

# Braintree Town Council

## Committee on Ordinance & Rules

Leland Dingee, Chairman  
Henry Joyce, Vice-Chairman  
John Mullaney, Member



**Proposed  
Chapter 3, 4 & 5 Ordinances  
April 2010**

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## Chapter 3 Revenue and Finance

### Chapter 3-100 – Fiscal Provisions Generally (Former By-law Chapters 2.48 and 3.04)

- D. The Board will consider the granting of a license based on the merits of each application.
- E. A plan shall be filed with the application, designating the street and number, entrance and exits, the type of establishment and the exact location and number of the machine(s) to be licensed. (ATM 5-5 -2003 Art. 24 (part); prior code § 56-2)
- F. When acting upon an application to operate a game room, the Board of License Commissioners shall consider the following factors:
1. The overall type of business conducted on site;
  2. **Whether alcohol is to be served on the premises, and if alcohol is to be served on the premises, alcohol shall only be sold or served from fixed locations within the establishment;**
  3. **The layout of the restaurant and game room and whether the game room is separated from the rest of the establishment;**
  4. The means by which the applicant proposes to restrict minors under the age of **18** on the site, **unless the parent or guardian of such minor provides written consent, as required by General Laws Chapter 140, Section 179;**
  5. The reputation and character of the applicant and general manager; and
  6. The presence and use of public safety details as an integral part of the establishment's business plan.

#### SECTION 5.400.030 Operation of Amusement Games

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

#### SECTION 5.400.040 Inspection of Premises

Any premises in the Town containing an amusement game or games, when open for the transaction of business, shall be subject to inspection by any police officer. (Prior code § 56-4)

#### SECTION 5.400.050 Violation—Penalty

- A. Any person who violates any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding three hundred dollars (\$300.00);
- B. Each day that a violation exists, occurs or continues shall constitute a separate offense. (Prior code § 56-5)

#### SECTION 3.100.010 Procedures Governing Procurement of Supplies and Services

- A. No Officer, Department Head or Committee authorized to expend money shall purchase supplies or materials or contract for services to be rendered to the Town without following the applicable statutory process as well as the rules and regulations governing such matters as may be promulgated from time to time by the Director of Municipal Finance. Notwithstanding the establishment of any office or agency with a specific responsibility to purchase and procure goods and services for the Town, the Mayor shall retain authority over every purchase and procurement made by departments under the jurisdiction of the Mayor.
- B. Any elected official, department director, agent or other person duly authorized to purchase goods or services on behalf of the Town shall first determine that such procurement is in the best interest of the Town. In determining the best interest of the Town the elected official, department director, agent or other duly authorized person shall consider such factors including but not limited to:
1. The Town's need for goods and/or services to be provided;
  2. The cost of goods and/or services to be provided in comparison with the costs other providers of similar or identical goods or services would charge;
  3. References from other Towns which have dealt with the provider of goods and/or services;
  4. The quality of goods and/or services provided to the Town by the provider in prior dealings between the Town and the provider;
  5. Potential impact either adverse or beneficial that the contract may have on any lawsuit filed by or against the Town.

#### SECTION 3.100.020 Exceptions for Emergencies

The Mayor may exempt a purchase or contract from any or all of the provisions of the preceding section when, in the opinion of the Mayor, an emergency exists requiring immediate action on such purchase or contract to protect the health or safety of persons or property, or when no reasonably suitable substitute can be obtained for the article or service to be purchased or contracted for. Evidence indicating that such an emergency exists or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Mayor and to the Director of Municipal Finance, in writing, by the Officer, Board or Committee making such purchase or contract and shall be kept on file with other records of such transactions.

#### SECTION 3.100.030 Written Contracts Required

Every Board or Officer in charge of a Department and every committee of the Town, when authorized to do any public work or to purchase any supplies, materials or property or erect, construct or repair any building, the estimated cost of which is five thousand dollars (\$5,000) or more, shall make a written contract therefore, which shall be filed with the Director of Municipal Finance, or his/her designee.

#### SECTION 3.100.040 Written Contracts for Certain Unclassified Positions

All contracts for services of employment to the Town (for positions not classified under the Human Resources Department, or under the direction of the School Department), shall be in writing and filed with the Director of Municipal Finance.

#### SECTION 3.100.050 Performance and Payment Bond Required

Every contract for construction work subject to General Laws Chapter 149, Sections 44A-44M, or any other applicable statute, whether for alterations, repairs or original construction, shall be accompanied by a suitable bond for the performance of same and for the payment of subcontractors in the amount of the contract price, as specified in General Laws Chapter 149, Section 44E. (ATM 5-14-2002 Art. 25; prior code § 17-5)

**SECTION 3.100.055 Trust Funds**

Unless some other provision is made by the express terms of a trust, the Treasurer/Collector or the Director of Municipal Finance, if serving as the Treasurer/Collector, shall be the custodian of all funds given or bequeathed to the Town for any purpose and shall manage and invest such sums in the same manner and with the same restrictions as apply to how other municipal funds are managed and invested. The Treasurer/Collector shall, annually, file a report in the office of the Mayor, a copy of which shall be printed in the Annual Town Report, which shows the beginning balance in each fund, the interest earned during the year just ended, the amount expended (and unless an account is given elsewhere, the purposes for which such funds were expended) and the ending balance in each such account.

