by appointing Kristina Ziniti as the Town's ADA Coordinator.

Grievance Procedure:

- ✓ The Town has a grievance procedure for members of the public.

Notice of ADA Requirements:

- ✓ From the responses submitted by staff it seems that the Town does not post the ADA Nondiscrimination Notices everywhere the public seeks information, including social media.

Findings 2:

Reasonable Modification of Policies, Practices, and Procedures:

- ✓ There is no evidence that the Town was unable to provide reasonable modification. However, with issues of access in older buildings, the Town should understand that a reasonable modification, (such as moving a meeting to an accessible location) may be requested.

Employment and Reasonable Accommodation:

- ✓ There is no evidence that the Town has failed to provide reasonable accommodations to its employees.

Effective Communications – Auxiliary Aids and Services:

- ✓ From the questionnaire responses received, and the Town's website, the Town has pledged a commitment to provide effective communication.

Strategies for Facilities:

3 strategies to ensure access to programs, services and activities:

- ✓ Relocation of programs, services and activities within the current facility;
- ✓ Relocation of programs, services and activities to another facility;
- ✓ Renovation of the facility to ensure access to programs, services and activities.

Self-Evaluation and Transition Plan Goals

- ✓ All the Town's programs, services and activities, when viewed in their entirety, are readily accessible to and usable by people with disabilities.
- ✓ Priority of ensuring "Program Access" with a goal of equal participation of people with disabilities.
- ✓ Implementation strategy integrated into Town planning and budgeting.
- ✓ All residents, regardless of ability feel that they know about and can participate in all that the Town has to offer.

Kristina Ziniti stated we are lucky to have got the MOD Grant in December 2021 to help complete the Transition Plan. This company (IHCP) is amazing. This is an exciting time. I'm hopeful this is going to move forward. Once this is adopted the next round is a project grant we can get up to \$250,000 for project grants.

Councilor Flaherty asked about implementation. This is very lengthy with projects all over town and each one is quite expensive to implement. Do you have guidance on how to prioritize things. Valerie Fletcher stated we work with our clients to prioritize. It is pretty inevitable that our first concern is to make sure that you address anything that constitutes a safety risk. For municipalities you have an obligation to make sure everyone has access to what you have to offer in terms of programs, activities and services. Those rise to the top over renovation of buildings.

Margaret Laforest stated after this it is my intention to have an internal meeting with DPW Facilities and our ADA Coordinator to review this. We have not as a team yet had that deep dive. This is decades of old infrastructure that we need to modernize. This is a significant process. This now is our roadmap. This is a multi-year, multi-project document.

Councilor Flaherty stated what I really want to know if that the town has a plan to implement this. Margaret Laforest stated we are looking to get a prioritized list working with the DPW Facilities team. Our next immediate step is to apply for the grant funding.

Councilor Ryan stated anything we can do in-house to save money would be great.

Councilor Hume stated this was a huge undertaking and in my opinion this is a huge success. Has any updates been made?

Margaret Laforest stated public feedback documents were posted and feedback ended in June 2023. We took that feedback and began to implement it right away.

Councilor Hume asked who will have the list and update what has been done and needs to be done.

Margaret Laforest stated the list will live with the ADA Coordinator but very much so the tasking and to do's will be with the Facilities team.

Chairman Ringius stated entering Braintree we post being a community of inclusion but I think going around Braintree there are some areas we lack in terms of playgrounds, curb cuts, our municipal buildings. I was happy to see there are some things we have done right and potential to grown on those. This committee is allowing this to move forward to the Council to hope to get some of these things checked off. I would like to see follow up and monitoring to see progress that has been made especially with the grants.

Crystal Evans, COD stated Mass DPH also has a small grant due October 2023 which would be targeting accessibility but there needs to be collaboration with the independent living center. There is a lot of funding if we take a step back and look at all the populations that depend on accessibility.

Margaret Laforest stated we welcome any feedback. Let's accept this plan and we can report to the council on progress and how we're going to get to that.

Mary Russo, COD asked which cemetery was looked at for ADA compliance?

Kristina Ziniti stated the one on Plain Street.

Elizabeth Maglio, Councilor asked about an emergency evacuation and planning. There was no deep dive on that in this report. How can we address those safety factors and how is this handled in other communities.

