1.  6:00 P.M.  Committee On Ordinance & Rules

   Documents:

   19 OCTOBER 3 ORDINANCE AND RULES AGENDA.PDF

1.I.  6:00 PM  Committee On Ordinance & Rules

   Documents:

   19 OCT 3 OR MTG.PDF
AGENDA
Thursday, OCTOBER 3, 2019

Starting Time – 6:00 p.m.

Cahill Auditorium, Town Hall

Pledge of Allegiance

Moment of Silence

Roll Call

Approval of Minutes
  • July 22, 2019

New Business
  • 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto

Old Business
  • None

Adjournment
Braintree Town Council
Committee on Ordinance & Rules
One JFK Memorial Drive
Braintree, Massachusetts 02184

MEMBERS
Sean Powers, Chairman
David Ringius, Vice-Chairman
Charles Kokoros, Member
Timothy Carey, Member

AGENDA
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Starting Time – 6:00 p.m.
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  • 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto

Old Business
  • None

Adjournment
July 22, 2019
MINUTES

A meeting of the Committee on Ordinance & Rules was held in the Cahill Auditorium on Monday, July 22, 2019 beginning at 7:14pm.

Chairman Powers was in the Chair.
Clerk of the Council, Susan Cimino conducted the roll call.

Present: Sean Powers, Chairman
David Ringius, Jr, Vice-Chairman
Charles Kokoros, Member
Timothy Carey, Member

Also Present: Christine Stickney, Director Planning & Community Development
Melissa Santucci-Rozzi, Assistant Director Planning & Community Development
Residents including:
Jill Coyle
Linda Raiss
Susanne Hamilton
Janet Daylor
Tim Burke
Lee Castignetti
Steve Scaccia

There was a moment of silence for all those serving in our armed services, past and present, and the meeting was opened with the pledge of allegiance to the flag.

Approval of Minutes
• May 21, 2019
  Motion: by Councilor Kokoros to approve minutes of May 21, 2019
  Second: by Councilor Ringius
  Vote: For (4 – Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)
New Business
• 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto

MOTION by Councilor Kokoros to TAKE off the TABLE Order 19 011
  Motion: by Councilor Kokoros to TAKE off the TABLE Order 19 011
  Second: by Councilor Ringius
  Vote: For (4 - Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

Councilor Powers, Chairman of the Committee on Ordinance & Rules stated they will begin at Section 6.1 Inclusionary Housing and include 6.5 Flexible Development.

Councilor Powers read along with the “Readers Guide” (italics below). The Chairman will ask if there are any questions from members and residents as we go along and each Section is explained.

§ 6.1 Inclusionary housing
New
• Applies to any residential or mixed-use development requiring a special permit and resulting in a net increase of 10 or more dwelling units.
• 10-15% of any dwellings will be affordable, rounded up to the nearest whole number.
• Developers will not be allowed to make a payment in lieu of building affordable dwellings. Units may be built on site or elsewhere in Braintree.

§ 6.5 Smart Growth Overlay District
New
• The purpose of this Section is to encourage smart growth in accordance with the purposes of M.G.L. Chapter 40R and its regulations, 760 CMR 59.00, and to foster housing opportunities proximate to public transportation and to restaurants, shopping and services in downtown Braintree, while allowing for redevelopment of underutilized sites or buildings that are easily accessible to public transportation and maximize pedestrian connections.
DRAFT PROPOSED ZONING ORDINANCE---

Sec. 6. Special Use Regulations

§ 6.1 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 (see § 9, Definitions, Affordable Housing);
(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 any multi-family dwellings or dwellings in a mixed-use development (see § 9, Definitions, Mixed-Use Development) or a Flexible Development (see § 9, Definitions, Flexible Development), as listed in Table 1 (Part 1) Table of Principal Uses and defined in this ordinance, that would result in a net increase of six (6) or more dwelling units on a parcel or contiguous parcels under common ownership or control, except as provided below.
(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 six 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 dwellings in a mixed-use development subject to this section, at least 15 percent of the dwelling units shall be affordable housing as defined in § 9 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 submitted by the applicant and approved by the Town’s Department of Planning and Community Development (DPCD). The affirmative fair housing marketing plan shall comply with the State Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines in effect on the date the application was filed with the Town.
(3) Methods of Providing Affordable Units. The applicant shall provide the required number of affordable units under this section through one or more of the following means.
(a) On-Site Units. Construction of affordable units on the site of the project ("on-site units") is the preferred approach to creating affordable housing and shall be required for any development that includes 20 or more dwelling units or any rental development regardless of size.

(b) “Off-Site Units,” or Comparable Affordable Units on Another Site in Braintree. Off-site affordable units may be allowed for developments with fewer than twenty (20) proposed ownership units (rental units are not allowed off-site), per all of the other requirements of this § 6.1 as well as the following:

(i) Off-site affordable units need not be located in the same district as the development.
(ii) The approved location of any off-site affordable housing units shall be identified in the Town’s decision.
(iii) Preservation of existing dwelling units for affordable housing may be accomplished by a developer purchasing deed restrictions and making capital improvements to create housing in compliance with all building and health codes and with equal or greater value as new-construction units.
(iv) Where off-site affordable units are proposed, the newly preserved/developed affordable housing shall be integrated with market rate units. Preserved or newly developed affordable housing shall not constitute more than 30% of any multifamily development. The applicant may propose to exceed this threshold where doing so is advantageous to a group specifically targeted for the homes based on documented needs and professional best practices.

(4) Comparability. Unless otherwise approved by the Planning Board, all on-site affordable housing units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in interior finish, fixtures, and appliances. For both on-site and off-site units that are a part of any development proposal, the number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate units in the development.

(5) 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 § 6.1-C.5.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 is required, this agreement may 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 § 6.1, Inclusionary Housing have been executed and recorded, including:

(i) The applicant records an affordable housing deed restriction in a form approved by the Planning Board and provides evidence acceptable to the DPCD that the restriction has been approved by DHCD and recorded with the Norfolk County Registry of Deeds.
(ii) A deed rider in a form approved by the Planning Board has been properly executed and has been or will be recorded with the Norfolk County Registry of Deeds.

(iii) Agreement with the Town of Braintree per § 6.1-C.5.a

(iv) Agreement with a third-party Affordability Monitoring Agent (Monitoring Agent)

(v) Affirmative Fair Housing Marketing Plan

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

<table>
<thead>
<tr>
<th>Market rate units (%)</th>
<th>Affordable units (constructed) Up to 30%</th>
<th>None required</th>
</tr>
</thead>
<tbody>
<tr>
<td>30% up to 50%</td>
<td>At least 10%</td>
<td></td>
</tr>
<tr>
<td>50% up to 75%</td>
<td>At least 40%</td>
<td></td>
</tr>
<tr>
<td>75 up to 90%</td>
<td>At least 70% By 90%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Fractions of units shall not be counted.

D. Procedures and Decision Standards.

(1) Submission requirements and procedures shall be in accordance with § 3.9 Special Permits and § 3.10 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 § 3.9 Special Permits and § 3.10 Site Plan Review as applicable Special Permit, 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 § 6.1-C.5.b.

§ 6.5 Flexible Development

A. Purpose. The purposes of this section are to:

(1) Promote more sensitive siting of residences and better overall site planning for a smaller-scale single family detached housing development. Preferred housing types include cottages, bungalows, and smaller expressions of other traditional New England forms.
(2) Encourage development patterns that avoid impacts to sensitive resources or other on-site assets.
(3) Offer an optional alternative to standard subdivision development.
(4) Promote the development of housing appropriate for persons and households of a variety of sizes, ages, and living arrangements.
(5) Encourage development patterns that create a sense of connection and community between households in the neighborhood.
(6) Promote the development of housing that is affordable for low, moderate, and median income families.
(7) Preserve Braintree’s historical and archeological resources and natural environment, including varied landscapes and water resources.
(8) Facilitate the construction and maintenance of driveways/accessways, utilities, and public services in a more economical and efficient manner.

B. Applicability. This section may be applied in the Residence A, Residence B, and Residence C Districts to any residential development with three or more housing units where the applicant seeks to develop a site under more flexible standards than those associated with a conventional subdivision. Upon the issuance of a Special Permit by the Planning Board, and in accordance with the following provisions, a Flexible Development project may be created from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of Braintree.

C. Basic Maximum Number of Dwelling Units. The basic maximum number of dwelling units allowed in a Flexible Development shall not exceed the number of lots allowed in the zoning district in which the property is located (i.e. conventional subdivision). No variances shall be issued to exceed this number. This number shall be determined through the following calculation:

\[ Y = \frac{SA \times 0.85}{LS} \]

Where
- \( Y \) – Property yield expressed as a number of lots
- \( SA \) – Site area (excluding all wetlands (MGL131 Chapter 40), floodways, and water bodies)
- 0.85 – This represents a reasonable factor for infrastructure that would take away land available for actual house lots. It is reasonable to assume that the development of a new road with stormwater infrastructure would occupy fifteen percent (15%) of the site area.
- \( LS \) – Minimum lot size for the zoning district

D. Design Approach. Because Flexible Development places multiple homes on a single lot, the dimensional standards applicable to single family residential development in Table 5.8 Table of Density and Dimensional Regulations do not apply. The following design approach and standards apply and are considered integral to the success of a Flexible Development application.

(1) Compact Design.

(a) The overarching design principle for flexible development is to create compact clusters of single-family homes in a layout that fosters connections between neighbors due to the close
proximity of the homes to one another, the potential for shared space, and physical connections with walking paths and similar features.

(b) All such single-family homes shall be situated on a single shared lot with at least 50 feet of lot frontage. Access shall be provided by a shared private accessway or driveway. Approval of a flexible development proposal shall not require review under the Subdivision Rules and Regulations.

(c) At no point shall such single-family homes be closer to each other than ten (10) feet measured at their closest point.

(d) Individual single-family homes shall be set back from the primary access private way or driveway by no more than thirty (30) feet.

(e) Where individual single-family homes are situated back-to-back with abutting rear yards, the homes shall be no closer to each other than 40 feet measured at their closest point.

(2) Open Space Amenities. The land that is not used to provide direct outdoor amenities to individual homes (i.e., yards, driveways, etc.) may be used in a variety of ways as described herein so long as it would provide direct benefit to the residents of the flexible development. This land shall be designated with an easement and shown on the proposed development plan. Where necessary, landscape features such as stone walls, boulders, decorative fencing, or other ornamental landscape features shall be used to alert residents and visitors as to where the line between land dedicated to individual homes and designated open space lies.

(a) Open space can include sensitive environmental resources (e.g., wetlands, stream buffers, etc.), unique features (e.g., specimen trees, stone walls, etc.), and areas difficult to develop (e.g., high groundwater, ledge, etc.).

(b) Open space can include developed areas for community gardens, passive and active recreation, and neighborhood gathering areas.

(c) Where open space is set aside for conservation purposes, an easement shall be provided limiting the development of that land for as long as the development exists.

(3) Open Space Ownership and Maintenance. The open space and such other facilities as may be held in common shall be conveyed to one of the following with notification to the SPGA:

(a) To a corporation or trust comprising a homeowners' association whose membership includes the owners of units contained in the tract.

(i) The developer shall include in the deed to owners of units beneficial rights in said open land. The developer shall grant a conservation restriction to the Town of Braintree over such land pursuant to MGL c. 184, §§ 3' to 33, to ensure that such land be kept in an open or natural state. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by MGL c. 184, § 33.

(ii) In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homeowners' association assumes said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall record at the Norfolk County Registry of Deeds a declaration of covenants and restrictions which shall provide for the following: mandatory membership in an
established homeowners' association as a requirement of ownership of any lot or unit in the tract and provisions for maintenance assessments of all lots or units in order to ensure that the open land is maintained in a condition suitable for the approved uses.

(b) To a nonprofit organization, the principal purpose of which is the conservation of said open space. The developer or charity shall grant a conservation restriction as set out in (a) above.

(c) To the Conservation Commission of the Town for open space use. Said conveyance shall be subject to the approval of the Town Council, with a trust clause ensuring that it be maintained as open space.

(3) Housing Choice. Homes proposed for flexible development should be chosen for their ability to provide options that are not easy to find in Braintree. These could include, but are not limited to:

(a) Units for condominium ownership.

(b) Small homes such as bungalows or cottages that may have footprints no smaller than 900 square feet and no larger than 1,200 square feet.

(c) Homes designed for individuals with disabilities or seniors that have mobility challenges, with enhanced features related to mobility and visitability.

(d) Housing that is expected to be affordable to households that earn less than 100% of the Area Median Income.

(4) Housing Variety and Design.

(a) The style and finish of housing in a flexible development shall not be homogenous. An applicant may propose a single housing type (e.g. cottages or bungalows), but the single-family homes must have distinguishing features in terms of building form, color, and architectural details (e.g. trim, fenestration, dormers, etc.).

(b) The architecture of all buildings shall be residential in character, particularly providing gabled roofs, predominately wood siding, an articulated footprint, and varied façades.

(c) Front porches or other features that draw people into contact with their neighbors are highly encouraged.

(5) Parking. Parking may be provided for each individual housing unit or some combination of individual and shared spaces. No dedicated parking spaces shall be provided between the front façade of any home and the primary travel way.

DISCUSSION:

Councilor Powers stated we will begin with 6.1 Inclusionary housing which is new. Melissa Santucci-Rozzi stated we drafted in our inclusionary by-law is the option for on-site units or off-site units. We are not proposing any type of allowances for land donations or cash contributions. There has been talk about an affordable housing trust which functions off cash contributions from an inclusionary by-law. We did not include it but it does not mean it can’t be included. The first section is the Purpose that is to try to provide for additional affordable units. The AMI (area median income) is anything under 80% is the percent for affordable housing for people to apply.

Councilor Powers asked how do we ensure the affordable housing being built go to Braintree residents?

Melissa Santucci-Rozzi stated you need to demonstrate to DHCD you have a need in order to get a local preference. They allow up to 70% of the units.

Councilor Powers stated it is more palpable to know units will go to as many Braintree residents as possible. It’s good to see lifelong Braintree kids are able to get “starter homes” in Braintree. It is also for folks at the end of their careers that still meet the criteria of the (AMI) that want to stay in Braintree.

Councilor Powers asked can we come up with a formula for multi-family development to include a minimum contribution. Maybe have a conversation about 3 and above. Maybe at 4 and 5 there is a minimum contribution and at 6 the 15% kicks in.

Councilor Powers said this is a state law and if the Town of Braintree doesn’t meet its threshold for affordability that is when developers can come in and propose denser and more units under the state’s law which gives the town less control under local zoning laws and that is why this ordinance is extremely important for us to manage and plan our affordable housing units so it works for us and not the developers.

Melissa Santucci-Rozzi stated you are essentially saying this applies to any development. Typically the formula calculations for contributions in lieu of units is essentially the difference between the market rate unit and the affordable unit.

Councilor Kokoros stated I feel this should apply to 4 units and up instead of 6 and up. This puts us in the driver’s seat in regards to this type of development.

Councilor Powers stated we should have a scaled payout for developments of units with 4 and 5. Melissa Santucci-Rozzi stated we can look at options for payouts.

Councilor Kokoros stated I feel there shouldn’t be any off-site affordable units allowed for the developer. The project should be approved or disapproved in its entirety.

Councilor Powers stated this might be something the resident Zoning Working Group could look more into.

Councilor Powers asked if there were any questions from residents on section 6.1. Susanne Hamilton, Storrs Ave/ZWG Chairperson agreed with the Councilors on the number of affordable units. It thinks this is where we need to look into an affordable trust for the town so we can use those funds in off-site units in other areas. In larger developments of 6 or greater where it is
15% I have seen other communities have even increased the number of affordability. With larger developments we could look into in lieu fee to fill the gap that way. Rental for on-site units is important because once we get to 25% we can include all those units towards our number. For off-site affordable units we would like to consider it for senior housing. Melissa Santucci-Rozzi stated I have concerns giving flexibility to certain populations and not to others.

Councilor Powers asked which communities increase their percentage. Susanne Hamilton, Storrs Ave/ZWG Chairperson stated Medway updated in 2018 over 21 units they go to 20% but do start lower with 6-12 units is 10%, 13-17 is 12% so they definitely tier it. Medfield is 6-20 15%, 21-49 at 20% greater than 50 they go upwards of 25%. Melissa Santucci-Rozzi questioned if these bylaws produce affordable units. I do get concerned with competing with 40B. Larger units you can be pretty sure what developers would do.

Councilor Powers stated but our goal is to maintain the towns threshold so we can manage better under our own bylaws for units and developments that want to come in. The strategy is to always meet our 40B requirement so we can tell developers we have already met our threshold so you have to conform to our local zoning bylaws rather than the state. We need to come up with a plan to meet our affordable housing.

Lee Castignetti stated you are not at 10% at present. You might want to consider leave it at 15% presently and at a future date once you have achieved 10% consider a tiered approach and then amend your bylaws.

Jill Coyle, stated Inclusionary Housing truly encourages very dense development. We need something to get us to our affordable housing marks. The affordable trust may be very beneficial.

Jill Coyle suggested the following changes in red

B. Applicability.

(1) This section shall apply to any multi-family dwellings and/or dwellings in a mixed-use development (see § 9, Definitions, Mixed-Use Development) or a Flexible Development (see § 9, Definitions, Dwelling Multi-Family, Flexible Development), as listed in Table 1 (Part 1) Table of Principal Uses and defined in this ordinance, that would result in a net increase of six (6) or more dwelling units on a parcel or contiguous parcels under common ownership or control, except as provided below.

Chairman Powers stated we are skipping over Section 6.2. We will continue with 6.5 Flexible Development. Melissa Santucci-Rozzi stated this allows for anyone in A or B Zoning District instead of doing a definitive sub-division they can pursue a cluster flexible development through a Special Permit through the Planning Board. (See formulas on page 50 Section C) The goal is to cluster the units and preserve large tracks of open space.
Councilor Kokoros stated this is a non-starter. For example Teabury Lane is a Flexible Development where there are no property lines. They have come to me asking for property lines. I do not think there is any land in town that is big enough for this to be implemented. People in Res A and Res B came to that meeting because they own property there and they do not want it to change. I would completely eliminate it.

Melissa Santucci-Rozzi stated the reason for this is to preserve open space.

Councilor Carey asked if there is any land in mind for a site like this.

Melissa Santucci-Rozzi stated we get calls about the property behind St. Thomas More. There is a lot of land back there. It is zoned Res B.

Councilor Kokoros stated creating cluster development and allowing it into Res A and Res B does not make sense to me and I don’t think it ever will.

Janet Daylor, Middle Street stated I am at a different place in my life. I have a big house. I don’t need the big 5 bedroom house. Cluster zoning seems like a way to do it. It affords you to make a smaller unit and yet we would be able to stay in town.

Linda Raiss asked about parking and was told one space per bedroom is being proposed.

Lee Castignetti, Ray Lane stated this shouldn’t be in Res B. I also do not know of any location in town where you could do any type of meaningful flexible development. Most towns that do a 55 plus development use an overlay district that allows you to increase the density.

Melissa Santucci-Rozzi stated if in Res B you couldn’t be considered for flexible development unless you have at least 45,000 square feet of land.

Councilor Kokoros stated I am glad a previous speaker mentioned overlay district to build 55 plus. We need to find a way to help folks stay in Braintree. We need to find a way to create an overlay district for 55 plus.

Councilor Powers stated the Zoning Working Group should also look into this. My opinion is over 55 housing is a critical component to our housing plan for the future.

Jill Coyle, stated I feel flexible development is the closest type of development that you could offer this town to its current character. I think it is ideal for 55 plus. I would encourage a garage.

Steve Scaccia, Hollis Ave stated allowing flexible development in Res A, B and C is allowing what the residents have been saying they do not want. I think it would be of value to other areas of town.

Councilor Powers stated the Zoning Working Group can pursue and look into further.

Christine Stickney, Director of Planning & Community Development stated when we began this we did a lot of outreach and we kept hearing people wanted smaller affordable housing where they did not have to maintain the property. This was in response to what the public had said they wanted.
It was discussed to have the next meeting (August 21, 2019) begin at Section 5 Dimensional Requirements.

MOTION by Councilor Ringius to TABLE Order 19 011 to August 21, 2019 at 6:00pm

Motion: by Councilor Ringius to TABLE Order 19 011 to August 21, 2019 at 6:00pm
Second: by Councilor Kokoros
Vote: For (4 - Carey, Kokoros, Powers, Ringius), Against (0), Absent (0), Abstain (0)

Old Business

• None

It was unanimously voted to adjourn the meeting at 9:23 p.m.

Respectfully submitted,
Susan M. Cimino
Clerk of the Council

Documents provided for Meeting

• 19 011 Mayor: Comprehensive Zoning Ordinance or take up any action relative thereto
Draft Braintree Zoning Ordinance: A Reader’s Guide to Major Proposed Changes

This document is a companion piece to the ‘Table of Contents Comparison’ document that shows where topics from the existing zoning bylaws are addressed in the draft zoning ordinance. This reader’s guide goes a step further by summarizing the major proposed changes by topic, or noting where certain topics have had minor edits or no substantive change. This document will continue to evolve over the course of the project and readers are encouraged to check the date in the footer to ensure materials are up to date.

<table>
<thead>
<tr>
<th>Section</th>
<th>Status (Summary of Major Changes; Minor Edits; or No Substantive Change)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 1. Purposes and Authority</td>
<td>This section is one page long, and includes text largely standard across Massachusetts.</td>
</tr>
<tr>
<td>Sec. 2. Establishment of Districts</td>
<td></td>
</tr>
</tbody>
</table>
| § 2.1 Districts | - A description of the purpose of each zoning district has been added.  
- There is a new Transition District (TD), accommodating a mix of uses, and serving as a “transition” from village centers to residential areas.  
- The Village Overlay District is now proposed as a standalone Village Center (VC) zoning district. |
| § 2.2 Zoning Map | - This section provides details on how to interpret where the boundaries of the zoning districts are.  
- The Zoning Map itself has been updated and digitized. It includes the new districts and also attempts to draw district boundaries to conform with parcel boundaries (to avoid lots that are split into two or more zoning districts). |
| Sec. 3. Administration and Enforcement | |
| § 3.1 Administration | This summarizes the content of Sec. 3. |
| § 3.2 Building Inspector | This section now lays out the information that must be provided for every building permit, as well as additional requirements for building permits involving the erection of a structure. |
| § 3.3 Enforcement | This section explains the process for the Building Inspector to address violations of the zoning ordinance. |
| § 3.4 Appeals of Building Inspector Orders or Decisions | This section is much abbreviated, and largely directs people to follow relevant State regulations, including the timing for filing appeals and making decisions. |

Braintree Zoning Ordinance Project

1

May 1, 2019
<table>
<thead>
<tr>
<th>§ 3.5 Disposition of Violations</th>
<th>This section explains how fines for violations are applied to both criminal and non-criminal complaints.</th>
</tr>
</thead>
</table>
| § 3.6 Zoning Board of Appeals | • Describes how the ZBA is formed and the powers it has, including new Special Permit Granting Authority (SPGA).  
• Largely based on State regulations.  
• Notes that the ZBA in Braintree also has authority over appeals related to signs. |
| § 3.7 Variances | • This language is largely taken from State law.  
• The current bylaws prohibit use variances. In other words, if a use isn’t allowed in a particular zoning district, a variance cannot be applied to allow that use. The draft ordinance continues to prohibit use variances. |
| § 3.8 Planning Board | • Describes how the Planning Board is formed and the powers it has, including the Special Permit Granting Authority.  
• Largely based on State law.  
• Notes that the Planning Board in Braintree also has authority over grading permits. |
| § 3.9 Special Permits | • This draft eliminates the need for certain uses to go through the Special Permit process when located near schools and churches.  
• Updated criteria the Planning Board must consider to grant a Special Permit.  
• Much of the process for Special Permits is set by State law. |
| § 3.10 Site Plan Review | • Site Plan Review (SPR) is not set in State law, so the Town has more flexibility with this section.  
• The intent is to clarify and improve the current process, keeping joint review of applications by various Town departments. This is efficient both for the Town and for applicants, and should lead to better outcomes.  
• This section now has criteria for when an application will be reviewed and approved by staff (Administrative SPR) vs. when it will be reviewed and approved by the Planning Board (Full SPR).  
• This section now has a list of activities that are exempt from either type of SPR.  
• All uses that are exempt from local zoning by State law (e.g. churches, day care, etc.) are still subject to Administrative SPR, as are most local, state, and federal government uses.  
• A Pre-Application Meeting is now encouraged to determine whether Administrative or Full SPR is applied, and to provide helpful guidance to applicants before they file. This should ultimately save time for applicants, by making sure they provide the right things to the right body from the get go.  
• This section establishes a Site Plan Review Committee, to be made up of various town departments and offices, and requires a meeting of this Committee to jointly review all applications.  
• Sets a new deadline of 10 days after submittal for the Town to review an application and alert the applicant as to whether or not it is complete. Again, this ensures that if there are any problems, the
| § 3.11 Site Plan Contents for Variance, Site Plan Review and Special Permits | New. Lays out the required contents for all site plans. |
| § 3.12 Repetitive Petition | This is largely the same and follows State law. |
| § 3.13 Zoning Amendments | This section describes the process for requesting and deciding on amendments to the zoning ordinance or map. It has been updated to follow state law relevant to communities with a city form of government (the current bylaws still follow the standards for a town form of government). |

### Sec. 4. Use Regulations

| § 4.1 General | States that land uses and structures must comply with the Table of Uses. |
| § 4.2 Uses Permitted in All Zoning Districts | Reiterates that government uses and uses exempt from zoning are permitted in all zoning districts. However, the Town still has the right to review these uses through the Site Plan Review process. |
| § 4.3 More than One Use Classification | - This acknowledges that multiple uses on one lot and/or in one building is becoming more and more common.  
- This section provides standards for how to determine which use (of two or more) is to be considered the principal use.  
- Alternatively, it includes standards for allowing more than one principal use. |
| § 4.4 Overlay Districts | This simply states that land within an overlay district is still subject to the underlying zoning. |
| § 4.5 Prohibited Uses | - This notes that any use not in the Table of Uses and any use that could harm human health, safety, and welfare is prohibited. |
| § 4.6 Table of Uses | - This includes where uses are permitted (Y), prohibited (N), or permitted with a special permit (SP). It also includes references to any relevant Special Use Regulations and the required parking standards.  
- The Table is split into two parts: 1) Primary Uses and 2) Accessory Uses.  
- The uses in the Table have been streamlined and modernized.  
- Certain uses in the current bylaws have been combined into broader use categories where they had the same or very similar use permissions. For example, many personal service businesses, motor vehicle related businesses, and industrial uses that currently have their own categories have been combined. |
### § 4.7 Accessory Uses
Examples of new accessory uses include Farm Stands, Docks, Drive-Through Service, and outdoor sales and storage.

### § 4.8 Nonconforming Uses, Structures, and Lots
- Substitution of one nonconforming use for another. Allowed by special permit only if the new use is “less detrimental” to the neighborhood than the existing use. Criteria have been added to help the ZBA determine this.
- Use variances for nonconforming uses remain prohibited.
- Criteria have been added for allowing a nonconforming building or structure to be altered or reconstructed.
- Reconstruction (including razing to a foundation and rebuilding) of a non-conforming single or two-unit dwelling must be reviewed by the ZBA through a special permit (as opposed to being approved by the Building Inspector).
- Alteration, reconstruction or structural changes to nonconforming single and two-family dwellings must conform with the new standards for FAR (see § 5.8 Table of Dimensional and Density Regulations).

### Sec. 5. Dimensional Regulations

#### § 5.1 General Requirements
- Describes how to handle lots in more than one district, though the updates to the Zoning Map have attempted to eliminate much of this.
- Maintains the existing standard that there may be no more than one dwelling per lot, but adds the caveat of “unless specifically authorized by other provisions of this chapter.” This will allow for things like § 6.5 Flexible Development.

#### § 5.2 Lot Regulations
This section sets standards for Lot Frontage and Lot Width.

#### § 5.3 Setbacks
Much of this text was pulled from the “Notes” of the current Table of Dimensional and Density Regulations.

#### § 5.4 Height Regulations
Much of this text was pulled from the “Notes” of the current Table of Dimensional and Density Regulations and the current § 135-709. Height restrictions.

#### § 5.5 Landscaped Open Space
- This has been renamed “Landscaped Open Space” to differentiate from other types of “open space” in general. Landscaped Open Space refers specifically to the required landscaped yard area for a given lot.
- Requirements for multifamily uses have been removed. This is addressed in § 6.2 Multifamily and Small Scale Multifamily Dwellings.
| § 5.6 Buffer Areas Between Zoning Districts | • This section sets standards for establishing natural or landscaped buffer areas between different zoning districts, in order to prevent conflict.  
• It also establishes a process and criteria for determining the appropriateness of requests to develop within the buffer. |
| § 5.7 Other Requirements | • This is a catch-all for a number of existing requirements related to dimensions. |
| § 5.8 Table of Dimensional and Density Regulations | • Staff has recommended deleting the proposed special permit provision that would have allowed 75’ and 6 stories in the HB zoning district.  
• A Floor Area Ratio (FAR) standard is added for residential development. This means there is a limit to the total square footage of a residential building compared to the size of its lot. FAR can help ensure that the scale of new or renovated homes is not out of proportion with existing neighbors.  
• The standards for the BWLD zoning district have been added to this table, rather than being listed separately.  
• Standards have been added for the new, proposed Transitional District (TD). The minimum lot size is 7,500 square feet.  
• The existing Watershed standards have been removed from the Table, since that overlay has been changed to protect groundwater through performance standards rather than lot size and other dimensional standards.  
• The Cluster standards have been removed from the Table, since this has been replaced with "Flexible Development." Standards for lots that utilize flexible development are found in § 6.5. |
| § 5.9 Table of Dimensional and Density Regulations for Accessory Buildings and Structures in Residential Districts | • This is a new Table that applies strictly to accessory buildings and structures.  
• This provides standards for setbacks and height, including a rear setback ratio (the taller the building or structure, the greater the setback). |
| § 5.10 Calculating Floor Area Ratio (FAR) | New. Since FAR has been added to the Table of Dimensional and Density Regulations, this section has been added to clarify to applicants how it should be calculated. |

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**Sec. 6. Special Use Regulations**

**§ 6.1 Inclusionary Housing**

New  
• Applies to any residential or mixed-use development requiring a special permit and resulting in a net increase of 6 or more dwelling units.  
• 15% of any dwellings will be affordable, rounded up to the nearest whole number.
| § 6.2 Multifamily (6+ units) and Small Scale Multifamily (3-5 units) Dwellings | • Developers will not be allowed to make a payment in lieu of building affordable dwellings. Units may be built on site or elsewhere in Braintree.  
• Standards for multifamily dwellings of any size have been changed significantly. The goal is to ensure that multifamily buildings meet exterior design standards and parking standards, without dictating the number or size of dwelling units inside a building.  
• Basic design guidelines have been added to discourage long, blank walls, to encourage variety and articulation for doors, roofs, windows, etc., and to set standards for distances between buildings.  
• The maximum number of units for Multifamily dwellings (6+ units) has been eliminated, but the maximum density has been capped at 20 dwelling units per acre.  
• A new use category allows “Small-scale” multifamily dwellings (3-5 units) in zoning districts where larger Multifamily dwellings (6+ units) are not allowed.  
• Minimum landscaped open space is now determined as a percentage of the lot (35%) as opposed to a certain number of square feet per unit.  
• Minimum outdoor recreation space is now determined as a percentage of the lot (7%) as opposed to a certain number of square feet per unit. |

| § 6.3 Two-Family Dwelling, Conversion | • This section continues to allow single-family dwellings to convert to two-family dwellings, but provides standards for making sure these conversions look and act compatible with other surrounding homes, including for: Driveways and Parking; Entries; Building Form & Style; and Doors, Windows, and Balconies. |

| § 6.4 Long-Term Care Facility Conversion | • This was formerly called “Nursing Home Conversion,” but the name was changed to reflect the State’s nomenclature (Long-Term Care Facility).  
• Several current standards have been eliminated, including 1) the building must be vacant for a year before conversion, 2) the building must have been in existence as of May 10, 2006, 3) the conversion must not generate more than 50 vehicle trips for any peak hours, and 4) adequate screening between the site and abutting properties shall be provided.  
• Building expansion is still not allowed. |

| § 6.5 Flexible Development | New  
• This section replaces Braintree’s existing Cluster 1-2-3 districts, and is meant to allow flexibility in residential development in order to preserve more open space and protect important features of a site.  
• This is now applicable in the Residence A, B, and C zoning districts, for any development of three or more housing units. |
§ 6.6 Trailers as Dwellings | No Change
§ 6.7 Accessory Apartment | New
- This section is proposed by staff to be deleted.
- The intention of this section had been: Because there are many residents in Braintree who are adding accessory apartments to their homes illegally, Town Staff asked the consultant team to explore standards for such uses. If they are happening anyway, how can the Town ensure they are happening in a way that is safe for the residents and not disruptive to neighbors?
- Accessory apartments would only be allowed where the existing structure conforms with all dimensional and density regulations.
- Accessory apartments may be a maximum of 700 square feet, and may not have more than one bedroom.
- The property owner must use the main house or the accessory apartment as a primary residence.
- This draft has an amnesty clause for existing accessory apartments, and provides a mechanism for them to conform to these new regulations.

§ 6.8 Home Occupation
- This section provides standards for people working from home in a residential district. Examples of some of these standards include . . .
  - Home occupations must be solely operated by the resident (i.e. no outside employees are allowed).
  - No more than 750 square feet of the home may be used by the home occupation.
  - No retail sales are allowed.

§ 6.9 Registered Marijuana Dispensary
- This section provides standards for medical marijuana dispensaries, as defined by State law.
- This section does NOT allow for recreational use of marijuana, which is prohibited within the Town of Braintree.
- This includes standards for location, hours of operation, proximity to other uses, permitting, annual reporting, and more.

§ 6.10 Adult Use
- This is largely the same as the Town’s current bylaw.
- A few edits have been made to ensure that adult uses are treated fairly and according to State law.

§ 6.11 Wireless Communication Facility
- This section has been updated to comply with current federal law and to reflect more current wireless communication technology.

§ 6.12 Drive-Through Service | New
- This new section provides standards for drive-through service, whether at a restaurant, bank, pharmacy or other business.
- Such services are only allowed on lots of 20,000 square feet or more, and are NOT allowed in the
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>§ 6.13 Outdoor Dining</td>
<td>New</td>
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<tr>
<td>• This new section applies to outdoor dining accessory to any type of restaurant.</td>
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<td>• This includes standards for location, obstruction, enclosures, furnishings, and awnings and umbrellas.</td>
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<tr>
<td>§ 6.14 Fuel Stations</td>
<td>No Change, except that this is now referred to as “fuel station” rather than “service station.”</td>
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<tr>
<td>§ 6.15 Temporary Storage Container</td>
<td>New</td>
</tr>
<tr>
<td>• This new section sets standards for temporary storage containers, including number, duration, location on the property, etc.</td>
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</table>

### Sec. 7. General Regulations

| § 7.1 Off-street Parking & Loading | |
| • One of the most significant changes to this section is how staff review of parking is triggered. An ongoing problem has been the changing of uses in a building or property that lead to a greater demand for parking than what was formerly approved. The Site Plan Review (SPR) process is proposed to be triggered by (among other things) any reoccupation or change of use. § 7.1 now states that anything subject to SPR must submit a parking plan. Therefore, any reoccupation or change in use will trigger a parking plan. This should give staff the leverage they need to make sure that parking remains adequate as uses evolve. | |
| • Table 4: Schedule of Off-Street Parking Requirements has been updated significantly. It is now tied directly to § 4.6 Table of Uses. Every use listed in the Table of Uses is also listed in Table 4. Each use or set of uses is assigned a number, and these numbers are all now listed in a new column in the Use Table for ease of locating the applicable parking standards. | |
| • New standards have been added for the provision of bicycle parking in new or expanded commercial and institutional uses. | |

<p>| § 7.2 Site Design Standards | |
| • A. Landscaping Best Practice – Standards for plant selection, tree selection, and maintenance. | |
| • B. Landscaping Plan Requirements – Includes a site development plan, and type and placement of all plants and trees. | |
| • C. Outdoor Lighting – New text applicable to commercial and mixed uses. Sets standards for illumination levels and the contents of a Lighting Plan required for a building permit. | |
| • D. Lighting Plan – Lighting types and locations, and strategies for keeping light from spilling over into neighboring properties. | |
| • E. Stormwater Management – Requires compliance with the most recent General Permit for | |</p>
<table>
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<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>§ 7.3 Traffic Standards</td>
<td>Minimal edits</td>
</tr>
<tr>
<td>§ 7.4 Environmental Performance Standards</td>
<td>Standards related to noise significantly scaled back. Noise is better handled outside of zoning.</td>
</tr>
<tr>
<td>§ 7.5 Erosion and Sediment Control</td>
<td>Retained existing section with minimal edits.</td>
</tr>
<tr>
<td>§ 7.6 Rules and Regulations for Signs</td>
<td>No change. However, this section is not in compliance with the U.S. Supreme Court decision in Reed vs. Town of Gilbert, and will need to be addressed in the near future.</td>
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</table>

**Sec. 8. Special District Regulations**

| § 8.1 Braintree-Weymouth Landing District (BWLD) | - The BWLD ordinance adopted in 2010 has been recoded in order to conform to the structure of the revised ordinance, with minor revisions and corrections.  
- Some content from 2010 has been moved to the Table of Uses and Table of Dimensional and Density Regulations. |
| § 8.2 Village Center District | - The most significant change here is that the Village Center is now a baseline zoning district, and not an overlay district.  
- Otherwise, the standards within the Village Center zoning district are largely the same. |
| § 8.3 Floodplain Protection Overlay District | - This is the Wetlands and Floodplain Protection District as adopted by the Town in 2012, with minor wording changes and corrections, and recoding. |
| § 8.4 Drinking Water Protection Overlay District | - This section has been changed significantly.  
- First and foremost, the area of Town subject to this overlay was decreased slightly to match the portions of Braintree identified in the Massachusetts Drinking Water Regulations. These new boundaries have been scientifically determined to have the greatest impact on the quality of the Town’s groundwater.  
- Next, the Town looked at areas that may be used for drinking water supply in the future. These areas have been added to the overlay.  
- As noted above, the Town’s current bylaw has a number of lot size and other dimensional requirements for this overlay that have been eliminated. Current science suggests that 1-acre minimum lot sizes do not protect water quality, and in a largely built out community like Braintree,
prohibitions of certain uses and performance standards for permitted development can be far more effective.

- Prohibited uses and activities include such things as hazardous materials, fueling facilities, automobile wrecking yards, and outdoor storage of eight or more nonfunctioning appliances.
- Performance standards focus on such things as secondary containment for any allowed hazardous materials and a monitoring program for allowed hazardous materials.

<table>
<thead>
<tr>
<th>§ 8.5 Special Industrial Management Area Overlay District</th>
<th>New</th>
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<td>§ 8.6 Billboard Zoning Overlay District</td>
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<td>Sec. 9. Definitions</td>
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- This new overlay covers the sites for CITGO and Clean Harbors. It is designed to allow those uses with a Special Permit.
- The Special Permit process gives the Town more flexibility to impose standards on these uses to mitigate their impacts on the community.
- This has been edited slightly to fit the context of the new draft ordinance but is otherwise largely the same.
- The definitions section has been updated significantly.
- All uses in the Use Table now have a definition.
- The current bylaw includes some definitions in their own sections. This draft combines most of the definitions located anywhere in the current bylaw in one place, all arranged alphabetically.
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Sec. 1.  Purposes and Authority

§ 1.1  Title
The full title of this chapter shall be the "Zoning Ordinance of the Town of Braintree, Massachusetts." This chapter may be cited as the “Town of Braintree Zoning Ordinance.”

§ 1.2  Purposes
This chapter is enacted in order to promote the general welfare of the Town of Braintree; to protect the health and safety of its inhabitants; to support the most appropriate use of land throughout the town; and to preserve and increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, M.G.L. c. 40A, as amended, and Section 2A of Chapter 808 of the Acts of 1975.

§ 1.3  Authority
This chapter is enacted in accordance with Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and M.G.L. c. 40A, any and all amendments thereto.

§ 1.4  Applicability
All buildings or structures hereinafter erected, constructed, reconstructed, altered or modified, and the use of all premises in the Town, shall be in conformity with the provisions of this chapter. No building, structure or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure or land is located. Where the application of this chapter imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this chapter shall control.

§ 1.5  Amendment
This chapter may from time to time be changed by amendment, addition or repeal by the Town Council in the manner provided for in M.G.L. c. 40A, § 5.

§ 1.6  Severability
The invalidity of any section or provision of this chapter shall not invalidate any other section or provision herein.

§ 1.7  Effective Date
This chapter shall take effect upon its enactment.
Sec. 2. Establishment of Districts

§ 2.1 Districts
For purposes of this chapter, the Town of Braintree is divided into the following zoning districts:

A. Residential Districts

(1) **Residence A** (RA)
This district consists largely of single-family detached homes, and other neighborhood complementary uses such as places of worship, libraries, municipal parks, and playgrounds.

(2) **Residence B** (RB)
This district consists of single-family detached homes, but generally on smaller lots than in the RA district. It can also accommodate conversion of single-family homes to two-family homes with a special permit. On top of the complementary uses allowed in the RA district, the RB district may also accommodate uses such as community centers and funeral homes.

(3) **Residence C** (RC)
This district may accommodate a wide range of residential uses, from single-family detached homes to multi-family dwellings, as well as the complementary uses allowed in the RA and RB districts.

B. Business Districts

(1) **Transition District** (TD)
This district generally runs along Washington Street, serving as a transition from the village centers and other business areas to residential areas. The TD accommodates a mix of residential and lower-intensity commercial uses on smaller lots.

(2) **Village Center** (VC)
This district covers the two traditional village centers of Braintree: Braintree Square and South Braintree. The purpose is to regulate the quality and scale of future development in these areas, to preserve the predominant scale and character of the villages, while also encouraging residential and mixed-use development. This district provides a set of development standards that promote a stronger sense of place and encourage visual harmony.

(3) **General Business** (GB)
This district allows for a variety of multi-family residential uses but is primarily meant to accommodate a wide range of businesses, including retail, restaurants, offices, and services.

(4) **Highway Business** (HB)
This district is meant to accommodate larger-scale retail and service businesses, business parks, regional shopping centers, and other such uses reliant on access to local highways. Multi-family dwellings may be accommodated in this district, but not single- and two-family homes.

(5) **Commercial** (C)
This district is designed to accommodate heavier commercial, storage, and light industrial uses that are generally not compatible with residential uses. Residential uses are not allowed in the C.
(6) **Braintree-Weymouth Landing (BWLD)**

This is a special district that shares a border with the Town of Weymouth. It is designed to accommodate a mix of higher density housing, retail, and services around public transportation.

(7) **Open Space and Conservancy (OSC)**

This district is meant to protect open space, parks, forests, and other lands that have a permanent or long-term conservation easement for public recreation and/or environmental protection. It also includes many municipal buildings and land under Town control.

**C. Overlay Districts**

(1) **Floodplain Protection Overlay District (FP)**

This district is meant to protect the health and safety of persons and property against flooding and water inundation and ensure that the Town complies with all relevant FEMA rules and regulations.

(2) **Drinking Water Protection Overlay District (DWP)**

This district is meant to protect public health and safety by minimizing contamination risks to surface waters that supply the Town of Braintree with drinking water.

(3) **Billboard Zoning Overlay District (BZOD)**

This district is meant to manage the placement, operation, maintenance, and local impacts of billboards.

(4) **Special Industrial Management Area Overlay District (SIMA)**

This district is meant to protect public health and safety by minimizing the impacts of existing larger-scale hazardous waste facilities and bulk fuel storage operations in Town.

§ 2.2 **Zoning Map**

A. **Authority.** The boundaries of the districts listed in § 2.1 are defined and bounded on the map entitled, “Town of Braintree Zoning Map,” prepared by the Planning Board and on file in the office of the Town Clerk. The district boundaries shown on the Zoning Map are part of this Zoning Ordinance. The Zoning Map may also include geographical features, streets, notations, and other information as an aid to the public.