**SECTION 3.100.060 Appropriations from Conservation Fund**

Appropriations from the conservation fund for land acquisition shall require at least two-thirds affirmative vote of Town Council members present and voting. (Prior code § 41-19)

**SECTION 3.100.065 Disposal of Surplus Property**

A. Personal Property

- (1) Subject to such regulations regarding the disposition of surplus property as may be promulgated by the Director of Municipal Finance, the disposal of surplus personal property shall be governed by the provisions of Chapter 30B, Section 15 of the General Laws, as may be amended.
- (2) No personal property of the town shall be sold by any officer or board, unless by vote of the town council or by the joint authorization of the Mayor and of the president of the town council, except that if its initial cost or value was two hundred dollars (\$200.00) or less, it may be sold by the authorization of the Mayor; such authorization shall, in each case, be in writing, certify that the proposed selling price is fair and be filed with the town accountant. In the transaction for sales so approved, the turn-in value of any traded equipment may be allowed as a credit against the total price of similar equipment required for replacement purposes. (Prior code § 17-7)

B. Real Property

- (1) Subject to such regulations regarding the disposition of real property as may be promulgated by the Director of Municipal Finance, the disposal of surplus real property shall be governed by the provisions of Chapter 30B, Section 16 of the General Laws, as may be amended.
- (2) The Mayor may sell real property, the title to which has been acquired by the Town under tax title foreclosure procedure or the so-called low value tax title statute, at public auction pursuant to a notice of such sale published in one or more newspapers published in the town at least one week before the date of such sale and shall execute such deeds or instruments of conveyance as may be necessary to carry out the purpose of this section. Unless the full purchase price or balance thereof has been paid for such conveyance within sixty days after completion of the auction sale, the Mayor may determine that the sale be set aside for breach of contract by the purchaser and any payment made on account thereof forfeited to the town as liquidated damages. No such sale shall be made unless the Town shall have notified, in writing, all abutters of the land to be sold one week in advance of such sale and all town departments and commissions having custody of any town-owned land one month in advance of such sale. (Prior code § 26-4)

**SECTION 3.100.070 Fees and Charges by Municipal Agencies**

Any municipal agency which is otherwise authorized to issue a license, certificate or permit, or to render a service or to perform work for a person or class of persons, may from time to time fix a reasonable fee for the license, certificate, permit or for rendering the service or for performing the work in the manner provided in Chapter 40, Section 22F of the General Laws. No municipal agency shall establish a fee or charge pursuant to this section without the prior review and consent of the Mayor, or, if the agency is appointed by the School Committee, without the consent of the School Committee. Any fee or charge in fee adopted under this section shall be posted on a bulletin board at Town Hall, posted in a public place in the office of the Department authorized to collect such fee, posted on the Town's official website, and on file with the office of the Town Clerk.

**Chapter 5.08 ALCOHOLIC BEVERAGES**

***SECTION 5.08.010 License limitation—Distance requirements.***

No license in any form other than a renewal shall be granted by the Board of License Commissioners for the sale of alcoholic beverages at any location within the town within five hundred (500) feet of any church or school premises, except that the transfer of an existing license located within the five hundred (500) foot limit may be granted within the five hundred (500) foot limit, provided that the distance between the location or premises of which the transfer is to be made and the nearest church or school premises is not less than the distance between the existing location and the nearest church or school premises. (Prior code § 50-1)

***The Mayor, Transition Committees, and Licensing Board recommend deleting this by-law as it is unnecessary and duplicates regulations issued by ABCC.***

**Chapter 5.14 Fees**

**The Mayor, Transition Committees and Licensing Board recommend deleting as unnecessary and duplicative of Licensing Board's authority to establish certain licensing fees.**

**Chapter 5-400 - AMUSEMENT GAMES**

**(Former By-law Chapter 5.12)**

**REVISIONS SUGGESTED BY MAYOR AND LICENSING BOARD 3/24/2010**

**SECTION 5.400.010 Definitions**

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

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

"Game room" means a building or place containing five or more amusement games, ***as defined herein.***

"Owner" means a record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

"Person" means one or more individuals, a corporation, partnership, association, trust or firm and any trustee, receiver or assignee.

"Town" means the town of Braintree. (Prior code § 56-1)

**SECTION 5.400.020 License Required—Application**

A. ***No person shall maintain or operate an amusement device without first obtaining a permit from the Board of License Commissioners. No person shall maintain or operate a game room as the exclusive use of any premises in the Town. However, a game room may be allowed as an accessory use to a restaurant, as those terms are defined by the Town's Zoning By-laws or Ordinances, subject to a permit(s) issued by the Board of License Commissioners, and provided the game room shall occupy no more than 49% of the total square footage of the licensed establishment..***

B. License fee per machine is one hundred dollars (\$100.00) per year.

C. Any application for a license will be acted upon after a hearing before the Board of License Commissioners (the "Board"). The Board will establish a time and location for such hearing and will notify the applicant of same.