Ms. Fletcher stated the level of emergency planning is critical. The person most vulnerable are people with disabilities and older people. As far as the ADA Transition Plan the ADA doesn't address it all that specifically.

Chairman Ringius asked if there is a motion for Order 23 053

Motion made by Councilor Hume for favorable recommendation to the full Council Order 23 053.

MOTION: That in accordance with the provisions of Title II of the American with Disabilities Act (ADA), the Town of Braintree through the Braintree Town Council adopts the ADA Transition Plan as prepared by Institute for Human Centered Design.

Motion: by Councilor Hume for favorable recommendation to the full Council to approve Order 23 053

Second: by Councilor Ryan

Roll Call Vote: For (4 – Flaherty, Hume Ringius, Ryan), Against (0), Absent (0), Abstain (0)

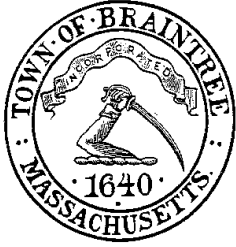
It was unanimously voted by Roll Call to adjourn the meeting at 6:05 p.m.

Respectfully submitted,

Susan M. Cimino, Clerk of the Council

Documents provided for Meeting

- 23 053 Mayor: Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan or take up any action relative thereto



Braintree Town Council Committee on Ordinance & Rules

One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS

David Ringius, Jr, Chairman
Shannon Hume, Vice- Chairman
Julia Flaherty, Member
Charles Ryan, Member

Tuesday, October 17, 2023 MINUTES

A meeting of the Committee on Ordinance & Rules was held in Johnson Chambers on Tuesday, October 17, 2023, beginning at 6:45pm.

Chairwoman Hume was in the Chair.

Clerk of the Council, Susan Cimino conducted the roll call to begin the meeting

Present: Shannon Hume, Vice-Chairwoman
Julia Flaherty, Member
Charles Ryan, Member

Not Present: David Ringius, Jr, Chairman

Also Present: Meredith Boericke, Council President (ex-officio)
Melissa SantucciRozz, Director Planning & Community Development

Shannon Hume, Vice-Chairwoman of the Committee on Ordinance & Rules asked for a moment of silence for our first responders and all those serving home and abroad.

Approval of Minutes

• June 6, 2023

Motion: by Councilor Flaherty to approve Minutes of June 6, 2023

Second: by Councilor Ryan

Roll Call Vote: For (3 – Flaherty, Hume, Ryan), Against (0), Absent (1- Ringius), Abstain (0)

• June 20, 2023

Motion: by Councilor Flaherty to approve Minutes of June 20, 2023

Second: by Councilor Ryan

Roll Call Vote: For (3 – Flaherty, Hume, Ryan), Against (0), Absent (1- Ringius), Abstain (0)

Old Business

- None

New Business

- **23 051 Town Council: Zoning Ordinance Text Amendments related to “Tree Protection”, Amend Section 135-702 Landscape and Buffer Zones, Amend Section 135-711(C)(3)(h) or take up any action relative thereto**

Meredith Boericke, Council President stated thank you to Director SantucciRozzi for all your assistance. On July 18, 2023 the Braintree Town Council voted unanimously to sponsor a proposed Zoning Ordinance Amendment pertaining to tree protection in the Town of Braintree.

This is the third and final component of the Tree Protection Ordinance (General Ordinance Chapter 12.30).

Part one, Order 22 037, applied to public trees on the public way, and was passed unanimously by the Council on April 25, 2023.

Part two, Order 23 029, created a revolving fund to eventually fund replacement trees, and was passed unanimously by the Council on June 6, 2023.

This proposed zoning amendment is part three, and pertains to developers/new developments.

This was given a unanimous recommendation from the Planning Board. Now it is set to come before you this evening.

Councilor Ryan asked about resident Carl Johnson’s proposed amendment from letter/email dated 10/3/23:

Mr. Johnson states: *I suggest the following amendment to the wording of Section 135-702 Landscaping, Tree Protection and Buffer Zones, A. Landscaping (3)(b) [4] in the third sentence to read:*

"All trees removed or proposed to be removed as part of a development shall be replanted within 18 months at a 1.1 ratio."

The proposed text change reorganizes the sentence to clarify that the 18 months does not relate to prior term of removal of trees rather the time allocated to replant.