B. **Interpretation of District Boundaries.** District boundaries are shown on the Zoning Map. If there is any difference between the boundary of a zoning district as shown on the Zoning Map and the perimeter description in a vote of the Town Council establishing or amending that boundary, the vote of the Town Council shall govern. In the case of uncertainty regarding a district boundary voted by Town Council, the following rules apply unless otherwise specified elsewhere in this Zoning Ordinance:

(1) Where the district boundary appears to be near and parallel to a street, highway, railroad right-of-way, or utility easement, the boundary is the edge of the right-of-way or easement abutting the district.

(2) Where the district boundary is shown as following a watercourse, the boundary coincides with the property boundary abutting the watercourse.

(3) Where the district boundary is shown as following the shoreline of a body of water, the district shall extend to the property boundary along the shoreline.

(4) Where the district boundary is shown as a specific topographic contour elevation or named as a numeric elevation, the boundary is the elevation measured from North American Vertical Datum 1988.
(5) If not resolved by paragraphs 1 through 4 above, the locations of the district boundaries are to be determined by the distances, if given, from other lines or features on the Zoning Map, or, if distances are not given, then by the scale of the Zoning Map.

(6) If, after application of the rules in paragraphs 1 through 5 above, uncertainty still exists with respect to the boundaries of a district, the Town Engineer shall make a determination after consulting with the Department of Planning and Community Development.

C. **Split Lots.** When a boundary line between zoning districts divides a single lot in single ownership on the effective date of this chapter (June 18, 1940), the lot may be held to the requirements (in terms of both use and dimensional and density requirements) of either one zoning district or the other, but not a combination of the two. In order to exercise the single split lot provision, the lot must be identical in lot size and boundaries as it was on June 18, 1940.
Sec. 3. Administration and Enforcement

§ 3.1 Administration
This section provides information about the powers and duties of the Building Inspector, Planning Board, and Zoning Board of Appeals. Further, this section provides information about the requirements and procedures for Special Permits, variances, findings, appeals, site plan review, and repetitive petitions. Finally, it covers enforcement of this Chapter 135.

§ 3.2 Building Inspector

A. Role. Except as otherwise provided, this chapter shall be administered and enforced by the Building Inspector, who shall not issue a permit unless the plans, specifications, and intended use of the premises comply in all respects with the provisions of this chapter.

B. Site Plan. Every application for a building permit subject to the Zoning Ordinance, and under authority of the Building Inspector, shall be accompanied by a site plan showing all the following information:

1. The dimensions and area of the lot.
2. Driveways, structures, and impervious surfaces.
3. Accurate distances from existing and proposed structures to all lot lines and ways.
4. Existing and proposed contours at two-foot intervals on the lot.
5. The location of existing and proposed buildings on the lot.

C. Site Plan for Structures. Every application for a building permit involving the erection of a structure (with the exception of the replacement of windows, roofs, siding, and doors) shall additionally show all of the following information on the site plan:

1. The location of all ways (streets and roads) adjacent to the lot.
2. Street grades.
3. The extent of any on-site wetlands or any adjacent off-site wetlands that would be subject to Conservation Commission jurisdiction.
4. Provisions for adequate drainage that meet the Town’s Department of Public Works stormwater regulations.
5. The location of existing and proposed sewer, gas, water main, and electric utilities, and all existing and proposed connections to structures.
6. The location of all easements.
7. Zoning Block Table: To include columns for existing, proposed, and required zoning dimensional criteria.
8. Half-story calculation (if applicable).
9. Height calculation.
10. Sill, Basement Floor Elevation, and First Floor Elevation, plus relation to any abutting ways.

D. Stamp. Each site plan shall be stamped by a Massachusetts registered land surveyor and/or registered professional engineer.

E. Foundation Certification. Upon completion of the foundation, a Massachusetts registered land surveyor shall certify the location of the foundation as constructed. The certification shall be
submitted to the Building Inspector for approval before construction beyond the foundation is permitted.

F. **Building and Occupancy Permits.** No construction shall start prior to the issuance of a building permit. No building shall be occupied or used until an occupancy permit has been issued by the Building Inspector. Occupancy permits shall not be issued until the building and/or structure and its uses fully comply with this chapter and the rules and regulations of boards and agencies having jurisdiction.

G. **Violations.** The Building Inspector shall review the progress of the work from time to time to ensure compliance. If the Building Inspector concludes that there has been a violation of this chapter, written notice shall be sent to the offending party ordering cessation of the improper activities. This notice shall be sent by registered or certified mail to the address as listed on the original application. If the offender holds a permit issued under this chapter, such permit may be revoked according to law. If the permit holder or other offender continues the violation, the Building Inspector shall seek enforcement under either M.G.L. c. 40A, § 7, or M.G.L. c. 40, § 21D.

§ 3.3 **Enforcement**

A. **Filing a Complaint.** Any person may file a written request to the Building Inspector for enforcement of this Zoning Ordinance with reference to an alleged violation. If upon investigation and inspection the Building Inspector finds evidence of such violation, the inspector shall give notice thereof in writing to the offending party ordering cessation of the improper activities of said premises and demand that the violation be abated within the appropriate time as the Building Inspector deems reasonable. The notice and demand may be given by mail, addressed to the owner at his or her address as it then appears on the records of the Board of Assessors, and to the occupant at the address of the premises, and shall be mailed within fourteen days of receipt of such request for enforcement.

B. **Enforcement of Violation.** If after the notice and demand is given and the violation has not been abated within the time specified therein, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Braintree to prevent, correct, restrain or abate the violation of this Zoning Ordinance.

C. **Notice on No Violation.** If the Building Inspector determines that there is no violation, the Inspector shall give written notice of the decision, within fourteen days after the receipt of such request, to the person who filed the complaint.

§ 3.4 **Appeals of Building Inspector Orders or Decisions**

A. **Appeal.** Actions under M.G.L. c. 40A, §§ 8 and 15 are appeals to the permit granting authority (Zoning Board of Appeals) brought by any person aggrieved by the refusal of the Building Inspector to issue a building or occupancy permit, or by the Building Inspector’s issuance of a permit believed by the appellant to be in error, or by the refusal of the Building Inspector to take enforcement action. Notice of the appeal shall be filed with the Town Clerk and the ZBA within 30 days from the date of the decision, action, order or permit being appealed.

B. **Procedure.** The Zoning Board of Appeals shall hold a public hearing within 65 days of the filing of the appeal and shall decide within 100 days of the filing of the appeal. Copies of the detailed record and proceedings must be filed with the Town Clerk within 14 days after the decision. The
public hearing procedures and notice requirements shall comply with the provisions of M.G.L. c. 40A, §§ 11 and 15.

§ 3.5 Disposition of Violations

A. Criminal Complaint. A violator may be penalized in accordance with M.G.L. c. 40A, § 7, by criminal complaint brought in Superior or District Court. The fine shall not be more than $300 for each offense. Each day that a violation continues shall constitute a separate offense.

B. Non-Criminal Disposition. A violator may be penalized in accordance with the provisions of M.G.L. c. 40, § 21D. The fine shall not be more than $300 for each offense. Each day that a violation continues shall constitute a separate offense. Nothing contained herein shall be deemed to require the use of the noncriminal disposition method. At the option of the enforcement officer, criminal and/or civil action may also be pursued. The penalty shall be $50 for each violation or offense.

C. Applicability. The provisions of (A) and (B) in this subsection above shall apply to both the owner and the lessee of the real property upon which a violation of this chapter occurs.

§ 3.6 Zoning Board of Appeals

A. Membership. The Zoning Board of Appeals shall consist of three regular members and two associate members appointed as provided for in M.G.L. c. 40A, § 12. The chair of the board may designate an associate member to sit in case of absence, inability to act or conflict of interest on the part of a regular member, or in the event of a vacancy on the board.

B. Powers. The Zoning Board of Appeals shall act on any matter it is so authorized to do under this ordinance. It shall have the following powers:

1. To hear and decide appeals as provided for in M.G.L. c. 40A, § 8 and § 15, as amended, and § 3.4 Appeals of Building Inspector orders or decisions, contained herein.

2. To hear and grant Special Permits, as provided for in M.G.L. c. 40A, § 6, relating to the alteration or expansion of nonconforming uses and structures, and to the change in any nonconforming use.

3. To hear and decide petitions for variances as provided for in M.G.L. c. 40A, § 10.

4. To hear and decide applications for comprehensive permits for construction of low- or moderate-income housing, as provided for in M.G.L. c. 40B, §§ 20-23.

5. To hear petitions for Special Permits where the Zoning Board of Appeals may be identified as the Special Permit Granting Authority (SPGA) as provided for in M.G.L. c. 40A, § 9.

6. To adopt and amend rules and regulations. A copy of these rules and regulations shall be filed with the Town Clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for a submission and approval of permits, and other requirements so determined by the Zoning Board of Appeals.

7. To hear and decide repetitive petitions as provided for in M.G.L. c. 40A, §16 and § 3.12 Repetitive Petitions, contained herein.
§ 3.7 Variances

A. **Filing.** Any petition or appeal for a variance must be filed by the petitioner with the Town Clerk, who must then certify the date and time of filing. A copy of the petition or appeal must be filed forthwith by the petitioner with the Zoning Board of Appeals. The form, contents, and number of sets of plans of the application and other required information shall be as specified in the rules and regulations for the ZBA or as specified in this Zoning Ordinance, § 3.11.

B. **Public Hearing.** The Zoning Board of Appeals must hold a public hearing within 65 days from the receipt of a petition for a variance. The required time limit for holding the public hearing may be extended by written mutual agreement between the petitioner and the Zoning Board of Appeals. A copy of such agreement must be filed in the office of the Town Clerk.

C. **Decision Making.** The Zoning Board of Appeals must make its decision on a variance within 100 days after the date of filing with the Town Clerk, through a vote of the Board. The required time limit for making the decision may be extended by written mutual agreement between the petitioner and the Zoning Board of Appeals. A copy of such agreement must be filed in the office of the Town Clerk. The Zoning Board of Appeals must make a detailed record of its proceedings indicating the vote of each member and the reasons for its decision. Copies of the detailed record and proceedings must be filed with the Town Clerk within 14 days after the decision.

D. **Approving a Variance.** The Zoning Board of Appeals shall not grant a variance unless it finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.

E. **Use Variances.** No variance may authorize a use or activity not otherwise permitted in the zoning district in which the land or structure is located.

F. **Conditions.** The Zoning Board of Appeals may impose conditions, safeguards, and limitations of time and use on the approval of a variance application. All variance approvals run with the title to the land; a variance approval cannot be conditioned on an applicant’s continued ownership of the land or structures to which the variance pertains.

G. **Notices and Certifications.** Notice of the decision must be mailed forthwith, by the Zoning Board of Appeals, to the petitioner and noticed abutters. The notice must specify that any appeal must be made pursuant to M.G.L. c. 40A, Section 17 and filed within 20 days after the date the notice was filed with the Town Clerk. Upon the granting of a variance, or any extension, modification, or renewal, the Zoning Board of Appeals shall issue to the owner and the petitioner a certified copy of its decision containing the name and address of the owner, identifying the land affected, specifying compliance with the statutory requirements for the issuance of the variance, and certifying that copies of the decision have been filed with the Town Clerk. The Town Clerk must certify that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if it has been filed that it has been dismissed or denied.

H. **Recording.** No variance, or any extension, modification or renewal thereof, can take effect until a copy of the decision bearing the certification of the Town Clerk is recorded in the registry of
deeds or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

I. **Expiration or Extension of Variance.** The rights to a variance shall be exercised within one year from the date of the vote of the Zoning Board of Appeals on the variance or the variance shall lapse. Upon written application by the grantee, the Zoning Board of Appeals, in its discretion, may extend the rights to exercise the variance for a period not to exceed 6 months. The application for such extension shall be filed with the Zoning Board of Appeals prior to the expiration of the one-year period. The rights to an expired variance may only be reestablished after the filing of a new application and the holding of a new public hearing.

J. **Withdrawal of Application.** Any application for a variance may be withdrawn, without prejudice, prior to the publication of the notice for public hearing. After publication of the notice, it may be withdrawn without prejudice only with the approval of the Zoning Board of Appeals.

K. **Appeals to a Variance Decision.** Appeals of variance decisions may be made to a court of competent jurisdiction in accordance with M.G.L. c. 40A, § 17.

§ 3.8 **Planning Board**

A. **Membership.** The Planning Board shall consist of five regular members and one associate member appointed as provided for in M.G.L. c. 40A, § 9. The chair of the board may designate an associate member to sit in case of absence, inability to act, or conflict of interest on the part of a regular member, or in the event of a vacancy on the board.

B. **Powers.** The Planning Board shall act on any matter it is so authorized to do under this ordinance. It shall have the following powers under this Ordinance:

1. To hear petitions for Special Permits where the Planning Board may be identified as the Special Permit Granting Authority (SPGA).
2. To hear petitions for Site Plan Review where the Planning Board may be identified as the Site Plan Review authority, including grading.
3. The Planning Board may initiate amendments to this chapter or the Zoning Map. It shall hold a public hearing and make a recommendation to the Town Council on all proposed zoning amendments as provided for in M.G.L c. 40A, § 5.
4. To adopt and, from time to time, amend rules and regulations, which shall be filed with the Town Clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for a submission and approval of various permits, and other requirements so determined by the Planning Board.
5. To establish and maintain the Town’s official map as provided for in M.G.L c. 40A, § 4.
6. All other duties as prescribed under M.G.L c. 41.

§ 3.9 **Special Permits**

A. **Review Bodies.** The Planning Board or the Zoning Board of Appeals, as applicable, shall review and decide on Special Permit applications as provided for in the provisions of this chapter and M.G.L. c. 40A, §§ 6, 9, 11, & 12.

B. **Applications.** Applications for a Special Permit shall be submitted to the Town Clerk, who must then certify the date and time of filing. A copy of the application must be filed forthwith by the petitioner with the SPGA through the Planning and Community Development Department. The
form, contents, and number of sets of plans of the application and other required information shall be as specified in the rules and regulations for the SPGA or as specified in this Zoning Ordinance, § 3.11, Site Plan Contents for Variance, Site Plan Review and Special Permits.

C. **Review.** Within 10 days of receipt of the Special Permit application, the Planning and Community Development Department shall transmit copies of the application and accompanying plans to appropriate town boards, commissions, and departments (“reviewing parties”). The reviewing parties shall have 35 days to review and report in writing their recommendations to the SPGA. Failure to submit comments in writing within the 35-day period shall be interpreted by the SPGA as lack of any opposition to the application. The SPGA shall not take final action on a Special Permit until it has received such reports or the 35-day period has elapsed.

D. **Approval.** Approval of a Special Permit shall require at least four affirmative votes of the Planning Board when that body serves as the SPGA or at least three affirmative votes of the Zoning Board of Appeals when that body serves as the SPGA.

E. **Findings.** The SPGA may grant a Special Permit if, at a minimum, it makes the following findings that any proposed use shall:

1. Meet the requirements of all applicable sections of this chapter;
2. Be in harmony with and shall not derogate from the purpose and intent of this chapter;
3. Not constitute a nuisance due to air and water pollution, flood hazards, noise, dust, vibration, erosion, odor, heat, and light impacts (see § 7.4 Environmental Performance Standards);
4. Have adequate ingress and egress to the property and structures with particular reference to automotive, pedestrian, and bicyclist safety and convenience, off-street parking and loading, traffic flow and control, access for fire and safety equipment, and the capacity of adjacent roads to support the additional traffic in a safe manner;
5. Have adequate utility systems, including water, sewer, drainage, refuse disposal, recycling, electrical, and any other necessary systems;
6. Conform to the parking (§ 7.1) and site design (§ 7.2) standards of this chapter;
7. Provide effective landscaping, including appropriate screening of adjacent residential uses, provision of street trees, landscaping within the parking lot, and a landscape buffer along the property frontage, along with any other landscaped open space as required by this chapter;
8. Protect adjacent properties by minimizing the intrusion of lighting through the use of cut-off luminaires, light shields, lowered height of light poles, screening or similar solutions; and
9. Generally be compatible and in harmony with and have no undue negative economic effect on adjacent properties and other property in the district.

F. **Public Hearing.** A Special Permit shall be approved only following a public hearing which shall be held within 65 days of the filing of the application. The required time limit for holding the public hearing may be extended by written mutual agreement between the petitioner and the SPGA. A copy of such agreement must be filed in the office of the Town Clerk. The SPGA shall take final action (by making the decision and filing the decision with the Town Clerk) within 90 days of the close of the public hearing. Failure to take such final action may result in constructive approval of the Special Permit.

G. **Permit Expiration.** Special Permits shall lapse within three years from the date the Special Permit is voted on by the SPGA if substantial use or construction has not commenced within the three-
year period, except for good cause. Upon written application by the grantee, the SPGA, in its discretion, may extend the rights to exercise the Special Permit for a period not to exceed one year. The application for such extension shall be filed with the SPGA prior to the expiration of the three-year period with enough time to properly provide notice of the requested application at a regularly scheduled SPGA meeting. The rights to an expired Special Permit may only be reestablished after the filing of a new application and the holding of a new public hearing.

H. Building and Occupancy Permits. Where a Special Permit has been approved by the SPGA, the Building Inspector shall not issue a building permit and/or an occupancy permit unless the findings and conditions of the Special Permit have been met.

I. Modification. The SPGA shall have the authority to modify, amend, rescind, or extend its approval of a Special Permit provided that all requirements of M.G.L. c. 40A, §§ 6, 9, 11 & 15 have been met.

J. Withdrawal. An application for a Special Permit that has been submitted to the SPGA may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of a public hearing. After publication of the public hearing notice, an application can only be withdrawn without prejudice with the approval of the SPGA.

§ 3.10 Site Plan Review

A. Intent of Site Plan Review Process. The Site Plan Review process provides a mechanism for the coordinated review of an applicant's compliance with the Zoning Ordinance for projects that may cause a variety of impacts to the natural and built environment and the character of surrounding neighborhoods. It is the intent of Site Plan Review to create a dialogue with an applicant so as to enhance the design of a project and reduce adverse impacts on the Town and its residents.

B. Purposes of Site Plan Review. To protect the health, safety, and general welfare of residents, this Section addresses the following purposes:

1. Traffic, Parking, and Access. To promote sound on-site circulation patterns for pedestrians and motorists. To promote roadway traffic safety and traffic calming, efficient loading, unloading, and deliveries, and to ensure the capability of State and local roads to conduct vehicular, bicycle, and pedestrian traffic safely and efficiently. To demonstrate compliance with any required parking.

2. Public Utilities and Infrastructure. To minimize or prevent adverse impacts to existing public utilities and infrastructure resources, including, but not limited to, sewers, storm drains, streets, and electric.

3. Open Space and Environmental Protection. To preserve open space and public access, and to protect natural features and other environmentally sensitive areas. To prevent erosion and adverse drainage impacts. To minimize the loss of wildlife habitat and other vegetation that has substantial aesthetic and ecological value to the Town.

4. Neighborhood Impacts. To ensure that development on site does not have unintended negative consequences on neighboring properties by locating structures, driveways, parking areas, utilities or other features in a manner that causes nuisance or hazards.

5. Health. To minimize or prevent adverse impacts from air quality, light, glare, and odors.

6. Regulatory Compliance. To ensure development complies with the applicable provisions of the Zoning Ordinance, and other regulations such as the Town’s Rules and Regulations for Signs, to potentially make applicants aware of situations where there might be compliance issues with other applicable regulations.
C. **Applicability.** The following criteria shall be used to determine if a proposed project will be reviewed as part of an Administrative (reviewed by staff) or Full (reviewed by the Planning Board) Site Plan Review process:

1. **Specific Exemptions.** The following activities shall be exempt from either Administrative or Full Site Plan Review:

   a. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
   b. Emergency projects conducted by a governmental entity or public utility necessary for the protection of the public health or safety;
   c. Emergency repairs conducted by a governmental entity or public utility to existing utilities;
   d. Applications for residential subdivision plans under MGL Ch. 41 of the Subdivision Control Law;
   e. Any other uses or activities specifically exempted from Site Plan Review in other sections of the Zoning Ordinance.

2. **Relationship to M.G.L. c. 40A, §3.** With the exception of Subsection (1)(a) above, the Town of Braintree will apply Site Plan Review to uses that receive protections under M.G.L. c. 40A, §3 in accordance with the review thresholds established herein. The Town shall not use Site Plan Review to prohibit, unreasonably regulate, or restrict use of land for these purposes in a manner that would violate state law.

3. **Administrative Site Plan Review.** Any development, redevelopment, expansion, alteration, reoccupation (only where physical alteration will occur) or change of use of a building or site that involves one or more of the following elements shall be subject to Administrative Site Plan Review.

   a. Disturbance of land area containing more than 2,500 square feet but less than 6,000 square feet.
   b. Expansions, to existing non-residential structures or development of new non-residential structures, that have a gross floor area (GFA) of at least 500 square feet, but less than 1,000 square feet.
   c. The development or addition of at least ten (10) but fewer than twenty (20) off-street parking spaces.
   d. Reoccupation (only where physical alteration will occur) or change in use of an existing non-residential building that has less than 10,000 square feet of gross floor area.
   e. Net export and import of fill exceeds 150 cubic yards, but is less than 300 cubic yards, excluding the earthen material imported and/or excavated for a foundation.
   f. Any existing non-residential building where the number of tenant spaces inside the building will be increased.
   g. Any vertical change in grade of between two (2) feet and four (4) feet measured across a distance of ten (10) horizontal feet or more.

4. **Full Site Plan Review.** Any development, redevelopment, expansion, alteration or reoccupation (only where physical alteration will occur) that involves one or more of the following elements shall be subject to Full Site Plan Review.
(a) Disturbance of a land area containing 6,000 square feet or more;
(b) Expansions, to existing structures or development of new structures, of a gross floor area (GFA) of 1,000 square feet or more.
(c) The development or addition of twenty (20) or more off-street parking spaces;
(d) Reoccupation (only where physical alteration will occur) or change of use of an existing non-residential building that has 10,000 square feet of gross floor area or more.
(e) Net export and import of fill is 300 cubic yards or more, excluding the earthen material imported and/or excavated for a foundation.
(f) The addition or relocation of a vehicular access or egress way from a previously developed site.
(g) Any application designated for Administrative Site Plan Review may be considered for Full Site Plan Review at the request of the applicant and/or the Director of the Planning and Community Development Department (PCD).
(h) Any vertical change in grade of greater than four (4) feet measured across a distance of ten (10) horizontal feet or more.

(5) Pre-Application Meeting. Prior to the submittal of any Site Plan Review application, the applicant is strongly encouraged to schedule a Pre-Application Meeting with PCD staff. The purpose of this Pre-Application Meeting shall be to confirm whether Site Plan Review will be Administrative or Full, to afford the applicant input from staff during the formative stages of the concept design, and to highlight areas where the applicant may need to give additional attention prior to filing a formal application. Pre-Application Meetings are intended to encourage discussion and to provide guidance to the applicant. However, any opinions or advice offered by the reviewing authority shall not constitute or imply an approval or a denial of a project.

(6) Segmentation. In an effort to prevent segmentation, the Site Plan Review thresholds listed in § 3.10.C. above shall apply to individual parcels or more than one contiguous parcel that may be in common ownership or otherwise developed as a site in a coordinated manner through a common applicant at the time of application. Further, the build-out of phased projects or expansions that are applied for within a two-year period shall be considered cumulatively when determining whether an application should be reviewed as an Administrative or Full Site Plan Review project.

D. Administration and Authority

(1) Administrative Site Plan Review. Administrative Site Plan Review shall be performed by Planning and Community Development (PCD) staff, in conjunction with staff of the Town Department of Inspectional Services, Department of Public Works, Braintree Electric Light Development (BELD), Fire, and Police (the Site Plan Review Committee), as established herein and subject to the procedural and submittal requirements listed in this Section. PCD may, from time to time, add other departments, offices or committees, as needed, to the Site Plan Review Committee. The form, contents, and number of sets of plans of the application and other required information shall be as specified in this Zoning Ordinance, § 3.11, Site Plan Contents for Variance, Site Plan Review, and Special Permits.

(2) Full Site Plan Review. Full Site Plan Review shall be administered by the Planning Board, and shall require a public hearing, subject to the procedural and submittal
requirements listed in Section 3.11, Site Plan Contents for Variance, Site Plan Review and Special Permits.

E. Procedures for Administrative Site Plan Review

(1) **Submittal.** Applications for Administrative Site Plan Review shall be submitted to the Town Clerk, who must then certify the date and time of filing. A copy of the application must be filed forthwith by the petitioner with the Planning and Community Development Department (PCD). The form, contents, and number of sets of plans of the application and other required information shall be as specified in this Zoning Ordinance, § 3.11, Site Plan Contents for Variance, Site Plan Review and Special Permits.

(2) **Determination.** Within ten (10) days of the filing of the application, PCD shall determine if the application is complete (determination of completeness). Initial determination that an application is complete does not imply that the information provided is accurate or adequate and shall not preclude PCD from requesting or considering new information during the course of the review process that will have direct bearing on the purposes of Site Plan Review as listed in § 3.10.B. Where PCD determines that the application is incomplete, the applicant shall be informed in writing within fifteen (15) days of the original application date. The notification shall include an explanation of the determinations.

(3) **Advisory Review.** Within fifteen (15) days of the filing of the Administrative Site Plan Review application, where there is a positive determination of completeness, the PCD shall distribute copies of the application to the Site Plan Review Committee. The PCD shall schedule a meeting of the Site Plan Review Committee to discuss any comments within thirty (30) days of the original application date. Failure of any Site Plan Review Committee member to attend this meeting or submit comments to PCD within this timeframe shall be interpreted by PCD as lack of opposition to the application as submitted. Approval of any Administrative Site Plan Review application shall require a majority vote of the Site Plan Review Committee.

(4) **Recording the Decision.** PCD shall make a final decision on the application within fifty-five (55) days of the original application submittal date. If the PCD fails to act within this time frame, the application will be deemed approved. The PCD shall file its decision in writing with the Town Clerk. The applicant shall file this decision prior to exercising it (and pay the recording fee) with the Norfolk County Registry of Deeds within sixty (60) days of the original application date and shall provide evidence of recording to the Building Division prior to the issuance of any permits.

(5) **Appeals.** Within 10 days of the filing of the final decision, the applicant may, as a means of appeal, request full site plan review per § 3.10.F below.

F. Procedures for Full Site Plan Review

(1) **Submittal.** Applications for Full Site Plan Review shall be submitted to the Town Clerk, who must then certify the date and time of filing. A copy of the application must be filed forthwith by the petitioner with the Planning Board through the Planning and Community Development Department (PCD). The form, contents, and number of sets of plans of the application and other required information shall be as specified in this Zoning Ordinance, § 3.11, Site Plan Contents for Variance, Site Plan Review and Special Permits.

(2) **Determination.** Within ten (10) days of the filing of the application, PCD shall determine if the application is complete (determination of completeness). Initial determination that an application is complete does not imply that the information provided is accurate or adequate and shall not preclude PCD or the Planning Board from requesting or
considering new information during the course of the review process that will have direct bearing on the purposes of Site Plan Review as listed in § 3.10.B.

(3) **Advisory Review.** Within fifteen (15) days of the filing of the Full Site Plan Review application, where there is a positive determination of completeness, the PCD shall distribute copies of the application to Town departments. These departments shall submit comments to the Planning Board within thirty-five (35) days of the original application date. Failure of any party to submit comments to the Planning Board within this timeframe shall be interpreted by the Planning Board as lack of opposition to the application as submitted.

(4) **Public Hearing.** The Planning Board shall conduct a Site Plan Review Public Hearing within sixty-five (65) days of the original application date. The notification requirements of the public hearing shall comply with the following:

(a) Notice shall be given by publication in a newspaper of general circulation in the Town at least fourteen (14) days prior to the opening of the Public Site Plan Review Meeting and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of the meeting.

(b) Notice shall be sent by mail by the Planning Board through the use of the abutter materials prepared and certified by the Tax Assessor and submitted as part of the application. Abutters shall be considered: direct abutters, owners of land directly opposite from the subject premises on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the applicant as they appear on the most recent applicable tax list.

(5) **Decision.** The hearing shall be closed and a decision shall be made within ninety days (90) from the close of the hearing. Approval of a Full Site Plan Review application shall require at least three affirmative votes of the Planning Board at the close of the public hearing. The Planning Board shall then file a written decision with the Town Clerk within ninety (90) days of the close of the public hearing. The applicant shall file this decision (and pay the recording fee) with the Norfolk County Registry of Deeds within thirty (30) days of the end of the appeal period and shall provide evidence of recording to the PCD prior to the issuance of any permits.

(6) **Appeals.** Appeals of site plan review decisions may be made to a court of competent jurisdiction in accordance with the procedures set forth in M.G.L. c. 40A, § 17.

G. **Administrative and Full Site Plan Review Criteria.** In reviewing and evaluating any application for Site Plan Review, the Site Plan Review Committee or Planning Board shall require that the Site Plan(s) promote the purposes in § 3.10.B. These purposes, established to protect the health, safety, and general welfare of residents, embrace the following criteria for the proposed development:

(1) **Traffic, Parking, and Access:**

(a) Ensure adjacent highways or roads have the capacity to absorb potential traffic impacts and that all possible measures are taken to mitigate potential impacts.

(b) Provide for adequate parking and loading for all uses on site.

(c) Maximize the convenience and safety of vehicular, bicycle, and pedestrian movement within the neighborhood and site and on adjacent roadways, including sidewalks and bike/pedestrian paths.
(2) **Public Utilities:**

(a) Provide suitable water, sewer, electric, and stormwater management systems and maintenance.

(b) Develop within the capacity of the Town’s public infrastructure as determined by municipal officials.

(3) **Open Space and Environmental Protection:**

(a) Demonstrate that any adverse impacts to open space and sensitive areas such as wetlands, floodplains, surface water, and groundwater can be mitigated.

(b) Include measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, and limit the potential for flooding.

(c) Ensure that topography and grading is appropriate for the proposed uses, and that landscape design is attractive and appropriate for the environment.

(4) **Neighborhood Impacts:**

(a) Screen objectionable features, including, but not limited to large blank walls, open dumpsters, and loading or storage areas from neighboring properties and roadways.

(b) Implement, enhance or maintain buffers between uses of different intensities and types.

(c) Develop buildings and sites appropriately with regard to the size, shape, and design in relation to the land area upon which the building or structure is situated and to the adjacent buildings and structures within the neighborhood.

(5) **Health:**

(a) Minimize adverse impacts from air-quality, lighting/glare, and odors.

(b) Provide for proper disposal of trash and recycling.

(6) **Regulatory Compliance:**

(a) Comply with all applicable standards in the Zoning Ordinance.

H. **Final Action for Administrative and Full Site Plan Review.** Final action shall include one of the following:

(1) **Approval as Submitted.** Approval based on a determination that the application complies with the criteria set forth in this Section.

(2) **Approval with Conditions.** Approval of the application subject to any reasonable conditions, modifications, and restrictions the Site Plan Review Committee or the Planning Board may deem necessary to ensure the health, safety, and general welfare of the community.

(3) **Disapproval.** A disapproval of the application for the reasons of violations of provisions in the Zoning Ordinance, or determination that the Site Plan(s), although proper in form, is so intrusive on the interests of the public in one or more aspects regulated by the Zoning Ordinance, that no reasonable terms or conditions can be devised to adequately protect the interests of the public.
I. Permit Expiration. Any Site Plan Review approval shall lapse after three years from its issuance if substantial use or construction has not commenced within the three-year period, except for good cause. Upon written application by the grantee, the Site Plan Review Committee or the Planning Board (as applicable), in its discretion, may extend the rights to exercise the site plan review approval for a period not to exceed one year. The application for such extension shall be filed with the Site Plan Review Committee or the Planning Board (as applicable) prior to the expiration of the three-year period with enough time to properly provide notice of the requested extension at a regularly scheduled Planning Board meeting or with enough time to convene the committee for Administrative Site Plan Review as applicable. The rights to an expired site plan review approval may only be reestablished after the filing of a new application and the holding of a new public hearing (as applicable).

§ 3.11 Site Plan Contents for Variance, Site Plan Review, and Special Permits

The following information shall be provided on plans developed for Site Plan Review and any Special Permit applications. Where information requirements are not applicable to the applications, PCD staff will provide direction.

A. Basic Information

(1) Name of development.
(2) Date(s) of plan and revisions (if any).
(3) Graphic scale, datum of elevations, true north arrow, locus map at 1” = 2,000’.
(4) Property owner’s name and address.
(5) Zoning District(s) and notation if located in any Town Zoning Overlay Districts.
(6) Zoning and Parking Block Table: To include columns for existing, proposed, and required parking and zoning requirements.
(7) Location, width, and status of all existing rights of way, easements, and reservations within and adjacent to the property.
(8) All boundary lines and dimensions of the property and total acreage contained therein. Certification and signature (stamp) of all professional surveyors involved in the development of the plan. All surveyors shall have certification with the Commonwealth of Massachusetts Board of Registration of Professional Engineers and Land Surveyors.
(9) Name, address, and telephone number of any designers associated with the development of the plans.
(10) Map and plot numbers of the parcel(s).
(11) FAR ratio calculation for all residential structures and/or any structure containing residential units (see § 5.10)

B. Existing Conditions Plan

(1) Locus map inset at a scale of 1 inch = 2,000 feet with all streets, public facilities, and significant water bodies labeled.
(2) Location of all existing buildings and structures on the site.
(3) Approximate location, description, and dimensions of existing public open spaces, including parks, playgrounds, greenbelts, and public shoreline access ways, based on available information.
(4) Approximate location, description, and dimensions of existing structures and uses on and minimally within two hundred (200) feet of the property.
(5) Location and type of all historically significant structures, historic walls or similar features, including an indication of their protective status.
C. Proposed Development Plan.

(1) All proposed buildings and structures, access driveways, and proposed easements.
(2) Proposed height, number of stories, basement elevation, first floor elevation with architectural renderings and floor plans (if applicable), also use of all buildings and/or structures on site.
(3) Location, size, and type of signage.
(4) Foundation lines of the proposed buildings, gross floor area, and building height.
(5) Location of solid waste and recycling containers within an enclosure.
(6) Proposed utilities and storage facilities, including sewer, water, and electric connections.
(7) Erosion and Sediment Control Plan consistent with §7.5.F of this Zoning Ordinance.
(8) Parking and Circulation Plan consistent with §7.1-Q of this Zoning Ordinance.
(9) Traffic Study consistent with §7.3-C of this Zoning Ordinance.
(10) Landscaping Plan consistent with §7.2-B of this Zoning Ordinance.
(11) Lighting Plan consistent with §7.2-D of this Zoning Ordinance.
(12) Stormwater Management Plan consistent with §7.2-E of this Zoning Ordinance.
(13) Grading Plan consistent with §7.2-F of this Zoning Ordinance.

§ 3.12 Repetitive Petition

A. Applicability. Per M.G.L. c. 40A, §16, any petition for a variance or application for a Special Permit which has been denied by the Planning Board or Zoning Board of Appeals shall not be acted favorably upon by the respective board for a period of two years unless the following two conditions are met.

(1) All members or all but one member of the entire Planning Board must vote their consent to the refiling of the application within the two-year period.

(2) The Zoning Board of Appeals (acting as permit granting authority) or the Planning Board finds that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describe such changes in its record of the meeting.

B. Process. The actions of either of the boards involved in a repetitive petition process must be taken as provided for in M.G.L. c. 40A § 16 and include notice to the parties in interest as to the time and place of the meetings. The notice should specify that the application or petition is a repetitive petition and that the Planning Board or Zoning Board of Appeals will be considering the question of whether there has been a specific or material change in the conditions upon which the previous unfavorable action was based.
§ 3.13 Zoning Amendments

A. Amendments. Any change in this chapter or the Zoning Maps shall be made in accordance with MGL c. 40A, § 5. Amendments to this chapter or the Zoning Map may be presented to the Town Council as follows:

1. By the Town Council on its own initiative.
2. By the Planning Board on its own initiative.
3. By the Zoning Board of Appeal on its own initiative.
4. By an individual owning land to be affected by change or adoption.
5. By request of ten (10) registered voters.
6. By a regional planning agency.
7. By any other methods provided by municipal charter.

B. Submission Requirements.

1. A petitioner per § 3.13. A proposing a rezoning of land shall submit the items below with the application to the Town Council. Proposed rezones or zoning amendments shall be submitted to the Town Clerk who must then certify the date and time of filing.

   a. A copy of the plan showing the proposed rezoning, drawn to a scale of one-inch equals 40 feet;
   b. A legal description of the property proposed to be rezoned sufficient for identification. No proposed rezoning articles shall be transmitted to the Planning Board for review until all the materials required under items (a) and (b) have been submitted.

2. Amendment to Zoning Ordinance.

   a. Written text amendment.
   b. Purpose for proposed amendment.

C. Submission of Proposed Rezone or Zoning Amendment to Town Council. The Town Council shall submit to the Planning Board any rezone and zoning amendments to this chapter within 14 days of receipt.

D. Public Hearings on Proposed Amendments. The Planning Board on its own initiative shall conduct public hearings within 65 days after receipt of the proposed amendment or change:

1. After the publication of a notice in a newspaper of general circulation in the Town, in each of two consecutive weeks, the first publication to be at least 14 days prior to the hearing date.
2. Said notice shall contain the date, time, and place of said hearing, subject matter sufficient for identification and places where texts and maps may be inspected.
3. Said notice shall be posted in Town Hall for a period of not less than 14 days prior to the hearing date.
4. Notice of said hearings shall be mailed postage prepaid to the Department of Community Affairs, the regional planning agency, the planning boards of all abutting cities and towns, and to any nonresident property owner who has filed an annual request for such notice with the Town Clerk not later than January 1 and has paid a fee of $5 to cover
postage and handling. It shall be deemed sufficient if such notice is mailed or delivered to the last known address.

E. **Required Vote for Adoption.** No Zoning Ordinance amendment or rezone shall be adopted except by two-thirds vote of the Town Council, pursuant to MGL c. 40A, § 5.

F. **Effective Date:** The effective date of such ordinance or amendment shall be the date passed by the town council and signed by the mayor or as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the town clerk to the office of the attorney general.

G. **Validity; Limitations on Claims of Invalidity.** The invalidity of any section or provision of this chapter shall not invalidate any other section or provision hereof. No claim of invalidity of any Zoning Ordinance arising out of any possible defect in the procedure of adoption or amendments shall be made in any legal proceeding.
Sec. 4. Use Regulations

§ 4.1 General

No land may be used, and no structure erected or used, except where approval has been received in accordance with § 4.6, Table of Uses (Table 1).

§ 4.2 Uses Permitted in All Zoning Districts

The following uses are permitted in all districts:

A. Federal government uses.

B. State and quasi-state government uses to the extent that this chapter would prohibit the exercise of an essential government function.

C. Uses to the extent protected or exempt as provided in M.G.L. c. 40A, §3 or other state or federal law. Such uses may still be subject to Site Plan Review.

§ 4.3 More than One Use Classification

A. Where a use, structure, development or activity may be classified under more than one of the uses in Table 1, the more specific use classification shall apply. If equally specific, the more restrictive use classification shall apply.

B. More than one principal use is allowed on a lot if each principal use is a permitted use within the underlying zoning district, and all other requirements of this chapter are met. Dimensional standards shall be the strictest of those required for any of the principal uses, per § 5.8 Table of Dimensional and Density Regulations. Parking standards, however, shall follow the standards in § 7.1 Off-street Parking and Loading for lots with more than one principal use. If a Special Permit is required for one of the principal uses, it will incorporate all other principal uses on the lot for review.

§ 4.4 Overlay Districts

The use of land in overlay zoning districts is subject to the regulations of the base zoning district and the additional requirements of the overlay district, as described in § 8 Special District Regulations.

§ 4.5 Prohibited Uses

Any use not listed in Table 1 is prohibited. Any use, as determined by the Building Inspector, that poses a present or potential hazard to human health, safety, and welfare through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare, is expressly prohibited in all districts.

§ 4.6 Table of Uses

A. The Table of Uses is split into two parts. Part 1 includes all primary uses, and Part 2 includes strictly accessory uses (see § 4.7 below).
B. The symbols in both parts of Table 1 have the following meanings:

Y: Use permitted by right
N: Prohibited use
SP: Use requires a Special Permit issued by the Planning Board or Zoning Board of Appeals as specified within the Zoning Ordinance.

C. The Table of Uses includes a column titled “Ref”, which is an abbreviation for References. The sections noted in this column cross reference to Special Use Regulations or Special District Regulations for each use, as relevant.

D. The Table of Uses includes a column titled “Pkg”, which is an abbreviation for Parking. The number noted in this column cross references to § 7.1 Off-street Parking and Loading and identifies the minimum parking standard applicable to each use.

§ 4.7 Accessory Uses

A. Any use not specifically listed as an accessory use in Table 1 (Part 2) or otherwise specified in this § 4.7 is permitted as an accessory use provided it is a use that is customary and incidental to a permitted principal use located on the same lot as the accessory use, conforms to all other provisions of this chapter, and complies with all other Town ordinances or state laws.

B. An accessory use may not occupy more than 25 percent of the area of a lot or more than 25 percent of the total combined gross floor area of a building(s) or structure(s) on a lot, whichever results in fewer square feet. This limitation does not apply to off-street parking, or to accessory apartments, which are governed by other provisions of this chapter. Billboards shall not be considered an accessory use.

C. Permitted Accessory Uses in Residential Districts.

(1) The outdoor storage of one unregistered motor vehicle (not defined as junk) with a valid inspection sticker for a period not to exceed 90 days within one calendar year.

(2) The storage of one of the following items registered to the address of the site on which it is stored – one camper, one recreational vehicle or one registered boat on a trailer – and no longer than 35 feet in length, provided that said storage is not located closer than 20 feet from a front lot line and five (5) feet from a side lot line.

D. Uses Not Considered Accessory in Residential Districts (Not Allowed).

(1) The parking or storage of more than one commercial motor vehicle registered or unregistered.

(2) The accommodation of, or the renting of space to, more than three lodgers, boarders or paying guests, with the exception of a permitted Bed and Breakfast as defined in § 9, Definitions.

(3) An advertising sign, except a temporary real estate sign less than four (4) square feet advertising the property on which it is placed.

(4) The outdoor storage at any time of parts or bodies of motor vehicles.