**SECTION 5.585.030 Fee**

The fee for such sales will be set by the Board of License Commissioners. (Prior code § 104-3)

**SECTION 5.585.040 Enforcement**

This ordinance will be enforced by the Braintree Police Department through the Board of License Commissioners. (Prior code § 104-4)

**Chapter 5-590 - TRASH HAULERS  
(Former By-law Chapter 5.50)**

**SECTION 5.590.010 Purpose**

The purpose of this ordinance is to further the Town of Braintree's recycling access plan and to achieve fifty-one percent or greater recycling access for multifamily residences and residential condominiums, townhouses and apartment associations by requiring that all trash haulers licensed by the Braintree Board of Health include a recycling component as part of their services. (ATM 5-17-99 Art. 17)

**SECTION 5.590.020 Permit Requirements**

- A. Pursuant to General Laws Chapter 111, Section 31B, all persons, businesses or contractors who collect trash in the Town of Braintree must first obtain a permit from the Board of Health.
- B. Each applicant for a trash hauler permit shall submit to the Board of Health a list of customers to be serviced, time of day and frequency of collection, an estimate of tons of solid waste and recyclables to be collected, and a process for resolving residential complaints or permit violations. Any application which fails to include this information, or any additional information requested by the Board of Health, shall be deemed incomplete and shall be denied.
- C. Trash hauling permits shall be valid for one year, renewable annually on the first day of January, subject to review and approval by the Board of Health. No permit shall be transferable except with the approval of the Board of Health.
- D. All permitted trash haulers shall provide trash and recycling services equal to the level of Braintree municipal service, and in compliance with the Commonwealth of Massachusetts Department of Environmental Protection regulations and the Commonwealth of Massachusetts Executive Office of Environmental Affairs Solid Waste Management Plan.
- E. All permitted trash haulers shall charge a flat fee which shall reflect the fee for the collection and disposal of both residential trash and recyclables.
- F. All permitted trash haulers shall submit monthly reports listing the tonnage of refuse and recyclables collected and shall provide the Board of Health with copies of weight slips or vendor receipts to verify tonnage of refuse and recyclables collected. The report shall be submitted to the Board of Health with a copy to the Mayor on a monthly basis for each month that the hauler holds a valid permit. Failure to provide this information may result in suspension, modification or revocation of the permit. (ATM 5-17-99 Art. 17)

**SECTION 5.590.030 Permit Fee**

An application fee in an amount to be determined by the Board of Health shall be submitted with each application. (ATM 5-17-99 Art. 17)

**SECTION 5.590.040 Enforcement**

Any member of the Board of Health or its agents or any other person designated by the Mayor may enforce the provisions of this ordinance. Any violation of this ordinance or the Department of Environmental Protection regulations or the Commonwealth of Massachusetts Executive Office of Environmental Affairs Solid Waste Management Plan by the permitted hauler shall be grounds for suspension, modification or revocation of the permit (ATM 5-17-99 Art. 17)

**SECTION 3.100.100 Due Dates for Payments to Town, Interest on Unpaid Balances**

Unless some other provision is made by law which permits a longer time for payment, all bills for the payment of any sum due to the Town, for whatever purpose, shall be due on the thirty-first (31st) day following the date such bill has been issued. Interest shall be added to any balance which remains unpaid after such thirty-first (31st) day at the same rate as is provided in Chapter 59, Section 57 of the General Laws.

**SECTION 3.100.110 Acceptance of Gifts, Grants, Bequests, etc.**

Any Town agency may accept grants, gifts, or bequests of funds from any other unit of government, from a charitable entity, from a private corporation, or from an individual or group of individuals when such funds are to be expended for purposes within the jurisdiction of the Town agency. The Town agency may expend up to five thousand dollars (\$5,000) annually, in the aggregate, from the funds in any such account, but any expenditure in excess of five thousand dollars (\$5,000) annually requires the prior approval of the Mayor, for the purposes as specified in the gift or grant or bequest.

The Treasurer/Collector shall maintain a list of all such funds as may be established pursuant to this section which listing shall be kept in a place convenient for public examination during regular office hours. A summary of the receipts and disbursements in each account so established shall be published annually in the Town Report. This section is designed to implement and apply the provisions of Chapter 44, Section 53A of the General Laws.

**SECTION 3.100.120 Private Off-Duty Work Details**

All money received by the Town as compensation for work performed by one of its employees on private off-duty work details shall be deposited in the Town Treasury and kept in a fund separate from other municipal funds. As provided in Chapter 44, Section 53C of the General Laws, the funds in such account may be used, without further appropriation, to compensate Town employees for such services. A surcharge of ten (10) percent shall be added to the fee charged by the municipal agency for the service which shall be paid by the person requesting the service. This fee shall be to cover the cost of administering the fund. This surcharge shall not apply to Town projects directly paid by the Town, such as the police detail for the School's Thanksgiving Day football game.

