



Braintree Town Council

ORDER NO: 18 017

DATE FILED: FEBRUARY 27, 2018

REQUEST OF: MAYOR

**UPON THE REQUEST OF HIS HONOR, THE MAYOR, THE TOWN OF BRAINTREE, THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:**

That the Town Council vote to amend the Town's General Ordinances, Chapter 5.400 "Amusement Games," to read as follows:

## Chapter 5.400 Amusement Games

**[HISTORY: Adopted by the Town Council of the Town of Braintree 6-15-2010 by Ord. No. 10-012 (former Ch. 5.12 of the Town Bylaws, which derived from prior Code Ch. 56). Amendments noted where applicable.]**

### **5.400.010 Definitions.**

As defined in this chapter the following terms shall have the meanings indicated:

#### **AMUSEMENT DEVICE ROOM**

A building or place containing five or more amusement games, as defined herein.

#### **AMUSEMENT GAME**

Defined in MGL c. 140, § 177A, as "automatic amusement device," is defined as "any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines." As used in this chapter, "amusement game" shall not include keno, beano, bingo, or other like games of chance with cash rewards or prizes, or any game established or licensed by the Massachusetts State Lottery Commission. This definition does not include a jukebox, rides, bowling alleys, or any device maintained within a residence for the use of the occupants thereof and their guests.



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**OWNER**

A record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

**PERSON**

One or more individuals, a corporation, partnership, association, trust or firm and any trustee, receiver or assignee.

**TOWN**

The Town of Braintree.

**5.400.020 License required; application.**

- A. No person shall maintain or operate an amusement device without first obtaining a license from the Board of License Commissioners.
  - B. No person shall maintain or operate an amusement device room as the exclusive use of any premises in the Town. However, an amusement device room may be allowed as an accessory use to a restaurant or commercial recreation facility, as those terms are defined by the Town's Zoning Ordinances, subject to a permit(s) issued by the Board of License Commissioners, and provided the amusement device room shall occupy no more than 49% of the total square footage of the licensed restaurant or no more than 10% of the total square footage of the licensed commercial recreation facility which is open to the public. For the purposes of this chapter, the total square footage of the licensed establishment shall not include the kitchen, employee rooms, utility closets, storage areas, loading docks, or any other area which is not open to the public.
  - C. License fee per amusement device is \$100 per year.
  - D. Any application for a license will be acted upon after a hearing before the Board of License Commissioners (the "Board"). The Board will establish a time and location for such hearing and will notify the applicant of same.
- (1) Notice of the hearing shall be advertised in a newspaper in general circulation in the Town at least seven days before the date set for the hearing.

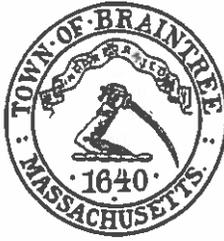


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- (2) The applicant shall provide notice by certified mail to all owners of property directly abutting the proposed premises for which the license is sought or directly opposite said premises on any public or private street, as such owners appear on the most recent tax list, as certified by the Board of Assessors.
- E. The Board will consider the granting of a license based on the merits of each application.
- F. A plan shall be filed with the application, designating the street and number, entrance and exits, the type of establishment and the exact location and number of the amusement device(s) to be licensed.
- G. When acting upon an application to operate an amusement device room, the Board of License Commissioners shall consider the following factors:
  - (1) The overall type of business conducted on site;
  - (2) Whether alcohol is to be served on the premises, and if alcohol is to be served on the premises, alcohol shall only be sold or served from fixed locations within the establishment and shall not be served in the amusement device room;
  - (3) The layout of the establishment and amusement device room and whether the amusement device room is separated from the rest of the establishment;
  - (4) The means by which the applicant proposes to restrict minors under the age of 18 on the site, unless the parent or guardian of such minor provides written consent, and/or as required by MGL c. 140, § 179;
  - (5) The reputation and character of the applicant and general manager; and
  - (6) The presence and use of public safety details as an integral part of the establishment's business plan.



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**5.400.030 Operation of amusement devices.**

- A. The owner of any amusement device within the Town shall comply with all provisions of law, ordinances, rules or regulations applicable thereto and relating to the conduct of the business in connection with which the game is used and the use and maintenance of the premises where it is located.
- B. The owner of the amusement device shall maintain good order on the premises at all times. The lack of good order on the premises shall include but not be limited to the following:
  - (1) Fighting and rowdy behavior;
  - (2) Possession or consumption of alcoholic beverages, except upon premises licensed for on-premises consumption thereof;
  - (3) Gambling;
  - (4) Permitting the use of marijuana or any controlled substance.
- C. The owner of an amusement device shall not permit it to be played or operated after 10:00 p.m. by a person under the age of 16 unless accompanied by and under the supervision of a parent or other guardian over the age of 21.
- D. The owner of an amusement device shall not allow it to be available for use or used unless it is under the control of and supervised by a person at least 18 years of age, who shall ensure that it is operated in compliance with this chapter.
- E. A person under the age of 16, unless accompanied by and under the supervision of a parent or other guardian over the age of 21, is not permitted to operate amusement devices during normal school hours (as established by the School Committee or appropriate authority) on weekdays only exclusive of holidays.
- F. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement device, and no such game shall be permitted.

**5.400.040 Inspection of premises.**

Any premises in the Town containing an amusement device or devices, when open for the transaction of business, shall be subject to inspection by any police officer.



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**5.400.050 Violations and penalties.**

- A. Any person who violates any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$300.
- B. Each day that a violation exists, occurs or continues shall constitute a separate offense.

YEAS: Bowes, Carey, Hume, Kokoros, O'Brien, Powers, Ringius, Ryan, Whalen

NAYS: NONE

ABSENT: NONE

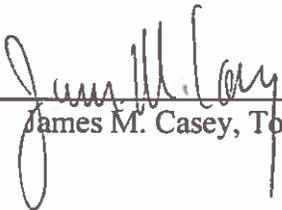
PASSED IN COUNCIL: MARCH 20, 2018

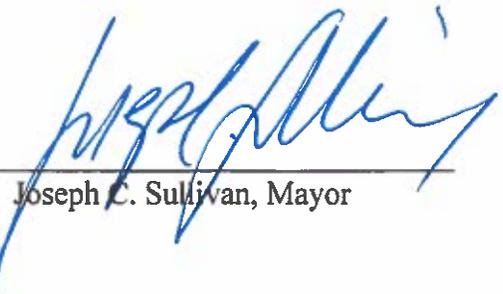
PRESENTED TO MAYOR: MARCH 27, 2018

A True Record, Attest:

3/27/18

Date Approved

  
James M. Casey, Town Clerk

  
Joseph C. Sullivan, Mayor