(5) The outdoor storage of Junk as defined in § 9, Definitions.
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<thead>
<tr>
<th>Access Across a Zone to Serve a Different Zone</th>
<th>RA</th>
<th>RB</th>
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<th>OSC</th>
<th>Pkng&lt;sup&gt;1&lt;/sup&gt;</th>
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<td>N</td>
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<td>N</td>
<td>N</td>
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<tr>
<td>Community center</td>
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<td>N</td>
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<td>N</td>
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<td>Library or museum</td>
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<sup>1</sup> Numbers in this column correspond with Table 4 Schedule of Off-Street Parking Requirements in §7.1 Off-street Parking & Loading.
### Recreation and Agricultural Uses

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<th>C</th>
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<tr>
<td>Agriculture, horticulture, and floriculture</td>
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<td>Y</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
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<td>Y</td>
<td>Y</td>
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<td>3.6</td>
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<td>Boathouse, marina</td>
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<td>N</td>
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<td>Golf course</td>
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<td>SP</td>
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<td>Riding stable</td>
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<td>Rod and gun club</td>
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### Business; Retail Uses

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<th>HB</th>
<th>C</th>
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<td>Lawn and garden center</td>
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<td>SP</td>
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<tr>
<td>Retail store, &lt;10,000 sq. ft.</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
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<td>N</td>
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<td>Retail store, 10,000-30,000 sq. ft.</td>
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<td>N</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
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<td>4</td>
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<tr>
<td>Retail store, &gt;30,000 sq. ft.</td>
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<td>N</td>
<td>N</td>
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### Business; Food Service Uses

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### Use Regulations

#### RA RB RC TD VC GB BWLD HB C OSC Pkng¹ Ref

| Cinema                                      | N   | N   | N   | N   | N   | N   | Y   | N   | N   | 11.2 |
| Theatre; live performances                  | N   | N   | N   | SP  | SP  | SP  | SP  | SP  | N   | N   | 11.2 |

#### Business; Public Services

| Postal service and/or Copy center           | N   | N   | N   | Y   | Y   | Y   | SP  | Y   | Y   | N   | 12.1 |
| Educational use, non-exempt                 | N   | N   | N   | N   | Y   | N   | Y   | Y   | N   | 12.1 |
| Professional, arts and educational schools and studios, non-degree | N   | N   | Y   | Y   | Y   | Y   | Y   | Y   | N   | 12.1 |

#### Business; Other

| Adult uses                                  | N   | N   | N   | N   | N   | N   | N   | SP  | N   | 13.1 | §6.10 |

#### Production Uses

| Alcoholic beverage production               | N   | N   | N   | N   | N   | N   | SP  | SP  | N   | 14.1 |
| Contractor’s yard                           | N   | N   | N   | N   | N   | N   | SP  | N   | SP  | 14.1 |
| Flex building                               | N   | N   | N   | N   | N   | N   | SP  | N   | Y   | 14.6 |
| Fuel storage, bulk                          | N   | N   | N   | N   | N   | N   | N   | N   | N   | 14.1 | §8.5, SIMA |
| Hazardous waste facility/transfer station   | N   | N   | N   | N   | N   | N   | N   | N   | N   | 14.7 |
| Heliport                                    | N   | N   | N   | N   | N   | N   | SP  | Y   | N   | 14.5 |
| Industrial, heavy                           | N   | N   | N   | N   | N   | N   | N   | N   | N   | N/A  |
| Industrial, light                           | N   | N   | N   | N   | N   | N   | N   | SP  | Y   | 14.1 |
| Marine-dependent use                        | N   | N   | N   | N   | N   | N   | SP  | SP  | SP  | 14.1 |
| Public utility yard                         | N   | N   | N   | N   | N   | N   | SP  | SP  | N   | N/A  |
| Quarry                                      | N   | N   | N   | N   | N   | N   | N   | N   | N   | N/A  |
| Recycling station/redemption center         | N   | N   | N   | N   | N   | N   | SP  | N   | SP  | 14.1 |
| Research and development                    | N   | N   | N   | N   | N   | N   | SP  | Y   | N   | 14.2 |
| Self-storage facility                       | N   | N   | N   | N   | N   | N   | SP  | Y   | N   | 14.3 |
| Solid waste disposal facility or transfer station | N   | N   | N   | N   | N   | N   | N   | SP  | N   | 14.5 |
| Transportation terminal                     | N   | N   | N   | N   | N   | N   | N   | SP  | N   | 14.5 |
| Warehouse and distribution, wholesale/bulk   | N   | N   | N   | N   | N   | N   | SP  | Y   | N   | 14.4 |
| Warehouse and distribution, retail          | N   | N   | N   | N   | N   | N   | SP  | SP  | N   | 14.4 |
| Wireless communication facility             | N   | N   | N   | N   | N   | N   | SP  | SP  | N   | N/A  | §6.11 |
### TABLE 1 (PART 2)
#### TABLE OF ACCESSORY USE REGULATIONS

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§ 4.8 Nonconforming Uses, Structures, and Lots

A. Special Permit Granting Authority. For the purposes of this section, the Braintree Zoning Board of Appeals (ZBA) shall be the Special Permit Granting Authority (SPGA) for authorizing alterations or changes to preexisting nonconforming uses, structures, and lots per M.G.L. c. 40A, § 6.

B. General. The following general standards apply to nonconforming situations:

(1) Nonconforming structures that contain a non-conforming use, or any use of land or a structure, may continue pursuant to the limitations established in M.G.L. c. 40A, § 6, as amended, and subject to the following:

   (a) Unless or until abandoned or not used for a period of two years or more, in which case any proposed reoccupation, alteration or expansion shall require a Special Permit from the Zoning Board of Appeals.

   (b) So long as any use of land or use of a structure was lawfully in existence prior to the effective date of this chapter or any amendment thereto.

   (c) So long as the structure was issued a building permit or Special Permit prior to the first publication of notice of the public hearing for this chapter or any amendment thereto or is deemed to be a lawfully nonconforming structure pursuant to M.G.L. c. 40A, § 7.

(2) No nonconforming use if changed to a conforming use shall be allowed to revert back to a nonconforming use.

(3) No new lots can be created and no changes to existing conforming lots can occur that do not meet the standards for lot dimensions in Table 2 of § 5.8, Table of Dimensional and Density Regulations, unless granted Variance(s) pursuant to Section 3.7.

(4) Alterations to lawfully established lots that do not meet the dimensional requirements in Table 2 of § 5.8, Table of Dimensional and Density Regulations may be allowed through a Special Permit Application, provided the alteration does not, in the opinion of the ZBA, run contrary to their decision making criteria related to buildings and structures as identified in Subsection D (1)-(3).

C. Nonconforming Uses. The ZBA may, by the granting of a Special Permit, authorize the following:

(1) A nonconforming use to be changed to or replaced by a use listed in the Use Table as not allowed in that Zoning District that is not substantially different in character, or different in kind or in its effect on the neighborhood, than the existing nonconforming use. The new use shall be less detrimental to the neighborhood than the existing nonconforming use. (However, per § 3.7-E, no variance may authorize a use or activity not otherwise permitted in the zoning district in which the land or structure is located.); or

(2) An alteration or expansion of a nonconforming use.

(3) For the purposes of determining whether a changed or replaced non-conforming use or if an expansion or alteration to a nonconforming use will not be substantially more detrimental to the neighborhood, the ZBA shall consider whether:

   (a) The use is expected to generate the same or fewer vehicle or truck trip generation on and off the site;
D. Alteration, Reconstruction or Structural Changes to Nonconforming Structures other than Single-Family and Two-Family Dwellings. The ZBA, by the granting of a Special Permit, may authorize a preexisting nonconforming building or structure, including those built on substandard lots, to be altered, reconstructed or structurally changed provided that such alteration, reconstruction or structural change:

1. Will not create any new dimensional non-conformities;
2. Does not increase the extent of the existing nonconformity; and
3. Shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. For the purposes of this determination, the ZBA shall consider whether the alteration, enlargement or reconstruction meet the following criteria:

a. No unmitigated increase in vehicle or truck trip generation on and off the site;
b. No increase in the minimum parking requirement associated with the structure that cannot be accommodated on the site;
c. No increased impacts related to lighting/glare, fumes or odors;
d. No alteration of impervious area that increases the rate of stormwater discharge off the site for the 1-year or greater storm frequency;
e. No negative impact to vehicular or pedestrian access, egress or circulation on and off the site.

E. Alteration, Reconstruction or Structural Changes to Nonconforming Single-Family and Two-Family Dwellings.

1. In the case of a Single or Two-Family Dwelling which is nonconforming solely because of insufficient lot frontage and/or lot area, any proposed alteration or structural change (Excluding Reconstruction and/or Demolition) may be permitted by the Building Inspector so long as all other dimensional requirements for lots and the proposed alteration or structural change meets the current standards in Table 2 of § 5.8, Table of Dimensional and Density Regulations.

2. In the case of a dimensionally nonconforming Single or Two-Family Dwelling on a compliant lot, where said building or a portion thereof is nonconforming as to one or more of the dimensional requirements for front, side, or rear yard setbacks or maximum height, any proposed alteration, reconstruction or structural change may be permitted by the Building Inspector so long as any alteration, reconstruction or structural change to the existing structure will be in conformity with Table 2 of § 5.8, Table of Dimensional and Density Regulations.

3. In all other instances of alteration, reconstruction or structural change to a nonconforming Single or Two-Family Dwelling, including instances that involve demolition of a nonconforming single- or two-family dwelling, the applicant may petition the ZBA for a Special Permit under M.G.L. c. 40A, §6 to allow such alteration, reconstruction or structural change.
(4) The creation of new nonconformities, such as relief from dimensional requirements with which the existing nonconforming structure complies, shall require a variance from the ZBA.

F. Abandonment, Discontinuance, and Restoration of Nonconforming Structures and Uses.

(1) Any nonconforming use which has been abandoned or discontinued for more than two (2) years, or the nonconforming use of buildings, structures, or land primarily for agriculture, floriculture, or horticulture which has been discontinued for more than five (5) years, shall not be re-established and any future use shall conform to the regulations of this chapter.

(2) A nonconforming structure (including a nonconforming structure occupied by a nonconforming use) which has been destroyed by fire or other casualty may be reconstructed, and any nonconforming use thereof may be recommenced, if the reconstruction is substantially completed within two (2) years of the date of destruction. Reconstruction of nonconforming structures on land primarily used for agriculture, horticulture or floriculture must be substantially completed within five (5) years of the date of destruction. In the absence of fire or other casualty, a nonconforming structure shall not be reconstructed after it has been removed or demolished, except in conformity with a building permit or Special Permit issued under Section D, above, and applied for before the date of such demolition or removal.
Sec. 5. Dimensional Regulations

§ 5.1 General Requirements

A. Applicability. Each lot, building, or structure shall comply with the requirements in Table 2 of this section, Table of Dimensional and Density Regulations, except where provided otherwise by this chapter.

B. Lots in More than One District. When a boundary line between zoning districts divides a single lot in single ownership on the effective date of this chapter (June 18, 1940), the lot may be held to the requirements (in terms of both use and dimensional and density requirements) of either one zoning district or the other, but not a combination of the two. In order to exercise the single split lot provision, the lot must be identical in lot size and boundaries as it was on June 18, 1940.

C. One Dwelling Per Lot. More than one single family dwelling on a lot in RA and RB is prohibited unless specifically authorized by other provisions of this chapter (for example, with a Special Permit per § 6.5 Flexible Development). Any lot in any zoning district otherwise permitted for one single-family home may only add a second dwelling per the standards for § 6.7 Accessory Apartments or § 6.3 Two-Family Conversion. Otherwise, more than one dwelling per such lots is prohibited.

§ 5.2 Lot Regulations

A. Lot Frontage.

(1) Minimum Lot Frontage Required. Every lot must have at least the minimum frontage set forth in Table 2 of this section for the district in which the lot is located on a street, as defined in § 9 Definitions. Frontage on unaccepted ways in existence prior to the adoption of the subdivision control law (1949) must be built to the standards of the Town’s Subdivision Rules and Regulations prior to the issuance of a building permit for new development on a lot. Ways laid out but not constructed shall not be used as frontage.

(2) Measurement of Lot Frontage. Frontage shall be measured in a continuous line along the sideline of the street layout between the points of intersection of the side lot lines with the street layout line. The measurement of lot frontage excludes jogs in the street width, backup strips, and other irregularities in the street line. In the case of a corner lot, the frontage may extend to the midpoint of the curve connecting street lines instead of to their intersection. Where the Town assigns frontage (and a street address) for a lot, future determination of compliance with the dimensional and density regulations of this zoning ordinance will be based on that assigned frontage, regardless of where the lot is actually accessed.
Access. Every lot must provide access for vehicles from the frontage street to a principal building for emergency services, deliveries, and off-street parking. Alternatively, the owner may provide the access from another street provided it can be demonstrated that it is both physically and legally impossible to provide access from the designated frontage street.

B. Lot Width. At no point shall the lot width between the street frontage (per the Town assigned frontage) and the principal building be less than 65 percent of the minimum lot width required by Table 2, Table of Dimensional and Density Regulations. No portion of a principal building shall be located on a portion of a lot where the lot width is less than the minimum lot width and said minimum lot width shall be maintained to a point 20 feet beyond the rear portion of the principal building.

C. Change in Lot that Results in Noncompliance. No conforming lot may be changed to make it nonconforming.
§ 5.3 Setbacks

A. In an established residential neighborhood, the front yard setback on a residential lot may be the average of the setbacks of the other residential buildings within 300 feet of the midpoint of the front lot line on the same side of the street.

B. With the exception of driveways necessary for access and egress with a 4-foot pervious setback to the side property line, no required front setback in Residence A, B or C districts shall be used for any accessory use or structure. Such driveways shall not be located in front of the front façade of the home (except in front of a garage, carport, or other parking structure). A maximum of two (2) cars or other light motor vehicles are allowed to be parked in the front setback on such driveway, per the standards of § 7.1.N.1.b.

C. On corner lots, the area between the building or structure and each street line shall be defined as a front yard. For corner lots where intersecting streets are rounded, no building or structure shall be located fewer than 15 feet from the street measured radially from the circular arc.

D. Nothing herein shall prevent the projection into any required yard of steps, stoops not exceeding 30 square feet in area, eaves to 18 inches, cornices, windowsills, or belt courses.
E. All billboards shall require a front yard setback of twenty (20) feet, a side yard setback of twenty (20) feet, and a rear yard setback of thirty (30) feet.

F. For all non-residential uses listed in the Use Table (which includes all Use Categories except for Residential Uses), any temporary storage containers, outdoor racking systems, truck ports, and any other structures, whether temporary or permanent, must adhere to the setback standards for the underlying zoning district per § 5.8 Table of Dimensional and Density Regulations.

G. In all zoning districts, nonresidential garages must adhere to the setback standards for the underlying zoning district per § 5.8 Table of Dimensional and Density Regulations.

§ 5.4 Height Regulations

A. Height Exceptions.

   (1) For one- and two-family dwellings, the limitation of height in Table 2, Table of Dimensional and Density Regulations shall not apply to chimneys, ventilators, or other ornamental features which are not used for living purposes. For other buildings, the limitation of height shall not apply to chimneys, elevator penthouses or equipment rooms which extend 12 feet or less above the roof, parapets which are four feet or less in height, and building-mounted wireless communication links (as authorized under § 6.1) which extend 10 feet or less above the height of the building. The sum of the footprints of all chimneys, elevator penthouses or equipment rooms, parapets, and building-mounted wireless communication links shall not exceed twenty-five percent (25%) of the roof area of any non-residential buildings.

   (2) Municipal water storage towers or tanks shall be exempt from the height restrictions of this section.

B. Structures Other than Buildings.

   (1) The maximum height, in feet, for structures other than buildings may not exceed half (1/2) the maximum height for buildings as set forth in Table 2, Table of Dimensional and Density Regulations.

   (2) Structures other than buildings may be located in a required front, rear or side yard subject to limitations on accessory uses (§ 5.3.B) and provided the height of the structure is not greater than its horizontal distance from the nearest lot line.
Dimensional Regulations

Town of Braintree Zoning Ordinance | Public Hearing Draft

DRAFT Braintree Zoning Ordinance
March 11, 2019

§ 5.4.B.2 above do not apply to fences and walls. These structures shall be no greater than six feet in height (with supporting posts not greater than six feet, six inches in height) may be located up to any lot line provided they meet the requirements for visibility (sight triangle) in § 5.7.A. Solid fences erected along driveways of any properties shall be limited in height to a maximum of 30 inches for a distance of no less than ten (10’) feet from any street layout line.

(4) The height limitations in § 5.4.B.2 above do not apply to billboards. These structures shall not be erected in excess of 75 feet in height as measured from the ground to the top edge of the billboard.

(5) Where different limitations are applied elsewhere in this ordinance for specific structures or situations, those requirements shall govern.

§ 5.5 Landscaped Open Space

A. Location. In the VC, TD, BWLD, GB, HB, and C districts, at least 50 percent of the minimum required landscaped open space (Table 2) may be located in front of or on one or both sides of the principal building and visible from the street unless it is demonstrated through Site Plan Review or a Special Permit review that locating the landscaping elsewhere will provide a clear benefit in the form of enhanced stormwater management, better site circulation, or better screening, or if a development is legally permitted to have a zero front and side setback.

B. Satisfying Zoning Requirements. In all zoning districts, no minimum required landscaped open space (Table 2), or part thereof, on a lot can be used to satisfy the zoning requirements for another lot as part of the landscaped open space similarly required to meet zoning requirements for another site.
§ 5.6 Buffer Areas Between Zoning Districts

A. **Purpose.** There are situations within the Town where certain zoning districts when they come together require a buffer between their zones for certain use of each zone to co-exist. Buffering provides a distance of space and screening of potential impacts from one use and zone to another. The purpose of this section is to establish certain regulations pertaining to these buffer areas for natural open and landscaped buffers between these zoning districts that:

1. Encourage light and open natural space between uses of different zoning districts when they are directly abutting.
2. Provide a visual divide and screening between incompatible uses such as commercial and residential uses.
3. To minimize adverse impact of noise and glare from uses with different levels of intensity and operational hours.

B. **Applicability.**

1. In Highway Business and Commercial Zoning districts, no building or structure or part thereof shall be erected or placed within 100 feet of any Residential or Open Space Conservancy District zoning line.
2. In General Business and Transition Zoning District, no building or structure or part thereof shall be erected or placed within ten (10) feet of any Residential or Open Space Conservancy District zoning line.

C. **Approval by Special Permit.** Use of designated Buffers may be allowed with approval from the Planning Board acting as the Special Permit Granting Authority (SPGA) through issuance of a Special Permit in the following circumstances:

1. The placement of any building and/or structure or portion thereof within the required buffer;
2. The Installation of underground utilities, including but not limited to, stormwater structures, water, sewer, gas and electric that disturb and area of over 500 SF. The extent of earth disturbance and grading required for such installation must be minimal to avoid any impact to any existing natural vegetation;
3. The installation of fencing and retaining walls that do exceed the height of over four (4) feet;
4. Proposals that include vegetative clearing, terracing or earth movement in excess of 500SF will require detailed grading information as to the amount of earth movement within in the buffer and structural engineered plans for any wall exceeding four (4) feet in height;
5. For emergency access only when no other option exists due to topography and/or soil conditions on other portions of the site outside of the required buffer that disturbs an area of more than 500 SF;
6. For any play areas, access ways, interior driveways or portions of parking areas that disturb more than 500 SF of the buffer.

D. **Composition of Buffers.**

1. Existing natural mature undisturbed vegetated buffers are to be preserved as much as is possible to serve as effective year-round visual screening. The buffer area shall be protected area of no cutting or disturbance on approved site plans.
(2) In circumstances where the existing conditions do not provide sufficient mature screening, in the opinion of the Special Permit Granting Authority, between uses the following may be required by the Planning Board:

(a) A landscaped strip of plant materials mixture of deciduous trees and coniferous trees of mature growth (2.5 caliber or larger); staggered spaced plantings and in a number determined by the Special Permit Granting Authority as sufficient screening;

(b) A raised earthen berm, dimensions and height determined by the Special Permit Granting Authority to be either screened with a fence; or installation of landscaped plantings of various species and sizes of shrubs and trees; or a combination of both;

(c) The placement of either fencing or landscaping on the abutting property to the development to provide screening.

E. Special Permit Requirements. The form, contents, and number of sets of plans of the application and other required information shall be as specified in § 3.11. In addition, any request for Special Permit Granting Authority approval shall also provide the additional materials:

(1) A written narrative addressing the hardship for seeking a Special Permit that demonstrates in detail the problem imposed by these buffer requirements. If the situation involves an existing building, structure of part thereof that pre-existed the implementation of the bylaw that is seeking expansion and/or reconstruction. A detail building history of when and how the building, structure of part thereof existed or came to be located within the required buffer and what is the proposed activity. If new construction is proposed, an explanation why the building, structure of part thereof must be located within the buffer and what means of screening are proposed as part of the project.

(2) A proposed landscape plan for the buffer area to be disturbed identifying a “no clear zone” of existing vegetation, proposed landscaping or creation of earthen landscape berm including a cross profile, details of all plant species and proposed fencing if used. Landscaping plan shall also include existing and proposed contours, inventory of existing vegetation and any existing or proposed utilities – including irrigation if supplemental plantings are proposed.

F. Special Permit Criteria. In reviewing and determining if a Special Permit should be approved for development within the buffer, the SPGA shall consider the following:

(1) Nature of the request and location and proximity to the abutting uses. All potential Alternative(s) for placement a building or structure or part thereof, on the lot were examined as alternatives and outlined to the SPGA;

(2) The topography of the host site and adjacent property (including any ledge, wetlands and/or floodplain) that affects why a building or structure be placed in the required buffer;

(3) The potential for adverse impact and any nuisance activities such as odors, noise, light and glare on abutting properties;

(4) The proposed mitigation is adequate relative to the proposed development for screening and/or landscaping;

(5) No other alternative exists and emergency access will not be fulfilled to guarantee public safety to the building or lot;
(6) The overall use of the buffer to serve the general purpose in relation to proposed disturbance or placement of a building or structure with it.

§ 5.7 Other Requirements

A. Traffic visibility across corners. In any district, no fence, signage, planting, foliage or other shrubbery shall be maintained between a plane 2.5 feet above the curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner or side yard which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such lot line 25 feet from the intersection of said lines or extension thereof.

B. Attached Structures. An attached garage or other attached structure or building in both residential and business areas shall be considered part of the main building and shall comply with all the dimensional and density requirements for that building.

C. Parcels in Separate Ownership. Any parcel of land in separate ownership on the date of this amendment shall not be used to satisfy maximum lot coverage, maximum building coverage or minimum open space requirements listed in § 5.8 Table of Dimensional and Density Regulations for another parcel of land located in a different zoning district.

§ 5.8 Table of Dimensional and Density Regulations

The Table of Dimensional and Density Regulations is shown as Table 2 in this chapter.
### TABLE 2
TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

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<thead>
<tr>
<th>Lot Dimensions</th>
<th>RA</th>
<th>RB</th>
<th>RC</th>
<th>TD</th>
<th>VC</th>
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### Height, Coverage and Massing

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<td>3.5*</td>
<td>3.5*</td>
<td>2.5</td>
<td>4*+</td>
<td>4*</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>
### Dimensional Regulations

<table>
<thead>
<tr>
<th></th>
<th>RA</th>
<th>RB</th>
<th>RC</th>
<th>TD</th>
<th>VC</th>
<th>GB</th>
<th>BWLD</th>
<th>HB</th>
<th>C</th>
<th>OS</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum bldg. coverage (%)</td>
<td>40</td>
<td>70</td>
<td>70</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum lot coverage (%)</td>
<td>70</td>
<td>70</td>
<td>65</td>
<td>80</td>
<td>90</td>
<td>90</td>
<td>100</td>
<td>75</td>
<td>75</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Minimum landscaped open space (%)</td>
<td>30</td>
<td>30</td>
<td>35</td>
<td>20</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>25</td>
<td>25</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>Maximum floor area ratio (FAR)</td>
<td>.30</td>
<td>.35</td>
<td>.80</td>
<td>.75**</td>
<td>1.0**</td>
<td>1.0**</td>
<td>1.0**</td>
<td>1.0**</td>
<td></td>
<td></td>
<td>§5.10</td>
</tr>
</tbody>
</table>

* Building height can be the maximum stories or feet, whichever is less.
** Applies ONLY to buildings with multifamily dwellings, small scale multifamily dwellings, and dwelling units in mixed-use development. There is no maximum FAR for buildings that are solely non-residential.
+ In the HB zoning district, buildings may be considered up to 75 feet or 6 stories (whichever is less) only with the application for a special permit.
§ 5.9   Table of Dimensional and Density Regulations for Accessory Buildings and Structures in Residential Districts

The Table of Dimensional and Density Regulations for Accessory Buildings and Structures in Residential Districts is shown as Table 3 in this section.

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>RA</th>
<th>RB</th>
<th>RC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street/Front (lin. ft)</td>
<td>25</td>
<td>25</td>
<td>35</td>
</tr>
<tr>
<td>Side (lin. ft)</td>
<td>10</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Rear (lin. ft)</td>
<td>10</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Rear Setback to Building Height Ratio</td>
<td>1:1</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Height</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum building height</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feet (lin. ft)</td>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Stories</td>
<td>1.5</td>
<td>1.5</td>
<td>1.5</td>
</tr>
</tbody>
</table>

§ 5.10 Calculating Floor Area Ratio (FAR)

Step 1. Determine the Total Land Area, in terms of square feet, for the lot. Total land area for a lot does not include public streets and rights-of-way.

Step 2. Determine the Floor Area, in terms of square feet, of each story of the building. Calculate the area of each story (floor) of the building, typically measured between the exterior walls. The basement floor area shall be included only where: 1) more than 40% of the total exterior wall area is above grade; or 2) more than 75% of any single wall is above grade.

Step 3. Determine the Gross Floor Area of the building. Gross floor area is the sum of the floor area of each story, minus any excluded area. When calculating FAR, the floor area shall exclude the following:

1. Garages, carports, and any structured parking.
2. Any section of an attic where the height space between the joists of the floor and the bottom of the supporting truss members is five (5) feet or less.
3. Stairways and elevator shafts, both internal and external. Stairways include the steps and landings at each end of a run of steps for a depth of three (3) feet at each end.
Gross Floor Area (G) = Floor Area of 1st Story minus any excluded area + Floor Area of 2nd Story minus any excluded area … for all floors above the ground.

Step 4. Calculate the Floor Area Ratio. Divide the Gross Floor Area by the Total Land Area. The result is the Floor Area Ratio (FAR).

Step 5. Check § 5.8 Table of Dimensional and Density Regulations for compliance with the maximum allowable residential FAR in the underlying zoning district.
Sec. 6. Special Use Regulations

§ 6.1 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 (see § 9, Definitions, Affordable Housing);
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 any multi-family dwellings or dwellings in a mixed-use development (see § 9, Definitions, Mixed-Use Development) or a Flexible Development (see § 9, Definitions, Flexible Development), as listed in Table 1 (Part 1) Table of Principal Uses and defined in this ordinance, that would result in a net increase of six (6) or more dwelling units on a parcel or contiguous parcels under common ownership or control, except as provided below.
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 six 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 dwellings in a mixed-use development subject to this section, at least 15 percent of the dwelling units shall be affordable housing as defined in § 9 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 submitted by the applicant and approved by the Town’s Department of Planning and Community Development (DPCD). The affirmative fair housing marketing plan shall comply with the State Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines in effect on the date the application was filed with the Town.
3. **Methods of Providing Affordable Units.** The applicant shall provide the required number of affordable units under this section through one or more of the following means.

   (a) **On-Site Units.** Construction of affordable units on the site of the project (“on-site units”) is the preferred approach to creating affordable housing and shall be required for any development that includes 20 or more dwelling units or any rental development regardless of size.
“Off-Site Units,” or Comparable Affordable Units on Another Site in Braintree. Off-site affordable units may be allowed for developments with fewer than twenty (20) proposed ownership units (rental units are not allowed off-site), per all of the other requirements of this § 6.1 as well as the following:

(i) Off-site affordable units need not be located in the same district as the development.
(ii) The approved location of any off-site affordable housing units shall be identified in the Town’s decision.
(iii) Preservation of existing dwelling units for affordable housing may be accomplished by a developer purchasing deed restrictions and making capital improvements to create housing in compliance with all building and health codes and with equal or greater value as new-construction units.
(iv) Where off-site affordable units are proposed, the newly preserved/developed affordable housing shall be integrated with market rate units. Preserved or newly developed affordable housing shall not constitute more than 30% of any multifamily development. The applicant may propose to exceed this threshold where doing so is advantageous to a group specifically targeted for the homes based on documented needs and professional best practices.

(4) **Comparability.** Unless otherwise approved by the Planning Board, all on-site affordable housing units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in interior finish, fixtures, and appliances. For both on-site and off-site units that are a part of any development proposal, the number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate units in the development.

(5) **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 § 6.1-C.5.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 is required, this agreement may 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 § 6.1, Inclusionary Housing have been executed and recorded, including:

(i) The applicant records an affordable housing deed restriction in a form approved by the Planning Board and provides evidence acceptable to the DPCD that the restriction has been approved by DHCD and recorded with the Norfolk County Registry of Deeds.
(ii) A deed rider in a form approved by the Planning Board has been properly executed and has been or will be recorded with the Norfolk County Registry of Deeds.

(iii) Agreement with the Town of Braintree per § 6.1-C.5.a

(iv) Agreement with a third-party Affordability Monitoring Agent (Monitoring Agent)

(v) Affirmative Fair Housing Marketing Plan

(6) **Timing of Construction:** Where feasible, affordable housing units shall be provided coincident with the development of market-rate units, but in no event shall the development of affordable on-site or off-site housing units be delayed beyond the following schedule:

<table>
<thead>
<tr>
<th>Market rate units (%)</th>
<th>Affordable units (constructed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 30%</td>
<td>None required</td>
</tr>
<tr>
<td>30% up to 50%</td>
<td>At least 10%</td>
</tr>
<tr>
<td>50% up to 75%</td>
<td>At least 40%</td>
</tr>
<tr>
<td>75 up to 90%</td>
<td>At least 70%</td>
</tr>
<tr>
<td>By 90%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Fractions of units shall not be counted.

D. **Procedures and Decision Standards.**

(1) Submission requirements and procedures shall be in accordance with § 3.9 Special Permits and § 3.10 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 § 3.9 Special Permits and § 3.10 Site Plan Review as applicable Special Permit, 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 § 6.1-C.5.b.

§ 6.2 **Multifamily and Small Scale Multifamily Dwellings**

A. **Purposes.** To ensure that the exterior form and massing of multifamily and small scale multifamily dwellings are visually attractive and consistent with neighboring homes, and arranged in a manner that provides light and open space for residents and minimizes negative impacts on neighbors.

B. **Applicability.** Where multifamily or small scale multifamily dwellings are permitted by right or allowed by Special Permit in § 4.6 Table of Uses, they shall conform to the provisions of this section.
C. **Dimensional Regulations.** Multifamily and small scale multifamily dwellings shall comply with the following density regulations in addition to the regulations in § 5.8 Dimensional & Density Regulations, Table 2. Where provisions may be interpreted as conflicting, the stricter of the two shall apply.

1. For multifamily dwellings and small scale multifamily dwellings, the maximum density shall be 20 dwelling units per acre.
2. The minimum distance between any multifamily dwelling structures on the same lot is at least 15 feet in the VC, TD, and BWLD zoning districts. If the underlying zoning allows for a zero side setback, such structures may be attached. However, in no instance shall such unattached structures be less than 15 feet apart. The minimum distance between any multifamily dwelling structures on the same lot is at least 25 feet in any other zoning district.
3. The minimum distance between any detached non-residential structure and any other building or structure is at least 10 feet.
4. For buildings over 40 feet in height (where the underlying zoning allows such height), these distances are increased one foot for each foot of additional building height above 40 feet.
5. Developed outdoor recreation space (see § 9, Definitions) shall be at least seven percent (7%) of the total lot area, which may be included in the minimum landscaped open space (see § 9, Definitions) requirement.

D. **Architectural Plane.** Any exterior wall shall not extend more than 100 feet horizontally or vertically on the same architectural plane. Articulation of entryways, balconies, roofs, window areas, exterior walls, architectural forms, materials, and textures may be used to vary the architectural plane. In the case of townhouse units, this architectural plane should not extend 50 feet and articulation of individual units is encouraged.

E. **Building Placement.** In the VC, TD, and BWLD zoning districts, multifamily dwellings shall be designed to front the street, and shall not be oriented perpendicular to the street. Primary entrances should likewise face the street or a street corner. Where individual units are accessed from outside (as opposed to from a common interior hallway), such as a row of townhouses, such units and their entrances shall also front the street. Please also refer to § 5.5 Landscaped Open Space.

§ 6.3 **Two-Family Dwelling, Conversion**

A. **Purposes.**

1. To ensure that the exterior form of single-family dwellings when converting to two-family dwellings are visually consistent with neighboring homes, and that other design components help to minimize negative impacts on neighbors.
2. To provide market rate housing that is more affordable than larger single-family homes, both for ownership and rental.
3. To provide opportunities for flexible living arrangements for extended families, or provide income for owners who rent out the second unit.
4. They provide a greater concentration of dwellings in neighborhoods that are walkable and accessible to employment, shops, services, and transit.

B. **Applicability.** As provided for in § 4.6 Table of Uses (Table 1), a single-family dwelling existing on June 18, 1940, which contains more than six rooms, exclusive of halls and bathrooms, may be
changed to a two-family dwelling provided that the living space of such building has not been enlarged during the ten-year period prior to application and will not be enlarged for a ten-year period subsequent to permitting a two-family use and that the following conditions are met. This does NOT apply to the construction of new two-family homes.

(1) **Driveways and Parking.**
   - (a) Driveway Widths. Where a driveway leads to a double garage, it should be narrowed near the street, and the visual impact from the wider portion near the garage should be softened with an adjacent 4-foot strip of landscaping. In no case shall the driveway width extend in front of the primary building.
   - (b) Parking must be available on site per § 7.1 Off-street parking and loading, to the side or rear of the building. New parking is prohibited in the front yard.

(2) **Entries.**
   - (a) The entry for the second dwelling should be to the side or rear of the building, or else from an interior foyer off the front entrance to the building.

(3) **Building Form and Style.**
   - (a) Any conversion must maintain the impression of a single building on a single lot. The units must be joined structurally within a building that is the form of a single-family home.
   - (b) No new additions to create an additional space for a conversion of the existing single-family residence is permitted other than entries under § 6.3-B.2. Additions to the exterior of the single-family dwelling in the conversion to a two-family dwelling are prohibited except for modifications strictly related to access and egress.

(4) **Doors, Windows and Balconies.**
   - (a) Window Placement. Design the conversion to respect adjacent neighbors’ privacy through careful planning of window locations and type of windows, use of landscaping, and/or architectural solutions.
   - (b) Door and Window Compatibility. Select any new doors and windows to be compatible with the dominant existing types on the building, including proportions of the openings, materials, and style or detailing.

§ 6.4 **Long-Term Care Facility Conversion**

A. **Purpose.** The purpose of this section is to facilitate the redevelopment of long-term care facilities that have become obsolete for their original intended use and allow for marketable alternatives for redevelopment and reuse.

B. **Applicability.** As provided for in § 4.6, Table of Uses (Table 1), an existing long-term care facility use may be changed by Special Permit to a multifamily dwelling or small-scale multifamily dwelling use provided the following conditions are met:

   1. A long-term care facility was in operation on the site for a minimum of 10 years preceding the date of application for conversion.
(2) The site containing the long-term care facility use has not been enlarged during the 10-year period immediately preceding the date of application for conversion.

C. Basic Requirements.

(1) Affordable Housing. The conversion of the long-term care facility shall comply with § 6.1, Inclusionary Housing.

(2) Density Standards. In granting a Special Permit, the Planning Board shall specifically find that the number of dwelling units to be created through the conversion can be accommodated on the site, with no expansion of the building and with room to accommodate all required parking. In residential districts, the existing property may not be combined with other properties to make room for required parking.

D. Procedures and Decision Standards.

(1) Submission requirements and Special Permit procedures shall be in accordance with § 3.9 Special Permit, § 3.11 Site Plan Contents for Variance, Site Plan Review, and Special Permits, and the SPGA’s rules and regulations. The applicant shall provide sufficient information for the SPGA to be able to determine that the proposed project complies with this section and all other applicable requirements of this chapter.

(2) In granting a Special Permit, the SPGA shall impose reasonable conditions to ensure that the site on which the long-term care facility is currently located shall not be enlarged, in terms of additional square feet, for the proposed conversion.

§ 6.5 Flexible Development

A. Purpose. The purposes of this section are to:

(1) Promote more sensitive siting of residences and better overall site planning for a smaller-scale single family detached housing development. Preferred housing types include cottages, bungalows, and smaller expressions of other traditional New England forms.

(2) Encourage development patterns that avoid impacts to sensitive resources or other on-site assets.

(3) Offer an optional alternative to standard subdivision development.

(4) Promote the development of housing appropriate for persons and households of a variety of sizes, ages, and living arrangements.

(5) Encourage development patterns that create a sense of connection and community between households in the neighborhood.

(6) Promote the development of housing that is affordable for low, moderate, and median income families.

(7) Preserve Braintree’s historical and archeological resources and natural environment, including varied landscapes and water resources.

(8) Facilitate the construction and maintenance of driveways/accessways, utilities, and public services in a more economical and efficient manner.

B. Applicability. This section may be applied in the Residence A, Residence B, and Residence C Districts to any residential development with three or more housing units where the applicant seeks to develop a site under more flexible standards than those associated with a conventional subdivision. Upon the issuance of a Special Permit by the Planning Board, and in accordance with the following provisions, a Flexible Development project may be created from any parcel or
set of contiguous parcels held in common ownership and located entirely within the Town of Braintree.

C. Basic Maximum Number of Dwelling Units. The basic maximum number of dwelling units allowed in a Flexible Development shall not exceed the number of lots allowed in the zoning district in which the property is located (i.e. conventional subdivision). No variances shall be issued to exceed this number. This number shall be determined through the following calculation:

\[ Y = \frac{SA \times 0.85}{LS} \]

Where

- **Y** – Property yield expressed as a number of lots
- **SA** – Site area (excluding all wetlands (MGL131 Chapter 40), floodways, and water bodies)
- **0.85** – This represents a reasonable factor for infrastructure that would take away land available for actual house lots. It is reasonable to assume that the development of a new road with stormwater infrastructure would occupy fifteen percent (15%) of the site area.
- **LS** – Minimum lot size for the zoning district

D. Design Approach. Because Flexible Development places multiple homes on a single lot, the dimensional standards applicable to single family residential development in Table 5.8 Table of Density and Dimensional Regulations do not apply. The following design approach and standards apply and are considered integral to the success of a Flexible Development application.

1. Compact Design.
   a. The overarching design principle for flexible development is to create compact clusters of single-family homes in a layout that fosters connections between neighbors due to the close proximity of the homes to one another, the potential for shared space, and physical connections with walking paths and similar features.
   b. All such single-family homes shall be situated on a single shared lot with at least 50 feet of lot frontage. Access shall be provided by a shared private accessway or driveway. Approval of a flexible development proposal shall not require review under the Subdivision Rules and Regulations.
   c. At no point shall such single-family homes be closer to each other than ten (10) feet measured at their closest point.
   d. Individual single-family homes shall be set back from the primary access private way or driveway by no more than thirty (30) feet.
   e. Where individual single-family homes are situated back-to-back with abutting rear yards, the homes shall be no closer to each other than 40 feet measured at their closest point.

2. Open Space Amenities. The land that is not used to provide direct outdoor amenities to individual homes (i.e., yards, driveways, etc.) may be used in a variety of ways as described herein so long as it would provide direct benefit to the residents of the flexible development. This land shall be designated with an easement and shown on the proposed development plan. Where necessary, landscape features such as stone walls, boulders, decorative fencing, or other ornamental landscape features shall be used to alert residents
and visitors as to where the line between land dedicated to individual homes and designated open space lies.

(a) Open space can include sensitive environmental resources (e.g., wetlands, stream buffers, etc.), unique features (e.g., specimen trees, stone walls, etc.), and areas difficult to develop (e.g., high groundwater, ledge, etc.).

(b) Open space can include developed areas for community gardens, passive and active recreation, and neighborhood gathering areas.

(c) Where open space is set aside for conservation purposes, an easement shall be provided limiting the development of that land for as long as the development exists.

(3) **Open Space Ownership and Maintenance.** The open space and such other facilities as may be held in common shall be conveyed to one of the following with notification to the SPGA:

(a) To a corporation or trust comprising a homeowners' association whose membership includes the owners of units contained in the tract.

   (i) The developer shall include in the deed to owners of units beneficial rights in said open land. The developer shall grant a conservation restriction to the Town of Braintree over such land pursuant to MGL c. 184, §§ 3' to 33, to ensure that such land be kept in an open or natural state. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by MGL c. 184, § 33.

   (ii) In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homeowners' association assumes said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall record at the Norfolk County Registry of Deeds a declaration of covenants and restrictions which shall provide for the following: mandatory membership in an established homeowners' association as a requirement of ownership of any lot or unit in the tract and provisions for maintenance assessments of all lots or units in order to ensure that the open land is maintained in a condition suitable for the approved uses.

(b) To a nonprofit organization, the principal purpose of which is the conservation of said open space. The developer or charity shall grant a conservation restriction as set out in (a) above.

(c) To the Conservation Commission of the Town for open space use. Said conveyance shall be subject to the approval of the Town Council, with a trust clause ensuring that it be maintained as open space.

(3) **Housing Choice.** Homes proposed for flexible development should be chosen for their ability to provide options that are not easy to find in Braintree. These could include, but are not limited to:

(a) Units for condominium ownership.
(b) Small homes such as bungalows or cottages that may have footprints no smaller than 900 square feet and no larger than 1,200 square feet.
(c) Homes designed for individuals with disabilities or seniors that have mobility challenges, with enhanced features related to mobility and visitability.
(d) Housing that is expected to be affordable to households that earn less than 100% of the Area Median Income.

(4) Housing Variety and Design.

(a) The style and finish of housing in a flexible development shall not be homogenous. An applicant may propose a single housing type (e.g. cottages or bungalows), but the single-family homes must have distinguishing features in terms of building form, color, and architectural details (e.g. trim, fenestration, dormers, etc.).
(b) The architecture of all buildings shall be residential in character, particularly providing gabled roofs, predominately wood siding, an articulated footprint, and varied façades.
(c) Front porches or other features that draw people into contact with their neighbors are highly encouraged.

(5) Parking. Parking may be provided for each individual housing unit or some combination of individual and shared spaces. No dedicated parking spaces shall be provided between the front façade of any home and the primary travel way.


§ 6.6 Trailers as Dwellings

Use of trailer and mobile units as dwellings is prohibited, except that the Building Inspector may grant a permit for the temporary use of such units for living purposes for a period not to exceed 60 days. Any extension of a temporary permit issued under this section may be granted only through application for a Special Permit through the Planning Board. In no case shall a temporary permit or extension thereof be granted unless adequate provisions for the protection of health, safety, convenience, and welfare of the people have been made to the satisfaction of the Board of Health, the Water Department, the Wire Inspector, and the Building Inspector, the Chief of Police and the Chief of Fire. The owner and occupier of a residence which has been destroyed by fire or other material holocaust may place a mobile home on the site of such residence and reside in such home for a period not to exceed 12 months while the residence is being rebuilt. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

§ 6.7 Accessory Apartments

The intent of this section is to encourage the provision of housing units that are affordable for families and individuals and to encourage the provision of housing units for small and multi-generational households.

A. Applicability. An accessory apartment is permitted only within the principal single-family dwelling unit. Detached or freestanding accessory apartments, whether built new or within an existing accessory structure, are not permitted. Accessory apartments are allowed only accessory
to a detached single-family dwelling, subject to a Special Permit (per all the stipulations of § 3.9, Special Permits) from the Planning Board and the following conditions:

B. **Exceptions to Applicability.** The above notwithstanding, any lot that has received previous Zoning Board of Appeals (ZBA) relief for any regulations per § 5.8, Table of Dimensional and Density Regulations, is not permitted to build an accessory apartment. Further, any lot that has an active home occupation per § 6.8, shall not be permitted to construct an accessory apartment.

C. **Dimensional and Density Regulations.** Accessory apartments are only permitted on lots that are currently conforming to all regulations per § 5.8, Table of Dimensional and Density Regulations, with the exception of lot size and lot frontage.

D. **Occupancy.** The owners of the single-family dwelling with the accessory apartment shall occupy one of the units as their principal residence, except for temporary absences of not more than six months. For the purposes of this ordinance, “owners” shall be one or more individuals holding title to the property, and “principal residence” shall mean the owner’s residence for voting and tax purposes.

E. **Number of Units.** There shall be not more than one accessory apartment on a lot. For purposes of this section, this includes prior Building Department approved in-law apartments. Any lot with an existing, approved in-law apartment is not eligible for the addition of an accessory apartment.

F. **Separation of Units.** The accessory apartment will be a complete, separate housekeeping unit that functions as a separate unit from the principal single-family dwelling unit, including ingress/egress to the unit without requiring passage through the principal dwelling unit.

G. **Size.** The maximum gross floor area of the accessory apartment shall not exceed twenty-five (25) percent of the existing gross floor area of the principal single-family dwelling unit or 700 SF, whichever is less, and there shall be no more than one (1) bedroom.

H. **Rent Duration.** The accessory apartment shall not be rented or leased for a period of time less than six (6) months.

I. **Design.** The accessory apartment shall be designed to preserve or support the appearance of the existing single-family dwelling on the lot. Unless prohibited by the State Building Code, all stairways to second or third stories shall be enclosed within the exterior walls of the dwelling, and any new entrance to an accessory apartment attached/within the principal dwelling unit shall be located on the side or in the rear of the dwelling.

J. **Code Compliance.** The design and room sizes of the apartment must conform to all applicable standards in the health, building, and other codes.

K. **Parking.** There shall be provided at least one off-street parking space for the accessory apartment in addition to the required parking for the principal dwelling unit. Such parking shall be located to the rear or side of the lot and shall not be allowed in the front yard setback other than to the side from the street curb cut. On street parking is not allowed to be used to satisfy this parking requirement, for either the accessory apartment or the existing single-family residence.

L. **Driveways.** No more than two driveways are allowed on a lot with an accessory apartment. If a lot already has two driveways, the accessory apartment must be accessed from one of the two existing driveways.
M. **Annual Inspection.** A Special Permit will be granted only on the condition of an annual inspection by the Town’s Building Department, determining that all the other conditions of this subsection are still being met. On an annual basis, the Building Department will provide the Special Permit Granting Authority with a report on all the accessory apartments inspected that year.