**SECTION 3.100.135 Execution of Deeds and Other Instruments by Treasurer/Collector**

Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the Town Council, the same shall be executed by the Treasurer/Collector on behalf of the Town, unless otherwise provided by law or by vote of the Town Council. (Prior code § 26-3, §2.48)

**SECTION 3.100.145 Annual Audit Required**

The books and accounts for all departments of the Town shall be audited annually by an independent certified public accounting firm as assigned by the Town Council and as provided by Section 42, Chapter 44, of the General Laws or by auditors assigned by the Bureau of Accounts as provided by Section 40, Chapter 44. (Prior code § 8-1; Charter §6-11)

**SECTION 3.100.150 Payment by Town Departments to Treasury**

All Town departments are required to pay all fees paid to them by virtue of their office into the Town treasury. (Prior code § 32-1; §3.04)

**SECTION 3.100.155 Transmittal of Deferred Compensation Withholdings**

The Treasurer/Collector shall promptly transmit to the appropriate designated recipient on a basis consistent with the employee's pay periods all funds withheld from employees' payrolls in connection with any duly authorized deferred compensation plan. (STM 11-1-1993 Art. 23: prior code § 32-10; §3.04)

**SECTION 3.100.165 Bills**

All bills for accounts due the Town shall state that all checks, drafts, or money orders shall be made payable to or to the order of the Town and not to or to the order of any officer, board, or commission.

**Chapter 3-110 - WATER/SEWER REHABILITATION FUND**  
(Former By-law Chapter 3.08)

**SECTION 3.110.010 Establishment—Purpose.**

Pursuant to Chapter 303 of the Acts of 1990, an account to be known as the Town Water/Sewer Rehabilitation Fund is established for the purposes of providing revenue for the funding of engineering, testing, construction and rehabilitation of the water and sewage pipes, lines, facilities and systems located within the town and to provide revenues to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from groundwater and other sources of water into pipes, lines, facilities and systems. (ATM 5-13-91 Art. 18 (part): prior code § 44-1; 3.08)

**SECTION 3.110.020 Water and Sewer User Fees**

A one-time fee shall be paid by applicants for building permits for the construction, erection, improvement, reuse or rehabilitation of land or buildings thereon for industrial, commercial, multi-family and residential uses in the amount of two dollars per gallon of estimated daily water use and two dollars per gallon for estimated daily sewer use for new usage or additional usage for existing permits. The estimated daily water usage and the estimated daily sewer usage shall be calculated based upon the criteria established in 310 CMR 15.203, system sewage flow design criteria. (STM 1-27-2003 Art. 4, ATM 5-13-1991 Art. 18 (part); prior code § 44-2; §3.08)

**Chapter 3 - 120 - RESPONSIBLE EMPLOYER**  
(Adopted December 1, 2009 Council Order 09 048)

**SECTION 3.120.010 Applicability**

This Ordinance shall apply to all public building and public works projects in excess of \$100,000 awarded by Town departments, excluding the Electric Light Department and the Tri-Town Board of Water Commissioners. The provisions of this Ordinance shall not apply to an emergency procurement where the public health and safety are deemed to be at risk by the contract awarding authority.

**SECTION 3.120.020 Requirements from Bidders**

All bidders under bids submitted for projects subject to General Laws Chapter 149, Section 44A (2) and General Laws Chapter 30, Section 39M, shall, at the time said bid is submitted, and all subcontractors under such bids shall, at the time such subcontractor is selected for the project, verify under oath and in writing that they comply with the following conditions for bidding and, for the duration of the project, each bidder and subcontractor shall verify under oath and in writing on a weekly basis that they are in compliance with the following obligations:

1. In a manner that is consistent with applicable law and regulations, the bidder and all subcontractors under the bidder shall employ local workers when qualified local workers are available for work. For the purposes of this Ordinance, "local workers" shall mean the Town of Braintree and its contiguous communities.
2. The bidder and all subcontractors under the bidder must comply with the obligations established under General Laws Chapter 149 to pay the appropriate lawful prevailing wage rates to their employees.
3. The bidder, at the time of submitting his/her bid, and all subcontractors, prior to the time the subcontractor is selected for the project, must participate in a bona fide apprentice training program as defined by General Laws Chapter 23, Sections 11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project.
4. The bidder, at the time of submitting his/her bid, and all subcontractors, prior to the time the subcontractor is selected for the project, must furnish, at their expense, hospitalization and medical benefits and/or coverage for all individual employed on the project in an amount that is at least equivalent to the hospitalization and medical benefits provided by the health and welfare plans in the applicable crafts recognized by General Laws Chapter 149, Section 26 in establishing minimum wage rates for all individuals employed on the project.