Crystal Huff, Town Solicitor responded to Mr. Johnson’s proposal in an email dated 10/3/23:

Proposed Section 135-702 A(3)(b)[4] states in relevant part that:

"All trees removed within 18 months or proposed to be removed as part of a development shall be replanted on the property at a 1:1 ratio."

This section is intended to capture the situation where the property is cleared or trees are removed prior to applying for site plan review, and accordingly implements an 18 month look back period.

I’ve reviewed Attorney Johnson’s proposed amendment, and it alters the meaning of the sentence to create an 18 month window to replant trees.

Director SantucciRozzi, I do not propose that we accept that amendment. We want to make sure there is an understanding that anything done prematurely in advance of permitting is properly captured. Councilor Ryan states so staff recommendation is to not accept that proposal from Mr. Johnson. Meredith Boericke, Council President stated yes. I did speak with Mr. Johnson and residents are allowed to weigh in. This 18 month planting is in the General Ordinance but we do want to make sure to capture if some did prematurely clear land they would need to replant trees.

Director SantucciRozzi stated we already do this at the Planning Board and with my staff but this is great to back up some practices we already have.

Chairman Hume asked if there is a motion for Order23 051.

Motion read by Councilor Ryan for favorable recommendation to the full Council:

MOTION: to approve Order 23 051 as submitted with Planning Board Recommendations.

Motion: by Councilor Ryan for favorable recommendation to the full Council to approve Order 23 051

Second: by Councilor Flaherty

Roll Call Vote: For (3 – Flaherty, Hume, Ryan), Against (0), Absent (1-Ringius), Abstain (0)

It was unanimously voted by Roll Call to adjourn the meeting at 7:03 p.m.

Respectfully submitted,
Susan M. Cimino, Clerk of the Council

Documents provided for Meeting

- 23 051 Town Council: Zoning Ordinance Text Amendments related to “Tree Protection”, Amend Section 135-702 Landscape and Buffer Zones, Amend Section 135-711(C)(3)(h) or take up any action relative thereto

That the Town of Braintree amends our code by adding the Humane Pet Store Ordinance

A. Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

Animal Rescue Organization: *an organization: (i) whose mission and practice is the placement of abandoned, unwanted, neglected or abused animals; (ii) that does not obtain dogs or cats from a breeder or broker for payment or compensation; and (iii) that is an organization exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code or corresponding sections of that code.*

Please note: The term “animal rescue organization” does not include any person or entity that (1) breeds animals; (2) is located on the same premises as a person that breeds animals; (3) obtains, in exchange for payment or compensation, animals from a person that breeds animals; or (4) facilitates the sale of animals that were obtained, in exchange for payment or compensation, from a person that breeds animals.

Cat: *means any member of the species Felis catus.*

Dog: *means any member of the species Canis familiaris.*

Offer for Sale: *means to advertise or otherwise proffer a dog, cat, or rabbit for acceptance by another person or entity.*

Person: *means an individual, corporation, partnership, association, or any other entity.*

Pet Shop: *means a retail establishment where animals are sold or offered for sale as pets that is required to be licensed pursuant to M.G.L. c. 129 § 39A and 330 CMR 12.00. A person who only sells or otherwise transfers the offspring of animals the person has bred on their residential premises shall not be considered a “pet shop” for purposes of this section.*

Public Animal Control Agency or Shelter: *means a facility operated by a governmental entity, for the purpose of impounding seized, stray, homeless, abandoned, unwanted, or surrendered animals, or a facility operated for the same purposes under a written contract with a governmental entity.*

Rabbit: *means any member of the species Oryctolagus cuniculus domesticus.*

Sell: *means to exchange for consideration, adopt out, barter, auction, trade, lease, or otherwise transfer animals.*

B. Sale of Dogs, Cats, or Rabbits by Pet Shops Prohibited

(1) It shall be unlawful for a pet shop to sell or offer for sale a dog, cat, or rabbit.

(2) A pet shop may provide space for the display of dogs, cats, or rabbits available for adoption by a public animal control agency or shelter or an animal rescue organization so long as:

(i) the pet shop receives no part of any fees associated with the display or adoption of the animals and has no ownership interest in any of the animals displayed or made available for adoption; and

(ii) the pet shop maintains no ownership interest in any of the animals displayed or made available for adoption; and

(iii) the pet shop maintains records sufficient to document the source of each dog, cat, or rabbit the pet shop displays, for at least one year following the date of display. Such records shall be made available, immediately upon request, to any animal control officer or any duly appointed officer or representative of the Town.