N. **Change of Ownership.** Change of ownership shall terminate the Special Permit and certificate of occupancy as an accessory apartment. Any new owner must seek a new Special Permit.

O. **Disabled Access.** In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

P. **Additional Plans - Floor Plans.** The application for a Special Permit must include a floor plan of 1/4 inch to the foot showing the accessory apartment, including proposed interior and exterior changes to the single-family dwelling unit.

Q. **Amnesty.** Accessory apartments in existence before [add date] the adoption of this accessory apartment ordinance shall comply with the Town’s proposed amnesty program to ensure that they are in compliance with the State Building Code. Any accessory apartment built prior to the adoption of this section will be granted amnesty if all building code and zoning requirements can be complied with. However, if a complaint is filed by an abutter or other party of interest, the Building Department shall conduct an inspection per subsection (M) above.

§ 6.8 **Home Occupation**

A. **Purposes.** The purpose of this section is to provide opportunities for residents to conduct home-based businesses, to maintain an office at home, and to reduce commuting time by working all or a portion of the week at home.

B. **Applicability.** This section applies to all single-family dwellings in Residential districts and the Transitional (TD) District. Home occupations are **not** allowed in any dwelling type other than single-family dwellings.

C. **Exception to Applicability:** The above notwithstanding, any lot that has an approved accessory apartment per § 6.7, shall **not** be permitted to host a home occupation.

D. **Basic Requirements.** A home occupation is allowed by right in all residential districts if it meets the following criteria.

1. It is operated solely by the resident of the dwelling unit.
2. There are no exterior alterations associated with the business that change the residential appearance of the dwelling unit.
3. It is incidental to the principal residential use of the property.
4. There is no exterior display of any merchandise or goods.
5. For home occupations with clients/customers, operation shall be within the hours of 7:30 am to 7:30 pm, and at least one on-site parking spot shall be provided, beyond that required for the residential use. Off-site parking is prohibited. The maximum gross floor area of the home occupation shall not exceed 20 percent of the entire gross floor area of...
the principal dwelling unit or 700 square feet, whichever is less, and there shall be no more than one home occupation.  

(6) All storage, operations, and activities associated with the home occupation shall occur within the principal dwelling.  

(7) No retail sales to on-site customers are allowed.  

§ 6.9 Registered Marijuana Dispensary (Medical Marijuana Treatment Center)  

A. Purposes.  

(1) To provide for the limited establishment of a Registered Marijuana Dispensary (RMD), also known as a Medical Marijuana Treatment Center, in an appropriate place and under strict conditions in accordance with Chapter 369 of the Acts of 2012, as revised by Chapter 55 of the Acts of 2017, and 935 CMR 501.000, as promulgated by the Cannabis Control Commission (previously 105 CMR 725, as promulgated by the Department of Public Health).  

(2) To minimize the adverse impacts of a Registered Marijuana Dispensary on adjacent properties, residential neighborhoods, schools, playgrounds, and other land uses potentially incompatible with such a facility.  

(3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Registered Marijuana Dispensaries.  

B. Applicability.  

(1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited, except as permitted as a RMD under this § 6.9. Recreational use of marijuana remains strictly prohibited.  

(2) No RMD shall be established except in compliance with the provisions of this section.  

(3) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.  

C. Eligible Locations for Registered Marijuana Dispensaries. Registered Marijuana Dispensaries shall be allowed by Special Permit from the Planning Board, as the authorized Special Permit Granting Authority, in the following zoning districts, provided the facility meets the requirements of this § 6.9:  

(1) Highway Business (HB)  

(2) Commercial(C)  

D. General Requirements and Conditions for All Registered Marijuana Dispensaries.  

(1) A RMD shall not be located in a building that contains residential units, or that contains health care offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.  

(2) The hours of operation of RMDs shall be set by the SPGA, but in no event shall the on-site retail sale or dispensing of medical marijuana and/or related products to customers occur between 6:00 PM and 8:00 AM.  

(3) No RMD for retail sale or dispensing of medical marijuana shall be located on a lot within 500 linear feet of any lot (whether in Braintree or a neighboring municipality) where, at the time of application to the SPGA, any of the following are located.
(distances shall be measured in a straight line from the nearest property line of the land used for one of the purposes listed below to the nearest property line of the property on which the RMD will be located):

(a) School, including a public or private elementary, secondary, or vocational school, or a public or private college or university
(b) Licensed registered childcare facility
(c) Playground, public park, or playing field

(4) A RMD may not have a drive-through service.
(5) The RMD shall provide the Braintree Police Department, Building Inspector, and the SPGA with the names, telephone numbers, and email addresses of management staff to whom the Town can provide notice if there are operating problems associated with the establishment.

E. Design Standards.

(1) All activities with regard to processing, cultivation, storage, or retail sale of marijuana shall be conducted indoors. No materials, plants, or byproducts shall be visible from outside of the premises. With the exception of loading areas, no operations shall be visible to the public.
(2) All shipping and receiving areas shall exclusively serve the RMD. In the case of a multi-use or multi-tenant site, the RMD shall be laid out and designed to ensure separation from other uses or tenants at the site.
(3) The facility shall have adequate lighting to provide for monitoring of the building and site security.

F. Special Permit Requirements.

(1) A RMD shall only be allowed by Special Permit from the SPGA in accordance with M.G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
(2) A Special Permit for a RMD shall be limited to one or more of the following uses that shall be prescribed by the Planning Board:
   (a) Cultivation of marijuana for medical use;
   (b) Processing and packaging of marijuana for medical use, including marijuana that is in the form of smoking materials, food products, tinctures, oils, aerosols, ointments, and other marijuana infused products;
   (c) Retail sale or distribution of marijuana for medical use to qualifying patients;
(3) In addition to the requirements under § 3.11 Site Plan Contents for Variance, Site Plan Review, and Special Permits, the RMD Special Permit application shall include the following:
   (a) The name and address of each owner of the facility.
   (b) Copies of all required provisional and/or final licenses and permits issued for the RMD to the applicant by the Commonwealth of Massachusetts and any of its agencies.
   (c) Evidence of the Applicant’s right to use the site of the RMD for the RMD, such as a deed, lease, or purchase and sales agreement or agreement to lease that is contingent on obtaining state and municipal approvals.
(d) A detailed site plan that includes the following information:

(i) A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the facility including but not limited to sales, storage, cultivation, processing, food preparation, etc.

(ii) Proposed security measures for the RMD, including lighting, fencing, gates and alarms, etc., to ensure the safety of qualifying patients, their caregivers, and facility employees and to protect the premises from theft.

(e) A copy of the policies/procedures for patient or personal caregiver home-delivery.

(4) Procedures.

(a) The Special Permit application and public hearing procedure for a RMD shall be in accordance with § 3.9 Special Permits and M.G.L. c. 40A, § 9.

(b) Mandatory Findings. The SPGA shall not grant a Special Permit for a RMD unless it finds that:

(i) The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, § 11;

(ii) The RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and

(iii) The applicant has satisfied all of the conditions and requirements of this section and § 3.9 Special Permits of this Zoning Ordinance.

(5) Conditions. In granting a Special Permit under this § 6.9, the SPGA shall impose conditions, limitations, and safeguards that are reasonably appropriate to:

(a) Improve site design, traffic flow, parking, loading and unloading areas, and public safety;

(b) Protect water quality, air quality, and significant environmental resources;

(c) Preserve the character of the surrounding area.

(d) The RMD is compatible as to the building aesthetics of the surrounding location.

(e) Sufficient security measures have been implemented.

(f) Sufficient refuse disposal of by-products and operational waste.

G. Duration of Special Permit. A Special Permit granted under this section shall terminate automatically if the required state licenses and permits are revoked or not renewed. The applicant shall notify the Building Inspector and the SPGA immediately upon such revocation or non-renewal, or in the event that the applicant otherwise ceases operations. Any new owner must seek a new special permit.

H. Host Community Agreement. Prior to the issuance of a building or occupancy permit, the operator of each RMD permitted under this chapter shall provide evidence to the Building Inspector and the SPGA that it has executed a written Host Community Agreement (HCA) with the Town of Braintree Mayor’s Office, pursuant to M.G.L. c. 94G, s. 3(d), specifying measures
the operator will take to anticipate, mitigate, and address potential adverse impacts of the RMD on the Town, neighborhood, or community at large.

§ 6.10 Adult use

A. Restrictions

(1) All obscene entertainment (see § 9, Definitions), including bookstores/video stores and motion picture theaters that make available obscene entertainment, is prohibited within the Town.

(2) Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments (hereafter “adult uses”) are prohibited within any zoning district other than the Commercial zoning district.

(3) Adult uses may not be located within 1,000 feet of each other nor within 1,000 feet of:

   (a) A residential district;
   (b) Any private or public school;
   (c) Any church, temple or other place of religious worship;
   (d) Any parking, playground, or playing field, or any area where children regularly congregate; and
   (e) Any establishment licensed under the provisions of M.G.L. c. 138, § 12.

B. Applications

Adult uses are allowed within the Commercial zoning district, subject to the restrictions of this § 6.10 and subject to reasonable regulations imposed by the Planning Board, serving as the Special Permit Granting Authority (SPGA) for such uses, and the Planning and Community Development Department, upon application for a Special Permit in accordance with the following procedures:

(1) The applicant for permission to operate an adult use must file the application on a form approved by the SPGA and the Planning and Community Development Department. The form shall include, as a minimum:

   (a) Name and address of the legal owner of the property and adult use.
   (b) Name and address of all persons having lawful equity or security interests in the adult use.
   (c) Name and address of the manager.
   (d) Number of proposed employees.
   (e) Proposed security precautions.
   (f) Physical layout of the premises in a format established by the SPGA.

(2) The SPGA shall hold a public hearing on any application for Special Permit for an adult use within 65 days of the filing of the application with the Board and Town Clerk. Notice of said public hearing shall be given by publication or posting as provided in M.G.L. c. 40A, § 11 and by mailing to all parties in interest.

(3) The SPGA shall act on the Special Permit application within 90 days following said public hearing. The procedure for holding the public hearing and for preparing and filing a notice of decision shall be in accordance with § 3.9, Special Permits.

C. Additional Requirements

Because of the unique hardships to the surrounding area, the following criteria shall be required:
(1) A private duty police security program shall be provided as approved by the Chief of Police and submitted to the SPGA as part of the application.

(2) No establishment providing adult goods or entertainment shall be open between 11:00 p.m. and 7:00 a.m. without a permit issued by the Board of License Commissioners.

(3) All parking for any adult use shall be located in the area between the street line and the rear line of the building projected to the side lines of the lot.

(4) No establishment providing adult entertainment will be issued a Special Permit without a valid entertainment permit issued by the Licensing Commissioners.

(5) No exterior lighting shall be flashing or sequential in nature.

(6) All building openings, entries, and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the establishment. No exterior display of products or services is allowed.

D. Criteria for Approval. In considering a Special Permit hereunder, the SPGA shall insure that the proposed adult use is consistent with and conforms to the standards in this § 6.10.

E. Accessory Use. Adult uses and the services and goods provided by them shall not be considered accessory uses.

§ 6.11 Wireless Communication Facility

A. Purpose. This section permits the use of wireless communication facilities within the Town, regulates their impacts, and accommodates their location and use in a manner intended to:

(1) Protect the scenic, historic, environmental, and natural or man-made resources of the Town;

(3) Minimize any adverse impacts on the residents of the Town with regard to general safety, welfare, and quality of life;

(4) Provide standards and requirements for regulation, placement, construction, monitoring, design, modification, and removal of wireless communication facilities;

(5) Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communication facilities;

(6) Encourage the use of certain existing structures and towers;

(7) Minimize the total number and height of towers located within the Town;

(8) Require tower sharing and clustering of wireless communication facilities where they reinforce the other objectives in this section; and

(9) Be in compliance with the federal Telecommunications Act of 1996 (See 47 U.S.C. § 151 et seq), Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, and other applicable federal law.

B. Applicability. The requirements of this section shall apply to all wireless communication facilities, except where federal or state law or regulations exempt certain users or uses from all or portions of the provisions of this section. No wireless communication facility shall be considered exempt from this section by sharing a tower or other structure with such exempt uses.

C. Special Permit Granting Authority: The Special Permit Granting Authority (SPGA) for this section of the zoning ordinance shall be the Braintree Planning Board.

D. Location of Facilities; Priorities. Wireless communication facilities shall be located according to the following priorities. Applicants shall demonstrate that they have investigated locations higher
in priority ranking than the one for which they are applying and whether such sites are available and, if applicable, under what conditions. The priorities are:

(1) Within an existing building or structure, concealed;
(2) Camouflaged on an existing building or structure, such as but not limited to an existing electric transmission tower, an existing radio antenna or a water tower or building, and of a compatible design;
(3) Co-located with existing wireless communication service facilities;
(4) On land owned by the Town of Braintree which complies with other requirements of this section;
(5) If adequately demonstrated to the SPGA in the special permit process that each of the priorities set forth above is not feasible, erection of a new facility that complies with the other requirements of this section and where visual impact can be minimized and mitigated.

E. Facilities Permitted by Right.

(1) A concealed wireless communication facility may be installed in a building or structure on a lot in any zoning district provided all the requirements for a wireless communication facility building permit are met.
(2) “Small wireless facilities” as defined in FCC Rules at 47 CFR 1.6002(l), that meet the size limitations provided therein, may be installed on existing utility poles and structures within the right-of-way of public streets, provided all the requirements for a wireless communication facility building permit are met.

F. Facilities Authorized by Site Plan Review. Any request for modification of an existing wireless communications facility may be approved by Administrative Site Plan Review by the Planning Board under § 3.10E if it meets the definition of an “eligible facilities request” under 47 U.S. Code § 1455(a)(2) and does not involve a “substantial modification” of the existing tower or base station as defined by federal law. For purposes of this section:

(1) A “base station” includes any structure other than a tower that supports or houses FCC authorized wireless communications between user equipment and a communications network.
(2) An “eligible facilities request” is a request for modification of an existing wireless facility that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.
(3) A request to modify an existing tower or base station involves a “substantial modification” of that structure if it will (a) increase the height of the structure by more than 10% or more than ten feet, whichever is greater, (b) protrude from the edge of the building or structure by more than six feet, (c) involve the installation of more than the standard number of new equipment cabinets for the technology involved, (d) require any excavation or deployment outside the current site of the base station, or (e) otherwise defeat the existing concealment elements of the base station.

Notwithstanding the provisions of § 3.10 F. (4) through (6), to comply with federal law, the Planning Board shall take final action on any such application and file a copy of its written decision with the Town Clerk within 60 days from the application date. The Planning Board may deny Full Site Plan approval if it determines that the application is not an “eligible facilities request” or involves a substantial modification of the existing tower or structure. Otherwise, the Planning Board shall approve the application or approve it with such conditions as necessary to advance the purposes of this Bylaw.
G. **Facilities Authorized by Special Permit.** A wireless communication facility may be installed in the locations indicated in § 6.11-D, and an existing wireless communication facility may be substantially enlarged, provided all prescribed conditions, listed below, are met and the SPGA grants a special permit:

1. **Multifamily Dwelling.** A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which a dwelling other than a one-family, two-family or three-family dwelling is the principal use.

2. **Non-residential uses in residential districts; General Business District.**
   
   (a) A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which a non-residential use listed in § 4.6, Table of Uses (which includes all Use Categories except for Residential Uses) in the Res A, Res B, Res C, Village Center (VC), Transition District (TD), BWLD or OSC zoning districts is the principal use, or in any building or in a structure on a building on a lot in the General Business (GB) district.

   (b) A wireless communication facility may be installed if it is co-located with an existing electrical power transmission line tower, an existing nonconforming transmitting or receiving tower, or a water tower, provided that the wireless communication facility is camouflaged and does not exceed the height of the tower.

   (c) For the purposes of this section, an electrical power transmission tower, an existing transmitting or receiving tower or antenna for business activities other than a wireless communication facility shall be considered to be a business use in a residential district.

3. **Uses in Highway Business (HB) and Commercial (C) Districts.** A wireless communication facility may be installed on a lot in a HB or C district provided the wireless communication facility is camouflaged and does not exceed the height requirements of this § 6.11.H.5.

H. **Site Development Requirements.** The following standards shall apply:

1. **Shelters and Accessory Buildings.** Any communication equipment shelter or accessory building shall be designed to be architecturally similar and compatible with the surrounding area. Whenever feasible, a building shall be constructed underground.

2. **Setbacks.** Any new tower shall be set back at least one time the height of the tower plus 10 feet from each lot line of the site on which the tower is located. Any non-concealed antenna shall be set back at least one time the height of the antenna, as measured from the ground level, from each lot line of the site on which the antenna is located. However, if the antenna is being attached to an existing tower whose setback is already approved, either by right, by special permit or by variance, and if the SPGA determines that the addition of the antenna does not materially alter the basis of that prior approval, then no new, independent setback requirement shall be created by the addition of the antenna. In nonresidential districts or on land owned by the Town of Braintree, the SPGA may grant a special permit to allow a lesser setback if it makes a finding that such lesser setback provides adequate safety, promotes co-location or improves design, and will not negatively impact the appearance and character of the neighborhood.

3. **Security and signs.** The area around the wireless communication facility shall be completely secure from trespass or vandalism. A sign not larger than one square foot
shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number.

(4) **Lighting.** Unless required by the Federal Aviation Administration, no exterior night lighting of towers or the wireless communication facility is permitted except for manually operated emergency lights for use when operating personnel are on site.

(5) **Height.** The height of a building-mounted wireless communication link shall not exceed 10 feet above the existing height of the building. The size and height of a tower shall be the minimum necessary to accommodate the proposed and anticipated future uses with the following provisions:

(a) The tower height, including any appurtenant equipment and devices, shall not exceed 60 feet above the average grade of the existing terrain at the tower's base, unless the SPGA determines that a higher tower will result in significantly fewer towers or a significantly improved protection of the view shed of the Town of Braintree.

(b) In no event shall the tower height, including appurtenant equipment and devices, exceed 100 feet.

(6) **New Towers.** Any new freestanding tower shall be of a monopole construction. New towers shall not exceed the minimum height necessary to provide adequate coverage within the Town of Braintree. Erection of a new tower that exceeds the height restrictions listed in this § 6.11.H.5 is not permitted unless the applicant demonstrates in the special permit process that adequate coverage within the Town of Braintree cannot be met for the locations permitted under this § 6.11.

I. **Justification of Need.** The following standards shall apply:

1. **Coverage Area.** The applicant shall provide a map of the geographic area in which the proposed facility will provide adequate coverage.

2. **Adequacy of Other Facility Sites Controlled by the Applicant.** The applicant shall provide written documentation of any facility sites in the Town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.

3. **Capacity of Existing Facility Sites.** The applicant shall provide written documentation that it has examined all facility sites located in the Town and in abutting towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.

4. **Adequate Coverage through the Least Disruptive Means.** The applicant shall provide written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be developed subsequent to adoption of this ordinance) in which it can provide adequate coverage in conjunction with all facility sites listed above.

J. **Application.**

1. **Procedure.** All applications for a wireless communication facility shall be made and filed on the application forms for Special Permit and site plan review, as relevant, per the requirements for site plan review under § 3.10 and the requirements for Special Permit under § 3.9.
(2) **License.** The applicant or co-applicant for any special permit for a wireless communication facility must be a licensed carrier who has authority from the FCC to provide wireless communication services for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of the filing of the application for the special permit.

(3) **Special Permits.** Each application for a special permit must contain site plans as required in § 3.9 and shall also include sufficient detail that would enable the Town to determine whether the proposed facility meets the requirements of this section.

K. **SPGA.** The Planning Board shall be the SPGA for special permits under this § 6.11.

M. **Special Permit Criteria.** A special permit shall be granted under this section only if the SPGA shall find that the project is in harmony with the general purpose and intent of this section. The SPGA shall make the findings required by § 3.9 and the following additional findings:

1. That the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit;
2. That the applicant is not able to use existing facility sites either with or without the use of cellular repeaters to provide adequate coverage;
3. That the proposed wireless service facility minimizes any adverse impact on historic resources, scenic views, and natural or man-made resources;
4. That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
5. That the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant; and
6. That the applicant has agreed to rent or lease available space on any tower it controls within Braintree or its contiguous towns, under the terms of a fair market lease, without discrimination to other wireless service providers.

N. **Conditions.** If a special permit is granted, in addition to such terms and conditions as may be authorized by § 3.9 of this ordinance, the SPGA may impose such additional conditions and safeguards as public safety, welfare, and convenience may require.

O. **Denial.** Any decision by the SPGA to deny a special permit under this section shall be in conformance with the Telecommunications Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

P. **Term of Special Permit.** Each special permit shall be valid for a fixed or conditional period of time as determined by the SPGA. A special permit for any wireless communication service facility that exceeds height provisions of this § 6.11 shall be valid for a maximum of 15 years. At the end of the approved time period, the facility shall be removed by the carrier or a new special permit shall be required.

Q. **Report.** All permitted and special permitted wireless communication facility carriers shall periodically file with the Town, every five years (or sooner if specified in a special permit), on operational aspects of the facility including: power consumption; power radiation; frequency transmission; the number, location, and orientation of antennas; and types of services provided.

R. **Removal Requirements.** Any wireless service facility that ceases to operate for a period of one year shall be removed. “Cease to operate” is defined as not performing the normal functions
associated with the wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated such that all wireless communication facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be revegetated by the owner. Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the special permit, provide a financial surety or other form of financial guaranty acceptable to the SPGA, to cover the cost of removal of the facility and the remediation of the landscape, should the facility cease to operate.

§ 6.12 Drive-Through Service

Drive-through facilities are permitted accessory uses on lots equal to or greater than 20,000 SF in any non-residential zone (except BWLD and VC, where drive-through service is not permitted), in which the principal use(s) is permitted, subject to the following conditions:

A. Location On-Site: Drive-through facilities, including required stacking lanes, menu boards, and order and pick-up windows (but not including directional signs as allowed in § 7.1), must be located in the rear or side yards only. Only one drive-through facility is allowed per building, no more than one lane wide.

B. Curb-Cuts: Drive-through facilities should be designed to utilize only existing curb cuts to the greatest extent practicable.

C. Stacking Lanes

(1) Restaurants: For fast food restaurants or any window designated for the pick-up of readily consumable food or beverage, a stacking lane with a minimum of ten (10) stacking spaces entering and one stacking space exiting will be provided for each drive-through window, including the vehicle being serviced. Where an order board and pickup window are involved at such an establishment, a minimum of five (5) stacking spaces must be provided before the order board, including the vehicle being serviced.

(2) Banks: For banks, a stacking lane with a minimum of five (5) stacking spaces entering and one (1) stacking space exiting will be provided for each drive-through window or ATM, including the vehicle being serviced.

(3) Pharmacies: For pharmacies or any window designated for the pick-up of retail goods to be used or consumed at a later time, a stacking lane with a minimum of three (3) stacking spaces entering and one (1) stacking space exiting will be provided for each drive-through window, including the vehicle being serviced.

D. Size: Stacking lanes must be a minimum of 10 feet wide and each stacking space must be 20 feet long.

E. Circulation: Stacking lanes must be separate from any internal circulation. Traffic must be able to circulate through the site without entering the drive-through facility.

F. Exiting Space: Exiting stacking lanes must be separate from any internal circulation and must be at least 50 feet from the curb line of the street to which they will exit.

G. Traffic/Pedestrian Circulation: Stacking lanes must be designed and located so as to minimize traffic congestion and to promote pedestrian safety through the use of pavement markings, signs, and designated walkways.
§ 6.13 Outdoor Dining

Outdoor dining accessory to a sit down restaurant or fast food restaurant use (see § 9, Definitions) is a permitted accessory use subject to the following conditions (note that serving of alcohol in such spaces requires approval from the Town’s Licensing Board):

A. **Location**. Outdoor dining may be located on the property under the ownership of the indoor restaurant which operates the outdoor dining. Outdoor dining along the frontage of the lot shall extend no further than the actual street frontage of the operating restaurant.

B. **Obstructions**. Outdoor dining operation shall not impede pedestrian traffic in the public right of way. Further, the location of outdoor dining cannot obstruct the clear sight distance for vehicles or access or crossings for the disabled.

C. **Enclosures**. Outdoor dining shall have an approved enclosure. All planters, bollards, railings, and fences associated with outdoor dining must be approved by the Building Inspector. Railings, fences or other enclosures shall not be more than 42 inches in height and must be anchored in a manner to prevent movement.

D. **Furnishings**. Furnishings for outdoor dining shall consist solely of moveable tables, chairs, and decorative accessories. Furnishings must be kept in a state of good repair and in a clean and safe condition at all times.

E. **Indoor Storage**. Tables, chairs, and all other furnishings or accessories may be left in place overnight during seasonal operation but shall be removed and stored indoors whenever outdoor dining is not in seasonal operation.

§ 6.14 Fuel Stations

Fuel stations shall be designed to conform to the following requirements:

A. **Minimum Lot Area**: 20,000 square feet.

B. **Minimum Lot Area for Fuel Stations Licensed to Store in Excess of 20,000 Gallons of Flammable Fluids**: Not less than one square foot of land per gallon of fluid.

C. **Driveways**: No fuel station driveway shall be permitted to enter any street that carries traffic at such a speed or in such quantity that the Planning Board deems that access to or egress from a fuel station at such a location will create hazardous conditions.

§ 6.15 Temporary Storage Container

Temporary storage containers shall conform to the following requirements:

A. **Permit**. No person shall place a container on private property without first obtaining a permit from the Building Department.

B. **Number**. There shall be no more than one container allowed per dwelling unit and/or property.
C. **Duration.** No container shall remain on a property with a primary use in excess of 120 consecutive days or in excess of 180 days in any calendar year. Provided however, that the Building Department shall have the authority to grant a one-time extension of up to 60 days.

D. **Location.** Containers shall be located, where practical, within driveways and not in required parking spaces, fire lanes, loading zones, public rights-of-way or any required side yard setbacks. Discretion on location of containers shall be given to the Building Department.

E. **Use.** No hazardous materials of any kind including flammable shall be stored in the storage container.
Sec. 7. General Regulations

§ 7.1 Off-street Parking & Loading

A. **Purposes.** The purpose of this section is to promote the general welfare and public convenience by providing standards for vehicular and bicycle parking facilities that:

1. Ensure the provision of safe and adequate off-street parking and loading facilities for vehicles, bicyclists, and pedestrians.
2. Ensure that parking facilities are designed to provide proper and adequate ingress and egress into and circulation within the property.
3. Ensure the protection of adjacent properties from any adverse impacts related to parking.
4. Ensure that, as uses change within existing buildings, mechanisms are in place to make sure there is adequate parking for these new uses.
5. Ensure the provision of bicycle parking facilities to accommodate those who travel by that mode.

B. **Applicability.** Unless otherwise provided for in this chapter, conformance to the standards in Table 4, Schedule of Off-Street Parking Requirements below shall be required for:

1. Any new building or structure constructed, any new use established, and any change in use in an existing building or structure on a site which would require additional parking or would require that any other requirement of this section be met. This includes any building, structure or a use exempt from zoning per M.G.L. c. 40A, §3.
2. Any construction of a new parking facility or commercial parking facility as defined in §9, Definitions. This includes any parking facility of a use exempt from zoning per M.G.L. c. 40A, §3.
3. Any reconstruction or expansion of a parking facility or commercial parking facility that cumulatively exceeds 25 per cent of the parking area (excluding resurfacing). This includes any parking facility of a use exempt from zoning per M.G.L. c. 40A, §3.

C. **Modifications of Parking Requirements.** A modification of parking requirements may be granted based on the following provisions, as part of a Special Permit associated with the use, Site Plan Review, or modification of said Special Permit or Site Plan Review. These modifications to parking requirements shall not be viewed as part of a Special Permit associated with pre-existing nonconforming situations.

1. **Reduction of the Number of Off-Street Parking Spaces.** A reduction to the number of spaces required by this section may be granted as a condition of the issuance of a Special Permit or a Site Plan Review approval. There are three opportunities whereby the parking space requirements may be altered by the approving authority:

   a. Reduction of minimum on-site parking requirements
   b. Approval of shared parking on-site or on an adjacent property
   c. Approval of off-site parking to meet the parking requirement, with proof of written agreement if the site is owned by a different private property owner.
In all three circumstances, at a minimum, the following criteria shall be met:

(a) The purposes of this section are met.
(b) The amount of resulting parking provided, on- or off-site, is sufficient to serve the uses for which it is intended as evidence by a parking study.

D. Parking Study. Any decrease in required off-street parking is based on a parking study prepared by a Massachusetts certified professional traffic engineer. The study shall include, at a minimum, the following:

(1) Size and type of all existing and proposed uses or activities on the property.
(2) Composition of all existing and proposed tenants and employees on the property.
(3) Parking demand, including peak demand, of the on-site uses as determined through the most recent estimates provided by the Institute of Transportation Engineers (ITE).
(4) Feasibility of shared parking among uses, if applicable, based on peak demands for on-site use occurring at different times of the day.
(5) Availability of alternative methods of travel to the site, including public transportation, and bike and pedestrian access.
(6) Ability, if necessary and applicable, to obtain a long-term lease of off-site spaces. Required on-site parking for business and commercial uses may be located off-site provided the following criteria, in addition to criteria in (1) through (5) above, are met:
   (a) The off-site parking is located within 800 feet of the subject site, or the business or property owner provides a free shuttle service for employees or customers.
   (b) There is safe and adequate pedestrian access between the off-site parking and the subject site.
   (c) Off-site parking for retail uses is allowed so long as all required handicapped spaces are accommodated on site.
   (d) A parking agreement shall be submitted to the approving authority. The covenant, restriction or deed in the agreement shall require that if the use is dependent on the off-site parking, that off-site parking will be available to meet the parking requirements of the use prior to the issuance of any permits or a certificate of occupancy.

E. Off-Street Parking Requirements. Where the parking calculation yields a fractional number of required spaces, the number of spaces shall be rounded up to the nearest whole number.

F. Off-Street Parking Requirements in Residential and Open Space Conservancy Districts. Off-street parking and loading required for business or commercial uses shall not be allowed in residential or open space conservancy zoning districts, or in flexible development projects, except lots authorized under § 5.1-B Lots in More than One District and municipally owned lots for any municipal facility are permitted in residential or open space conservancy zoning districts.

G. Schedule of Off-Street Parking Requirements. Relation to § 4.6 Table of Uses. Table 4, Schedule of Off-Street Parking Requirements below, is coordinated with § 4.6 Table of Uses, Table 1 (Part 1 and Part 2). The “Pkg” column in Table 1 is marked with a number that corresponds with the parking standards for that use in Table 4. Every use listed in Table 1 has been assigned a number is Table 4, if parking is required for that use.
### TABLE 4
SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

<table>
<thead>
<tr>
<th>USES</th>
<th>MINIMUM SPACES REQUIRED (GFA = gross floor area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential Uses (Principal &amp; Accessory)</td>
</tr>
<tr>
<td>1.1</td>
<td>Single-family dwelling, attached or detached</td>
</tr>
<tr>
<td></td>
<td>Two-family dwelling</td>
</tr>
<tr>
<td></td>
<td>Two-family dwelling, conversion from single-family</td>
</tr>
<tr>
<td></td>
<td>Flexible development</td>
</tr>
<tr>
<td></td>
<td>Two per unit, for dwellings with up to 4 bedrooms</td>
</tr>
<tr>
<td></td>
<td>Three per unit, for dwellings with more than 4 bedrooms</td>
</tr>
<tr>
<td>1.2</td>
<td>Multifamily or small scale multifamily dwelling</td>
</tr>
<tr>
<td></td>
<td>Congregate housing</td>
</tr>
<tr>
<td></td>
<td>Dwelling units in mixed-use development</td>
</tr>
<tr>
<td></td>
<td>Flexible development (for any multifamily component)</td>
</tr>
<tr>
<td></td>
<td>Long-term care facility conversion</td>
</tr>
<tr>
<td></td>
<td>One per bedroom</td>
</tr>
<tr>
<td>1.3</td>
<td>Continuing care retirement community</td>
</tr>
<tr>
<td></td>
<td>0.75 per unit or bedroom, plus 10% for staff and visitors. There will also be sufficient parking for facility transit or maintenance vehicles.</td>
</tr>
<tr>
<td>1.4</td>
<td>Accessory apartment (per apartment)</td>
</tr>
<tr>
<td></td>
<td>Bed and breakfast (per room let)</td>
</tr>
<tr>
<td></td>
<td>Home occupation (per home)</td>
</tr>
<tr>
<td></td>
<td>One per unit (in addition to the parking required for the principal dwelling)</td>
</tr>
<tr>
<td>1.5</td>
<td>Family day care home</td>
</tr>
<tr>
<td></td>
<td>Two per home</td>
</tr>
<tr>
<td>1.6</td>
<td>Dormitory</td>
</tr>
<tr>
<td></td>
<td>One per every Resident Assistant room</td>
</tr>
<tr>
<td>2</td>
<td>Institutional/Semi-public uses</td>
</tr>
<tr>
<td>2.1</td>
<td>Assembly hall</td>
</tr>
<tr>
<td></td>
<td>One per 100 sq. ft. GFA</td>
</tr>
<tr>
<td>USES</td>
<td>MINIMUM SPACES REQUIRED (GFA = gross floor area)</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>2.2</td>
<td>Library or museum</td>
</tr>
<tr>
<td></td>
<td>Community center</td>
</tr>
<tr>
<td></td>
<td>Cemetery, with crematorium</td>
</tr>
<tr>
<td></td>
<td>Municipal facility</td>
</tr>
<tr>
<td></td>
<td>One per 250 sq. ft. GFA</td>
</tr>
<tr>
<td></td>
<td>(In a cemetery with crematorium, this only applies to the GFA of the crematorium.)</td>
</tr>
<tr>
<td>2.3</td>
<td>Municipal public park</td>
</tr>
<tr>
<td></td>
<td>As determined through Site Plan Review</td>
</tr>
<tr>
<td>2.4</td>
<td>Place of worship</td>
</tr>
<tr>
<td></td>
<td>One per three seats based on maximum seating capacity</td>
</tr>
<tr>
<td>2.5</td>
<td>School</td>
</tr>
<tr>
<td></td>
<td>As determined by the Planning Board</td>
</tr>
<tr>
<td></td>
<td>Cemetery, without crematorium</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
</tbody>
</table>

3 Recreation and Agricultural Uses

<p>| 3.1  | Boathouse, marina                                 |
|      | 0.75 per boat docking space or mooring           |
| 3.2  | Golf course                                      |
|      | Eight per hole                                   |
| 3.3  | Recreation facility, commercial                  |
|      | Indoor: One per 250 sq. ft. GFA                  |
|      | Outdoor: As determined by the Planning Board     |
| 3.4  | Riding stable                                    |
|      | One per horse stall                              |
| 3.5  | Rod and gun club                                 |
|      | As determined by the Planning Board              |
| 3.6  | Agriculture, horticulture, and floriculture      |
|      | As determined by the Planning Board              |
| 3.7  | Farm stand (accessory to Agriculture, horticulture, and floriculture) |
|      | Four spaces total                                |
| 3.8  | Yacht Club                                       |
|      | One per 100 sq. ft. GFA                         |</p>
<table>
<thead>
<tr>
<th>USES</th>
<th>MINIMUM SPACES REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(GFA = gross floor area)</td>
</tr>
<tr>
<td>4</td>
<td>Business/Retail Uses</td>
</tr>
<tr>
<td>All</td>
<td>One per 250 sq. ft. GFA up to 125,000 sq. ft., plus</td>
</tr>
<tr>
<td></td>
<td>One per 300 sq. ft. GFA per additional sq. ft.</td>
</tr>
<tr>
<td>5</td>
<td>Business/Food Service Uses</td>
</tr>
<tr>
<td>5.1</td>
<td>Restaurants (All kinds)</td>
</tr>
<tr>
<td></td>
<td>One per 3.5 seats for restaurants with seats, or</td>
</tr>
<tr>
<td></td>
<td>One per 100 sq. ft. GFA for restaurants without seats</td>
</tr>
<tr>
<td>5.2</td>
<td>Catering service</td>
</tr>
<tr>
<td></td>
<td>One per 350 sq. ft. GFA</td>
</tr>
<tr>
<td>6</td>
<td>Business/Motor Vehicle-Related Uses</td>
</tr>
<tr>
<td></td>
<td>Fuel station</td>
</tr>
<tr>
<td></td>
<td>One per 500 sq. ft. GFA, or</td>
</tr>
<tr>
<td></td>
<td>One per 400 sq. ft. GFA for uses where Class II vehicles are serviced</td>
</tr>
<tr>
<td>6.2</td>
<td>Motor Vehicle and Equipment Related Business, Light (Motor vehicle and equipment sales, rental and lease) – see § 9 Definitions</td>
</tr>
<tr>
<td></td>
<td>One per 250 sq. ft. GFA</td>
</tr>
<tr>
<td>6.3</td>
<td>Car wash</td>
</tr>
<tr>
<td></td>
<td>15 standing spaces for each automatic wash bay, plus one space for each vacuum machine and non-automatic wash bay.</td>
</tr>
<tr>
<td>6.4</td>
<td>Fuel station with convenience store</td>
</tr>
<tr>
<td></td>
<td>One per 250 sq. ft. GFA</td>
</tr>
<tr>
<td>USES</td>
<td>MINIMUM SPACES REQUIRED (GFA = gross floor area)</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>6.5 Motor Vehicle and Equipment Related Business, Heavy (Motor vehicle and equipment towing and storage) – see § 9 Definitions</td>
<td>Five per each company’s office area plus sufficient oversized spaces for Towing Vehicles and one per each vehicle stored.</td>
</tr>
<tr>
<td>Parking facility, commercial</td>
<td>N/A</td>
</tr>
<tr>
<td>7 Business/Personal and Business Services</td>
<td></td>
</tr>
<tr>
<td>7.1 Day care, adult</td>
<td>One per 300 sq. ft. GFA (plus sufficient off-street space for the safe and convenient unloading of clients)</td>
</tr>
<tr>
<td>Day care, commercial</td>
<td></td>
</tr>
<tr>
<td>7.2 Personal services</td>
<td>One per 300 sq. ft. GFA</td>
</tr>
<tr>
<td>7.3 Funeral home</td>
<td>One per 250 sq. ft. GFA</td>
</tr>
<tr>
<td>7.4 Animal day care</td>
<td>One per 500 sq. ft. GFA</td>
</tr>
<tr>
<td>Animal kennel</td>
<td></td>
</tr>
<tr>
<td>7.5 Personal services, body-related</td>
<td>One per 200 sq. ft. GFA</td>
</tr>
<tr>
<td>Animal grooming service</td>
<td></td>
</tr>
<tr>
<td>Animal hospital, veterinarian</td>
<td></td>
</tr>
<tr>
<td>8 Business/Office Uses</td>
<td></td>
</tr>
<tr>
<td>8.1 Bank or similar financial institution</td>
<td>One per 250 sq. ft. GFA</td>
</tr>
<tr>
<td>8.2 Business or professional office</td>
<td>One per 300 sq. ft. GFA (excluding any gym or cafeteria area)</td>
</tr>
<tr>
<td>Office park</td>
<td></td>
</tr>
<tr>
<td>8.3 Kiosk, freestanding (including freestanding Automated Teller Machine (ATM))</td>
<td>Three spaces total</td>
</tr>
<tr>
<td>9 Business/Health Care Uses</td>
<td></td>
</tr>
<tr>
<td>9.1 Hospital</td>
<td>Eight per patient bed</td>
</tr>
<tr>
<td>USES</td>
<td>MINIMUM SPACES REQUIRED (GFA = gross floor area)</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>9.2 Long-term care facility</td>
<td>One for every two patient beds, plus one per 200 sq. ft. GFA of nursing/office/domestic area</td>
</tr>
<tr>
<td>9.3 Medical facility</td>
<td>One per 150 sq. ft. GFA</td>
</tr>
<tr>
<td>9.4 Registered marijuana dispensary</td>
<td>As determined by the Planning Board</td>
</tr>
<tr>
<td>10 Business/Hospitality Uses</td>
<td></td>
</tr>
<tr>
<td>10.1 Conference center</td>
<td>One per 100 sq. ft. GFA devoted to meeting or conference space</td>
</tr>
<tr>
<td>10.2 Hotel</td>
<td>One per guest room, plus additional parking for any ancillary use open to the public (e.g. restaurant, gym, etc.) per this table.</td>
</tr>
<tr>
<td>11 Business/Arts and Entertainment</td>
<td></td>
</tr>
<tr>
<td>11.1 Art gallery</td>
<td>One per 500 sq. ft. GFA</td>
</tr>
<tr>
<td>11.2 Cinema</td>
<td>One per three seats provided based on maximum seating capacity</td>
</tr>
<tr>
<td>12 Business/Public Services</td>
<td></td>
</tr>
<tr>
<td>12.1 Postal service and/or Copy center</td>
<td>One per 250 sq. ft. GFA, plus adequate loading areas where children are being instructed</td>
</tr>
<tr>
<td>13 Business/Other Uses</td>
<td></td>
</tr>
<tr>
<td>13.1 Adult use</td>
<td>One per 250 sq. ft. GFA</td>
</tr>
</tbody>
</table>
### USES

<table>
<thead>
<tr>
<th>MINIMUM SPACES REQUIRED (GFA = gross floor area)</th>
</tr>
</thead>
</table>

### 14 Production Uses

14.1 Industrial, light
- Alcoholic beverage production
- Contractor’s yard
- Fuel Storage, Bulk
- Marine-dependent use
- Recycling station/Redemption center

14.2 Research and development
One per 300 sq. ft. of GFA

14.3 Self-storage facility
One space for every 75 storage units

14.4 Warehouse and distribution (wholesale/bulk and retail)
One per 1,000 sq. ft. GFA

14.5 Heliport
- Solid waste disposal facility or transfer station
- Transportation terminal
Such parking spaces as the planning board shall deem to be adequate for employees, for the loading and unloading of passengers, and for spectators, visitors and others

14.6 Flex Building
Parking for a Flex Building will be based on the specific mix of uses and calculated per § 7.1-H below.

14.7 Hazardous waste facility/transfer station
As determined by the planning board

Public utility yard
- Wireless communication facility
N/A

**H. More Than One Use Classification.** For any lot that contains more than one use classification, parking will be calculated separately for each use per Table 4, and then added together for the total number of spaces required. For example, the parking for a warehouse that also includes office space will be determined by taking the gross floor area for warehouse space and the gross floor area for office space, calculating the parking spaces for each, and then adding them together. If the same space is designed for multiple uses, parking will be calculated for the use that requires the greatest number of parking spaces.
I. **Parking Requirements for Uses Not Listed.**

(1) Off-street parking requirements for uses not specifically listed in Table 4 above and that do not require a Special Permit or site plan review shall be determined by the Department of Planning and Community Development (DPCD) and the Building Inspector. The determination shall be based on the requirements for any similar uses within Table 4 and any appropriate parking studies and data submitted by the applicant. The Building Inspector may require the submission of a parking plan in accordance with § 7.1.C Off-Street Parking and Loading. The Building Inspector may consult with the Department of Planning and Community Development (DPCD) in making this determination.

(2) For uses not listed within Table 4 that require either a Special Permit or a site plan review (whether full or administrative), the Planning Board shall determine the parking requirements. The Planning Board may require the submission of a parking plan.

J. **Additional Requirements for Other Districts.** Development in the Braintree-Weymouth Landing Zoning District (§ 8.1) and the Village Center Zoning District (§ 8.2) must adhere to additional parking requirements as described in those sections.

K. **Parking Space Dimensions.** Parking spaces shall be designed and constructed to conform to the standards in Table 5.