**SECTION 5.575.100 Violation**

Violation of the terms and conditions of this chapter or of any permit granted hereunder shall be punishable by a fine of one hundred dollars, and said violation shall be cause for cancellation, suspension, revocation, modification, or nonrenewal of the permit, after hearing, upon five days' written notice sent by registered or certified mail to the name and address set forth in the annual application. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.110 Abandonment**

Any machine that is not used for the distribution of printed material for a period of sixty calendar days or more shall be deemed abandoned and the applicant shall remove it within 48 hours of being notified by the Board of License Commissioners to do so. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.120 Severability**

If any section, clause, or provision of this chapter shall be found by a court of competent jurisdiction to be invalid, the remainder of this chapter shall continue in full force and effect, or take any other action relative thereto. (ATM 5-9-2001 Art. 17)

**Chapter 5-580 – TAXICABS**  
(Former By-law Chapter 5.40)

**SECTION 5.580.010 Licensing**

The Board of License Commissioners may license hackney carriage companies or companies which offer motor vehicles for the conveyance for hire in the Town, and it may revoke such licenses at its discretion, and a record of all licenses so granted or revoked shall be kept by the Board of License Commissioners. Taxi vehicles must be housed in Braintree and pay excise tax in Braintree. The company must have an office in Braintree and have a telephone line in Braintree. (ATM 5-10-2005 Art 39; STM 10-5-2004 Art. 30; prior code § 122-1)

**SECTION 5.580.020 Expiration of License**

Licenses issued under this ordinance shall expire on the last day in February next after the date thereof and shall not be transferred without the consent of the Board of License Commissioners endorsed thereon. For each license the sum of \$200 shall be paid to the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his/her license within ten days after notice that it has been granted. (STM 10-5-2004 Art. 30; prior code § 122-3)

**SECTION 5.580.030 Unlicensed Hackneys Prohibited**

No person shall set up, use or drive in the Town any unlicensed hackney, carriage or motor vehicle for the conveyance of passengers for hire in the Town under a penalty of \$100 for the first offense, \$200 for the second offense, \$300 for third and/or subsequent offense. (STM 10-5-2004 Art. 30; prior code § 122-2)

**Chapter 5-585 - YARD SALES**  
(Former By-law Chapter 5.44)

**SECTION 5.585.010 License Required**

Yard sales, garage sales and/or other similar sales are permitted in a residentially zoned district only if duly licensed on application to the Board of License Commissioners. (Prior code § 104-1)

**SECTION 5.585.020 Rules and Regulations**

The following regulations will control such permits:

- A. No more than two sales may be held within a calendar year unless the sale is solely for the benefit of a religious, educational, charitable or other nonprofit organization.
- B. No permit may be issued for more than two consecutive days.
- C. Permits may be granted only to the occupant of the premises where the sale is to be located, and the sale is limited to goods owned by the occupant of the premises, except where the sale is solely for the benefit of groups or organizations exempted in subsection A of this section, in which case a permit may be issued to such group or organization in care of the property owner where the sale is to take place. (Prior code § 104-2)

**SECTION 5.575.045 Grant or Denial; Hearing**

Within twenty days of receipt of a completed application, including application fee, the Board of License Commissioners shall grant a permit or shall order that a hearing be held within an additional ten days, giving at least five days' written notice to the applicant.

Within ten days next following the close of the hearing, the Board of License Commissioners shall grant such permit or shall deny such application if it does not comply with the provisions of this ordinance, or upon a finding that issuance of the permit would create a nuisance or would endanger the public health, safety, or order by:

1. Unreasonably increasing pedestrian traffic in the area in which the machine is to be located; or
2. Endangering the public safety by reason of the machine's projection onto, into, or over any part of the roadway of any public street; by reason of its being affixed to a site or location used for public utility purposes, public transportation purposes or governmental use; by reason of its being located in such manner as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, or the ingress or egress from any residence, place of business or any legally parked or stopped vehicle; or by reason of harm and defacement caused by its being affixed to poles, posts, traffic signs or signals, hydrants, mailboxes or other objects at or near such location.

Notice of the denial of an application for a permit shall be in writing and accompanied by a statement of the reasons therefore. The Board of License Commissioners may impose conditions upon the permit which relate to compliance with the permit, applicable laws or ordinances, or to public safety, health or order, or to guard against the creation of a nuisance, or to ensure adequate safety and security for the public. No applicant having been denied a permit shall submit the same or similar application within one year of the denial without including in the new application facts showing that the circumstances upon which the original denial was based have substantially changed. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.050 Location**

No machine shall be chained, bolted or otherwise attached to property owned or maintained by the Town of Braintree without the permission of the Mayor or other Town board, commission, committee, or official having charge of such Town property. No machine shall be located within three feet of any crosswalk; within ten feet of any fire hydrant; within five feet of any fire or police call box or other emergency facility; within five feet of any driveway, public or private; within three feet ahead or fifteen feet to the rear of any designated bus stop, taxi stand or place marked for handicapped parking; within three feet of any bus bench or shelter, at any location whereby the clear space for the passage of pedestrians is reduced to less than four feet; or within three feet of any display window of any building abutting the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.060 Use for Advertising Prohibited**

No machine shall be used for advertising signs or publicity purposes, other than that which identifies the printed matter offered therein. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.070 Maintenance**

Each machine shall be maintained in a clean and neat condition and in good repair at all times. No reflecting paint, fluorescent or reflective materials may be used on any machine. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.080 Identification**

The person who places or maintains such machine shall have his/her name or his/her Massachusetts agent's name, address and telephone number affixed thereto in a place where such information may be easily seen. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.090 Time Limit for Compliance**

All persons who have placed or intend to place machines in the Town of Braintree shall have thirty days from the effective date of this chapter to comply with its provisions. The Board of License Commissioners may grant an extension of this time limit in its discretion for good cause. (ATM 5-9-2001 Art. 17)