C. Enforcement and Severability

(1) Any pet shop that makes a sale or offer for sale of a dog, cat, or rabbit in violation of subsection B(1) shall be fined \$300. Each unlawful sale or offer for sale shall constitute a separate violation.

(2) Any pet shop that makes a provision of space knowingly and in violation of subsection B(2) shall be fined \$300. Each unlawful provision of space shall constitute a separate violation.

(3) In addition to any other remedy provided by law, this Chapter may be enforced by police officers and animal control officers through any means available in law or equity, including but not limited to noncriminal disposition in accordance with G.L. c. 40, § 21D.

The invalidity of any section or provision of this bylaw does not invalidate any other section or provision of it.

D. Effective Date

The provisions of these sections shall be effective upon satisfaction of the requirements for Attorney General approval and for posting or publication provided in M.G.L. c. 40 § 32.

Thank you,

EM

Elizabeth Maglio

Town Councilor

District 3, Braintree

- Community Planning, Chair
- Parks & Recreation, Vice Chair
- Public Safety, Vice Chair
- Ways & Means, Member

emaglio@braintreema.gov



TOWN OF BRAINTREE
OFFICE OF THE TOWN SOLICITOR
One JFK Memorial Drive
Braintree, Massachusetts 02184
Tel: 781-794-8153 Fax: 781-794-8305

Charles C. Kokoros
Mayor

Crystal Huff
Town Solicitor

To: Meredith Boericke, President of the Council
Susan Cimino, Clerk of the Council

Through: Margaret Laforest, Chief of Staff and Director of Operations

From: Crystal Huff Esq., Town Solicitor

CC: Elizabeth Maglio, Town Councilor District 3

Date: August 10, 2023

Re: Proposed Humane Pet Store Ordinance

President Boericke,

As requested, I have conducted legal review of proposed Ordinance “Humane Pet Store.” The proposed ordinance would prohibit the sale of dogs, cats or rabbits within the Town. It further sets forth penalties for violation thereof. Upon careful and thorough review, it is my legal opinion that the proposed ordinance, with the inclusion of some minor revisions as set forth below, is legally acceptable.

Pet stores are regulated pursuant to G.L. c. 129 §39A “Pet shops; licensing operation; animal health inspections” and 330 CMR 12 “Licensing and Operation of Pet Shops,” which jointly set forth the relevant state-wide standards and requirements for pet stores. On the local level, the Braintree General Ordinances do not currently regulate pet stores.¹ The proposed Humane Pet Store ordinance does not conflict with the state law or regulations, and is within the Town’s authority to enact. Furthermore, several other Massachusetts communities have adopted substantially similar local by-laws or ordinances including Boston, Springfield, North Andover, North Adams, Lexington, Lenox and Attleboro.

¹ The General Ordinances have several unrelated provisions related to dogs and other domestic animals, see generally Chapter 6.100; see also Zoning Ordinance §135-102 definitions for Animal Retail and Animal Grooming Service “Any commercial establishment engaged in the business of operating a pet shop as defined by M.G.L. c. 129 s. 39A and the supporting regulations and/or has retail operations that specialize in food, grooming products, toys, and other such merchandise for household pets or other domesticated animals and/or that is engaged in the washing, brushing, trimming of fur or nails, or other such cosmetic and spa services for domestic pets. Such establishments may not perform medical services or allow Animal Boarding (day or overnight).”

The proposed ordinance will only affect one currently existing Braintree business: Pet Express. As such, I recommend that the Town Council amend section D "Effective Date" and either 1) adopt language that the ordinance shall apply prospectively, thereby exempting currently existing businesses; or 2) adopt language that the ordinance shall apply to existing businesses at a later date i.e. 1/1/2025, thereby allowing the sale of animals to be phased out, or 3) if the intent that it is to be effective upon passage in the ordinary course (and consequently prohibit sale of dogs, cats and rabbits as of that date), then section D should be removed as it is unnecessary (and Attorney General approval is not required for cities).

Please let me know if there are any further questions on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Crystal Huff". The signature is fluid and cursive, with a large loop at the end.

Crystal Huff, Esq.