### TABLE 5
**PARKING SPACE DIMENSIONAL REQUIREMENTS**

<table>
<thead>
<tr>
<th>Angle of Parking Space</th>
<th>Width of Space</th>
<th>Length of Space</th>
<th>Width of Angled Space</th>
<th>Length of Angled Space</th>
<th>Minimum Back-up Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parallel</td>
<td>9’</td>
<td>20’</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>45° angle</td>
<td>9’</td>
<td>18’</td>
<td>12.7’</td>
<td>20.5’</td>
<td>15’</td>
</tr>
<tr>
<td>60° angle</td>
<td>9’</td>
<td>18’</td>
<td>10.5’</td>
<td>21.8’</td>
<td>18’</td>
</tr>
<tr>
<td>90° angle</td>
<td>9’</td>
<td>18’</td>
<td>9’</td>
<td>20’</td>
<td>24’</td>
</tr>
<tr>
<td>Aisle Width</td>
<td>24’</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

L. **Off-Street Loading and Drop-off Requirements**

(1) **Loading.** With the exception of the village districts, all commercial, business, office, medical, and industrial buildings that are newly constructed or that expand their existing gross floor area by 25 per cent or more, shall be required to provide adequate off-street loading space, as determined by the applicable reviewing authority, to meet the loading and unloading needs, if any, of the proposed or existing use. If no Special Permit or site plan review is required for the development, the Building Inspector shall make the determination regarding loading spaces.

All loading spaces shall meet the following requirements.

(a) Loading spaces shall be a minimum size of 9 feet in width and 24 feet in length.
(b) Loading bays shall be a minimum size of 12 feet in width and 36 feet in length, with 14 feet of vertical clearance.
(c) Loading areas shall not be located so as to require a commercial motor vehicle to back out into a public street.
(d) Each commercial, business, or industrial site shall be designed so that truck maneuvering and loading dock requirements are met wholly within the site.
(e) All driveways and loading areas shall be paved and maintained to be free from dust, erosion, trash/debris, or drainage onto a public street.
(f) All lighting for loading areas shall be designed, installed, and shielded to prevent glare from light sources onto adjacent properties and public streets.
(g) Emergency fire lanes cannot be used for any loading or unloading.

(2) Drop-off Area. Any use that involves the regular drop-off and pick up of children, the elderly, and/or individuals with disabilities shall be required to provide adequate off-street drop-off space, as determined by the applicable reviewing authority, to meet the drop-off and pick-up needs of the proposed or existing use. The site plan(s) shall include a designated area outside of any fire lanes that provides sufficient space for the drop off/pick up activity. This area shall be designed to be outside or adjacent to the travel aisle, large enough to avoid conflicts between vehicles and pedestrians, and not cause back-ups of vehicles into the parking aisles or onto public streets.

M. Bicycle Parking. The purpose of this section is to integrate safe and adequate bicycle parking facilities within vehicle parking facilities with the following criteria and guidelines.

(1) For all new non-residential, multifamily, and small-scale multifamily uses, or uses that expand in such a way to require a Special Permit or site plan review by the Planning Board, bicycle racks, or equivalent bicycle facilities, shall be required.
(2) Bicycle facilities may include racks, lockers, bicycle storage room, lockable bicycle enclosure for multiple bikes, or similar facilities to protect bicycles.
(3) The number, location, and design of the racks/facilities shall be approved by the Planning Board.
(4) The bicycle racks/facilities shall be visible, well lit, and convenient for the bicyclists to access the building.
(5) The bicycle racks/facilities shall be designed to provide for the locking of bikes to the rack/facility.
(6) The bicycle racks/facilities shall be separated from vehicular parking spaces and drive aisles in a manner and distance to protect the bicycles from damage by vehicles.
(7) The Planning Board may approve the omission of bicycle facilities where the only feasible location for such facilities would be practically inaccessible to the public, or would create a hazard by encroaching into the public Right of Way.

N. Parking Facility Design Standards

(1) Small Scale Residential Uses. For single-family, two-family and small scale multifamily, the following design standards shall be met.

(a) Parking spaces shall be on a hard surface such as concrete, bituminous asphalt, masonry pavers, or a similar material.
(b) In any residential district, there shall be a maximum of two (2) cars or other light motor vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only and shall not be
located in front of the front façade of the home (except in front of a garage, 
carport, or other parking structure).

(c) No driveway shall exceed a maximum grade of twelve (12) percent. All changes 
in grade shall be by means of smooth transitional vertical curves. Driveways 
shall be graded or drained so as to prevent rainwater from entering a structure or 
onto a public street.

(d) The maximum width of any driveway at the curb shall be 10 feet, which may 
taper toward a parking facility to a maximum width of 20 feet. All driveways 
must be set back at least four (4) feet from the side property line. See § 5.3.B, 
Setbacks.

Non-Residential and Multifamily Residential Uses. The following parking area design 
standards apply to all non-residential uses listed in the Use Table (which includes all Use Categories except for Residential Uses) as well as those residential uses not listed in § 7.1.N(1) above. These standards are intended to provide for: safe and efficient flow of vehicular, bicycle, and pedestrian traffic; separation of parking areas from adjoining streets and abutting residential properties; visual relief from expanses of asphalt; proper drainage and snow removal; and appropriate lighting for safety purposes. Compliance shall be demonstrated through the submittal of a parking plan in accordance with § 3.11 Site Plan Contents for Variance, Site Plan Review, and Special Permits. Routine maintenance or repairs to parking areas that do not comply with these standards shall not require a Special Permit. Deviations from these design and construction standards may occur through an application for a Special Permit to the SPGA.

(a) Parking areas subject to this subsection shall be landscaped in accordance with § 7.1.P. of this Zoning Ordinance.

(b) Design of parking facilities that encourages backing out directly into a public 
street or public sidewalk is prohibited.

(c) Design of parking facilities that encourages that each vehicle may enter or exit 
from any parking space without requiring the moving of another vehicle.

(d) Design of parking facilities and their construction shall have internal circulation 
so that each parking space can be accessed from the parking area without having to re-enter the public street.

(e) Design of parking facilities utilizing curbs, bollards, and/or wheel stops shall be 
located to protect adjacent property from damage; protect landscaped areas; and 
protect sidewalks within and adjacent to the property. (See also Section 7.2.B.7.

(f) Design of parking facilities shall have a slope of areas where cars will be parked 
not exceeding a five (5) percent grade.
(g) Design of parking facilities shall have driveways used exclusively for ingress or egress or exclusively for interior parking lot circulation of a grade not exceeding 12 percent. Further, within 20 feet of the public road, the slope shall not exceed five (5) percent. All changes in grade shall be by means of smooth transitional vertical curves. Driveways shall be graded or drained so as to prevent rainwater from entering a building.

(h) Design of parking facilities shall have entrance and exit driveways a minimum of 12 feet wide for one-way use only and a minimum of 24 feet wide for two-way use.

(i) Design of parking facilities shall have a combined maximum width of entrance and exit driveways of 30 feet, except in conjunction with loading facilities.

(j) Design of parking facilities shall have driveways located to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

(k) Design of parking facilities shall have no parking space located within five (5) feet of a building wall, except for parking within a parking structure. Loading areas are exempt from this requirement.

(l) In all parking areas of five (5) or more spaces, all individual spaces shall be striped, marked, or otherwise delineated in a manner sufficient to identify the spaces.

(m) In all parking areas of five (5) or more spaces, adequate lighting shall be provided if the spaces are used at night. All lighting shall meet the requirements of § 7.2.C Outdoor Lighting.

(n) Design of parking facilities shall include handicap accessible spaces in accordance with Americans with Disabilities Act and Massachusetts Architectural Access Board requirements.

O. Construction Standards. All parking facilities shall be constructed with the following standards:

(1) Surface. Except for parking related to residential uses as discussed in subsection 2 above, all parking spaces and circulation lanes and aisles shall be paved and permanently maintained with asphalt, concrete or any other all-weather surface approved by the Building Inspector or other applicable authority.

(2) Directional Information. Signs, pavement markings, arrows, and similar techniques shall be used to mark travel and parking aisles, maneuvering areas, directions to parking spaces, handicap spaces, and similar, as needed to facilitate the flow of traffic on the site in accordance with a plan approved by the SPGA, the Planning and Community Development Department, or by the Building Inspector as applicable. All pavement markings shall be maintained in a clear and visible manner.

(3) Drainage. Parking areas shall be graded and drained so that no surface water drains onto a public way with approval from the Department of Public Works Stormwater Division and, if applicable, the Conservation Commission. The use of Best Management Practices (BMPs) for stormwater management, such as drainage swales, rain gardens, pervious pavement, or pavers etc. shall be used to achieve maximum on-site stormwater infiltration.

(4) Electric-Vehicle Charging Station. The provision of electric-vehicle charging stations is reviewed by Braintree Electric Light Department, the Building Inspector, and the Planning and Community Development Department. Charging stations must accommodate an array of electric vehicles and may not be designed for any particular make or model. No more than two (2) required parking spaces may be used to
accommodate such charging stations. Any additional charging stations will be over and above the required parking.

(5) **Maintenance.** The parking facility shall be maintained by periodic sweeping and cleaning, being kept free of rubbish, trash, and debris, being re-striped as needed, and by being plowed and kept free of snow. An intensive sweeping of any residual salt or sand used for ice management shall be performed each spring. All landscaped areas shall be kept free of weeds, trash, and debris and shall be watered as required to maintain the trees and plants. Damaged or dead trees and plants shall be replaced with the same or similar vegetation on an annual basis. All paving surfaces, lighting, fences, walls, barriers, and curbs shall be maintained in good repair.

P. **Parking Area Landscape Design**

(1) Trees shall be the primary planting material and shall be planted in landscape buffers at the edges of the parking facility, in landscape islands at the end of parking rows, as well as in landscaped linear planting areas separating rows of parking. Shrubs, flowers, and ground cover may be used as accent material in the landscaped spaces, so long as site visibility is not impeded.

(2) Along the perimeter of any parking lot, a minimum 10-foot wide landscape buffer area shall be provided along any property lines parallel to any public or private street where the parking or circulation abuts the street.

(3) To meet or exceed the minimum required landscaping for parking areas, linear strips of landscaping may be used to separate rows of parking and serve as a visual interruption of the parking surface. These strips shall be at least six (6) feet in width.

(4) Where parallel rows of parking are provided in a single lot, and each row contains eight or more spaces, planting islands shall be provided at the beginning and end of at least every other parking row. Islands are to be a minimum of nine (9) feet in width at their widest point, and the same length as the parking spaces they abut. At least one shade tree with a trunk caliper of 1.5 to 2 inches for sight visibility shall be planted in each island.
(5) Parking areas shall be separated from buildings by at least an eight-foot area that may consist of a sidewalk as well as landscape plantings.

(6) The following minimum areas of a parking facility shall be landscaped.

<table>
<thead>
<tr>
<th>Off-street parking spaces required</th>
<th>Percentage of area designed for off-street parking spaces to be landscaped</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-15</td>
<td>5%</td>
</tr>
<tr>
<td>16-30</td>
<td>10%</td>
</tr>
<tr>
<td>31+</td>
<td>15%</td>
</tr>
</tbody>
</table>

(7) Landscape buffer areas at the edge of the parking facility as well as any interior planting areas shall be bounded by a concrete curb at least six inches in height. These curbs may be perforated or otherwise designed (e.g., Cape Cod berms) to allow stormwater to flow into depressed landscaped areas designed to pre-treat stormwater.

(8) Parking facilities for all non-residential uses listed in the Use Table (which includes all Use Categories except for Residential Uses) that abut other non-residential uses shall provide a six-foot wide landscape buffer to screen the parking along the non-street property lines. The buffer may consist of an earthen berm, hedgerow, wall, fencing with vegetative planting in front or substantial plantings of material at a minimum height of three (3) feet, or other design that will accomplish this purpose. There shall be one tree planted for every 30 linear feet of property line. The applicant may propose to reduce or eliminate these buffers where adjacent properties are developed in a coordinated fashion, and direct access across side or rear lot lines would enhance accessibility, circulation, and general site design.

(9) Landscaping shall be used to delineate vehicular, bicycle, and pedestrian circulation patterns. In addition, signs, pavement markings, textures and materials, raised areas, and...
other techniques shall also be used to delineate vehicular, bicycle, and pedestrian circulation, as well as handicapped accessible pathways, as necessary.

Q. Parking and Circulation Plan. Any development that requires a Variance, Special Permit or Site Plan Review shall include a Parking and Circulation Plan with its application for the Variance, Special Permit or site plan review per § 3.11 of this Zoning Ordinance. The Parking and Circulation Plan shall include a site plan, construction details, and (if necessary) narrative descriptions of the parking area design with information adequate for the Town to determine compliance with this § 7.1.

R. Lighting. Lighting in parking facilities shall comply with § 7.2-C Outdoor Lighting.

§ 7.2 Site Design Standards

A. Landscaping Best Practice.

(1) Plant Selection.

(a) No tree, shrub or plant shall be proposed that has been identified as an Invasive Species by the Massachusetts Plant Advisory Group in the latest version of The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list), has been identified as invasive or banned on the Massachusetts Prohibited Plant List as periodically updated by the Massachusetts Department of Agricultural Resources, or in any other reputable scientific publication that may be acceptable to the permit granting authority.

(b) Landscaping shall be designed to remain functional and attractive during all seasons through a thoughtful selection of deciduous, evergreen, berrying, and flowering plant varieties. Applicants are encouraged to consult the latest version of The Vascular Plants of Massachusetts: A County Checklist as published by the Massachusetts Division of Fisheries and Wildlife and Natural Heritage & Endangered Species Program to determine which plants are native to the area.

(c) Plant varieties shall be selected for resistance to drought, moisture, salt, urban conditions, or insects and other pests depending on the location of landscaping and the specific stressors anticipated for different areas of the site. Plants shall be selected so that landscaping can be maintained with minimal care and the need for watering, pesticides or fertilizers can be minimized or eliminated. Applicants are encouraged to consult The Massachusetts Nursery and Landscape Association’s Pocket Guide to Native and Low Maintenance Woody Plants.

(d) Turf, ground cover, shrubs and other living landscape materials shall be used to cover all open ground. Landscaping materials, such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate. The use of turf shall be minimized and shall not be planted in strips less than six (6) feet wide. Lawn seed mixes shall be drought resistant. To achieve a high level of drought tolerance, lawn mixes may include, but shall not be limited to, a predominance of fine fescues.

(2) Tree Selection.

(a) All proposed shade or canopy trees shall have a minimum three-inch caliper.
(b) Shade or canopy trees shall not be less than twelve (12) feet in planted height above grade.
(c) Ornamental or flowering fruit trees shall not be less than seven (7) feet in planted height above grade unless specific dwarf varieties have been selected that require the planting of a smaller specimen.
(d) Evergreen trees used for screening shall not be less than six (6) feet in planted height above grade;
(e) At the time of planting, shrubs shall be well established and shall stand at least one-foot tall above grade.
(f) All plant materials shall be hardy to the appropriate temperature zone as defined by the American Standards for Nursery Stock.
(g) Any existing trees of four-inch (4") caliper or greater shall be retained where they are coincident with proposed landscaping areas. Such trees shall be removed if they are identified as an invasive species or if their health is clearly compromised at the time of application.
(h) Trees that are included in any landscaping plan, which die subsequent to development, shall be replaced.

(3) Maintenance. The owner of the property shall be responsible for maintaining, in a neat and orderly manner at all times, the landscaping required by this section. Plant materials shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials which die shall be replaced with healthy plant material of similar variety and meeting the plant selection requirements of this Zoning Ordinance.

B. Landscaping Plan Requirements. In addition to the Basic Information and applicable General Development Information required in § 3.11, Landscape Plans shall contain the following information:

(1) The proposed site development plan showing existing and proposed building footprints, walls, fences, parking spaces, loading bays, driveways, walks, storage areas, public rights-of-way, easements and the location of structures on, and the uses of, abutting properties.
(2) A plan and plant schedule giving botanical common names of plants to be used, size at time planting, mature size, rate of growth, quantity of each, location and method of any excavation and preparation, and the spacing and location of all proposed trees, shrubs and ground covers.
(3) Location of all trees in, and within 50 feet of, any area to be graded, and the location of any trees to be removed.
(4) Proposed landscaping details including location, species, size and number of trees, shrubs, ground cover and structural landscaping elements.

C. Outdoor Lighting. General Requirements for Commercial, Production, Mixed-Uses, and Multi-Family Dwellings (6 units or more)

(1) Applicability. The requirements below apply to all uses and activities reviewed through Site Plan Review or Special Permit applications to the Planning Board, and to any outdoor lighting improvements related to non-residential uses, multifamily, dormitory, congregate care, or similar facility. Outdoor lighting related to single family and two-family residences shall not be reviewed under this section of the Zoning Ordinance.
(2) Illumination Levels. Site lighting, security lighting, and architectural/landscape lighting should provide the user with illumination levels appropriate for the
designed activity (e.g., parking, walking, outdoor dining) while meeting minimum requirements. Illumination levels should also be reasonably uniform throughout the site and strive to minimize glare. Adequate lighting levels will be provided in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. All lighting should be on timers that automatically dim or shut off during daylight hours.

(3) **Building Permit Required.** No outdoor lighting shall be installed, structurally altered, or otherwise changed, unless a building permit and an electrical permit have been approved by the Building Inspector.

(4) **Exemptions.** Any industry standards for lighting for a particular use that conflict with one or more of the requirements below in § 7.2-F.5 will be exempt from the conflicting requirement(s) only. The remaining non-conflicting requirements will still apply.

(5) **Outdoor Lighting Standards.** Prior to the approval of outdoor lighting under this section, and as part of the review for a building permit, the Building Inspector will review and approve a lighting plan presented by the applicant, which will demonstrate adherence with the following:

(a) Outdoor lighting shall be provided in an overlapping pattern of light at a height of about 10 to 15 feet in pedestrian areas and 20 to 24 feet in parking areas.

(b) Outdoor lighting will be provided at consistent lumens with a gradual transition to unlighted areas. Highly contrasting pools of light and dark can be temporarily blinding and should be avoided.

(c) In each lighted area, lighting levels shall be designed to allow pedestrians to identify a face 15 yards away (generally, a minimum of four footcandles).

(d) Adequate outdoor lighting shall be provided at all building entrances, exits and corridors between buildings, at least four footcandles during active use, especially where doors are recessed.

(e) Outdoor lighting shall be confined to the project site; use shields or other methods to eliminate glare on adjacent properties.

(f) Light posts and standards shall be placed so that they do not create hazards for pedestrians or vehicles.

D. **Lighting Plan.** Lighting Plans submitted as part of Site Plan Review or a Special Permit application, or to the Building Inspector, shall have the following information in addition to the Basic Information and applicable General Information described in § 3.11.

(1) Location of all outdoor lighting fixtures.

(2) A detailed specification of each lighting fixture including the purpose of the light, height of the fixture or light pole, type of bulb, and lumen output. Applicants are strongly encouraged to include pictures and specifications of each fixture.

(3) Location and description of any barriers or other site elements that will be required to prevent light trespass onto adjacent properties.

(4) Depiction of overall periphery of light cast with one footcandle within the lot when all fixtures are operating.

E. **Stormwater Management.** Post construction management of stormwater runoff shall, at a minimum, comply with the requirements under the most recent General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in Massachusetts and all Town of Braintree Stormwater Management Regulations. The applicant shall submit a Stormwater Management Plan that includes site plans, drainage calculations, construction details, and narrative as necessary to demonstrate compliance with these standards. (See also § 7.5 Erosion and Sediment Control.)
F. **Grading Standards.** The following standards apply to all site work proposed as part of Administrative Site Plan Review, Full Site Plan Review or Special Permit Applications as applicable. Where an applicant is required to submit a Stormwater Management Plan, the information required to demonstrate compliance with these standards may be included in the Stormwater Management Plan. (See also § 7.5 Erosion and Sediment Control.)

(1) **General Grading Standards.**
   
   (a) Grading shall not increase turbidity, siltation or pollution in a water body or create or contribute to landslides, accelerated soil creep, settlement, subsidence, flooding or erosion.
   
   (b) Grading shall expose to erosion the smallest area of soil for the least possible time.

(2) **Import and Export of Earth Material.**

   (a) The amount of material in cubic yards to be imported or exported from the site shall be reported.
   
   (b) Site access shall be restricted to any point(s) designated on an approved plan and may be controlled by a gate or other suitable barrier.
   
   (c) Access drives shall have the minimum sight distance required by the Town onto adjoining streets. Absent the required sight distance, police details may be required by the approving authority. Access drives shall be constructed of gravel or equivalent material to prevent mud and debris from being deposited onto access streets. The last 50 feet of an access drive's approach to the intersection with a public street shall have a grade less than 3%.
   
   (d) The approving authority may also require other mitigating measures site specific to address any potential adverse impacts from the movement of earth material to and from the construction site.
   
   (e) When in excess of 150 cubic yards of earth material is to be transported over a public street, the SPGA may restrict transporting to access streets and require:

      (i) That water and/or dust palliative be applied to alleviate or prevent dust during loading or transport of said materials; and

      (ii) The posting of “Trucks Entering” signs on the public roadway 400 feet on each side of the site's access. The warning signs shall be covered or removed when the access intersection is not in use.

   (f) **Boundary Location.** The SPGA may require staking of property lines, limits of grading, top and toe of the fill, and all areas where construction equipment is to be excluded. Stakes shall be at least two-inch by two-inch posts 36 inches in length above existing grade and shall be maintained and visible during grading activities.

(3) **Vegetative Clearing Standards.**

   (a) The approving authority shall be provided with a site plan depicting the limits of all vegetative clearing. Clearing activities shall be limited to road or driveway construction, utility installation, and building pad construction. Trees and areas of undergrowth to be removed shall be clearly identified on the grading plan. On
site, clearing limits shall be clearly marked with brightly colored tape or plastic and reviewed on-site by approving authority staff prior to the start of any site development.

(b) Grading equipment shall be kept outside the drip line of any trees to be retained.

(c) Unauthorized removal of trees or other vegetation or the backfilling or compaction of soil around trees to be retained shall be a violation of this ordinance and require immediate restoration using five- to ten-year-old stock planted at a 3:1 ratio of new plants to removed or damaged plants. A restoration plan and narrative describing replacement stock shall be submitted to the approving authority before any work shall commence.

(d) Filling of more than six (6) inches shall require tree wells around trees of six (6) inches in caliper or larger and shall be shown on a site plan.

(4) Drainage.

(a) In areas with steep slopes, cut and fill slopes and terraces shall be provided with subsurface drainage as necessary for stability.

(b) Water shall not pond above cut or fill slopes or on drainage terraces. Drainage facilities shall be provided to prevent such ponding.

(c) Areas designed for buildings shall be graded away from the building for a minimum of six (6) feet at a slope of 24 horizontal to one vertical.

(d) Dikes, swales, ditches, percolation devices or other conveyance mechanisms shall be designed to control runoff and erosion from graded areas. Where concentrated runoff discharges onto natural ground, measures shall be taken to dissipate the energy and release the runoff as sheet flow.

(5) Encroachment.

(a) Grading shall not encroach upon an adjoining lot unless the Town is provided:

(i) Proof that the applicant owns the adjoining lot;

(ii) An easement, granted by the owner of the lot, authorizing grading on said lot; or

(iii) A letter signed by the owner of the lot authorizing temporary encroachment for a temporary change of grade or stockpiling.

(b) Adjoining lots shall be protected from encroachment or collapse by a retaining wall or by grading to a safe slope. The design for any retaining wall with an exposed height exceeding four (4) feet at any point shall be stamped by a Registered Professional Engineer acting within the area of her/his expertise.

(c) Grading across property lines or between structures shall not create channels with steep walls that concentrate stormwater runoff.

(6) Expansive soils. If organic or soft cohesive soils are found within two (2) feet of the finished grade of an intended building location, said soils shall be removed to a depth specified by a Registered Professional Engineer and replaced with properly compacted nonexpansive gravel borrow.
(7) Fill Material.

(a) Fill materials shall be composed of earth materials. Rock or similar irreducible material used in fill shall be of a maximum diameter of six (6) inches and shall compose not more than 20% of the total fill material.

(b) Fill materials shall not contain any organic material unless organic material is an integral component of the Landscaping Plan or Stormwater Management Plan.

(c) With the exception of the upper six (6) inches of a fill site, topsoil shall not be used as a fill material.

(8) Setbacks.

(a) Cuts or fills five (5) feet in depth or greater shall be set back a minimum of 25 feet from property lines. Setback distances shall be horizontal distances measured perpendicular to the site boundary.

(b) Fills shall be located so that the base edge of the fill is more than 12 feet horizontally from the top edge of an existing slope or a planned cut slope. Fill shall not be placed on top of slopes steeper than 1.5 horizontal to one (1) vertical.

(9) Slopes. All slopes shall conform to state and federal regulations. Cuts shall not be steeper in slope than two horizontal to one vertical. A steeper slope may be allowed if a Registered Professional Engineer certifies that said slope will be stable, will not endanger an adjoining lot, deposit debris on a public way or interfere with any existing drainage course. The slope of cut and fill surfaces shall be no steeper than is safe for the intended uses.

(10) Surface Preparation. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil, and other unsuitable materials and by scarifying the ground surface to provide a bond for the new fill. A slope that is steeper than three (3) horizontal to one (1) vertical and the height of which is greater than five (5) feet shall be benched into sound bedrock or other competent material as determined by a Registered Professional Engineer. The bench under the toe of a fill shall be at least 10 feet wide, except when a Registered Professional Engineer determines it to be unnecessary.

(11) Terraces.

(a) Terraces in soil at least four (4) feet in width shall be established at not more than ten-foot vertical intervals on all cut and fill slopes to control surface drainage and debris. Where only one terrace is required, it shall be at mid-height.

(b) Terraces in rock at least six (6) feet in width shall be established at not more than thirty-foot vertical intervals on all cut and fill slopes to control surface drainage and debris. Where only one terrace is required, it shall be at mid-height.

(c) Terrace widths and spacing for cut and fill slopes greater than 90 feet in height shall be designed by a Registered Professional Engineer.

(12) Grading Plan. The grading plan shall be of appropriate scale to show location and details of all proposed grading activities and shall include, where applicable:

(a) A general vicinity map, scale, North arrow, benchmark and datum;
(b) The legal names and addresses of the owner of the property involved, the petitioner and abutting property owners, including those across a street;
(c) Property lines, easements and dimensions, building setbacks, and total area of the lot;
(d) Existing and finished grades at two-foot contours with the contour lines extended a minimum of 50 feet beyond the site's boundaries;
(e) Location, dimensions, and elevations of existing and proposed buildings and structures, retaining walls, roads, driveways, parking lots, utilities, and drainage structures on site and within 50 feet of the site's boundaries;
(f) Location of water bodies, wetlands, wetland buffers, floodplains, drainage structures, and any proposed alteration to drainage on site and within 50 feet of the site's boundaries;
(g) Location of access streets, access points, and construction entrances;
(h) Location of graded areas, shaded and labeled "graded area," and of on-site disposal or borrow areas;
(i) Location of known soils and of geologic hazard areas on the site;
(j) Location of proposed erosion and sedimentation controls;
(k) Location of proposed mitigative measures such as revegetation, retaining walls and visual screening;
(l) Location of vegetation to be removed with number of trees/shrubs to be removed, retained or replanted;
(m) Plan details on utilities, drainage structures, walls, cribbing, dams, berms, settling ponds or other water control devices to be constructed;
(n) Slopes of all cut and fill areas;
(o) Cross section drawings (no fewer than two) that show:
   (i) Maximum depth of fill and maximum height of cuts;
   (ii) Existing and proposed buildings and their setbacks from cut or fill slopes;
   (iii) Existing and finished grades extending a minimum of 20 feet beyond the scope of work;
   (iv) Retaining walls and the grade on either side of the walls for at least 20 feet.
(p) A grading report that includes, where applicable:
   (i) Description of the work to be performed under the grading permit;
   (ii) Start and completion dates;
   (iii) Quantities of earth materials impacted by grading and area to be graded;
   (iv) Description of erosion, drainage, and dust control measures to be implemented;
   (v) Location of off-site disposal areas and quantity of earth materials and vegetation to be removed from the site;
   (vi) Description of the type of backfill to be used, using ASTM Unified Soils Classification System for identification;
   (vii) Quantity of earth materials to be imported to the site during grading and the source of the material.
§ 7.3  Traffic Standards

A.  Purpose,

(1)  Provide for the orderly movement of traffic, reduce accidents, allow adequate emergency response, and maintain adequate and safe streets.

(2)  Discourage the use of neighborhood streets as shortcuts by promoting the use of arterial and collector streets.

(3)  Encourage the use of traffic engineering design standards appropriate for a residential suburban community.

(4)  Encourage private sector participation in managing and/or mitigating traffic impacts.

(5)  Create and maintain safe and convenient pedestrian access and bike paths.

(6)  Encourage the use of public transit, car pools, and van pools.

(7)  Promote clean air by reducing exhaust emissions and unnecessary vehicular idling.

B.  Applicability.  This section shall apply to every application for a Special Permit (SP) or a full or administrative site plan review.

C.  Traffic Study.

(1)  A traffic study, prepared by a professional traffic engineer registered in Massachusetts, shall be submitted with each application in which the proposed use will generate 50 or more new trips during the peak hour of the development. If no streets are impacted by a development, the permit review authority may determine that a traffic study is not required. The applicant, at his/her discretion, may consult with the permit review authority or its designees prior to submission in order to identify the intersections to be studied and the appropriate elements to include in the study.

(2)  Trip rates may be based on Institute of Transportation Engineers Trip Generation, latest edition (ITE), or data from similar developments in similar settings in Massachusetts.

(a)  If ITE is used, the land use code, number of studies, weighted average trip rate, trip generation equation standard deviation and coefficient for each land use used shall be provided. Use of the weighted average trip rate or trip generation equation to predict trips for each land use shall be based on the procedures set forth in ITE.

(b)  If local trip rates are used, the methodology used and the applicability of the data shall be provided.

(c)  If data are available from ITE and local sources, the applicant may demonstrate why the ITE data is not accurate and should not be used. The permit granting authority shall determine which data source will be used.

(3)  All traffic counts including turning movements shall have been taken within twelve (12) months of the date of submission and shall be adjusted for seasonal variation with an explanation as to how the adjustment was made.

(4)  Projections of ADT's, turning movements, and capacity analyses shall be adjusted for (where appropriate):

(a)  Background traffic with an explanation as to how said adjustment was made;

(b)  Truck traffic and buses;

(c)  Vacant space in existing buildings in the study area;

(d)  Trips generated by the proposed development on full occupancy; and
(e) Trips generated by developments in the study area that are under review or approved by a municipal agency or in the MEPA process.

(5) If an exceptional peak period is likely to occur, the permit granting authority may require analysis for said period.

(6) Trips from an existing land use that are being replaced by a new land use may be subtracted as follows:

(a) If trip generation and distribution for the new land use have the same characteristics as the land use being replaced, trips generated by the new land use may be reduced by an amount to exceed the trips generated by the land use being replaced.

(b) If trip generation and distribution for the new land use do not have the same characteristics as the land use being replaced, trips generated by the existing land use maybe subtracted from the street system.

(7) Where a project accesses or impacts a state highway, evidence of consultation with the Massachusetts Highway Department shall be provided.

(8) The traffic study shall have the following elements (when applicable):

(a) Executive summary with:

(i) Scope of work to include location of the project locus map and site plan, description of type and intensity of existing and proposed development and description of study area;

(ii) Schedule for project development;

(iii) Summary of existing and future traffic conditions including deficiencies in the street system;

(iv) Summary of traffic impacts and proposed mitigation; and

(v) Listing of all permits required by the project and a summary of the status of permitting process for each required permit.

(b) Review of traffic studies undertaken within the study area in the prior five years on file in the municipalities within the study area.

(c) Description of roadway characteristics for all impacted streets to include:

(i) Inventory of land uses within 500 feet of the development and on each impacted street;

(ii) Identification of all curb cuts and driveways within 500 feet of the development;

(iii) Physical characteristics including number of travel lanes; widths of right-of-way, travel lanes, sidewalks and shoulders; conditions of pavement, sidewalk and curbing; and roadway geometry and grades;

(iv) Inventory of traffic control devices including regulatory parking and warning signs, traffic signal permits, control units and description of signal phasing;

(v) Sight distances and obstructions to sight lines;

(vi) Location and type of street lighting;

(vii) Actual and posted traffic speeds;
(viii) Number, type and location of accidents by year for the most recent three years;
(ix) Description or transit system serving the study area including mode, frequency, schedule, routes, stop location and patronage;
(x) Time and peak volume of parking for the development and any other uses on the same lot;
(xi) Location of pedestrian and bicycle routes; and
(xii) Location of churches, schools, parks and similar public or civic uses within the study area.

(d) Description of traffic improvements to be completed in the study area prior to the design year with a schedule of implementation and identification of the parties responsible for implementing the improvements.
(e) ADTs on all impacted streets for the current year and the no-build and build conditions of the design year (no-build and build conditions). Current ADTs shall be counted for a forty-eight-hour period on a typical weekday.
(f) Existing site generated trips with a trip assignment.
(g) Identification of the peak hours (a.m., p.m., and Saturday) of the development and any other uses on the same lot, and for adjacent streets, with an explanation as to how the peak hours were selected.
(h) Development generated trips for the peak hours of the development and for adjacent streets, with a trip assignment, and an explanation as to how the assignment was made. If projected trips are adjusted for pass-by or diverted trips, an explanation as to how the adjustment was made shall be provided. Adjustment for pass-by trips shall be limited to 25% of site generated trips and 5% of the volume of the traffic on the street serving the site.
(i) Peak hour(s) turning movement counts on all impacted intersections for the current year and the no-build and build conditions.
(j) Capacity analysis for the current year and the no-build and build conditions on all impacted streets and street segments. Said analysis shall be based on the Highway Capacity Manual Transportation Research Board, latest edition (where applicable), and shall include a queue analysis and critical volumes by signal phase or turning movement for each intersection studied.
(k) Gap analysis for unsignalized intersections and site driveways which experience excessive delay or are approaching capacity.
(l) Measures to mitigate traffic impacts to include:
   (i) The process through which the mitigation will be authorized, financed, designed and implemented.
   (ii) Capacity analysis on all impacted streets and intersections based on the mitigation proposed.
   (iii) Review of potential impact to utilities, wetlands, archaeological/historical sites, etc.
   (iv) Implementation schedule. If the development or the mitigation is phased, the study shall show how the mitigation will be implemented and function for each phase.
(m) If site design and geometric changes are proposed, said changes shall be based on current engineering standards for turn pocket transition tapers, lane widths, sight distance, multiple lane configuration, and right-of-way widths. A description of said changes shall include:
(i) Scaled plan(s) (one-inch equals 40 feet preferred) showing: existing and proposed layout lines, building footprint(s), parking lot areas and driveways.

(ii) The relationship of the site layout to existing rights-of-way with sight distances; and

(iii) Proposed geometric changes and widening (driveways, storage lanes, acceleration and deceleration lanes, turning lanes, etc.).

(iv) A traffic management plan to maintain traffic flow on impacted street(s) and allow access to abutting properties by vehicles, pedestrians, and handicap persons during construction.

(v) Measures to mitigate traffic-generated noise and dust pollution.

(n) If traffic signalization is proposed, a signal warrant analysis based on Manual on Uniform Traffic Control Devices (FHWA, latest edition).

(o) Program to monitor the effects of the mitigation for a period of three years after implementation.

(p) If signalization of an unsignalized intersection is proposed as mitigation, the applicant shall also provide alternative mitigation for the intersection.

D. Traffic Capacity.

(1) Prior to granting a Variance, Special Permit or Site Plan Review, the permitting authority shall determine there will be adequate capacity on all impacted streets for the build condition.

(a) If adequate capacity is projected on any impacted street for the no-build condition and a development causes a decrease in LOS the SPGA may require implementation of mitigative measures to restore the LOS to the no-build condition.

(b) If any impacted street does not have adequate capacity for the build condition, the permitting authority may:

(i) Require the implementation of mitigative measures to achieve adequate capacity.

(ii) Deny the application.

(2) Prior to granting a Variance, Special Permit or Site Plan Review, the permitting authority shall determine if any impacted street will be the receptor of excessive traffic. If the permit granting authority finds that there will be an increase in projected traffic (any peak hour or ADT) between “No Build” and "Build" condition of the design year greater than that indicated in Figure 1 below, the permit granting authority may:

(a) Require the implementation of mitigative measures to reduce the volume of traffic.

(b) Deny the application.

<table>
<thead>
<tr>
<th>ADT</th>
<th>Allowable Increase in % of Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 2,000</td>
<td>30%</td>
</tr>
<tr>
<td>2,001 to 5,000</td>
<td>20%</td>
</tr>
<tr>
<td>5,001 to 10,000</td>
<td>15%</td>
</tr>
<tr>
<td>10,000+</td>
<td>10%</td>
</tr>
</tbody>
</table>
(3) The permit granting authority may condition its approval on:

(a) Completion of mitigation prior to issuing any occupancy permit.
(b) Posting surety to guarantee implementation of mitigation.
(c) Implementing measures to reduce trips generated by development including use of:

(i) Employer-subsidized passes for public transit;
(ii) Car pools and van pools;
(iii) Flex time or staggered work hours;
(iv) Preferential parking for high occupancy vehicles;
(v) Restricting access to or egress from off-street parking areas during peak hours;
(vi) Measures to promote pedestrian access; and
(vii) Measures to encourage bicycle commuting such as secured bike racks and locker and shower facilities. The permit granting authority may require the submission of periodic reports on the effectiveness of the trip reduction programs as part of the monitoring required under § 7.2(C)(8)(l)(vii).

(d) Reducing of the size or intensity of the project.
(e) Phasing the development of the project.
(f) Obtaining all other permits where applicable.

E. Intermunicipal Coordination.

(1) If a development impacts streets in another municipality, the traffic study shall be submitted to the municipality for review and comment concurrently with the filing. The permit granting authority shall not take final action on a Variance, Special Permit or Site Plan Review until it has received comments from the municipality or until 35 days have elapsed from the transmittal of the traffic study.

(2) The permit granting authority may require the study and mitigation of impacted streets in an abutting municipality provided that the abutting municipality has adopted this article and the development is not being independently permitted by the municipality. An abutting municipality(ies) shall approve any mitigation proposed for any street in its jurisdiction.

F. Compliance. If the permit granting authority determines that its conditions on traffic are not being met, the SPGA shall require the applicant to bring the development into compliance.

G. Applicability of this Section. The applicant may propose, and the permit granting authority may concur, that provisions of this section of the ordinance do not apply to the applicant’s proposal. The burden of proof shall be on the applicant to identify which provisions do not apply and justify his/her position.

H. Separation. Should any section or provision of this article be declared to be invalid, said section or provision shall not invalidate any other section or provision of this article.
§ 7.4 **Environmental Performance Standards**

A. **Establishment of Standards.** Any use permitted by right or Special Permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactivity or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects or rodents; or any other substance, condition or element in an amount as to affect adversely the surrounding environment. The following standards shall apply:

1. Emissions shall be completely and effectively confined within the building or so regulated as to prevent any nuisance, hazard or other disturbance from being perceptible, without the use of instruments, at any lot line of the premises on which the use is located.
2. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment, as approved by the Chief of the Fire Department.
3. No activities that emit dangerous radioactivity at any point, no electrical disturbance adversely affecting the operation at any point of any equipment, other than that of the creator of such disturbance, shall be permitted.
4. No air emission shall be permitted except in accordance with the regulations for the control of air pollution in the Metropolitan Boston Air Pollution Control District under M.G.L. c. 111, § 142D.
5. No emission which can cause any damage to the health of animals or vegetation or which can cause excessive soiling at any point, and in no event any emission of any solid or liquid particles in a concentration exceeding 0.5 milligram per liter or parts per million of conveying gas or air shall be permitted.
6. No discharge, at any point, into a private sewer system, stream, the ground or a municipal sewage disposal system of any material in such a way or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
7. No emissions of odorous gases or odiferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any “odor threshold” as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington D.C., shall be permitted. No direct sky-reflected glare, whether from floodlights or from high temperature processes such as welding, shall be permitted.
8. No discharge of water from any form of mechanical conveyance onto the public way or adjoining private property where such discharge could cause property damage or result in an unsafe condition to pedestrian or motor vehicle travel.

B. **Noise and Vibration Control.**

1. Pursuant to the authority conferred upon the Town by M.G.L. c. 40, § 21, the following is adopted for the regulation and restriction of unnecessary, excessive and annoying noise and vibration in the Town of Braintree. It is declared to be the policy of the Town of Braintree to prohibit such noise and vibration from or by all sources as set forth in this ordinance. Because it has been determined that certain noise levels and vibrations are
detrimental to the public health, welfare, safety and convenience as well as contrary to the public interest, these standards have been set forth by the Town of Braintree to declare that creating, maintaining, causing or allowing to be created any noise or vibration in a manner prohibited by or not in conformance with these standards is a public nuisance punishable as set forth in this ordinance.

(2) **General Prohibition of Noise Emissions.** No person owning, leasing or controlling the operation of any source of noise shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution.

(3) **Specific Prohibitions.** Except for emergency work or work covered under a permit granted by any Town authority under this § 7.4, causing or allowing the occurrence of the following acts is declared to be in violation of the provisions of this ordinance:

(a) Operating, playing or permitting the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in a manner that disturbs the peace, quiet and comfort of the neighboring inhabitants or at a volume louder than is necessary for the convenient hearing of the person in the room, vehicle, or building in which the device is operated. The operation of any such device between the hours of 10:00 p.m. and 7:00 a.m. on the weeknights and between 12:00 p.m. and 7:00 a.m. on weekend nights in a manner that makes it clearly audible at a distance of 50 feet or approximately 15 meters from the building, structure or vehicle in which it is located is a violation of the standards set forth in this ordinance. Activities open to the public for which a proper permit has been issued are exempted from this provision.

(b) Yelling, shouting, hooting, whistling or singing on the public ways between the hours of 10 p.m. and 7:00 a.m. or at any time or place that annoys or disturbs the quiet, comfort or repose of a person in an office, dwelling or other type of residence or of a person in the vicinity.

(c) The keeping of an animal or bird which frequently and for continued periods of time causes a condition of noise pollution that disturbs the comfort and repose of a reasonable person in the vicinity at any time but most specifically between the hours of 10 p.m. and 7:00 a.m.

(d) The offering for sale or selling of anything by shouting or outcry within a residential or commercial area of the Town of Braintree.

(e) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, dumpsters or similar objects in a manner that causes a condition of noise pollution at any time but most specifically between the hours of 8:00 p.m. and 7:00 a.m. across a real property boundary in any district established under the Zoning Ordinance.

(f) Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of 8:00 p.m. and 7:00 a.m. on weekdays or at any time on Sundays or holidays so that the sound creates a condition of noise pollution across a real property boundary.

(g) The operation of construction areas and devices between the hours of 7:00 a.m. and 8:00 p.m., including such items as compressors, jackhammers, bulldozers, cranes, idling trucks and machinery, etc., in a manner that causes a condition of noise pollution, unless written approval has been obtained from the Mayor for alternative times.

(h) The direct discharge into the open air of the exhaust of a steam engine, internal combustion engine such as chain saws, jackhammers, etc., motor boat, or motor
vehicle except through a muffler or other such device, where commercially available, designed to effectively prevent them from creating loud or explosive noises.

(i) Operating or permitting the operation of any device that creates or causes any ground vibration which is perceptible without instruments at any point outside the property, street or sidewalk on which the vibration source is located.

C. **Enforcement.** The Braintree Police Department and/or the Building Inspector shall be charged with the enforcement of this ordinance.

D. **Permits and Exemptions.**

(1) Provisions in this ordinance shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.

(2) The Mayor or his/her designee may give a permit for any activity otherwise forbidden by the provisions of this section. A person seeking such a permit should make written application to the Mayor or his/her designee on the appropriate form which is available at the office of the Mayor.

(3) The Mayor or his/her designee shall issue guidelines defining the procedures to be followed in applying for a permit and the criteria to be considered in the decision of whether to grant one.

(4) The Mayor or his/her designee shall issue guidelines defining procedures to be followed in applying for an extension of time to comply with the provisions of these regulations and the criteria to be considered in the decision of whether to grant it. The guidelines should include reasonable time frames for compliance.

(5) Application for a permit for construction or repair work to be performed on a Sunday shall be made to the Mayor for approval with notice to the Building Inspector.

(6) In some instances, when it can be demonstrated that bringing a source of noise into compliance with the provisions of this ordinance would create undue hardship on a person or the community, a permit may be granted for continuing the noise pollution. A person seeking a permit must make written application to the Mayor or his/her designee within five days of receiving notification that s/he is in violation of the provisions of this ordinance. The application shall contain the necessary information to support the applicant's claim. If the Mayor or his/her designee finds that sufficient controversy exists regarding the application, a public hearing shall be held by the Mayor or his/her designee. A person who claims that allowance of such continuance would have adverse effects may file a statement with the Town Council or its designee to support this claim.