5. The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all of their employees on the project in accordance with General Laws Chapter 152.
6. The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, employment taxes, social security taxes and income tax withholding, per General Laws Chapter 149, Section 148B.
7. The bidder, at the time of submitting his/her bid, and all subcontractors, prior to the time that they are selected for the project, must certify that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least ten (10) hours in duration at time the employee begins work and who shall furnish documentation of successful completion.
8. A bid submitted by any general bidder that does not comply with any of the foregoing conditions for bidding will be grounds for rejection of the bid, and the Invitation for Bids for such projects shall clearly state this requirement. No general bidder shall select a subcontractor for work outside the scope of General Laws Chapter 149, Section 44F that does not comply with the foregoing conditions.
9. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on projects subject to General Laws Chapter 149, Section 44A(2) or Chapter 30, Section 39M shall comply with any and all of the obligations set forth in this Ordinance for the entire duration of their work on the project, and an officer of each bidder or subcontractor shall certify under oath and in writing on a weekly basis to the Awarding Authority that they are in compliance with such obligations, and it shall be the responsibility of the Awarding Authority to ensure compliance with this Ordinance.

**SECTION 3.120.030 Contract Requirements and Penalties for Non-Compliance**

- A. Any contract awarded pursuant to this Ordinance shall contain the following provisions: Any bidder or subcontractor who fails to comply with any one of obligations under this Ordinance for any period of time, shall be, at the sole discretion of the Mayor, subject to one or more of the following sanctions: (1) (1) cessation of work on the project until compliance is obtained; (2) permanent removal from any further work on the project; (3) withholding of payment due under any contract or subcontract until compliance is obtained; and (4) liquidated damages to be paid to the Town in the amount of five percent (5%) of the dollar value of the contract held by the non-compliant contractor or subcontractor.
- B. Any contractor or subcontractor that has been determined by the Town of Braintree or by any court or agency to have violated any of the obligations set forth in this Ordinance may be barred from performing any work on any future projects for six months from the date of such determination of the first violation, three years from the date of such determination for a second violation and permanently for a third violation.

**SECTION 3.120.040 Compliance Officer**

The Department Director under whose recommendation and supervision a contract subject to this Ordinance is awarded shall be the Town's agent responsible for ensuring compliance with and enforcement of this Ordinance.

**SECTION 3.120.050 Waiver**

The provisions of this Ordinance may be waived by the Mayor, when such waiver is determined to be in the best interests of the Town.

**SECTION 3.120.060 Severability**

If any provision of this Ordinance or the application of such provision to any person or circumstances shall be enjoined or held to be invalid, the remaining provisions of this Ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby.

**CHAPTER 4**

**SECTION 5.570.070 Recordkeeping Requirements—Inspection**

- A. Every keeper of a shop, licensed as provided in this chapter, shall keep a book in which shall be written, in English, at the time of every purchase, a description of precious metals so purchased, the name, age and residence of the person from whom purchased, and the day and hour when such purchase was made.
- B. Every such shopkeeper shall, at the time of making any purchase, attach a number to each article bought and shall make entry of such number in the book. Such book shall, at all times, be open for the inspection of the police chief or any member of the police department. (Prior code §§ 83-7, 83-8)

**SECTION 5.570.080 Posting of Name and Occupation**

Every keeper of a shop, as described in this chapter, shall put, in some suitable and conspicuous place in his/her shop, a sign having his/her name and occupation legibly described thereon in large letters. Such shop and all articles purchased therein, may at all times, be examined by the police chief or any member of the police department. (Prior code § 83-9)

**SECTION 5.570.090 Violation—Penalty**

Whoever not being licensed as required under this chapter, collects, deals in or barter precious metals in any place or manner other than that designated in his/her license, or after notice to him/her that his/her license has been revoked, or whoever violates any rule, regulation or restriction contained in his/her license, shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), and each day of such violation shall constitute a separate offense. (Prior code § 83-10)

**Chapter 5-575 - PRINTED MATTER VENDING MACHINES**

**(Former By-law Chapter 5.38)**

**SECTION 5.575.010 Definitions**

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

Printed matter vending machine (referred to herein as “machine”) – Any coin- or token-operated box, container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or distribution of newspapers, periodicals or other printed matter for public use. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.020 Permit Required**

No person, firm, corporation, association, partnership, trust or other type of entity shall place, install, use or maintain any printed matter vending machine on any public way, sidewalk, or other property owned or controlled by the Town without obtaining a written permit therefor from the Board of License Commissioners. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.030 Application - Fee**

The application for the permit shall fully and specifically describe the printed matter vending machine by setting forth its size by height, depth and width or any other relevant dimensions if varying in height, depth and width, the name and address of the applicant, the exact date or dates said machine will be in place or in operation, the exact place where the machine will be located; the manner in which said machine shall be affixed or held in place and the description of any object to which said machine shall be affixed. Further reasonable information which may affect the public safety, health or order in the community may be requested from the applicant. An annual application fee, the amount of which will be determined upon passage of this chapter and annually thereafter by the Board of License Commissioners, which fee will be reasonably related to the costs of processing said application, shall be paid for each machine licensed. The form of application shall be approved by town solicitor. (ATM 5-9-2001 Art. 17)