(7) If the Mayor or his/her designee orders abatement of a source of noise pollution, a person who feels (s)he cannot meet the stated time schedule for compliance may file an application for an extension of time. A written application must be filed within five days of receipt of notification of violation and shall contain information that supports the request for additional time to comply and shall propose a new compliance schedule. If the Mayor or his/her designee finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that the allowance of an extension of time would have adverse effects may file a statement with the Mayor or his/her designee to support this claim.
E. **Hearings.**

(1) The Mayor or his/her designee shall hold a public hearing if sufficient controversy exists regarding the issuance of a permit under this ordinance and may hold a public hearing if an extension of time to comply under the provision of this ordinance is requested.

(2) Resolution of the controversy will be based upon the information supplied by both sides in support of their individual claims and will be in accordance with the procedures defined in the appropriate guidelines issued by the Mayor.

F. **Appeals.** Appeals of an adverse decision shall be made to the Superior Court. The Court's review shall be limited to whether the decision was supported by substantial evidence.

G. **Penalties.**

(1) Any person who violates any provisions of this ordinance, if convicted, shall be fined an amount not to exceed $50 a day.

(2) Each day that the offense continues shall be considered to be a separate violation.

H. **Conflict with Other Regulations.** The provisions contained within this ordinance shall not relieve any person from complying with other laws, statutes, codes, regulations or ordinances of the Commonwealth of Massachusetts or the Town of Braintree.

I. **Severability.** If any of the provisions of this ordinance are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions will remain in force.

§ 7.5 **Erosion and Sediment Control (ESC)**

A. **Findings.** Uncontrolled excavation, grading, and land disturbance may cause excessive quantities of soil to erode. Erosion, and resulting sediment, requires the costly repair of roads and embankments; creates excess turbidity; clogs storm drains and swales; muddies streams; silts rivers and lakes, and limits the use of water for most beneficial purposes. Sediment-choked streams are unsightly, and reduced channel capacity may result in flooding.

B. **Purpose.** The purposes of the ESC regulations are to:

(1) Reduce damage from sediment and erosion by controlling stormwater runoff (runoff) and by protecting exposed or disturbed areas;

(2) Protect surface and groundwater quality, and minimize erosion and reduce flooding by restricting runoff to non-erosive velocities through the use of erosion and runoff control measures (control measures);

(3) Incorporate control measures into site planning at an early stage in the design process;

(4) Prevent the unnecessary stripping of vegetation and loss of soils, especially adjacent to water bodies;

(5) Prevent land disturbance that may cause mass movement, slumping or erosion of land surfaces;

(6) Prevent excess turbidity in water bodies;

(7) Minimize maintenance and repairs to roads, embankments, swales, streams, water bodies, stormwater control facilities, and adjoining lots;

(8) Retain appropriate performance guaranties to ensure compliance with permits.
C. **Intent.** This § 7.5 allows broad discretion to address the impacts from land disturbance so long as control measures comply with the objectives and design standards. This § 7.5 therefore does not specify or mandate specific control measures. They provide the flexibility to choose control measures subject to review by the permit granting authority. This § 7.5 is intended to supplement provisions of the Wetlands Protection Act (Act). Where this § 7.5 is less restrictive than the Act, the provisions of the Act shall govern.

D. **Applicability.**

(1) This § 7.5 shall apply to every land disturbance where:

   (a) Net export and import of fill exceeds 150 cubic yards;
   (b) Site work cumulatively disturbs more than 2,500 square feet of area;
   (c) Any change in grade will be made of between two (2) feet and four (4) feet in height, at a slope exceeding 2:1, measured across a distance of ten (10) horizontal feet or more;
   (d) Site work does not create unstable soils;
   (e) A site directly drains into a water body; or
   (f) The SPGA and/or Department of Public Works Stormwater Division determines that there is a high potential for environmental degradation from erosion or runoff.

(2) New single-family residential development may be exempted from this § 7.5, provided land disturbance will not disturb more than 6,000 square feet and adequate control measures are incorporated into a development per the direction of the Building Inspector.

E. **Application Review.** The Town shall review Erosion and Sediment Control Plans as part of Site Plan Review or Special Permit review as applicable.

F. **Erosion and Sediment Control Plan.** Application for an erosion control permit shall be accompanied by an erosion and stormwater control plan and report prepared and stamped by a RPE in accordance with the methods and measures identified in:

- "The Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas: A Guide For Planners, Designers, and Municipal Officials" (EOEA)
- "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts" (Natural Resources Conservation Service)

The Erosion and Sediment Control Plan shall be of appropriate scale to show location and details of all proposed activities and shall include, where applicable:

(1) Basic Information and applicable information from the General Development Plan (Section 3.11)
(2) Wetlands, water bodies and floodplains;
(3) Existing and final grades at two-foot contour intervals extending at least 50 feet beyond the site's boundary (estimates where off-site access for survey is not possible);
(4) Existing vegetation, including existing tree lines, grassy areas and unique vegetation;
(5) Boundaries of the different soil types on site;
(6) Plans and elevations of streets, parking lots, water level of water bodies and wetlands, storm sewer inlets and outlets and the first floor of all existing and proposed structures;
(7) Drainage dividing lines and direction of flow for the catchment areas on site during and after construction;
(8) Areas with potentially serious erosion problems;
(9) Limits of clearing and grading;
(10) Location of utilities;
(11) Location of the control measures to be installed on site illustrated with detail drawings;
(12) Location of off-site and on-site access routes for construction and maintenance vehicles;
(13) Locations of borrow and waste disposal areas;
(14) Vegetation specifications for temporary and permanent stabilization;
(15) Methods and location of concrete-wash disposal.

An erosion and stormwater control report shall include descriptions of the following where applicable:

(1) The nature and purpose of the development and the amount of grading involved;
(2) The proposed stages of development including start and completion dates of all phases, the sequence of construction and grading activities, and the sequence for installing control measures and for final stabilization;
(3) Conditions on the site as they currently exist;
(4) Neighboring areas such as roads, water bodies, and residences that might be affected by the development;
(5) The soils on site, including soil names, map unit, erodibility, permeability, texture, and soil structure;
(6) Areas with potentially serious erosion problems;
(7) The methods which will be used to control runoff, erosion, and sedimentation;
(8) Specifications and calculations of how the site will be stabilized during and after construction;
(9) The maintenance activities to be performed on the control measures.

G. Design Standards.

(1) Development shall be fitted to topography and soils so as to minimize erosion to abutting properties.
(2) Land disturbance work shall not begin prior to the starting date specified in the plan.
(3) Natural vegetation shall be retained and protected wherever possible.
(4) Clearing, grading or other site work shall be done in a manner that will minimize erosion. Said activities shall be limited to the area required for immediate construction operations and for the shortest practical period of time. Clear cutting without a development permit is prohibited.
(5) Site drainage during construction shall be designed to effectively treat increased runoff so that adjoining lots and downstream water bodies are protected from erosion.
(6) Uncontrolled runoff during construction shall not be diverted onto adjoining lots or into the storm drain or sewer system. Said runoff shall be disposed of at non-erosive velocities at established drainage locations.
(7) Sediment transported by runoff shall be retained on site through the use of sediment basins, silt traps or other appropriate measures. Said measures shall be installed prior to clearing and grading to the extent practicable.
(8) Cut and fill slopes shall be constructed so as to minimize erosion. Slopes shall not be steeper than two horizontal to one vertical unless approved through a Special Permit application.
(9) Stormwater runoff diversions or other appropriate measures shall be installed at the top of cut and fill slopes to prevent uncontrolled drainage flows on the disturbed slopes.

(10) Drainage swales used to divert runoff shall be vegetated and stabilized to control erosion in concentrated flow areas.

(11) Storm drain inlets shall be protected so that runoff will not enter conveyance systems without first being filtered or otherwise treated to remove sediment.

(12) Temporary seeding, mulching or other suitable control measures shall be used to protect exposed critical areas during construction.

(13) A site shall be maintained and/or watered to prevent dust erosion. Construction/site disturbance shall not be permitted to continue if the Town determines that dust is significantly impacting adjacent ways or property.

(14) Topsoil shall be stockpiled on site to the extent practicable for use on areas to be revegetated. Said soil shall be protected so that it does not erode.

(15) Stockpiled construction materials shall be protected so that they do not erode.

(16) Excavated materials shall not be deposited or stored near water bodies unless authorized by the SPGA.

(17) Construction equipment shall not cross or disturb stream channels except by means of approved crossings.

(18) In areas of the site where construction activities will cease for more than 21 days or have permanently ceased, temporary vegetation or other stabilization measures shall be initiated, weather permitting, within 14 days.

(19) Where inadequate vegetation exists, temporary or permanent vegetation shall be established.

(20) Permanent protective vegetation and erosion control structures shall be installed as soon as practical in the development. Permanent vegetation shall not be considered established until the ground cover is mature enough to satisfactorily control erosion. Ground cover shall not be considered mature until at least two growing seasons have elapsed.

(21) Whenever construction vehicle access routes intersect public roads, provisions shall be made to minimize the transport of sediment (mud) by runoff or vehicle tracking onto said roads. Where sediment is transported onto a public road surface, the road shall be cleaned thoroughly at the end of each day or more often as required by the permit review authority.

H. Maintenance.

(1) All plans shall include a maintenance element which shall:

(a) Identify all the control measures that will be inspected and maintained;
(b) Provide an inspection schedule for each control measure;
(c) List typical maintenance procedures for each control measure;
(d) Describe steps to take if additional repair is required;
(e) Provide forms and instructions for record keeping;
(f) List the names of personnel assigned to each task and the training needed to be able to do the job.

(2) An applicant carrying out control measures under these regulations, and all subsequent owners of lots on which said measures have been installed, shall adequately maintain said measures in accordance with the plan.

I. Inspection and Enforcement. The Building Inspector in conjunction with the Stormwater Division shall enforce these regulations. If the Building Inspector finds that on-site conditions are in
violation of these regulations or not as stated in the plan, the Building Inspector may issue a stop-work order and direct the applicant to take corrective measures.

J. Construction Certification by Registered Professional. For any site which requires a professional site plan, the permit review authority may require that a certified professional verify in writing that all control measures have been installed in accordance with the plan.

K. Sequential Applications. If a project is so large or complex that a plan encompassing the total project cannot reasonably be prepared prior to initial groundbreaking, an applicant may seek authorization from the SPGA to undertake major grading activities incrementally. Approval by the permit granting authority of phased grading activities shall take place in two steps:

1. An overall conceptual plan of the entire development shall be submitted to the Town for review and approval.
2. Detailed plans showing the nature and extent of the work to be completed during each phase shall be prepared by a registered professional engineer and submitted to the permit review authority for review and approval.

§ 7.6 Signage Standards

A. Purpose. Pursuant to the authority conferred upon the Town by MGL c. 93, § 29, and MGL c. 143, § 3, the following is adopted for the regulation of signs, and other advertising devices (other than billboards, including digital/electronic billboards, as defined in § 9, Definitions, which require a Special Permit and are allowed only within the Billboard Zoning Overlay District as described in § 8.6) within the Town of Braintree, under the jurisdiction of the Zoning Board of Appeals. Whereas the objectives of aesthetics and traffic safety in the Town of Braintree are considered substantial governmental interests and serve as an adequate basis for a legitimate regulation of outdoor advertising displays, the Town of Braintree enacts the following ordinance.

B. Residential Areas.

1. Permitted Signs in a Residential Area. No accessory sign shall be erected or maintained except as permitted herein. On-premises noncommercial signs may be erected and maintained without license, but subject to the following regulations. The following signs are permitted:

   a. One sign displaying the street number or name of the occupant of the premises, or both, not exceeding one square foot in area. The sign may be attached to the building or may be on a rod or post not more than four feet high and at least three feet from the front lot line.

   b. One bulletin or announcement board or identification sign for a permitted nonresidential building or use not exceeding 10 square feet in area. For churches, synagogues, schools or other institutions, two bulletin or announcement boards not to exceed 20 feet in area. Such sign may be located within the required front yard, but no closer to the front lot line than ½ the depth of said required front yard.

   c. Two signs for a permitted hotel use or permitted nonresidential use, neither of which may exceed 20 square feet in area.

   d. One sign in connection with a lawfully maintained nonconforming use, not exceeding 10 square feet in area.
(e) One "For Sale" or "For Rent" sign, not exceeding four square feet in area, and advertising only the premises on which the sign is located.
(f) One contractor's sign, not exceeding 10 square feet in area, maintained on the premises while a building is actually under construction.
(g) Other temporary signs in connection with the construction or development of a building or lot, by permit of the Zoning Board of Appeals, which shall specify limits on the size and number of signs and length of time to be maintained.
(h) An unlighted temporary real estate sign advertising the rental or sale of the premise and not exceeding four square feet in area.
(i) A professional sign not exceeding two square feet in area.
(j) A flagpole projecting from a building and not longer than eight feet; a roof flagpole not more than 12 feet above the top of the building; a ground flagpole not exceeding 35 feet in height, for any national, state or organization colors.
(k) Signs not exceeding two square feet in area which indicate warnings, hazards or public conveniences such as trespass, beware of dog, or rest room signs.
(l) Any sign requested by any board, commission, department or agency of the Town designated to be directional or concerned with safety of the public or a public convenience. Said request shall be filed in writing with the Zoning Board of Appeals.

(2) Prohibition of Off-Premises Commercial Signs. All off-premises commercial signs are prohibited.

C. General Business Area.

(1) Permitted Signs. In a general business area, accessory signs and on-premises commercial signs are subject to the regulations set forth below.

(a) Ground Signs.

(i) No ground sign shall exceed 60 square feet in area and 20 feet in height. The bottom capping of all ground signs shall be at least 30 inches above the ground.

(ii) Not more than one ground sign for each building lot shall be permitted, unless the Zoning Board of Appeals allows more than the number of signs herein permitted. Said Board may permit additional ground signs or of a larger area if it determines that the nature of the use of the premises, the architecture of the building or the location with reference to the street is such that additional ground signs or area thereof should be granted in the public interest. In shopping malls or other comparable multi-building commercial centers, more than one ground sign may be permitted at major street entrances provided such entrances are more than 250 feet apart.

(b) Marquee Signs.

(i) No marquee signs shall exceed 150 square feet in area. Such signs shall not exceed four feet in height nor shall they project below the fascia of the marquee nor lower than 10 feet above the sidewalk.

(ii) Not more than one marquee sign for each store or building shall be permitted. A permitted marquee sign shall extend 2/3 of the length of the
building fascia but in no event shall it project beyond the ends of the marquee.

(c) **Roof Signs.** No roof signs shall be permitted.

(d) **Projecting Signs.** No projecting signs which extend over the public way shall be permitted.

(e) **Wall Signs.**

(i) No wall sign shall be more than four feet overall in height and a wall sign shall not exceed the lesser of 150 square feet or one square foot in area for each linear foot of frontage for each business. Wall signs of business occupying other than the first floor shall not exceed 48 square feet in area.

(ii) Not more than one exterior wall sign for each store or business shall be permitted, except that if a store or business has a direct entrance into the store or business on a wall other than the store front, there may be a secondary wall sign affixed to such wall; however, no store or business shall have more than two such secondary wall signs in any event, provided that the total aggregate area of all such secondary wall signs shall not exceed 50% of the maximum permissible area allowed above. A directory wall sign identifying the tenants and occupants of a building affixed to the exterior wall of the building shall not be included in the foregoing. Such directory wall sign shall not exceed an area of one square foot for each occupant or tenant. No wall sign shall be erected to extend above the top of the exterior wall, nor extend beyond the ends of the wall to which it is attached. Further the lower edge of such wall sign shall not be lower than nine feet above the grade line of an immediately adjoining building tot.

(f) **Lease, For Rent, Construction Signs.** Any sign designed to advertise for lease and/or for rent shall be restricted to the sizes defined in § 9, Definitions. Only one such sign shall be allowed on any building and will be subject to the provisions of § 7.6.J. No real estate signage will be allowed for more than six months after permanent signage is granted by the Zoning Board of Appeals. Construction signs may be allowed for the period of time the building is under construction. Size limits of construction signs shall be determined by the Zoning Board of Appeals at the time of application, but no sign larger than 60 square feet shall be permitted. Said signs shall be subject to the times and fees prescribed in § 7.6.J.

(g) **Window sign.**

(i) Permanent window signs shall not occupy more than 20% of the total area of the window or other architectural detail or opening in which they are displayed. If the lettering in such display occupies more than three inches in height it shall be debited against the total allowable wall sign area permitted for each business or building façade.

(ii) Temporary window signs shall not occupy more than 15% of the total area of the window in which they are displayed. Such signs are considered temporary for the purposes of this section if the sign is applied or displayed for a limited period.
(2) **Prohibition of Off-Premises Commercial Signs.** All off-premises commercial signs are prohibited.

D. **Highway Business Area.**

(1) **Permitted Signs.** In a highway business area, signs are subject to the regulations as set forth below:

(a) **Ground Signs.**

(i) No ground sign shall exceed 150 square feet in area.

(ii) No ground sign shall exceed 35 feet in overall height.

(iii) The bottom capping of any ground sign shall be 24 inches above ground level.

(iv) No more than one ground sign visible to the major artery for a lot shall be permitted.

(v) A sign visible to the major artery shall contain the name and address of the user of the property and contain no other advertising material or any commercial message unless specifically authorized by the Zoning Board of Appeals.

(vi) One ground sign visible to the road or way which provides direct access to the property may be permitted. Said ground sign shall be no larger than 60 square feet in area and be no more than 20 feet in overall height. Bottom capping of sign shall be no less than 24 inches above ground level.

(vii) One secondary ground sign may be permitted by the Zoning Board of Appeals if it determines that the nature of the use of the premises, the architecture of the building, or the location with reference to the street or way is such that additional ground signs should be granted in the public interest. The total of all ground signs visible to the access road shall not exceed 150 square feet in area.

(b) **Marquee Signs.** No marquee signs shall be permitted.

(c) **Roof Signs.** No roof signs shall be permitted.

(d) **Projecting Signs.** No projecting signs which extend over a public way shall be permitted.

(e) **Wall Signs.**

(i) No wall sign shall exceed 150 square feet in area.

(ii) No wall sign shall exceed four feet in overall height.

(iii) No wall sign shall be visible to the major highway, if a ground sign has been permitted.

(iv) A permitted wall sign visible to the major highway shall contain the name and address of the user of the property and contain no other advertising material or commercial message unless specifically authorized by the Zoning Board of Appeals.

(v) Sign area is further limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway.

(vi) Wall signs for businesses occupying other than the first floor may be permitted by the Zoning Board of Appeals. Said permit shall require the
written permission of the owner of the property. Secondary wall signs shall not exceed 48 square feet in area. No more than two such secondary wall signs shall be allowed for any building.

(vii) No more than one wall sign for each store or business occupying a building shall be permitted. The aggregate total of all signage allowed shall not exceed 150 square feet in area. Sign permit may be issued only after written permission for said signs is authorized by the Zoning Board of Appeals.

(f) **Lease, For Rent, Construction Signs.**

(i) Any sign designed to advertise to lease or for rent may be permitted subject to the sizes authorized in § 7.6.D above and shall comply with § 7.6.J of this ordinance.

(ii) No temporary lease or rent sign shall be permitted to display visibly to the major roadway after any permanent signage is permitted for the property.

(iii) Temporary lease or rent signs may be displayed and visible to the access roadway for no longer than six months after permanent signage is permitted.

(iv) Construction signs may be permitted only for the length of time the building is actually under construction.

(v) The size of construction signage and exact wording of said signs shall be determined by the Zoning Board of Appeals at the time of application.

(vi) Construction signs shall comply with the provisions of § 7.6.J.

(g) **Window sign.**

(i) Permanent window signs shall not occupy more than 20% of the total area of the window or other architectural detail or opening in which they are displayed. If the lettering in such display occupies more than three inches in height it shall be debited against the total allowable wall sign area permitted for each business or building facade.

(ii) Temporary window signs shall not occupy more than 15% of the total area of the window in which they are displayed. Such signs are considered temporary for the purposes of this section if the sign is applied or displayed for a limited period.

(h) **Billboards and Digital/Electronic Billboards.**

(i) Billboards and Digital/Electronic Billboards, as defined § 9, Definitions, shall be allowed within Highway Business areas which are designated as the Billboard Zoning Overlay District as defined in § 8.6, only by grant of a Special Permit issued by the Planning Board. The Planning Board may limit the permit for a specific term of years.

(ii) No billboard shall be located more than 100 (one hundred) feet from any interstate highway layout and shall not be within 300 (three hundred) feet of another billboard.

(iii) All billboards must be permanently affixed to a pedestal or other main support structure. No portable billboards are permitted. Billboards shall not be placed on roofs or walls of buildings.
(iv) Exposed back of signs, poles or other support structures must be painted and maintained in a manner that appropriately blends with the surrounding buildings and landscape.

(v) A billboard may be double sided. An individual sign or sign face shall not exceed seven hundred fifty (750) square feet in total area on each side and shall not exceed fifteen (15) feet in height and fifty (50) feet in width, as calculated pursuant to this Chapter.

(vi) The top of the billboard shall not exceed seventy-five (75) feet in height from the ground.

E. Commercial Area.

(1) **Permitted Signs.** Signage in any commercial area shall be permitted subject to the same provisions and restrictions of § 7.6.D.

(2) **Prohibition of Off-Premises Commercial Signs.** All off-premises commercial signs are prohibited.

F. Open Space and Conservancy Areas.

(1) **Permitted Signs.** In an Open Space and Conservancy District, no signs will be permitted except street signs and safety signs designed to inform the public of hazards, and name and street number for any authorized building in said district. Any sign in an Open Space and Conservancy District must be authorized in writing by the Conservation Commission and permitted by the Zoning Board of Appeals.

(2) **Prohibition of Off-Premises Commercial Signs.** All off-premises commercial signs are prohibited.

G. Special Regulations for Gasoline Service Stations and Repair Garages Only.

(1) Gasoline service stations and repair garages may be permitted signs subject to the regulations set forth below.

   (a) Service stations or garages located in a general business area, a highway business area, or a commercial area may be allowed signs only after review and as permitted by the Zoning Board of Appeals.

   (i) One ground sign containing the logo of the oil company. In a highway business area, not within the Billboard Overlay Zone or industrial area, said ground sign shall not exceed 150 square feet and shall be no higher than 40 feet above ground level.

   (ii) In a general business area said ground sign shall not exceed 60 square feet in area and shall be no higher than 20 feet above ground level.

   (iii) In a highway business or commercial area said ground sign shall not exceed 150 square feet in area and shall be no higher than 40 feet above ground level.

   (iv) One sign displaying the prices of gasoline only.

   (v) Said sign shall not exceed 30 square feet in area per face.

   (vi) Said sign shall be no lower than 10 feet.

   (vii) One permanently fixed sign advertising lubrication products not exceeding 12 square feet in area.
(viii) One permanently fixed sign advertising accessories, e.g., tires, wipers, etc., not exceeding 12 square feet in area.
(ix) One permanently fixed sign advertising services, e.g., lube, oil change, mufflers, etc, not exceeding 12 square feet in area.
(x) One wall sign displaying the name and/or company logo on the building not exceeding 150 square feet or one square foot of signage per each linear foot of building fronting on a way, whichever is least.
(xi) Any other signage attached to canopies, coverings, pumps, etc., authorized by the Zoning Board of Appeals which is designed to assist or advise the public and required by state law as to the type of product. Such additional signage shall not exceed 150 square feet in aggregate total.

(2) **Prohibition of Off-Premises Commercial Signs.** All off-premises commercial signs are prohibited.

H. **Village Center Zoning District: Rules and Regulations for Signs.**

Sign regulation Applicants in the Village Center (VC) zoning district shall comply with all provisions of these sign regulations (§ 7.6, Sign Standards), except for the following:

(a) Signs defined as "ground signs" shall not exceed 12 feet in height.
(b) Signs defined as "window signs" shall not exceed 10% of the window or other architectural detail.
(c) Signs defined as "wall signs" shall not exceed two feet in height.
(d) Sign material should be consistent with the original construction materials and architectural style of the existing or proposed building on which each sign is to be displayed.

I. **Illumination for Signs.**

Moving, flashing or animated signs are prohibited except for a minimum of sixty-second intervals needed for the functioning of a clock, thermometer or calendar. Automatically or manually continuous changing message signs are not permitted. The source of illumination for any sign shall be a white, steady, stationary light of reasonable intensity, shielded and directed solely at the sign, or a white interior light of reasonable intensity; however, neon tubes or similar devices are not permitted. No illuminated or spotlighted sign shall extend over a street nor shall any sign be permitted which will obstruct the free and clear vision of those traveling on a street. No sign may be illuminated between 1:00 a.m. and 6:00 a.m., except signs identifying police or fire stations or other such signs as the Zoning Board of Appeals may specifically authorize to be illuminated at other hours, if the Zoning Board of Appeals finds that the nature of the use on the premises is such that such illumination should be permitted in the public interest. No outdoor floodlighting or decorative lighting shall be permitted except lighting designed to illuminate walks, driveways, doorways, outdoor living areas or outdoor recreational facilities and excepting temporary holiday lighting in use for no longer than a four-week period in any calendar year, except for decorative floodlighting on institutional or historic buildings and on the national and state colors. The provisions of this paragraph shall apply not only to exterior signs but also to interior signs that are designed or placed so as to shine through windows or doors of the building. Billboards, as permitted pursuant to § 8.6, may, by Special Permit, utilize light emitting diodes (LEDs), plasma or other technology to automatically change a display or message.
J. Temporary Signs.

Temporary signs and/or banners which comply with this ordinance are permitted in all districts as specified herein. Before a temporary sign shall be erected or displayed, a permit shall be obtained from the Inspector of Buildings or his designee. A fee of $25 shall be required for such a temporary sign permit. No temporary signs except political signs shall be attached to or supported by a portable contrivance, wheeled or not wheeled. No vehicle, trailer, balloon, kite, boat, pennant, flag or similar device shall be used as a temporary or permanent means of exhibiting a sign which may circumvent or derogate from the intent of this ordinance. Temporary signs shall be freestanding and not attached to any building, tree, post or other such means. The construction of the sign or signs shall be to the satisfaction of the Inspector of Buildings or his designee as to material and public safety.

K. Construction.

No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted or otherwise securely affixed to a substantial intermediary removal surface and such surface shall be securely affixed to the wall of a building. This shall not prevent, however, installation of a sign by individual letters cut or squarely affixed to the outside wall of a building. The affixing of the sign to intermediate surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Inspector of Buildings.

L. Administration.

(1) Permits. No sign shall be erected on the exterior of any building or on any land unless and until an application for the erection of such sign has been filed with the Inspector of Buildings and or the Code Compliance Officer, with such information and drawings as he may require, and a permit for the erection of the sign has been issued by him. The fee for such permits shall be determined from time to time by the Town Council. The provisions of this section shall not apply to:

(a) In residential areas, permitted signs, except such as by the terms of the Zoning Ordinance are permitted only with specific permission from the Zoning Board of Appeals.

(b) In business areas, one real estate sign of not over six square feet in total area advertising the sale or rental of the premises on which it is located.

(c) Billboards are only allowed within the Billboard Overlay Zone, as described in § 8.6, by Special Permit issued by the Planning Board.

(2) Appeal. A person aggrieved by the refusal of the Inspector of Buildings to issue a permit for the erection of a sign or by any order of the Inspector of Buildings under this ordinance may appeal to the Zoning Board of Appeals. The provisions of the Zoning Ordinance as to the time for taking such appeal and as to the notice of and hearing thereon shall be the same as appeals which are otherwise made under the Zoning Ordinance to the Zoning Board of Appeal.

(a) The Zoning Board of Appeals hearing appeals from the refusal of the Inspector of Buildings to issue a permit for the erection of a sign or from the decision of the Inspector of Buildings under this section shall have the right to grant relief from the bulk and dimensional requirements of these regulations (§ 7.6, Rules and Regulations for Signs), upon a determination that a legitimate hardship,
financial or otherwise, exists which specifically relates to the shape, topography, soil condition or uniqueness of the land, building or structure to which the sign is placed or affixed and which does not derogate or detract from the goals and purposes expressed in this article or the Zoning Ordinance.

(3) **Enforcement.** The Inspector of Buildings is hereby designated as the officer in charge of the enforcement of this ordinance and the provisions of the Zoning Ordinance shall apply to this ordinance.

M. **Nonconforming Signs.**

(1) **Nonconformance of Accessory and Nonaccessory Signs.** Accessory signs legally erected before the adoption of this article shall be exempt from its provisions; provided, however, that no such sign shall be permitted if it is, after the adoption of this article, enlarged, redesigned or altered in any way, excluding repainting, except to conform to the requirements of this article and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this article. Any exemption provided in this § 7.6.M shall terminate with respect to any sign which:

(a) Shall have been abandoned;
(b) Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or
(c) Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Inspector of Buildings. The time for performance of any act required shall be extended by a period equal to any delay caused by or resulting from act of God, war, civil commotion, fire, casualty, labor difficulties, shortages of labor, materials, or equipment, government regulations, act or default of Town, or other causes beyond such party's reasonable control, whether such time be designated by a fixed date, fixed time, or otherwise, provided affected parties give written notice to the Town within 10 days after occurrence of the event giving rise to applicability of this section. Shortage of funds shall in no event be deemed a cause for delay.

(2) Notwithstanding Paragraph (1), any accessory sign not in conformance with § 7.6-I, Illumination of this article must conform within two years after the adoption of this article.

(3) Notwithstanding Paragraph (1), any painted wall sign, roof sign or projecting sign existing prior to the adoption of this ordinance shall be brought into conformance with the provisions of this ordinance within two years after the adoption of this article.

(4) Nonaccessory signs not conforming with the provisions of this article shall be removed within two years after the adoption of this article.

N. **Severability.**

The invalidity of any section or provision of this article shall not invalidate any other section or provision hereof.
O. **Exemption.**

The provisions of this ordinance shall not apply to any sign, the face of which will not exceed 12 inches in height and 18 inches in width, erected pursuant to the Adopt an Island Program to be administered by the Mayor or his/her designee.
Sec. 8. Special District Regulations

§ 1.2 Braintree-Weymouth Landing District

A. **Purpose.** The purpose of the Braintree-Weymouth Landing District (BWLD) is to establish a specific zoning district for the unique needs of a small mixed-use commercial area that spans two municipalities. The BWLD establishes reasonable standards in accordance with the following purpose and intent:

1. Encourage an appropriate density of land uses for commercial, governmental, institutional, and residential uses to support a vibrant village center to benefit and utilize the existing commuter rail station and public surface transportation.
2. Create a friendly multimodal transportation environment so that commercial enterprises and consumer services do not rely solely on automobile traffic to bring consumers and employees into the area.
3. Promote mixed use and compact development within individual structures both vertically and horizontally that maintains the visual character and architectural scale of development within the district.
4. Encourage the reuse and upgrade of existing properties with efforts to promote more efficient and economical parking facilities to complement existing and new development within the district.
5. Encourage mixed uses that promote small business establishments and local job creation and that complement the needs of the surrounding residential neighborhoods and the general population of the Town of Braintree and the Town of Weymouth.
6. Provide a range of housing options for people at different stages of life and income levels, as well as live/work options.
7. Promote an active and publicly accessible waterfront.

B. **Applicability.** Land located within the Braintree - Weymouth Landing District (BWLD) as designated on the official Town Zoning Map shall be subject to the provisions of this ordinance relative to all new development, demolition, substantial improvement, and/or exterior renovation. The following sections of the Zoning Ordinance are not applicable to properties located within the Braintree - Weymouth District (BWLD), unless otherwise specified within this § 8.1:

1. § 3.10 – Site Plan Review
2. § 4.7 - Accessory Uses
3. § 5.3-C - Setbacks, On corner lots
4. § 5.4 – Height Regulations
5. § 5.5 – Landscaped Open Space
6. § 5.6 – Buffer Areas between Zoning Districts
7. § 5.7-A - Other Requirements, Traffic visibility across corners
8. § 5.8 - Table of Dimensional and Density Regulations
9. § 6.2 - Multifamily and small scale multifamily dwellings
10. § 7.1 - Off-street Parking & Loading (see § 8.1-J for parking requirements in the BWLD)
11. § 7.3 – Traffic Standards, Applicability
12. § 7.2-A - Site Design Standards, Landscaping Best Practice
13. § 7.2-B - Site Design Standards, Landscaping Plan Requirements
C. **Uses (Permitted by Right, Special Permit or Prohibited)** within the Braintree-Weymouth Landing District, § 4.6, Table of Uses describes those uses allowed by right, Special Permit or that are not allowed/prohibited. (See table)

D. **Permit Requirements.**

   (1) See § 3.9, Special Permits for procedures, provisions, and guidelines for submission of a Special Permit application. The SPGA may, where deemed necessary, require a traffic study be prepared for issuance of a use Special Permit.

   (2) Site Plan Review pursuant to § 3.10 is not applicable to properties located in the Braintree-Weymouth Landing District. Site Plan Review in the BWLD, where applicable, shall be performed pursuant to § 8.1-I.

E. **Minimum Lot Size.** The required minimum lot size for lots created after (January 8, 2011) in the Braintree-Weymouth Landing District (BWLD) is 5,000 SF.

F. **Density and Dimensional Requirements.** The following requirements apply to all new development and/or substantial improvement of an existing structure within the BWLD.

| TABLE 6 | BUILDING SETBACKS/DENSITY & DIMENSIONAL IN THE BWLD |
|----------------------|-------------------------------|--------------------------|-------------------------------|
|                      | Front (min-max) | Side | Rear (min-max) | Lot Coverage (min-max lot) |
| BWLD                 | 0’ – 10’        | ---  | 0’ – 15’       | 80-90%                      |
| BWLD Special Permit  | 10’ – 25’       | ---  | ---            | 100%                        |
| Notes                | (1)             | (3)  | (4)            | (2) (3)                     |

“---” indicates that no dimensional requirement applies

**NOTES:**

   (1) Landscaping, pedestrian walkways, seasonal outdoor dining areas, and up to five feet of a deck or balcony may be located within any building setback area. Parking is prohibited within the front building setback.

   (2) A 15 ft. minimum rear buffer setback (see § 5.6, Buffer Areas between Zoning Districts) applies only where a lot abuts a residential zoning district.

   (3) A 15 ft. minimum waterway zoning setback is measured from the top of the bank as delineated by the Conservation Commission for the Monatiquot River and estuarine segment of Smelt Run (north of the MBTA tracks) area only.

   (4) A (8 ft. min – 15ft. max) side setback from the corporate municipal boundary applies only in the Landing Center east of Commercial Street. Parking is prohibited within a side building setback of the municipal corporate line.

   (5) Impervious land area is defined as land use alteration that prevents the natural infiltration of water into the soil. Examples of common impervious surfaces include, but are not limited to, paved areas, walkways, and patios in addition to building footprint.

   (6) Table 7 – Additional Density and Dimensional Requirements in the BWLD
TABLE 7
ADDITIONAL DENSITY AND DIMENSIONAL REQUIREMENTS IN THE BWLD

<table>
<thead>
<tr>
<th></th>
<th>Story Height (max)</th>
<th>Highest Floor Height (max above ground)</th>
<th>Roof Height (max)</th>
<th>Residential Units (max)</th>
<th>Street Wall Transparency First floor (min)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BWLD</td>
<td>2.5</td>
<td>30’</td>
<td>40’</td>
<td>20</td>
<td>60%</td>
</tr>
<tr>
<td>BWLD Special Permit</td>
<td>4</td>
<td>45’</td>
<td>54’</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

Notes
(1) “---” indicates that no dimensional requirement applies

NOTES:
(1) The maximum height is measured in both stories and feet.
   (a) The building height is measured per the definition for Height, Building or Structure in § 9, Definitions.
   (b) A half story is a finished living floor, which is contained wholly or predominantly within the roof of a structure and is subject to the regulations of the local building code.
   (c) Towers, widow's walks, cupolas, and other similar building features may extend one story above the normal height limits.

G. General Requirements.

(1) Vehicle drive-through windows, in conjunction with any use, are prohibited in those portions of the Braintree-Weymouth Landing District located in the Town of Braintree.
(1) The ground floor of a multi-use building shall have both front and rear façades occupied by business uses only.
(2) Buildings must have a primary entrance door facing a public sidewalk (entrances at building corners are acceptable). Building entrances may include doors to individual businesses, lobby entrances, entrances to pedestrian-oriented plazas or courtyards servicing clusters of businesses.
(3) Underground utility lines are required for new and substantially improved buildings unless applicants can demonstrate a physical restriction, or installation will be blocked by existing underground obstructions.
(4) All external mechanical units (for heating, cooling, etc.) and venting shall be located in a screened structure on rooftops.
(5) All refuse disposal (dumpsters, etc.) shall be located in an enclosure with a locked top - no outdoor refuse storage will be permitted unless in an enclosure.
(6) Appropriate landscape design shall be incorporated into new and expanded development within the BWLD. Landscape design plans shall be prepared by a landscape architect for all Special Permit applications. For administrative site plan reviews, the Planning Director may at her or his discretion accept a plan prepared by someone other than a landscape architect if the plan shows the type, size, and location of all proposed plantings.
(7) Side yards between structures less than 10 feet apart shall be screened from public view by a solid fence or thick landscaping (landscaping that minimizes public views into the side yard) not less than 5 feet in height. Chain link fences are prohibited. Side yards between structures greater than 10 feet apart shall be landscaped appropriately.
H. Special Permit For Design, Development, And Parking. In addition to any use specified in § 4.6 Table of Uses, the Planning Board may also consider issuance of a Special Permit in the Braintree-Weymouth Landing District for the following:

(1) The Planning Board may issue a Special Permit for development over and above the base density and dimensional requirements of Tables 6 and 7 in this § 8.1, based on the extent to which the development satisfies the following criteria:

(a) Provision of a publicly accessible waterfront walkway with direct connections to adjacent sidewalks and existing or potential walkways on adjacent properties. Publicly accessible walkways and open space shall be defined as those which, whenever possible, shall be accessible to and usable by the public during daylight hours without undue restriction.

(b) Provision of up to 100 percent of the lot area outside the building as publicly accessible open space. Open space shall be designed as an integral part of any development and shall enhance the development and the area in which the development is located. Open space may include pedestrian walkways and recreational facilities accessible to and usable by the public. Open space shall not include paved streets, sidewalks abutting streets, parking areas or recreational facilities not accessible to and usable by the public.

(c) Preservation and reuse of historic buildings on the site.

(2) The Planning Board may issue a Special Permit for relief from parking requirements set forth in this § 8.1.

I. Site Plan Review within the BWLD. Site Plan Review within the BWLD shall be accomplished by Administrative Site Plan Review as follows:

(1) The following activities in the BWLD shall be subject to administrative site plan review, whether they occur in conjunction with new development or with continuation of an existing use.

(a) Any new construction or exterior alterations requiring a building permit excluding replacement of existing roofing with similar materials.

(b) Any signage – including new, altered existing signs and awnings.

(c) Freestanding ground lighting.

(d) Fencing of any height.

(e) New curb cuts or relocation of an existing curb cut that does not require a Special Permit.

(f) New paving for two or more vehicles.

(g) Creation of outdoor seating and dining areas for an existing restaurant.

(2) Site plan review for those properties located within the Town of Braintree jurisdiction and in the BWLD shall be conducted administratively by the Director of the Department of Planning and Community Development (DPCD) in accordance with the following:

(a) The Memo of Understanding between the Towns of Braintree and Weymouth signed by both Mayors and dated March 25, 2010.

(b) The Director of the DPCD shall be responsible for approving or conditionally approving a site plan, based on its consistency with the provisions of the Braintree - Weymouth Landing District, other official plans for the District and...
surrounding areas, and the Town's design guidelines. Applicants that do not provide the required information for site plan review may be disapproved by the Director for lack of sufficient information to render an administrative decision.

(c) The Director of the DPCD may establish regulations for the processing of administrative site plan review.

(d) The Director may choose to send any request for site plan review to the Planning Board within 45 days of receipt if he/she determines that a public meeting is necessary under the provisions of § 3.10, Site Plan Review.

J. Parking Requirements of the BWLD.

(1) **Parking Requirements.** Parking in this district shall follow § 7.1, Off-street Parking & Loading, except that the following uses, located within 1,000 feet of the East Braintree/Weymouth commuter rail station and a municipal parking lot, shall meet the following requirements, rounded up to the next whole number:

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential uses above the first floor</td>
<td>0.8 /unit</td>
</tr>
<tr>
<td>Retail Uses (Less than 30,000 sq. ft.)</td>
<td>1/500 sq. ft. GFA</td>
</tr>
<tr>
<td>Personal &amp; Business Services and Office Uses</td>
<td>1.7/1,000 sq. ft. GFA</td>
</tr>
<tr>
<td>Restaurant, sit-down; not more than 75 seats</td>
<td>1/6 seats</td>
</tr>
</tbody>
</table>

(2) **Site Access; Parking and Bicycle Requirements.** The following criteria are included to ensure that new and redesigned site access is constructed in accordance with the BWLD character and the provisions of this ordinance.

(a) New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided through one of the following methods: either through a common driveway serving adjacent lots/premises or through an existing side or rear street, thus avoiding the principal thoroughfare.

(b) Garage doors or loading docks on the front facade are prohibited.

(c) Proposed curb cuts within 200 feet of intersections are subject to administrative site plan review.

(d) Proposed curb cuts greater than 30' in width and driveway openings greater than 20' in width are subject to administrative site plan review. Full width curb cuts are prohibited.

(3) The following criteria are included to ensure that new and redesigned off-street parking areas are constructed in accordance with the BWLD character and the provisions of this ordinance.

(a) Parking areas shall be located to the side and rear of the structure. Parking areas are prohibited within the required front yard setback.

(b) Full-size parking spaces. Each full-size parking space shall be a minimum of 8.5 feet in width and 18 feet in length. Handicap parking spaces shall be designed and laid out as required by 521 CMR or any successive regulations.

(c) Driveway shall be located so as to minimize conflict with traffic on public streets and to maintain good visibility and sight distance.

(d) Parking areas shall include provisions for the "parking" of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking.
For parking areas of ten or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces or fraction thereof, rounded up.

(e) Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between businesses and the parking areas.

(f) Large parking areas (e.g. greater than 20 parking spaces) shall include landscaped islands of 8 to 10 feet in width or in the alternative shall devote at least five (1) percent of the interior of the parking lot to landscaping. In addition, a minimum of 1 shade tree shall be planted for every six (6) parking spaces (rounded up) required or built, within appropriate locations on the lot(s). The plan shall show the location of plantings, including use of plantings to buffer neighboring properties, and along the street frontage and pedestrian ways. Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet of area.

(g) Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans noted below. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with consideration of pedestrian safety, handicapped access and visual quality. Where appropriate, applicants are encouraged to provide pedestrian and/or bicycle paths connecting their site with abutting areas in order to promote pedestrian and bicycle circulation and safety in the district. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

(4) Special Permit for Reduced Parking. Reductions in "off-street" parking may be eligible for a Special Permit and considered waived when applicants can demonstrate options described as follows to the Planning Board:

(a) Shared parking agreements within the Braintree-Weymouth Landing District with other land owners/businesses for peak and non-peak demand hours;
(b) Shared access between properties;
(c) Shared or co-location for refuse facilities of multi-businesses;
(d) Financial commuter incentives for employees to use public transit and bus system;
(e) Accommodations for bike parking and users beyond the installation of a simple bike rack;
(f) Provide parking accommodations for small motorized non-vehicle modes of transportation, such as motorcycles, scooters, or mopeds.
(g) Any other Transportation Demand Management (TDM) alternative or option proposed by an applicant and review/recommended by the Director of the DPCD.

K. Signs and Advertising Devices in the BWLD.

(1) For purposes of the BWLD the following definitions shall be applicable in reference to external advertising devices regulated by this ordinance:

(a) Awning – a retractable type structure of flexible material (canvas) on a frame attached to the facade of a building and projecting there from as a protection against sun or rain.
(b) Awning Sign Area – the area encompassed by any wording, logo, or design distinct from the awning background color. Awning signs are measured and included within the allowances for parallel wall signs.

(c) Sign – an advertising device that includes any lettering, word, numeral design, emblem, device, trademark, picture, pennant, flag, streamer, banner, or other object or method of constructions used to indicate, direct, announce, advertise, attract or promote.

(2) Applicants are encouraged to review the Braintree-Weymouth Landing District Design Guidelines before submitting a sign application or displaying other means of advertising devices. In the BWLD, signage is subject to Administrative site plan review pursuant to § 8.1-I. Permissible signage types within the Braintree-Weymouth Landing District include only the following:

(a) Wall Sign – Each place of business shall be allowed one permanent wall sign parallel to the exterior building facade, projecting not more than 12 inches from said wall and having an aggregate area of two square feet for each horizontal foot of building frontage of said business, provided that the area of said sign shall not exceed 20 square feet. Businesses located over the first floor shall not exceed 20 square feet as well. If such business establishment has more than one public entrance, a secondary sign may be affixed to the building side having a public entrance.

(b) Awnings – Awnings are permissible only at street level and are considered signage if writing and/or a logo are located on the awning. For purposes of this ordinance, an awning utilized for advertising shall be considered a wall sign subject to the requirements of a wall sign and will count as the one allowable wall sign. Applicants shall consult the BWLD design guidelines for guidance on the preferred material, coloring and dimensional requirements.

(c) Projecting Sign – Each lot shall be allowed one projecting sign, mounted to the front building line, provided that the foremost building on the lot is set back from the front lot no greater than 10 feet, subject to the following criteria:

   (i) The sign shall have the bottom most edge no lower than 10 feet above grade, nor more than 12 feet above grade; the uppermost edge of the sign shall be no greater than 20 feet above grade or below the roofline, whichever is lower in height; the sign shall project no more than 4.5 feet from the front building line.

   (ii) The sign area shall not exceed 15 square feet per side with a total surface area of all sides not exceeding 30 square feet.

   (iii) Projecting signs over public property shall be subject to administrative site plan review and shall only be placed over a public sidewalk or walkway. In no case shall a projecting sign extend over any portion of a vehicular travel lane.

(d) Multi-tenant Directory Sign – Multi-tenant and/or directory wall sign shall be located at the entrance to a multitenant building affixed to the exterior wall of the building not exceeding a height of nine (9) feet above finished grade. Said sign shall include the building street address and provide one square foot of area for each tenant listed in an orderly and legible manner. Said signs shall be constructed with provisions to allow for changes in occupancy without reconstruction of the entire sign.
(3) **General Provisions:**

(a) Sign material shall be in accordance with the provisions of the design guidelines set forth for the Braintree-Weymouth Landing District.

(b) The source of illumination for any sign shall be a white, steady, stationary light of reasonable intensity, shielded and directed solely at the sign, or a white interior light underneath the sign. Neon tubing or similar devices are prohibited. Illumination of signage is also permissible by outdoor lighting attached to said building in accordance with approved with the BWLD design guidelines. Lighting shall be steady, stationary, shielded and of an appropriate location and intensity. Any projecting lights used for illumination shall be so arranged to reflect light away from any adjoining residential district or public way.

(c) Roof signs and Marquee signage are prohibited within the Braintree-Weymouth Landing District.

(d) Window signs shall not occupy more than 25% of the total area of the window in which they are displayed.

(e) Moving, changing electronic digital signs are prohibited within the Braintree-Weymouth Landing District.

(f) Existing electronic signs lawfully in existence prior to (January 8, 2011) are not grandfathered for conversion to another form of electronic technology.

(g) Placement of temporary signage on sidewalks and public areas is prohibited.

(h) Off-premise commercial signs (including roof top and billboard signs) are prohibited from any location within the Braintree-Weymouth Landing District.

(i) Illuminated signs shall be shut off one hour after close of business operation.

(j) Window area coverage for advertising purposes is permitted at only 30% of the total window area of each window. Illuminated signage of any form is not allowed within the interior window area.

§ 1.3 **Village Center District**

**A. Purpose.** The purposes of the Village Center District are to:

1. Regulate the quality and scale of future development in these areas in order to preserve the predominant scale and character of the villages.
2. Provide a set of development standards that promote a collective identity and encourage visual harmony.
3. Promote mixed use and compact development within individual structures both vertically and horizontally that maintains the visual character and architectural scale of development within the district.
4. Encourage the reuse and upgrade of existing properties with efforts to promote more efficient and economical parking facilities to complement existing and new development within the district.
5. Encourage mixed uses that promote small business establishments and local job creation and that complement the needs of the surrounding residential neighborhoods and the general population of the Town of Braintree.
6. Provide a range of housing options for people at different stages of life and income levels, as well as live/work options.

**B. Applicability.** Provisions of the Braintree Zoning Ordinance and the following criteria shall apply to development within the Village Center district.
C. **Special Permit Granting Authority**: The Special Permit Granting Authority (SPGA) for this section of the zoning ordinance shall be the Braintree Planning Board.

D. **Prohibited Uses**: No single use business structure of 10,000 square feet gross floor area or more shall be allowed.

E. **Dimensional Requirements**: All dimensional standards established in § 5.8 Table of Dimensional and Density Regulations apply, with the addition of the following requirements.

1. No building shall be located more than 15 feet from the front property line.
2. Front yard setbacks may be less than eight (8) feet, and as low as zero feet, if the proposed structure is located in such a way that it could form a consistent building line or street wall line in relation to directly abutting properties within VC district.
3. Side yard setbacks may be less than eight (8) feet, and as low as zero feet, if a structure is located in such a way that it could form a street wall in the VC district.

E. **Submission Requirements**: Submission requirements for Variances, Site Plan Review or Special Permits through the Planning Board shall comply with § 3.11.

F. **Criteria for the Village Center District**.

1. **General Provisions**
   
   (a) Buildings within the Village Center district shall provide pedestrian entrances that open to the front sidewalk and may provide other entrances to the side or rear.
   
   (b) For all non-residential and non-institutional uses, a minimum of 60% of the first-floor level façade shall be transparent (either through windows or doors embedded with windows). The street side façade of a building shall not consist of an unarticulated blank wall or an unbroken series of garage doors.
   
   (c) Applicants who wish to build a structure or rehabilitate an existing structure shall select materials and textures which are comparable with and complementary to neighboring buildings. For this reason, the approving authority shall require an elevation view illustration of the proposed improvement as part of an application for a Variance, Site Plan Review or a Special Permit.
   
   (d) New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following methods:

   (i) Through a common driveway serving adjacent lots of premises; or
   
   (ii) Through an existing side or rear street.

   (e) Refuse containers, transformers, lift stations, utility meters, and the like shall be located on the side or at the rear of the principal structure. Heating-ventilation-air conditioning equipment shall be located on the roof if feasible, and if not, then on the side or at the rear of the principal structure; in both cases such equipment shall be screened. The record plan or landscaping plan shall include provisions for these items. Screening, to the extent possible, shall be accomplished through:

   (i) Landscaping; and
(ii) Materials integrating the design, material type, and colors of the existing building with the screening structure

(iii) If roof-mounted mechanical equipment is used, such equipment shall be screened from public view on all sides.

(f) Access to buildings through rear entrances from parking lots is encouraged. The rear faced entrance shall receive appropriate design treatment.

(g) Buffering elements in the form of plantings, walls, fences, screens, and other designed or natural features that provide a logical transition to adjoining existing and permitted uses shall be provided by the applicant.

(h) In order to maintain consistency in front setbacks, rhythm, and scale, any use requiring a Special Permit in the VC per § 4.6, Table of Uses, may be required by the SPGA to revise plans for building setback, spacing, and building width.

(i) Parking. Any development within the Village Center District shall meet the following requirements for parking:

   (i) Parking areas shall be located to the side and/or rear of the building. No parking shall be allowed within the required or authorized front yard setback.

   (ii) Parking areas of adjacent properties shall include reasonable and safe off-street vehicular connections. Where an adjacent property has not been developed, provisions on the property requesting development approval shall be made for future off-street parking area connections with adjacent properties. Reserved strips of land to preclude such connections shall be prohibited.

§ 9.3 Floodplain Protection Overlay District

A. Purpose. The purposes of the Floodplain Protection Overlay District are to:

   (1) Protect the health and safety of persons and property against 100-year frequency flooding and the hazard of water inundation;

   (2) Control 100-year frequency flooding and regulate the development of land and the construction of buildings and structures within the district;

   (3) Preserve and maintain the groundwater table. Since these areas contribute to the natural storage of water during times of maximum rainfall, it is intended that the areas be controlled and conserved in as near their present state as possible, and that any changes shall not substantially affect surface or ground water levels nor jeopardize the public health or safety nor derogate from the intent and purpose of this district.

B. Boundaries.

   (1) For the purpose of this section, the Floodplain Protection Overlay District shall include all land surfaces that will be covered by floodwaters that will theoretically result from the statistical one-hundred-year-frequency storm.

   (2) The boundaries of the Floodplain Protection Overlay District shall be determined as follows:

      (a) The Floodplain Protection Overlay District is herein established as an overlay district. The Overlay District includes all special flood hazard areas within the Town of Braintree designated as Zone A, AE, or VE on the Norfolk County...
Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Braintree are panel numbers 25021C0206E, 25021C0207E, 25026C0208E, 5026C0209E, 25026C0217E, 25026C0226E, 25026C0227E, 25026C0228E, and 25026C0236E dated July 17, 2012. The Flood Insurance Rate Maps (FIRM) and the Flood Insurance Study (FIS) report are incorporated herein by reference and are on file with the Town Clerk, Planning & Community Development Office (Planning Board and Conservation Commission), Department of Inspectional Services and the Department of Public Works Engineering Division.

(b) By use of flood profile data from the Flood Insurance Study and the Flood Insurance Rate Map (FIRM) dated July 17, 2012 produced by the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA).

(c) Through recorded observation of maximum observed flood elevations.

(d) In the absence of (a) and (b) above and if the Planning Board, acting as the SPGA, determines that flooding exists the Wetlands and Floodplain Protection Overlay District boundary shall be 50 feet from any wetlands as defined in M.G.L. c. 131, § 40. Wet meadows, marshes, swamps or bogs that have an area less than 1,000 square feet shall be exempt from this section. In determining whether a site is within the Wetlands and Floodplain Protection Overlay District, the Planning Board may require an applicant to submit flood studies prepared by a registered professional engineer licensed in Massachusetts.

(3) In Zone AE, along watercourses that have a regulatory floodway designated on the Norfolk County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(4) In Zone A and AE and Other Flood Areas and those areas known to the Town to flood along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(5) In unnumbered Special Flood Hazard Areas (SFHAs), base flood elevation data is required for subdivision proposals or other developments of five acres.

C. Uses.

(1) For the purpose of this section, the Floodplain Protection Overlay District shall be overlaid on the other zoning districts.

(2) In the Floodplain Protection Overlay District, no permit shall be issued for development in any area designated as a floodway.

(3) No permit shall be issued for the construction of a critical facility within the Special Flood Hazard Areas (SFHAs) or five-hundred-year floodplain.

(4) In the Floodplain Protection Overlay District, no building or structure shall be constructed, improved, altered or modified and no land shall be filled, excavated or otherwise changed in grade except pursuant to a Special Permit authorized by the Planning Board. An alteration to an existing structure which does not affect flood storage or the floodway, as determined by the staff of the Department of Planning and Community Development, shall not require a Special Permit under this section.
(5) All new buildings built on fill must be constructed on properly designed and compacted fill (e.g., ASTM D-698 or equivalent). The fill shall extend at least five feet beyond the building walls before dropping below base flood elevation and shall have appropriate protection from erosion and scour.

(6) Man-made alterations of sand dunes within Zone VE which would increase potential flood damage are prohibited.

(7) All new construction within Zone VE must be located landward of the reach of mean high tide.

(8) All subdivision proposals must be designed to assure that:

   (a) such proposals minimize flood damage;
   (b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
   (c) adequate drainage is provided to reduce exposure to flood hazards.

D. **Special Permit.**

(1) Application for a Special Permit shall be filed in accordance with § 3.9 of this Chapter.

(2) In addition to the Planning Board’s submission requirements (Section 3.11), the plan(s) submitted under this section shall show:

   (a) The location, dimensions, and elevation [based on North American Vertical Datum (NAVD)] of existing and proposed buildings and structures;
   (b) Existing and proposed contours at one-foot intervals of the land based on NAVD datum;
   (c) A contour delineating the one-hundred-year-storm frequency elevation shall be distinctly designated;
   (d) Other information deemed necessary by the Planning Board to indicate the complete physical characteristics of the area and the proposed construction and/or grading.
   (e) On the same lot, compensatory storage created for fill land equal or greater to the land area and volume lost, to be located outside of the one hundred (100) year floodplain, with hydrological connection to the remaining 100-year floodplain under existing conditions.

E. **Criteria for Approval.** The Planning Board may issue a Special Permit under this section only upon finding that:

(1) The proposed construction and/or change in grade will not derogate from the intent and purpose of the Floodplain Protection Overlay District;
(2) The proposed construction and/or change in grade will not endanger the health and safety of the public;
(3) The lowest floor, including the basement or cellar, of any new or substantially improved residential building shall be at least one foot above the base flood elevation;
(4) Nonresidential construction or improvements shall be elevated or flood proofed to one foot above the base flood elevation;
(5) The proposed construction or change in grade shall not:

   (a) Obstruct or divert flood flow;
(b) Reduce natural storage or increase stormwater runoff to the extent of raising the base flood elevation. Written certification of such shall be provided by a registered Massachusetts professional engineer.

(6) The proposed system of drainage and sewage disposal shall not cause pollution or otherwise endanger public health;

(7) The proposed structures shall be constructed to counteract any buoyancy or water impacts;

(8) The proposed construction shall have street or other appropriate vehicular access at least one foot above the base flood elevation.

(9) All utility components and systems of the residence shall be located above the base flood elevation.

F. Conditions of Special Permit. In granting a Special Permit consistent with uses permitted in the district in which the site is located, the Planning Board may impose conditions designed to:

(1) Safeguard the health and safety of occupants of the premises and of other land in and adjacent to the district; and

(2) Ensure that the requirements of all government agencies from which approval is required have been met regarding, but not limited to, the following:

   (a) Placement of building or structure;
   (b) Type of foundation such as posts with blowout panels;
   (c) Elevation of floors and utilities;
   (d) Method of anchoring building to foundation;
   (e) Design of drainage system, including private sewage disposal work;
   (f) Occupancy of buildings;
   (g) Area and depth of any excavation of fill;
   (h) All flood proofing methods or proposals.

G. Compliance with Other Regulations. All development in the district including structural and nonstructural activities whether permitted by right or by Special Permit must comply with the following (where applicable):

(1) 780 CMR, Massachusetts State Building Code, sections of which address floodplain and coastal high hazard areas

(2) 310 CMR 10.00, Wetlands Protection Regulations, Department of Environmental Protection (DEP)

(3) 310 CMR 13.00 Inland Wetlands Restriction, DEP

(4) 310 CMR 12.00, Coastal Wetlands Restriction, DEP

(5) 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP

H. Administration.

(1) The Planning Board shall maintain complete and accurate records of issuance of Special Permits, including records of elevation and flood proofing levels for all new or substantially improved structures, whether or not the structures contain a basement.

(2) The Planning Board shall require, at the developer’s expense, as-built flood proofing certifications of non-residential construction by a registered Massachusetts professional engineer. This certification shall be in conformance with the requirements of the Federal
Insurance Administration Rules and Regulations, Title 44, Code of Federal Regulations Part 60, Subpart A, Section 60.3(c)(4).

(3) Prior to the alteration of or relocation of any river or watercourse, the Planning Board shall notify:

(a) Adjacent Communities
(b) NFIP State Coordinator
   Massachusetts Office of Water Resources
   251 Causeway Street
   Suites 600-700
   Boston, MA 02114-2104
(c) NFIP Program Specialist
   FEMA Region I, Rm. 462
   J.W. McCormack Post Office and Courthouse
   Boston, MA 02109

§ 9.4 Drinking Water Protection Overlay District

A. Purpose. The purpose of the Drinking Water Protection Overlay District (DWP) is to protect public health and safety by minimizing contamination risks to surface waters that supply the Town of Braintree with drinking water. This section establishes standards for the use and storage of hazardous materials and other contaminant sources that pose a risk to drinking water and management of riparian areas and stormwater within the DWP Overlay District.

B. Boundary. The DWP Overlay District is established herein and shown on the Braintree Zoning Map as most currently amended and on file in the office of the Town Clerk.

C. Relationship to 310 CMR 22.20B Surface Water Supply Protection. The provisions of the DWP are designed to use state-level regulation as a foundation for protecting the local water supply. Therefore, local regulations shall never be interpreted to be more permissive, less restrictive, or less protective than state-level regulations. Where appropriate to the goal of water supply protection, these local regulations use best practices to expand the scope of state-level regulations and provide standards that may be more restrictive.

D. Split Lots and Determination of Applicability

(1) Where the boundary line of the DWP divides a lot or parcel, the requirements established by this ordinance shall apply only to the portion of the lot or parcel located within the DWP. The boundary shall be shown on a site plan as required by this section of the ordinance. Information shall be included on any application for Site Plan Review or a Special Permit to the reviewing authority in accordance with all applicable provisions from the Zoning Ordinance. See Section 3.11 Site Plan Contents for Variance, Site Plan Review, or Special Permit.

The applicant shall demonstrate, through the use of site plans, that development activity outside of the boundary shall not be connected to land within the boundary through post-development grading, stormwater infrastructure, wastewater infrastructure or other potential connections that could lead to the contamination of groundwater within the DWP. Where development practices create a hydrologic connection across the DWP boundary, the applicant shall demonstrate that any water moving into or away from the DWP is accounted for in any of the required pollutant loading calculations and meets all...
of the standards associated with the DWP. Where a Special Permit may be required for a particular use, the SPGA may impose such conditions as are reasonably required to ensure that these standards are met.

If an applicant questions the accuracy of the DWP Overlay District as depicted on the most recently amended Town’s Zoning Map as referenced in § 2.2, the applicant may challenge the extent to which his/her property is subject to the DWP provisions in advance of submitting an application for development to the Building Inspector, Zoning Board of Appeals, or the Planning Board. Said challenge shall be made through a request for a Determination of Applicability to the Building Inspector, who shall consult with the Town Engineer and the Stormwater Division. A request for a Determination of Applicability shall be made in writing to the Building Inspector and shall include the following information at a minimum:

(a) Site Plan clearly depicting the parcel boundary and boundaries of adjacent parcels and rights of way;
(b) Survey benchmarks;
(c) Stamp from a Massachusetts Registered Surveyor;
(d) Name and address of property owner(s);
(e) Property address and Map and Lot number from the most recent Assessor’s records;
(f) Locations of surface water and wetland flags;
(g) Location of DWP boundary;
(h) North arrow;
(i) Scale (minimum of 1 inch = 40 feet).

Upon receipt of a request for a Determination of Applicability, the Building Inspector may make this determination in consultation with the Department of Public Works and any other applicable agent of the Town of Braintree.

The burden of proof shall be upon the applicant to determine the extent to which the property is subject to the jurisdiction of this overlay district. At the request of the applicant, the Town may engage a professional engineer or Commonwealth of Massachusetts registered Land Surveyor to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the applicant for all or part of the cost of the investigation.

The Building Inspector shall file his/her written determination with the Planning Board and the Zoning Board of Appeals. Any application for a Determination of Applicability and associated materials shall not substitute for materials required as part of a variance application, Site Plan Review, a Building Permit Application, or any application for a Special Permit. Any determination made by the Building Inspector as part of a Determination of Applicability shall be considered by other reviewing agencies in their deliberations of separate applications, but shall not constitute approval or denial of said applications.

E. **Use Regulations.** Whether a use is allowed by right, allowed through the granting of a Special Permit, or prohibited shall be governed by the Use Table as related to the underlying districts except where provisions in this subsection differ.

(1) **Exempt Uses and Activities.** The following specific uses of land shall be exempt from provisions of this section associated with the DWP. Where municipal services are exempted herein, the Department of Public Works or Town Engineer shall provide notice
to the Planning Board of these activities within fourteen (14) days of beginning work along with any available engineered plans.

(a) Storage of liquid petroleum products of any kind incidental to:

(i) Normal household quantities as defined in § 9 of the Zoning Ordinance and outdoor maintenance or the heating of a structure,
(ii) Waste oil retention facilities approved by the Board of Health or as required by M.G.L. c. 21, s.52AA, or
(iii) Emergency generators required by statute, rule, or regulation.

(b) Non-sanitary wastewater treatment facilities approved by the DEP exclusively designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);

(c) The replacement or repair of an existing non-sanitary wastewater treatment facility that will not result in a design capacity greater than the design capacity of the existing non-sanitary wastewater treatment facility;

(d) The installation of new wells, the laying of water lines, repair and replacement of pipe and appurtenances;

(e) Drainage repair, replacement, and expansion of existing drainage structures and pipe. All drainage repair, replacement, and expansion shall follow DEP stormwater management Best Management Practices as applicable;

(f) Minor road repair and overlay including total reconstruction or expansion;

(g) The laying of sewer line, repair, replacement or expansion of existing structures and pipe.

(h) Hazardous materials offered for sale in their original containers of five gallons or less.

(i) Fuel oil used in existing heating on-site systems.

(j) Emergency use, storage, and handling of hazardous materials by governmental organizations or non-governmental disaster relief organizations in the public interest.

(k) Hazardous materials used and stored specifically for water treatment processes of the public water system and private systems for the same purpose when approved by the Braintree Water Department.

(l) Hazardous materials contained in properly operating sealed units (transformers, refrigeration units, etc.) that are not opened as part of routine use.

(m) Natural gas distribution lines.

(n) Any commonly used office supply, such as toner or cleaning supplies, where supplies are purchased off-site for use onsite.

(o) Pesticide use and storage specifically addressed by state preemption of local pesticide regulation.

(2) Prohibited Uses. In addition to any prohibitions found in § 4.6 Table of Uses, the following specific uses of land shall be prohibited within the DWP:

(a) Bulk fuel storage.

(b) Facilities that generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c.21C and 310 CMR 30.00, except for the following:

(i) Very small quantity generators as defined under 310 CMR 30.000;

(ii) Household hazardous waste centers and events under 310 CMR 30.390;

(iii) Waste oil retention facilities required by M.G.L. c.21, s.52A;
(iv) Non-sanitary wastewater treatment facilities approved by DEP for the treatment of contaminated waters.

(c) Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads.

(d) Stockpiling and disposal of snow or ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads which has been removed from highways and streets located outside of the DWP.

(e) Landfills and/or open dumps as defined in 310 CMR 19.006.

(f) Automobile graveyards and junkyards, as defined in M.G.L. c.140B, s.1.

(g) Landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to M.G.L. c. 21 s.26 through s.53; M.G.L. c. 111 s.17; M.G.L. c. 83 s.6 and s.7, and regulations promulgated thereunder.

(h) Animal feedlots exceeding ten animals per acre, except as may be protected under M.G.L. c.40A, s.3.

(i) Any new development or expansion of existing development that will result in more than 30% of a site becoming impervious within a residential district or more than 60% of a site within the C, GB, or HB districts becoming impervious. Where the use is specifically exempted under Section 8.4.E.1 as determined by the Building Inspector, the prohibition shall not apply.

(j) Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater. Where the use is specifically exempted under Section 8.4.E.1 as determined by the Building Inspector, the prohibition shall not apply.

F. Performance and Design Standards for All Uses and Activities. Where applicable, the following performance and design standards shall apply to any use or activity that may be allowed by-right or through a Special Permit in the DWP.

(1) Construction Activities. Erosion and sediment control measures shall be taken to ensure that exposed earth and debris are not displaced by stormwater runoff or other conditions in accordance with § 7.5Erosion and Sediment Control (ESC) of the Zoning Ordinance and the Town’s Stormwater Regulations.

(2) Safeguards. Provision shall be made to adequately protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism. Such measures may include provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials. Any proposed indoor or outdoor storage of liquid petroleum products shall be in covered and secure container(s) in an area that has a containment system. Said containment system shall be designed and operated to hold the larger of the following two volumes:

(a) 10% of the cumulative storage capacity of all containers; or
(b) 110% of the single largest container’s storage capacity.

(3) Pesticides, Fertilizer, and Manure. Storage of pesticides, as defined in M.G.L. c.132B, of commercial fertilizers and soil conditioners, as defined in M.G.L. c.128, s.64, and animal manure shall only be permitted within a structure with an impermeable cover and liner designed to prevent the generation of contaminated runoff or leachate.
(4) **Disposal.** No disposal of hazardous wastes within DWP shall occur. All provisions of M.G.L. Chapter 21C (the Massachusetts Hazardous Waste Management Act) shall be adequately satisfied.

(5) **Fill.** Fill material used in the DWP shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to ensure proper condition of the fill. Where a Special Permit is required, the SPGA may require soils testing by a certified laboratory at the applicant's expense as part of the application process or during construction.

(6) **Stormwater Management.** Stormwater runoff from impervious surfaces shall be recharged on-site in accordance with the standards and guidelines included in the latest version of the Massachusetts Stormwater Handbook and as may be provided by the Braintree Stormwater Division unless, in conducting application review, it is determined that either recharge is unfeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Treatment of stormwater quality and selected stormwater best management practices shall also comply with the Massachusetts Stormwater Handbook.

(7) **Underground Storage Tanks.** All new USTs must meet the following design standards:

   (a) The facility must have an appropriate method of leak detection.
   (b) Fill-pipes on tanks must have means to collect spills from delivery hoses.
   (c) The tanks must have overfill protection, such as automatic shutoff devices which activate at 90% UST capacity and restrict flow during deliveries.
   (d) Tanks and/or piping installed must be double-walled with continuous interstitial monitoring.
   (e) These requirements for USTs are intended to supplement and not to supersede any other applicable state requirements.

G. **Emergency Response Plan (ERP).** For industrial and commercial uses, an emergency response plan to prevent contamination of soil or water in the event of accidental spills or the release of toxic or hazardous materials shall be submitted to the Fire Department and/or the Board of Health as applicable. Where a Special Permit is required for a particular use, the SPGA may condition the approval of the plan on local approval of the ERP.

§ 9.5  **Special Industrial Management Area Overlay District**

The Town of Braintree shall have a designated Special Industrial Management Area Overlay District (SIMA) as established herein and as shown on the Braintree Zoning Map as most recently amended and on file in the office of the Town Clerk.

A. **Purpose.** The SIMA is a set of requirements which are superimposed over the Highway Business Zoning Districts located in East Braintree as shown on the approved Zoning Map as the designated Special Industrial Management Area Overlay District. The SIMA shall establish reasonable standards in accordance with the following purpose and intent:

   (1) Acknowledge the existing, large scale industrial uses active within the overlay.
   (2) Provide the Town with a means of ensuring that the impacts of these uses on surrounding neighborhoods are minimized, and that conditions related to pollution, noise, odor, traffic, and other nuisances are improved over time.
   (3) Ensure that these uses are contained within the overlay zone, and not allowed to expand beyond it.
(4) Preserve the underlying Highway Business (HB) zoning district so that as the existing large scale industrial uses turn over, they are able to be replaced by the less intense uses permitted in the HB zone.

B. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) for this section of the zoning ordinance shall be the Braintree Planning Board.

C. Applicability. The establishment, expansion, or intensification of any Hazardous Waste Facility, Hazardous Waste Transfer Station, or Bulk Fuel Storage, as defined in § 9, Definitions, shall require Special Permit approval. All Special Permit applications shall be submitted in accordance with the administrative procedures specified under § 3.9, Special Permits and outlined in MGL Chapter 40A.

D. Special Permit Criteria. The SPGA may approve an application for the establishment, expansion, or intensification of the uses listed in subsection C above only where it has determined that the following criteria have been met:

1. Any change to the use or property does not result in an intensification of an existing nuisance or the creation of a new nuisance for the surrounding neighborhood, whether related to pollution, noise, odor, traffic, or other nuisances; and
2. Changes to the use or property will improve conditions, whether related to pollution, noise, odor, traffic, or other conditions that could negatively impact the environment or surrounding communities.

§ 9.6 Billboard Zoning Overlay District

The Town of Braintree shall have a designated Billboard Zoning Overlay District (BZOD) as established herein and as shown on the Braintree Zoning Map as most recently amended and on file in the office of the Town Clerk.

A. Purpose. The Billboard Zoning Overlay District is a set of requirements which are superimposed over the Highway Business Zoning Districts located along Route 93 and Route 128 as shown on the approved Zoning Map as the designated Billboard Zoning Overlay District. The BZOD shall establish reasonable standards in accordance with the following purpose and intent:

1. Responsibly address the changing technology of digital displays. The Town desires to regulate this technology as applied in the use of off-premise signage.
2. Allow new technologies in a designated area while working through Special Permit and other means to address the removal of older static type billboards Town wide in lieu of new installations.
3. Regulate the quality, scale, and impact of off-premises commercial billboards in designated receiving areas, in order to maintain both a competitive business market and aesthetically attractive residential community.
4. Encourage the installation of commercial billboards along the designated highways in accordance with the federal Highway Beautification Act as most recently amended.
5. Encourage the siting of commercial billboards and electronic/digital billboards in such locations that will not cause driver distraction but can provide public service announcements in emergency situations for the safety and welfare of the general public.
6. Preserve the residential character of the Town and protect the environmental, historic, and open space resources of the community by designating defined areas of location that minimize potential adverse impacts to the Town.
B. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) for this section of the zoning ordinance shall be the Braintree Planning Board.

C. Applicability. Any installation of an off-premise billboard shall require Special Permit approval. All Special Permit applications shall be submitted in accordance with the administrative procedures specified under Article V and outlined in MGL Chapter 40A.

D. Special Permit Criteria. The SPGA shall not render a decision on an application for a special permit until it has made its findings. Said findings shall include but not be limited to the following:

1. Demonstrate compliance with the regulations of the Office of Outdoor Advertising;
2. Demonstrate that no residentially zoned property or pre-existing non-conforming property or other property used for residential purposes, excluding hotels or motels, is within a one thousand (1,000) foot radius of the proposed location;
3. Demonstrate that the proposed location does not adversely interfere with the use of adjacent properties; including but not limited to, increasing noise or vibration, or casting a shadow on or causing a flicker on adjacent properties;
4. Demonstrate that the proposed billboard is in harmony with or suitable for the surrounding area and would not do significant damage to the visual environment. In making the determination, the special permit granting authority may consider among other factors, health, safety, general welfare of the public, the scenic beauty of the area, the physical, environmental, cultural, historical or architectural characteristics of the location and area, proximity of the proposed billboard to schools, or places of worship or open space; architectural characteristics of the location and area, the structure, height, size of the sign, and the number of signs on the premises and in the area where the billboard is to be located.
5. No flashing lighting shall be allowed. Flashing shall be defined as changing natural or artificial light or color effects by any means except as may occur when panels or messages change on electronic/digital billboards.
6. No sexually orientated, sexually provocative or adult oriented businesses as defined in § 9, Definitions shall be advertised on a billboard.
7. The Planning Board shall determine the amount of annual hours the billboard shall devote to public service announcements during a calendar year.
8. Financial or other compensation to the Town, including but not limited to removal of existing non-conforming billboards, to mitigate the impact of the proposed billboard on the Town, in a form and/or amount identified in an agreement approved by the Office of the Mayor and the Town Solicitor.
Sec. 10. Definitions

In this chapter, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the chapter. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word “and” includes “or” unless the contrary is evident from the text. The word “includes” or “including” shall not limit a term to specified examples but is intended to extend its meaning to all other instances, circumstances or items of like character or kind.

Terms and words not defined here in § 9 but defined in the State Building Code shall have the meaning given in that Code. In addition, other sections of this chapter may contain definitions particular to the subject matter for which they have been established.

**Accepted Way:** Any street accepted by the Town of Braintree as a public way, to be maintained by the Town’s Department of Public Works.

**Accessory Building or Structure:** A detached building or structure which is incidental to and customarily associated with a principal use or building on the same site. Detached garages, sheds, and both in-ground and above ground swimming pools, including any elevated or ground-level decking/patio as well as any pool house or shed for pumps or filters, are considered limited accessory structures. Only one of each such limited accessory structure is allowed per lot, unless otherwise explicitly permitted in this Chapter 135.

**Accessory Use:** A use customarily incidental to and located on the same lot with a principal use(s) or on an adjoining lot under the same ownership. An accessory use cannot be considered a principal use.

**Accessory Apartment:** A second dwelling unit subordinate in size to the principal dwelling unit on an owner-occupied lot, per § 6.7, Accessory Apartments.

**Activity:** Any type of action that may typically occur within one or more of the land uses listed in § 4.6, Table of Uses.

**Addition:** Any construction which increases the size of a building or structure in terms of site coverage, height, length, width or gross floor area.

**Address:** The official street number assigned by the Town Engineer for a specific lot, building or portion thereof.

**Adequate Capacity:** Level of Service (LOS) D or better on every major approach for arterial and collector streets; LOS C or better for residential and subcollector streets. (see also § 9, Definitions, Level of Service (LOS))

**Adjoining Lot:** A lot that shares all or part of a common lot line with another parcel of land.

**Adult Uses** (See also § 9, Definitions, Obscene Entertainment)

**Adult Bookstore/Video Store:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and recorded matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Adult Entertainment:** An establishment providing live entertainment or dancing which is sexual in nature or conduct as defined in M.G.L. c. 272, § 31.
**Adult Motion-Picture Theater**: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, § 31.

**Affordable Housing**

**Affordable Housing Restriction**: A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law and be entered into and enforceable under the provisions of M.G.L. c. 184, §§ 31-33 or other equivalent state law.

**Affordable Housing**: A dwelling unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B 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.

**Agent of Owner**: Any person providing written verification that he/she is acting for, and with the knowledge and consent of, a property owner. (See "developer.")

**Agriculture**

**Agricultural Building**: A structure designed, constructed, and primarily intended for support of an agriculture (see § 9, Definitions) function, such as, but not limited to, storage of farm animals, implements and equipment, supplies or products, and the production of farm related products, that contains no residential use and is not open to the public. Residential structures and residential garages shall not be considered as agricultural buildings.

**Agriculture, Home**: The production, principally for the use, consumption or education of the residents of the property, of agricultural, horticultural or floricultural products. May include plants, animals or their products, including gardening, fruit production, and raising of poultry and livestock, including incidental sale of products grown or produced on the site. Such production may only take place on lots of one acre or larger. Does not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the State acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana as defined in section 1 of chapter 94G.

**Agriculture**: Land and associated agricultural buildings primarily and directly used in raising animals or growing food for human consumption; see M.G.L. c. 128, § 1A. Agriculture is inclusive of aquaculture, silviculture, horticulture, floriculture, and viticulture, and also includes feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, forest products, or ornamental plants and shrubs to sell. Does not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the State acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana or marihuana as defined in section 1 of chapter 94G.

**Aisle**: The traveled way by which cars enter and depart parking spaces within a parking facility.

**Alteration**

**Alteration, Land Disturbance**: Any man-made change of the land surface including removing vegetation cover, excavating, filling, and grading, but not including Agriculture, Horticulture and
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Floriculture activities such as planting, growing, cultivating, and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscape modifications.

**Alteration, Structural:** Any change or rearrangement of structural parts, substantial reconstruction, or other alterations that produce a substantial change in appearance, character or construction. Also, any enlargement or increasing of height, coverage, volume or floor area.

**Alteration, Use:** A change or enlargement of any area occupied by a use, or an increase in the intensity or scope of that use, including but not limited to the extension of hours of operation, the addition of activities, equipment, functions or processes, or the extension into additional land or building area.

**Alcoholic Beverage Production:** A facility used for the commercial purpose of processing grapes, grains, or other fruits or vegetables to produce wine, beer or spirits. Processing includes wholesale sales, crushing, brewing, distilling, fermenting, blending, aging, storage, bottling, administrative office functions, and warehousing. Restaurant services for onsite consumption, retail sales and tasting facilities of wine, beer, spirits and related promotional items, and areas used for live entertainment, parties, and other such social functions and gatherings, may be permitted for up to 20% of the area of any winery, brewery or distillery operations.

**Ambient Noise Level:** The all-encompassing noise level associated with a given environment, excluding any alleged condition of noise pollution.

**Animal Retail, Grooming Service:** Any commercial establishment with retail operations that specialize in food, grooming products, toys, and other such merchandise for domestic pets, and/or that is engaged in the day care or the washing, brushing, trimming of fur or nails, or other such cosmetic services for domestic pets. Such establishments may not perform medical services, nor allow overnight kenneling of animals.

**Animal Hospital, Veterinarian:** Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases where the animals are limited to dogs, cats or other comparable household pets and where the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. Said establishment shall not be used as a kennel.

**Animal Kennel or Day Care:** Any lot on which four (4) or more pets are available for sale or boarded during the day or overnight for compensation.

**Appeal:** The request for a reversal of a permit denial or other such denial under this ordinance.

**Applicant:** The party (whether owner or agent) applying for a permit or other approval under this ordinance.

**Art Gallery:** An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This definition does not include libraries, museums, or non-commercial art galleries.

**Artisan and Craft Workshop:** An establishment for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related hand-made items.

**Assembly Hall:** A building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes, or a meeting place at which the public or membership groups are assembled regularly or on occasion.

**Assisted Living Residence:** An assisted living facility as defined by M.G.L. c. 19D.
Automated Teller Machine (ATM), Free Standing: A free standing automated device that performs banking or financial functions at a location remote from a branch of its controlling bank. Such ATM’s are for walk-up service only, and do not include drive-through services. Any such ATM located on the same lot as a branch of its controlling bank shall be considered an accessory use to the bank.

Average Daily Traffic (ADT): The number of vehicles passing a point on a street during a twenty-four-hour period on a typical day.

A-Weighted Sound Level: The sound pressure measured on a sound-level meter using the A-weighting network. The level read is designated DB(A) or DBA.

Backfilling: Returning a site to its existing or approved grades after land disturbance activities.

Bank: An establishment where money is stored for savings or commercial purposes or is invested, supplied for loans or exchanged. This does not include a free-standing Automated Teller Machine (ATM) unless such ATM is located on the same lot as a branch of the controlling bank.

Basement or Cellar: That portion of a building or structure which is partly below and partly above grade and having at least 1/2 its height below average finished grade.

Bed and Breakfast: A transient lodging establishment accessory to an owner-occupied, detached single-family dwelling, with not more than 6 bedrooms where overnight lodging is provided to the general public for compensation, and which may include breakfast as part of the lodging charge for overnight guests only. A bed and breakfast shall not include an assisted living residence, congregate residence, transient rental, hospital or long-term care facility.

Beginning of Construction: The start of permanent construction of a structure on a site; the clearing of land, pouring of slabs, footings or foundations, installation of piles, construction of columns, or any work beyond the stage of excavation. Construction does not include site preparation, such as: clearing, grading or filling; excavation for a basement, footings, piers or foundations; or the erection of temporary forms.

Bench: A relatively level step excavated into earth material on which fill is to be placed.

Berm: A raised area used to screen a site or control runoff.

Billboard: A billboard is defined as a fixed or dynamic single or multiple-sided, freestanding sign larger than forty (40) square feet in gross area; which does not advertise a business or profession conducted, a service offered or a commodity sold upon the premises where such sign is located, and which is subjected to Massachusetts General Law Chapter 93 sections 29 to 33 and the rules and regulations of the Office of Outdoor Advertising.

Billboard, Digital/Electronic: A digital billboard is defined as electronic message display utilizing light-emitting diodes (LEOs), plasma or other technology that present static or multiple static advertisements on a rotating basis, freestanding, which does not advertise a business or profession conducted, a service offered or commodity sold upon the premises where such sign is located, and which is subjected to the rules and regulations of the Office of Outdoor Advertising.

Boathouse/Marina: A facility for the storing, servicing, fueling, launching, berthing, commercials sales, and securing of pleasure boats. This facility may include accessory retail and eating facilities for owners, crews, and guests.

Buffer: An area between two adjacent land uses or properties intended to separate and partially obstruct the view from one to the other. These areas shall be maintained open, unpaved, not built upon, and not used for parking or for storage of any kind.
**Buildable Area**: The area of a lot remaining after the minimum yard, buffer strip and open space requirements of this chapter have been met.

**Building Coverage**: The horizontal area measured within the outside face of the exterior walls of all principal and accessory buildings on a lot together with all roofed structures such as covered porches, covered decks, and fixed awnings, as well as uncovered decks, ramps, and stairs over 30-inches in height. Parking garages accessory to a principal use shall not be included in calculations of building coverage.

**Building Line**: The line generally parallel to the street or lot line at a distance equal to the minimum setback requirement. No building or structure, or portion thereof, may be constructed outside the building line.

**Building Permit**: Written permission issued by the Town Building Department for the construction, repair, alteration or addition to a structure.

**Building**: A structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including roofed structures on wheels or other supports if located permanently or semi-permanently on one lot. For the purpose of this definition, "roof" shall include an awning or similar covering whether temporary or permanent in nature.

**Bulkhead**: A structure including riprap or sheet piling, constructed to separate land and water and establish a permanent shoreline.

**Business Area**: A business area is any area included within a district zoned for business under the Braintree Zoning Ordinance. It does not include any area within a district zoned for residential purposes under the Zoning Ordinance, as herein defined, regardless of whether the area is being lawfully used or is available for such use through a variance granted by the Board of Appeal or through a nonconforming use or by any other means.

**Business or Professional Office**: A building or portion thereof where services, clerical work, professional duties, and related activities are carried out. Services offered are on an individual basis as opposed to services performed on objects or personal property. Business/professional offices include, but are not limited to, brokerage offices, insurance offices, professional offices (i.e., accountants, engineers, lawyers, etc.), real estate offices, ticket offices, travel agencies, or any similar type of profession. Business/professional offices do not include banks, personal services or medical facilities.

**Canopy**: A rigid structure covered with a roof of fabric, metal, or other material, and supported by a building at one or more points or extremities and/or by columns or posts embedded in the ground. Such structure must be open on at least three sides. A canopy does not include any structure that extends above any supporting building or principal building on the same parcel as the canopy.

**Capacity of an Intersection**: The maximum number of vehicles which can reasonably be expected to be processed through an intersection or street segment during a one-hour peak time period.

**Car Wash**: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

**Catering Service**: Preparation of food from a commercial kitchen for service elsewhere. On site retail sale of food is not allowed.

**Cemetery**: An area for the interment of deceased human beings or animals.
Certificate of Occupancy: The certificate issued by the Inspector of Buildings which permits the use of a building in accordance with approved plans and in compliance with the Zoning Ordinance.

Change of Use: Any use which differs from the existing use of a building or land.

Cinema: A theater for showing movies or motion pictures.

Clearing: Removing the vegetative ground cover and/or trees, including, but not limited to, root or topsoil removal.

Commercial Area: For purposes of Rules and Regulations for Signs only, a commercial area is any area used for commercial uses as defined under the Zoning Ordinance and shown on the Zoning Map of the Town of Braintree as most recently amended.

Commercial Printing, Publishing: A commercial printing operation involving a process that is considered printing, imprinting, reproducing or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing. Does not include copy centers. This is considered a Light Industrial Use (see § 9, Definitions).

Common Driveway: A driveway shared by two or more properties, each property having its own required lot frontage. Such driveways shall not be accepted as a town street.

Community Center: Recreation and/or cultural oriented center or facility such as drop-in center or senior center, open to a broad public, excluding private membership clubs.

Compaction: The densification of soil or rock fill by mechanical means.

Compensatory Flood Storage: A volume of space created to replace losses in flood storage.

Conference Center: A facility used for service organizations, business and professional conferences, and seminars limited to accessory accommodations for conference attendees. “Conference center” does not include hotel or motel.

Congregate Residence: Congregate Residence is a shared living environment designed to integrate the housing and services needs of elders and younger disabled individuals. The goal of Congregate Housing is to increase self-sufficiency through the provision of supportive services in a residential setting. All Congregate Housing residents have a private bedroom, and shared access to one or more of the following: kitchen facilities, dining facilities, and/or bathing facilities. Congregate Housing does not offer 24-hour care and supervision; rather services are made available to aid residents in managing activities of daily living in a supportive environment.

Conservation, Passive Recreation: For the purposes of establishing parking standards per § 7.1, Off-street Parking & Loading, land maintained for conservation uses and non-intrusive recreation activities such as walking or wildlife observation.

Construction: Any site preparation, assembly, erection, substantial repair, alteration, or similar action (demolition excluded) for or of public or private right-of-way, structures, utilities or similar property.

Continuing Care Retirement Community: A facility that includes a combination of housing, personal services, and health care, usually at one location, and offering an environment and the services necessary for residents to "age in place". In other words, as a person's personal and health care needs change, they can remain at the retirement community, whether in independent living, assisted living, long-term care or memory care facilities.
Contractor Yard: Premises used by a construction trades contractor, landscaper or similar business for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled or tracked equipment. These yards shall be fenced and secured and shall not include retail sales or wholesale.