**SECTION 5.575.040 Insurance and Indemnification**

The applicant shall agree to indemnify and save harmless the Town of Braintree, its officials, agents, employees, boards, commissions, and committees, from any lost or damage and from all suits, actions and claims of any and every nature for or on account of any injuries or damage received or sustained by any person or company or other entity arising from the installation, use or maintenance of such machines. Prior to the issuance of any permit hereunder, a certificate of insurance for the purpose of providing such indemnification shall be filed with the Board of License Commissioners in a form and amount approved by the Board of License Commissioners. (ATM 5-9-2001 Art. 17)

**(Reserved For Future Use)**

6. Duties of Police Department: The Police Department shall keep a record of all certificates of registration, including registration numbers, and applications therefor for a period of six years after application. Enforcement authority of this ordinance shall be by criminal complaint filed by the police department.
- E. Exception: The provisions of this ordinance shall not apply to the following persons:
1. Any person duly licensed under Chapter 101 of the General Laws, or to any person exempted under Chapters 101, Chapter 149, Section 69, and Chapter 180, Section 4 of the General Laws, or any other General Law.
  2. Any officer or employee of the town, county, state or federal government on official business; or
  3. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
  4. Individuals seeking to engage in exclusively Non-Commercial Communication.
- F. Severability: If any section, subsection, sentence, clause, phrase or portion of this ordinance shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.
- G. Penalty. Whoever violates any provision of this ordinance shall be liable to a penalty of not less than three hundred dollars (\$300.00) for each offense, or take any other action relative thereto. (STM 10-8-2002 Art. 18; STM 5-6-1996 Art. 15; prior code § 99-7).

**Chapter 5-570 - PRECIOUS METAL DEALERS**  
(Former By-law Chapter 5.36)

**SECTION 5.570.010 Precious Metals Defined**

For the purpose of this ordinance, the term "precious metals" means and includes any precious metal, such as gold, silver or platinum without regard to the form or amount of such precious metal. (Prior code § 83-2)

**SECTION 5.570.020 License Required**

- A. No person shall collect, deal in or keep a shop for the purchase, sale or barter of precious metals in any building or place within the limits of the town without a license from the Board of License Commissioners.
- B. The Board of License Commissioners may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of precious metals at such places within the town, as may be designated in such license, under such conditions and restrictions as are prescribed in this chapter, which shall be incorporated in every such license. (Prior code §§ 83-1, 83-3)

**SECTION 5.570.030 Prohibitions**

No keeper of a shop, as described in this chapter shall directly or indirectly, either purchase or receive by way of barter or exchange any of the articles of a minor, knowing or having reason to believe him/her to be such. (Prior code § 83-4)

**SECTION 5.570.050 Waiting Period**

No article purchased or received shall be sold or altered in appearance, form or substance until a period of at least thirty (30) days from the date of its purchase or receipt has elapsed. (Prior code § 83-5)

**SECTION 5.570.060 Weekly List of Articles Purchased Required**

Every such licensee shall make out and deliver to the Police Chief (or his/her designee), Friday of each week, a legible and correct list, containing an accurate description of all articles purchased during the preceding business week, the prices paid therefore, the time when such articles were purchased, and the respective numbers of such articles. (Prior code § 83-6)

**CHAPTER 5**  
**Licenses and Permits**

**Chapter 5-100 Local Licenses and Permits**

**SECTION 5.100.010 Board of License Commissioners**

The Board of License Commissioners shall have all authority to grant licenses and permits, except permits to public service corporations for locations in streets and ways of the Town.

**SECTION 5.100.020 Applications--Publication fees.**

All applications for licenses and permits shall be filed with the Licensing Coordinator, and all petitions for hearings or other requests which require or provide for publication, or advertising in newspapers, shall be accompanied by a fee sufficient to pay the expenses of such publication or notification, payable to the Town. When a public hearing is required, the applicant shall be responsible for providing written notice, by certified mail, to abutters, as certified by the Board of Assessors, and the applicant shall provide proof of such certified notice to the Board of License Commissioners.

**SECTION 5.100.030 Compliance with Tax Law**

In accordance with the provisions of Chapter 62C, Section 49A of the General Laws, no license or permit shall be issued to any individual or business operating within the Town unless said applicant has certified in writing, under the pains and penalties of perjury, that he/she has complied with all laws of the Commonwealth of Massachusetts relating to taxes, including local taxes under the provisions of Chapter 59 of the General Laws. The failure to properly execute such certification shall be considered grounds to revoke such license or permit.