Convenience Store (or Mini-Mart): A retail store offering for sale a limited line of goods, such as prepackaged food items, beverages, periodicals, and other household goods. May be no larger than 2,500 sq. ft. when accessory to a Fuel Station.

Copy Center: A retail establishment that provides duplicating services using photocopying and similar equipment and may include the collating and binding of such copies. Does not include commercial printing, publishing or other such large-scale operations.

Crematorium: A structure or building used for cremations of deceased human beings or animals. A crematorium may be a principal use or accessory to a cemetery.

Critical Facility: Those facilities for which even a slight chance of flooding could endanger public safety. Critical facilities include the following three categories:

- Facilities such as liquefied natural gas terminals and those that produce and/or store highly volatile, toxic or water-reactive materials.
- Hospitals, schools, long-term care facilities, and other similar facilities where the safety of the occupants may be threatened by floodwaters.
- Those facilities which if flooded would cause the loss of irreplaceable public records or cause the loss of, or disruption to, utilities or emergency services.

Cut: The changing of a grade by excavation.

Day Care

Day Care, Commercial: A principle use wherein children and/or adults are given care during the day for a fee, inclusive of Adult Day Care, Child Care Center Day Care, and Family Home Day Care.

Day Care, Adult: A professionally staffed non-residential facility that provides health, nutritional, and social support services to meet the daily living needs of adults in a group setting. Services may include transitional care and short-term rehabilitation following hospital discharge. Adult day care may be a principal use or a use accessory to assisted living, congregate care, or a long-term care facility.

Day Care, Child Care Center: A facility operated on a regular basis whether known as a child nursery, nursery school, or any other name, which receives children not of common parentage under 7 years of age, or under 16 years of age if those children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child care center day care shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of that system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children are attending religious services; a family home day care; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

Day Care, Family Home: A private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age. The total number of children under 16 in a
family home child care facility shall not exceed 6, including participating children living in theesidence. Family home child care shall not mean a private residence used for an informal
cooperative arrangement among neighbors or relatives, or the occasional care of children with or
without compensation.

**Daytime**: The time between the hours of 7:00 a.m. and 6:00 p.m. each weekday excepting
Sunday in accordance with the time system locally in effect.

**Decibel (DB)**: The unit by which the sound level is measured.

**Demolition**: Any dismantling, intentional destruction or removal of structures, utilities, public or
private right-of-way surfaces, or similar property, either in full or in part.

**Depth of Cut**: The vertical distance of the exposed cut surface.

**Depth of Fill**: The vertical distance of the exposed fill surface.

**Design Year**: The fifth year after a development is scheduled to be completed.

**Detached**: Separate from any other building or structure.

**Developed Outdoor Recreation Space**: Required outdoor space for multifamily and small-scale
multifamily development, which must be accessible to all residents of the property and including,
but not limited to, playgrounds, outdoor dining or lounging areas, sports facilities, community
gardens, etc.

**Developer (or Agent of the Owner)**: The legal or beneficial owner of a lot or parcel of land
proposed for inclusion in a development, including the holder of an option or contract to
purchase. (See also "agent of owner.")

**Development**: Any man-made change to a site, including but not limited to buildings or other
structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Distribution, Retail**: A use where goods are received and/or stored for delivery to the ultimate
retail customer at remote locations. This use generally has greater traffic generation than
Distribution, Wholesale/Bulk, as there are more frequent delivery trips to individual homes and
businesses. See also Warehouse.

**Distribution, Wholesale/Bulk**: A use where goods are received and/or stored for delivery to the
ultimate wholesale or bulk customer at remote locations. This use generally has lesser traffic
generation than Distribution, Retail, as there are less frequent delivery trips with larger orders per
trip. See also Warehouse.

**Disturbed Area**: An area where the ground cover is destroyed or removed or where grading
occurs.

**Dock, Floating**: A structure floating upon the water and used as a landing place for boats and
other marine transport, fishing, swimming, and other recreational uses. Designed to be installed
and removed seasonally.

**Dock, Permanent**: A structure built over the water and used as a landing place for boats and
other marine transport, fishing, swimming, and other recreational uses. Designed to be installed
permanently.

**Dormitory**: A structure specifically designed for a long-term stay by junior high school and high
school students, accessory to a boarding school, for the purpose of providing rooms for sleeping.
Common kitchens and gathering rooms for social purposes may also be provided.
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**Drainage Area, Watershed Contributing:** The area contributing runoff water to a watercourse, drainage system or detention basin.

**Drainage System:** The system of inlets, conduits, channels, ditches, and other man-made improvements which serve to collect and convey stormwater through and from a given drainage area.

**Drainage:** The removal of surface water or groundwater from land by drains, grading or other means. "Drainage" includes the control of runoff to minimize erosion, sedimentation, and flooding during or after development.

**Drive-Through Service:** Accessory use which involves the sale of products or provision of services to occupants in vehicles.

**Driveway:** An area providing access and egress for vehicles to a parking space, garage, dwelling or other structure.

**Dwellings**

**Dwelling:** A building or portion thereof designed exclusively for residential occupancy, including single-family, two-family, and multifamily dwellings, but not including hotels, motels, or other buildings or structures solely for transient or overnight occupancy.

**Dwelling Unit:** One or more rooms providing complete living facilities for one household, including sleeping accommodations and bathroom, and equipment for food preparation and cooking.

**Dwelling Unit in Mixed-Use Development:** Any residential use included in a mixed-use development. Such uses are typically, but not exclusively, above the ground floor of commercial space.

**Dwelling, Single-Family Detached:** A detached dwelling intended and designed to be occupied by a single household. Can be stick-built construction or modular construction, but not including a trailer whether detached or attached to the ground.

**Dwelling, Single-Family Townhouse:** A type of multifamily dwelling, typical of traditional rowhouses, which is part of a structure with three or more dwelling units attached horizontally, where each dwelling unit has direct ground-level access to the outdoors and is connected to the other dwelling units by a single party wall with no opening.

**Dwelling, Two-Family:** A residential structure divided horizontally or vertically into two single-family living units that have separate entrances into each structure and is located on one lot. Typically, two stories in height.

**Dwelling, Two-Family, Conversion:** A former single-family dwelling converted into a two-family dwelling, per the requirements of § 6.3 of this zoning ordinance.

**Dwelling, Multifamily:** A building or portion thereof containing six or more dwelling units.

**Dwelling, Multifamily Small-Scale:** A building or portion thereof containing between three and five dwelling units.

**Earth Material:** Any soil, sand, gravel, rock, organic material, mulch cover or other natural material or fill.

**Easement:** A right of use granted on, above, under, or across a tract of land by one owner to another.
**Educational Use, Non-Exempt:** A school or training program operated on a for-profit basis (such as trade schools, beauty schools, etc.). Does not include Professional and Arts Organizations, Schools and Studios or Schools.

**Elevation:** A vertical distance above or below a fixed reference level.

**Emergency Work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

**Erected:** For purposes of Rules and Regulations for Signs only, the word "erected" shall include the words attached, built, constructed, reconstructed, altered, enlarged and/or moved.

**Erosion Prevention:** Measures to prevent or minimize erosion, sedimentation, and other impacts associated with construction activities.

**Erosion:** Detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**Excavation:** The mechanical removal of earth material.

**Exceptional Peak Period:** An exceptional hourly, daily or seasonal period of trip generation (i.e., the December holiday).

**Farm Stand:** A building or structure not to exceed a gross floor area of 500 square feet used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants and accessory to an agriculture, horticulture or floriculture use of less than five acres.

**Fence:** A physical barrier or enclosure consisting of wood, stone, brick, concrete block, wire, metal or similar material, used as a boundary, as a means of protection or confinement or as a means of screening. This includes jersey barriers and other temporary structures used for these purposes. A hedge or other vegetation shall not be considered a fence. All fences are considered structures with the exception of masonry fences under six feet tall.

**Fill Material:** Soil free from refuse, concrete, asphalt, construction materials, wood, wood products or by-products, wood waste, organic matter, petroleum products or by-products or any substance that causes contamination; clean sand; and grout or sand/grout mixtures.

**Fill:** The stockpiling or depositing of earth materials on land, whether submerged or not.

**Fire Lane:** An area designated for access by emergency vehicles in which no building or structure may be erected and in which no other automotive vehicles may be parked.

**Flexible Development:** A residential development that utilizes the flexible zoning dimensions of § 6.5, Flexible Development.

**Flex Building:** A building designed to accommodate a combination of office, light industrial, wholesale, and warehousing functions, the exact proportions of each use being subject to user needs over time.

**Floodplain:** Any areas subject to periodic water inundation during a 100-year storm level.

**Flood proof:** Watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

**Floodway:** That portion of the 100-year floodplain, as referenced on the most recently produced Flood Insurance Rate Map (FIRM), which must be kept free of encroachment so that the 100-year flood can be carried with an increase in flood height of less than 1 foot, provided that hazardous velocities are not produced.
Floor Area Ratio (FAR): The measurement of a building’s floor area in relation to the size of the lot that the building is located on. FAR is expressed as a decimal number. For instructions on calculating FAR, see § 5.10.

Food Production, Large-Scale: Any light industrial facility of more than 3,000 square feet that engages in commercial on-site production and packaging of food, food related products, and/or non-alcoholic beverages, including wholesale. (This is a subcategory of Industrial, Light)

Food Truck: A motorized vehicle or other mobile food unit licensed by the Town of Braintree which is temporarily parked on a privately or publicly owned lot where food items are sold to the general public.

Frontage, Lot: A contiguous line separating a lot from a street or way to which physical access to the principal building on the lot can be provided. If a lot is bounded by more than one way, the frontage shall extend to the curve connecting the side lines of the ways. Beyond this extension, no lot shall have frontage on more than one way for the purposes of meeting the frontage requirements for building setbacks on lots.

Frontage Requirement: The minimum frontage required under § 5.8, Table of Dimensional and Density Regulations of this chapter.

Fuel Station: Any lot or portion thereof used partly or entirely for dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of vehicles. This does not include bulk storage and wholesale of liquid fuels. May include a convenience store or mini-mart. May also include, separately or in conjunction, electric fuel stations for electric and hybrid plug-in vehicles, or other alternative vehicle fuels such as hydrogen.

Fuel Station, Alternative Accessory: An accessory use for the sale of alternative fuels, including electric fuel stations for electric and hybrid plug-in vehicles, or other alternative vehicle fuels such as hydrogen, with up to two charging stations (one vehicle per charging station).

Fuel Storage, Bulk: The bulk storage and wholesale of liquid fuels. This does not include a fuel station.

Funeral Home: An establishment for the conducting of funerals and wakes and related activities such as embalming. This does not include cremation services.

Garage, Nonresidential: A building/structure or part thereof, other than a residential garage, for the storage of motor vehicles.

Garage, Residential: A building/structure or part thereof accessory to the main residential building, providing for the storage of motor vehicles and in which no occupation or business for profit is carried on. Said garage shall not exceed three parking spaces and a footprint of 900 square feet.

Gasoline Service Station and Repair Garage: For purposes of Rules and Regulations for Signs only, a business facility with associated equipment to repair and service motor vehicles including, but not limited to, lubrication, tire changing machinery, diagnostic equipment, etc. This definition shall not include any specialty store or business that has an incidental sale of gasoline, such as convenience stores or auto part sales or car washing facilities or lubrication specialists, etc.

General Business Area: For purposes of Rules and Regulations for Signs only, any area included within a district zoned for general business as defined under the Zoning Ordinance and shown on the Zoning Map as most recently amended. It does not include any area within a district zoned for residential purposes under the Zoning Ordinance as herein defined, regardless of whether the area
is being lawfully used or is available for such use through a variance granted by the Board of Appeal, or through a nonconforming use or by any other means.

**Golf Course:** A facility or premises for the game of golf. This definition shall not include miniature courses or golf driving or practice ranges.

### Grade

**Grade, Average Finished:** For a vacant parcel of land, the average, existing-grade elevation, measured at one-foot contour intervals, where the foundation of a structure is proposed. For an existing structure, the average elevation measured from the outermost four (4) corners of the existing foundation.

**Grade, Existing:** The elevation of the ground surface at a given point prior to grading activities.

**Grade, Finished:** The elevation of ground surface at a given point after grading activities.

**Grade, Natural:** The elevation of the ground surface in its natural state prior to any site work.

**Grade:** The elevation of the ground surface.

**Grading:** Any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography. Grading includes but not is limited to excavating; stockpiling of fill; clearing of trees and vegetation for the purpose of constructing roads, site improvements or structures, installing utility lines; or using the land in anything other than its natural state.

**Gross Floor Area:** The sum of the gross horizontal areas of the several floors of a building, excluding areas used for accessory garage purposes, and the basement/cellar areas that are devoted exclusively to activities accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures or enclosed porches.

**Hazardous Material or Waste, Household Quantity of:** Any or all of the following:

a. Six hundred and sixty (660) gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; and/or

b. Quantities of propane used for standard household or commercial heating or cooking purposes; and/or

c. The total bulk storage of twenty-five (25) gallons (or the dry weight equivalent) or less of other toxic or hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and/or

d. A quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

**Hazardous or Toxic Materials:** Hazardous and toxic materials are those substances identified as being hazardous or toxic under the provisions of M.G.L. c. 21.

**Hazardous Waste Facility:** The site or works for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal or other processes where hazardous wastes can be stored, treated or disposed of; however, not including a municipal or industrial wastewater treatment facility if permitted under M.G.L. c. 21, § 43.

**Hazardous Waste Transfer Station:** The intermediate point in the transport of hazardous wastes where these wastes are brought, stored, and transferred to vehicles for movement to other intermediate points or to the point of ultimate storage, treatment or disposal.
**Height, Building or Structure:** For buildings, the vertical distance above the average finished grade ten (10) feet out from each face of the building to the highest point of the roof beams or trusses of a flat roof or to the top of the rafters at the ridge of a sloping roof; for other structures, the vertical distance above the average finished grade ten (10) feet out from each face of the structure to the topmost part of the structure.

**Heliport:** A facility for the operation and/or maintenance of not more than three helicopters.

**Highly Erodible Soils:** Soil map units classified as such by the Natural Resources Conservation Service.

**Highway Business Area:** A highway business area is an area used for highway business uses as defined under the Zoning Ordinance and shown on the Zoning Map of the Town of Braintree as most recently amended.

**Home Occupation:** An activity conducted for gain by a resident or residents of the dwelling unit, and carried out as a customary, incidental, and accessory use to the principal residential use, and which by its nature is limited in size and scope.

**Hospital:** A medical service facility where at least 50 percent of the total floor area is devoted to overnight medical care and is licensed by the Commonwealth of Massachusetts to operate as a hospital. Remaining floor area may include incidental uses such as a restaurant or cafeteria, or the retail sale of gifts, books and magazines, and other sundries.

**Hotel:** A building containing more than 20 guest rooms where overnight lodging is provided to the general public for compensation on a temporary basis. Such building must include a lobby or other common area through which all guests must pass in order to reach their guest rooms, and must be operated under an innkeeper license per the Massachusetts General Laws, with or without restaurant or conference facilities. A hotel shall not include an assisted living residence, congregate residence, hospital or long-term care facility.

**Household:** A household shall be considered as any of the following combinations living together in a dwelling unit and legally partaking in the ownership, lease, or possession of the premises: (a) One person living alone; (b) 2 or more persons, each related to the other by blood, marriage, or adoption, together with up to 2 non-related persons, or; (c) up to 6 persons all of whom are not necessarily related to each other by blood, marriage, or adoption, and their dependent children. No household, regardless of the relations of its members, will be allowed to exceed the maximum occupancy of any dwelling unit.

**Impacted Street:** A residential or subcollector street or intersection receiving 25 or more peak hour trips from a development; a collector arterial street or intersection receiving 50 or more peak hour trips from a development.

**Impervious Surface:** Any man-made area that does not readily absorb or retain water.

**Industrial, Heavy:** Uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. Examples may include: Machine shops; Production of chemicals, drugs, plastics; Storage and distribution of oil and other flammable liquids and gases; Dry cleaning plants and dyeing facilities; Fabrication of metal for tools and machines; Metal plating; Lumber, wood, and paper production; Non-ferrous foundries and rolling and extruding of non-ferrous materials; Electrical equipment production. Any use other than Fuel storage, bulk and Hazardous waste facility or transfer station with a quantity of hazardous waste at the Large Quantity Generator level as defined and regulated in the Massachusetts Hazardous...
Waste Regulations, specifically section 310 CMR 30.353, is considered a Heavy Industrial use and is therefore prohibited.

**Industrial, Light**: A facility engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. Also includes the processing of food and beverage for consumption (with the exception of slaughterhouses), and clothing, fabrics, and other textiles. Processing of any other types of raw material is prohibited. Such use may include office space up to 25% of the gross floor area of a facility as long as such office use is directly in support of the light industrial use and is located on the same site. Examples may include: Manufacturing of furniture and fixtures; Jewelry assembly; Food production, large-scale; Musical instruments and parts; Photo processors and photo labs; Commercial Printing, Publishing; Professional, scientific, and controlling instruments; Screen printing/embroidery of clothing; Stone, clay, glass, and firewood production. Any use that would otherwise be defined as light industrial and that has a quantity of hazardous waste at the Large Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353, is considered a Heavy Industrial use and is therefore prohibited.

**Inert**: Containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the Waters of the Commonwealth or public health.

**Junk**: Any old, secondhand, previously used, discarded or scrapped metals, bottles, glassware, tinware, paper bags, rubber goods, plumbing, heating and electrical equipment, fixtures and appliances, building materials, whole motor vehicles which are unregistered or, if registered, no longer fit for reconditioning for use in highway transportation, or motor or other vehicles which are wholly or partly dismantled or used parts or scraps therefrom or any other old, secondhand, used, discarded scrapped material commonly called "junk salvage material."

**Kiosk, Freestanding Exterior**: Freestanding exterior building or structure of less than 500 square feet for drive-up or walk-up window services or retail sales. This includes Freestanding Automated Teller Machines (ATMs).

**Land Disturbance**: Activities that change the physical conditions of landform, vegetation or hydrology including but not limited to clearing, grading, grubbing, excavation, filling, removal, and storing of materials.

**Landscaping**: The use of walks, terraces, trees, shrubs, ground covers, grass, and other landscape elements such as natural features.

**Lawn and Garden Center**: An establishment for retail or wholesale nursery products and stock, soil and fertilizers, light power equipment and machines, garden and farm tools and utensils. This garden center may include a nursery and greenhouse.

**Level of Service (LOS)**: A measure of the operating conditions of an intersection or street segment ranked on a scale from LOSA (optimum) to LOS F (failing) as defined in the Highway Capacity Manual, latest edition, Transportation Research Board. (See also Adequate Capacity)

**Library**: A facility for the storage of books, films, manuscripts, videos, records, and similar materials whose purpose is to allow free public use of the materials.

**Live Performance**: Any musical act, theatrical act (including stand-up comedy), play, revue, scene, dance act, or song and dance act, or any combination thereof, performed by one or more
persons, whether or not they are compensated for the performance, in a privately-owned premise that is open to the public, whether or not admission is charged. (See also Theatre)

**Loading Space/Bay:** An off-street space or berth on the same lot with a building or a group of buildings, for the temporary parking of a commercial motor vehicle while loading or unloading merchandise or materials.

**Long-Term Care Facility:** An extended- or intermediate-care facility licensed and approved to provide full-time convalescent or chronic care to individuals who are unable to care for themselves. Long-term care facility may also be referred to as a nursing home or skilled nursing facility.

**Long-Term Care Facility Conversion:** See § 6.4

### Lot Definitions

**Lot:** An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other permissible use.

**Lot Area:** Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee to such street is in the owner of the lot, except that if a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended.

**Lot Coverage:** That portion of a lot covered by structures or impervious surfaces.

**Lot Depth:** The distance between front and rear lot lines as measured along a perpendicular bisector of the smallest possible rectangle enclosing that lot. One side of the rectangle shall be located along the street line from which frontage is derived. In the case of an irregularly shaped lot and for the purposes of this definition, the "rear lot line" shall be a line which is at least as long as the minimum frontage requirement for the district in which the lot is located, which is entirely within the lot, and which is perpendicular to the bisector. When the bisector does not touch the front lot line, the measurement shall be made from the point on the front lot line closest to the bisector. The line from that point to the "rear" lot line shall be parallel to the bisector.

**Lot Line:** The division line between adjoining properties or streets or ways.

**Lot Line, Front:** The dividing line between a public or private way and an adjacent lot.

**Lot Line, Side:** Lot lines connecting front and rear lot lines.
Lot Line, Rear: The lot line(s) opposite and most distant from the front lot line. In the case of a corner lot, the rear lot line shall be the lot line opposite the street line of the street on which the principal building faces. For a triangularly-shaped lot, the rear lot line is a line 10 feet in length within the lot, parallel to the front lot line or parallel to the cord of a curved front lot line and located the maximum distance from the front lot line. For other irregularly shaped lots, the rear lot line is composed of all lot lines that are parallel to, or closely parallel to, the front lot line.

Lot Width: The distance measured between side lot lines at a right angle to lot depth.

Lot, Corner: A lot bounded by more than one street which has an interior angle of 135° or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of 105° or less.

Low or Moderate Income: Household income that does not exceed 80 percent of the area median family income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Braintree as determined by the United States Department of Housing and Urban Development (HUD).
Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients as defined in 935 CMR 501.003.

Marijuana: The same substance defined as “marijuana” under 935 CMR 501.003.

Marine-Dependent Use: Dry docks and other facilities related to the construction, servicing, maintenance, repair or storage of vessels or other marine structures.

Medical Facility: A facility, other than a hospital, where human patients, who are not lodged overnight, are treated by physicians, dentists, therapists, other health care professionals or similar professions related to the health and wellness of the human body and mind. Such facility may include accessory medical laboratory, rehabilitation, and pharmacy services, as well as a restaurant or cafeteria, or the retail sale of gifts, books and magazines, and other sundries. Examples may include Health Clinics; Physician or Dentist Offices; Holistic Medicine; Physical Therapy Clinics; Chiropractic Clinics; and Mental Health Therapists. This does not include any uses considered Personal Services, Body-Related.

Medical Laboratory: A facility for the analysis of blood, tissue, or other human medical products, accessory to a Medical Facility.

Mixed-Use Development: The development of a tract of land or building or structure with two or more different categories of uses such as but not limited to residential, office, retail, public or entertainment. Residential units are typically above the ground floor of commercial space.

Motor Vehicle and Equipment Related Businesses, Heavy:

Auto Repair Service, Auto Body Work: An establishment primarily engaged in the repair, painting, detailing or refinishing of automobiles, noncommercial vehicles, motorcycles, recreational vehicles or boats, and involving auto body work. Also including the sale, installation, and servicing of equipment and parts. Such activities as well as any overnight storage will take place indoors. These uses shall not include vehicle dismantling or salvage of parts, or the sale/dispensing of motor fuels.

Motor Vehicle and Equipment Towing and Storage: Any lot or land area used for the storage or towed vehicles or layover of passenger buses, motor coaches, taxis, limousines, and other such fleets.

Motor Vehicle and Equipment Related Businesses, Light:

Auto Repair Service, Non-Auto Body Work: An establishment primarily engaged in the repair, painting, detailing or refinishing of automobiles, noncommercial vehicles, motorcycles, recreational vehicles or boats, and NOT involving auto body work. Includes the sale, installation, and servicing of equipment and parts. Such activities as well as any overnight storage will take place indoors. Typical uses include muffler shops, tire sales and installation, wheel and brake shops, lubrication shops, and similar lighter scale repair and service activities. These uses shall not include vehicle dismantling or salvage of parts, or the sale/dispensing of motor fuels.

Motor Vehicle and Equipment Sales, Rental and Lease: Premises for the sale, rental and/or lease of new and/or used motor vehicles and heavy equipment. This use may include the servicing and repair of said vehicles. This use shall not include the sale of fuel to the public.

Motor Vehicle: As defined in M.G.L. c. 90, § I, Definitions.
Motor Vehicle, Commercial: Any motor vehicle, designed for medium or heavy use, that is 10,000 pounds’ gross vehicle weight or greater.

Motor Vehicle, Light: All motor vehicles having a gross vehicle weight of less than 10,000.

Motorcycle: As defined in M.G.L. c. 90, § I, Definitions.

Muffler or Sound-Dissipative Device: A device for abating the sound of escaping gases of an internal combustion engine.

Municipal Facility: Town of Braintree public buildings, excluding garages, storage areas, repair shops, and gasoline dispensing facilities.

Municipal Public Park: A municipal outdoor use as a public playground, public recreation center or area, and other public areas, created, established, designated, maintained, provided or set aside by the Town of Braintree separate from any other use located on a lot of any size, for the purposes of public rest, play, recreation, enjoyment or assembly, and all parking located thereon or therein. The Town of Braintree may construct or place one building with a footprint of no more than one thousand (1,000) square feet for purposes of providing public restrooms.

Museum: A use which entails the display of educational, scientific or historic and similar materials (including the structure itself) open to the public, and nonprofit in its operation.

Nonconforming Structure: A building, structure or improvement which does not comply with the regulations for its zoning district, but which complied with the zoning regulations at the time of its construction or was constructed prior to the adoption of zoning.

Nonconforming Use: The use of any building, structure or land, other than a sign, that does not conform to the regulations for its zoning district, provided that such use was in existence and lawful at the time the applicable provisions of this zoning ordinance (or prior zoning bylaws) became effective or was constructed prior to the adoption of zoning.

Obscene Entertainment: All entertainment which is "obscene" within the meaning of that term as defined by M.G.L. c. 272, § 31, and final adjudication of a court of competent jurisdiction. (See also Adult Uses)

Office Park: A development which contains a number of separate office buildings, accessory and supporting uses, and open space all designed, planned, constructed, and maintained on a coordinated basis, and under common management. The business/professional offices may be located on single or multiple contiguous lots. An area equal to no more that 25% of the gross floor areas may be used for accessory activities such as retail, restaurants, cafeterias, and fitness centers to service on-site uses.

Open Space, Landscaped: The parts of a lot designed and developed for pleasant appearance with landscaped elements and walks and terraces designed for non-vehicular use. This space may not include lot area used for parking, access drives, other hard-surface areas, and walks and terraces that are in excess of 50% of the total required open space.

Open Space: Undeveloped land maintained in a natural state without any structures or impervious surfaces.

Open Space and Conservancy Area: Any area used for open space conservancy uses as defined under the Zoning Ordinance and shown on the Zoning Map of the Town of Braintree as most recently amended.

Organic Material: The top matted and partially decomposed soil surface layer, which contains a high percentage of organic matter.
Outdoor Storage: An outdoor area for storing or displaying materials, goods or equipment associated with a principal use.

Parking Facility, Commercial: Any parking facility operating for a fee. No service station activities may be carried on in this facility. Off-site parking authorized under § 7.1 shall not be defined as a commercial parking facility.

Parking Facility: A building or lot or any part thereof for the storage of licensed motor vehicles on five or more parking spaces, along with provisions for access, circulation, maneuvering, and landscaping. This definition includes non-residential garages, deck parking, underground or under-building parking areas, and surface parking lots.

Parking Space: An area, exclusive of ramps or columns, used exclusively for temporary storage of one motor vehicle. Truck loading/unloading space shall not be considered a parking space.

Pass-by Trips: The number of trips captured by a land use from existing traffic on an adjacent street.

Peak Period, Evening: 3:00 p.m. to 6:00 p.m.

Peak Period, Morning: 7:00 a.m. to 9:00 a.m.

Peak Period, Saturday: 12:00 noon to 4:00 p.m.

Perimeter: The boundaries or borders of a lot, tract or parcel of land.

Permitted Use: A use of land allowed as a matter of right in a zoning district, subject only to special requirements of this chapter.

Person: Any individual, association, partnership, or corporation including any officer, employee, department, agency or instrumentality of the state recognized by law as the subject of rights and duties.

Personal Services: Establishments primarily engaged in providing non-medical, non-body-related individual services generally related to personal needs. Examples may include tailoring and shoe repair; laundry and dry cleaning, self-service or pick-up only; and repair of office equipment and personal and household items. Services defined as Medical Facilities, namely those directly dealing with the health and wellness of the human body or mind, will not be considered personal services.

Personal Services, Body-Related: Establishments primarily engaged in providing non-medical, individual services generally related to personal needs related to hair, skin, nails, and other such physical traits. Examples may include beauty and barber services and day spas; massage service; reiki clinics; acupuncture clinics; body art establishments; nail salons; eyebrow threading; tanning or spray tanning services; body works; and the like. Services defined as Medical Facilities, namely those directly dealing with the health and wellness of the human body or mind, will not be considered body-related personal services.

Pier: A general term including docks and similar structures consisting of a fixed or floating platform extending from the shore over the water.

Place of Worship: A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. Includes associated residential structures and associated buildings for religious personnel. Does not include any school or commercial buildings.
or uses. Any school or commercial use proposed for the premises of a Place of Worship will be held to the standards for such uses.

**Playground:** A publicly owned area with play equipment for children, park benches, and related outdoor amenities. May only be accessory to a Municipal Public Park or School property.

**Postal Service:** A government or privately-operated postal system at which mail is received and sorted, from which it is dispatched and distributed, and at which stamps are sold or other services rendered.

**Preexisting Use:** The use of land legally existing at the enactment of this chapter and subsequent amendments.

**Premises:** The surface of a lot or parcel.

**Principal Use:** The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended, or for which they may be used, occupied or maintained under this ordinance.

**Professional & Arts Organizations, Schools and Studios:** Non-degree granting professional and educational service businesses or organizations providing specialized education and instruction for children and/or adults. (For example, driving schools, cooking schools, dance or acting studios, etc.). Does not include Non-Exempt Educational Use or Schools.

**Public Utility Yard:** A town facility or a public utility/energy company facility used for the storage and maintenance of vehicles and/or equipment.

**Qualified Affordable Housing Purchaser or Tenant:** A Low- or Moderate-Income Household that purchases or rents and occupies an Affordable Housing unit as its principal residence.

**Quarry:** A place where stone, sand, gravel or minerals are extracted.

**Quarry Operation:** Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, excavated, blasted, uncovered, removed, displaced, relocated, bulldozed or dredged for commercial purposes for removal from the site.

**Reconstruction:** The rebuilding of a building or structure in such a manner and to such an extent as to substantially replace the existing structure, up to and including the razing of a building or structure to its foundation.

**Recreation Facility, Commercial:** Any establishment carried out for profit providing recreational or fitness activities, either conducted within a building or outside. This may include activities such as a gym or personal training center; yoga and pilates studios; swimming pools; bowling alleys; tennis clubs; martial arts; golf driving ranges; miniature golf; water parks; outdoor ropes courses; wall climbing; and batting cages. Services defined as Medical Facilities, namely those directly dealing with the health and wellness of the human body or mind, will not be considered commercial recreation facilities.

**Recreational Vehicle:** A unit which may be driven, towed or mounted on a motor vehicle and which functions as temporary living quarters or alternative transportation for people while camping or traveling. For the purpose of this definition, snowmobiles, boats, and off-the-road vehicles shall be considered recreational vehicles.
**Recycling Station/Redemption Center**: A building used for the collection or processing of recyclable material or similar use. “Processing,” for this definition only, shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting, or cleaning.

**Registered Marijuana Dispensary (RMD) (or Medical Marijuana Treatment Center)**: An entity formerly and validly registered under 105 CMR 725 or currently and validly registered under 935 CMR 501.100, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

**Registered Professional Engineer or Land Surveyor**: An individual registered as a civil engineer or land surveyor with the Board of Registration of Professional Engineers and of Land Surveyors as described in M.G.L. c. 112, § 81-D.

**Release**: Any unplanned or improper discharge, leak or spill of a potential contaminant including a hazardous material.

**Research and Development**: Premises used for life sciences research and/or development of technical processes and/or products, with laboratories allowed as an accessory use. May include the development of mock-ups and prototypes but not the manufacture of finished products.

**Residential Area**: For purposes of Rules and Regulations for Signs only, a residential area is for residential purposes under the Zoning Ordinance. It includes Districts Residential A, B and C as defined in the Braintree Zoning Ordinance.

### Restaurants

**Restaurant, Sit Down**: A structure in which the principal use is the preparation and retail sale of food and beverages served by wait staff for consumption on the premises. A sit down restaurant may include accessory outdoor seating on a patio directly adjacent and accessible to the structure. While a sit down restaurant may offer take-out service, the term “sit down restaurant” shall not include take-out restaurant or fast food restaurant.

**Restaurant, Fast Food**: Any establishment whose business involves the sale of pre-prepared or rapidly prepared foods, confections or beverages to the customer in a ready-to-consume state, and whose method of operation is such that customers normally order and obtain the product at a central counter separate from the tables or counters used for consumption on site. Consumption may be either on or off the premises.

**Restaurant, Take Out**: An establishment where food is prepared primarily for consumption off the premises, and where there are no more than four seats for customers. Take-out food service shall not be deemed a sit down restaurant.

**Retail Store**: Commercial enterprise that provides goods and/or products directly to the consumer where such goods and/or products are available for immediate purchase. This may include no more than 3,000 square feet of on-site production of artisan or small-batch food, food related products, and/or non-alcoholic beverages, generally produced by hand or with limited mechanization, and including limited wholesale.

**Retaining Wall**: A wall, two feet or greater in height, designed to withstand lateral and hydrostatic pressures and built to keep earth from sliding.
Riding Stable: An establishment of less than five acres for the housing and maintenance of horses and ponies, and which may also have riding trails, courses or tracks.

Rod and Gun Club: A facility for the controlled use of firearms, including bows and arrows, which provides target ranges and associated buildings.

Scarification: Altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as "keloids."

School: A facility for general education, whether public or private, which meets all local, state, and federal licensing and certification requirements. Does not include Non-exempt Educational Use or Professional and Arts Organizations, Schools and Studios.

Screening: The method by which the view of one site is shielded or concealed from another site. Screening techniques include fences, walls, hedges, berms or landscape features.

Secondary Containment: A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

Self-Storage Facility: A building or group of buildings comprised of individual units which may be rented or leased by the public for the storage of personal belongings. This facility shall be completely enclosed with direct access to the individual units and may include refrigerated facilities.

Setback: The distance from a lot line to a structure.

Shed: A small accessory building used for the storage of tools and materials related to on-site maintenance.

Shopping Center, Regional: A group of establishments, businesses, and uses that contain any combination of the following: all food service uses, assembly halls, community center, commercial recreation facility, all retail uses, carwash, fuel station, light motor vehicle and equipment related businesses, multifamily dwellings, animal retail/grooming services, animal hospital, personal services, personal services body related, all office uses, medical facility, conference center, hotel, all arts and entertainment uses, all public services uses, alcoholic beverage production, research and development, wireless communication facility, and all accessory business uses; having 1,000,000 square feet or greater, under common management. The establishments may be in single or multiple structures and may be on single or multiple contiguous lots. Ownership may be common or a form of condominium.

Shopping Center: A group of retail, service, and/or consumer-oriented establishments having 80,000 square feet or greater, under common management. The establishments may be in single or multiple structures and may be on single or multiple contiguous lots. Ownership may be common or commercial condominium.

Signs

Sign: A sign means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any public way. (It does not include the flag, pennant, or insignia of any nation, state or Town.)

Sign, Accessory: Any on-premises billboard, sign or other advertising device that advertises, calls attention to or indicates the person occupying the premises on which the sign is erected, or
the business transacted thereon, or advertises the property itself or any part thereof as for sale or to let, and which contains no other advertising matter.

**Sign, Area of:** The area of a sign shall be computed as the overall size of the display, including all backing, frames or casings. A double-faced sign shall be computed as the area of a single face, provided that all letters or characters on both faces are identical. Any sign made up of individual letters or characters shall be computed by multiplication of the overall length of all letters including spaces between letters by the average height of the letters or characters.

**Sign, Commercial:** Sign containing advertising designed to promote the sale of goods or services to the public.

**Sign, Ground:** A sign, other than a billboard, which does not extend or project into or over a public way and is supported by one or more uprights or braces that are in or upon the ground.

**Sign, Marquee:** A sign which is attached to a marquee.

**Sign, Nonaccessory:** Any sign or other advertising device, whether on premises or off premises, that does not come within the foregoing definition of an accessory sign.

**Sign, Noncommercial:** Sign containing any noncommercial message such as civic, philanthropic, charitable, religious, historic, cultural, recreational, political, ideological or advocacy messages and time, temperature, bus stop and traffic signs.

**Sign, Off-Premises:** A sign, other than a billboard, which identifies a use, facility, or service which is not located on the premises, or identifies a product, service, activity, event, person, institution or business which either occurs, is generally conducted, or is sold, manufactured, produced or offered elsewhere than on the premises where such sign is located.

**Sign, On-Premises:** A sign which is erected and maintained according to the standards set forth in § 7.6, Signage Standards upon the same real property that the business facility or point of interest is located. Such a Sign, if commercial, shall advertise only the business, facility, or point of interest conducted thereon, or the sale, rent, or lease of the property on which it is located.

**Sign, Projecting:** A sign, other than a billboard, which is affixed to a building or structure and extends 12 inches or more beyond the building wall, structure or parts thereof.

**Sign, Roof:** A sign, other than a billboard, which is erected, constructed or maintained above the roof of a building and does not project more than 12 inches beyond the wall line of the building.

**Sign, Temporary:** A sign or cloth or other combustible material with or without a frame, intended for a limited period of display.

**Sign, Wall:** A sign which is supported wholly or partially by an exterior wall of a building and extends not more than 12 inches therefrom.

**Sign, Window:** A sign including display, lettering, logo or advertising message which is attached, painted or posted flat against window glass contained wholly within a window or similar architectural detail or opening on the primary or secondary facade of a building or structure. Such signs shall be allowed as hereinafter provided notwithstanding the provisions of § 7.6.K, Construction.

**Signal Phase:** That part of a traffic signal's time cycle allocated to a traffic movement or a combination of movements (including exclusive pedestrian movements) receiving the right-of-way simultaneously.

**Site Plan:** A plan prepared in accordance with the requirements of § 3.10 of this chapter.
Definitions

Site: A lot or street right-of-way or contiguous combination thereof under the same ownership.

Slaughterhouse: A facility for the slaughtering and processing of animals and the refining of their byproducts.

Slope: Incline of ground surface expressed as a ratio of horizontal to vertical distance.

Soil: Earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock that can be excavated readily by mechanical equipment.

Solid Waste Disposal Facility: A facility for the disposal of solid waste materials, excluding toxic or hazardous materials.

Solid Waste Transfer Station: A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

Special Permit Granting Authority: The Braintree Planning Board and the Braintree Zoning Board of Appeals, as per this Zoning Ordinance.

Stockpiling: The storage of uncompacted earth material.

Stormwater Runoff: The direct runoff of water resulting from precipitation in any form.

Story Above Grade: Any story having its finished floor surface entirely above grade. A basement shall be considered a story above grade when the distance from the exterior grade to the finished surface of the floor above is more than six feet for more than 50% of the total perimeter.

Story: That portion of a building or structure included between the surface of any floor and the upper surface of the floor or roof next above.

Story, Half: That portion of a building under a sloping roof, the wall plates of which, on at least two opposite exterior walls, are not more than four and one-half feet above the floor of such story.

Streets

Street or Way: An area of land legally open for public travel under at least one of the following classifications:

- Any way shown on a plan approved under the provisions of the Subdivision Control Law, and which has been constructed in accordance with the Subdivision Plan;
- Any private way in existence when the provisions of the Subdivision Control Law became effective (1952) and, in the opinion of the Planning Board, having suitable grades and being adequate for the uses of land which it serves, including the installation of municipal services for such land. For the purpose of § 7.6, Signage Standards, the word "street" shall mean any way to which the public has a right of access;
- A public way laid out by the Town of Braintree, the Norfolk County Commissioners, or the Commonwealth of Massachusetts, or a way which the Braintree Town Clerk certifies is maintained by public authority and used as a public way;

Land shall not be deemed to be a "street" as to any lot of land that does not have rights of access to and passage over said land.

Street, Arterial: An interregional street with an ADT of more than 5,000 conveying traffic between centers.

Street, Collector: A street carrying large volumes of traffic (maximum ADT of 5,000) between arterial streets and residential and subcollector streets and having limited direct access to lots.
Street, Subcollector: A street with a maximum ADT of 1,000 to 2,000 which provides access to lots and carries residential traffic to collector and arterial streets.

Street, Residential: A street with low traffic volume (maximum ADT of 1,000) which provides frontage for access to lots and carries traffic with destination or origin on the street itself.

Street Wall Line: The main wall of a structure or set of structures that is closest to and most nearly parallel with an adjacent street.

Structure: Anything constructed, installed or erected which requires location on, in or under the ground, or anything attached to something located on, in or under the ground.

Study Area: In relation to a Traffic Study per § 7.3, Traffic Standards, an area which encompasses all impacted streets.

Substantial Improvement: Any repair, reconstruction or alteration of a structure, the cost of which equals or exceeds 50% of the replacement value of the structure either before the alteration or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The calculation of "substantial improvement" shall include the value of all work performed on the structure within the past five years.

Tattooing: Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing. See Personal Services, Body-Related

Temporary Storage Container: Any container used for the storage of personal property that is typically rented to owners or occupants of real property, but may be owned by such, for their temporary use and which customarily is delivered and removed by truck. Containers and/or trailers used for the purpose of storing construction equipment on an active construction site shall not be considered Temporary Storage Containers.

Terrace: A relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

Theatre: A building, part of a building, structure or defined area utilized primarily for rehearsal and production of dramatic, dance, musical or other live performances. Such establishments may include related services such as food and beverage sales and other concessions, office space for theater management, costume shops, set design shops, and set and costume storage areas. (See Live Performance)

Topsoil: The weathered surface soil, usually including the organic layer, in which plants have most of their roots.

Transportation Terminal: Any facility such as a bus or rail terminal or any facility such as railroad yards and truck terminals which are used primarily for the distribution or transshipment of goods.

Trip: A single or one-directional vehicle movement.

Trip Assignment: Assignment of development generated and through trips to municipal streets and a development's driveways.

Trip Rate: The number of trips per unit of independent variable (e.g., trips per dwelling unit, employee or square footage).

Two-Family Dwelling: see Dwelling, Two-Family.
Use: The purpose for which land, a building or a structure is arranged, designed or intended, or for which a lot of land, a building or a structure is or may be occupied or maintained.

Variance: A request, with respect to particular land or structures, for relief from the terms of Braintree’s zoning ordinance, where the Zoning Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

Vibration: Any movement of earth, ground or other similar surface created by a temporal and spatial oscillation of displacement, velocity or acceleration in any mechanical device or equipment located upon, attached, affixed or in conjunction with that surface.

Warehouse: A fully enclosed building used for the storage of materials and/or equipment. See also Distribution.

Water Body: Permanent or intermittent bodies of water including creeks, streams, ponds, rivers, lakes, drainage channels, and wetlands.

Wetlands: As defined in M.G.L. c. 131, § 40 (the same definitions may be found in Chapter 12.20 of the Braintree General Ordinances).

Wholesale: A place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless Communication Facility: A non-staffed facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers, or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development.

Yacht Club: A private or community club with structures, related grounds and/or moorage used for social and recreational purposes related to pleasure boating and/or swimming, the use of which is primarily restricted to members and their guests. On site structures may include an assembly hall, available for social events also primarily restricted to members and their guests.

Yards

Yard, Front: An open, unoccupied space on the same lot with a building, extending the full width of the lot and situated between the street line and the front line of the building projected to the sidelines of the lot.

Yard, Minimum Required: The minimum yard requirement for each zoning district as set forth in this ordinance. This minimum may not include any area covered by a building, structure, or impervious surface.

Yard, Rear: An open, unoccupied space on the same lot with a building between the rear of the building and the rear line of the lot projected to the sidelines of the lot.

Yard, Side: An open, unoccupied space on the same lot with a building, situated between the building and the sideline of the lot and extending from the front yard to the rear yard.
Yard: The space between a lot line and building line.

Zoning Board of Appeals: A quasi-judicial body which hears and decides matters relating to the application of the zoning ordinance, and which considers appeals from the decisions of Town staff and variance applications.

Zoning District: A designated specified land use classification, within which all sites are subject to a unified group of use and site development regulations as set forth in this chapter.