**Chapter 5-200 – LICENSES AND PERMITS OF DELINQUENT TAXPAYERS**  
(Former By-law Chapter 5.04)

**SECTION 5.200.010 Purpose**

Pursuant to the authority conferred upon the Town by Chapter 40, Section 57 of the General Laws, the following is adopted for the regulation of application for, revocation, suspension, renewal or transfer of local licenses and permits issued by any board, officer, department or commission of the Town for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, with the exceptions listed in Section 5.200.020 of this ordinance. (ATM 5-9-88 Art. 15 (part): prior code § 51-1, §5.04)

**SECTION 5.200.020 Applicability**

This chapter shall not apply to the following licenses and permits: Open Burning, Section 13 of Chapter 48 of the General Laws; Bicycle Permits, Section 11A of Chapter 85 of the General Laws; Sales of Articles For Charitable Purposes, Section 33 of Chapter 101 of the General Laws; Children Work Permits, Section 69 of Chapter 149 of the General Laws; Clubs, Associations Dispensing Food or Beverage Licenses, Section 21E of Chapter 140 of the General Laws; Dog Licenses, Section 137 of Chapter 140 of the General Laws; Fishing, Hunting, Trapping Licenses, Section 12 of Chapter 131 of the General Laws; Marriage Licenses, Section 28 of Chapter 207 of the General Laws and Theatrical Events, Public Exhibition Permits, Section 181 of Chapter 140 of the General Laws. (ATM 5-9-88 Art. 15 (part): prior code § 51-6, §5.04)

**SECTION 5.200.030 Persons Delinquent in Payment of Municipal Charges**

The Treasurer/Collector or other municipal officials responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Treasurer/Collector, shall annually furnish each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise (hereinafter referred to as the party) that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month (12) period and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. (Former By-law Section 5.04.030)

**SECTION 5.200.040 Denial, revocation or suspension of license or permit for nonpayment of municipal charges**

- A. The Town, acting by and through the Board of License Commissioners or any other licensing authority, may deny any application for, or revoke or suspend a building permit or any local license or permit including renewals and transfers issued by any board, officer, or department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, including amounts assessed under the provisions of Chapter 40, Section 21D of the General Laws, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.
- B. The Board of License Commissioners or any other licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector; provided, however, that written notice is given to the party and the Treasurer/Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer/Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Board of License Commissioners or any other licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceedings and shall not be relevant to or introduced in any proceeding at law, except for any appeal from such license denial, revocation or suspension.
- C. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Board of License Commissioners or any other licensing authority receives a certificate issued by the Treasurer/Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the Town as of the date of issuance of said certificate.
- D. Any party shall be given an opportunity to enter into a payment agreement with the Treasurer/Collector, thereby allowing the Board of License Commissioners or any other licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- E. The Board of License Commissioners or any other licensing authority may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in Chapter 268, Section 1 of the General Laws, in the business or activity conducted in or on said property.

**Chapter 5-400 - AMUSEMENT GAMES**  
**(Former By-law Chapter 5.12)**

**SECTION 5.400.010 Definitions**

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

“Amusement game,” defined in Chapter 140, § 177A of the General Laws as “automatic amusement device,” is defined as “any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines.”

- 5. No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.
  - 6. No person engaging in solicitation or canvassing shall misrepresent in any way his/her true objective, status or mission or that of any organization on behalf of which he/she is so engaged.
  - 7. Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as Chapters 93, 93A and 255D of the General Laws.
- D. Registration.
- 1. Application. Persons seeking registration certificates in accordance with this ordinance shall apply therefore not less than seven days before commencing solicitation or canvassing in the Town of Braintree. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:
    - a. Applicant's name, home address and telephone number;
    - b. Name of applicant's business, firm, corporation, organization, or other entity represented, business address and telephone number;
    - c. Applicant's date of birth;
    - d. Applicant's Social Security Number;
    - e. Applicants must produce a copy of their driver's license or a photograph will be taken by the Braintree police department at the time of registering;
    - f. Length of time for which applicant seeks to conduct business in the town of Braintree;
    - g. Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
    - h. If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle;
    - i. Whether the applicant has been convicted of any of the following offenses within the past seven years in any state or federal court of the United States: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault fraud, sexual misconduct, unlawfully carrying weapons, or the attempt of any such offense;
    - j. Applicant must also consent to a criminal history check to be conducted by the Chief of Police or his/her designee.
  - 2. Contents of Certificate: Each certificate of registration shall contain the signature of the Chief of Police or his/her designee and shall show the name, address and photograph of the holder of the certificate, date of issue and registration number.
  - 3. Expiration of Certificate: Each certificate of registration issued pursuant to this ordinance shall expire ninety (90) days from the date of issue. Certificates must be returned to the Braintree Police Department when the applicant has concluded his/her or her solicitation activities in the Town of Braintree.
  - 4. Transfer of Certificate: No certificate of registration may be transferred to any other person or entity.
  - 5. Revocation of Certificate: The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this ordinance or for providing false information on the application.

**SECTION 5.565.020 Transient Vendors—Local license Required**

A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of Chapter 101, Section 3, of the General Laws shall, before making any sales of goods, wares or merchandise within the limits of the town, make application to the Board of License Commissioners for a local license; such local license shall be subject to such reasonable rules and regulations and to the payment of a license fee in accordance with the provisions of Chapter 101, Section 5 of the General Laws. (Prior code § 99-3)

**SECTION 5.565.030 Hawkers and Peddlers—Permit Required**

A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of Chapter 101, Section 22 of the General Laws shall, before making any sale of goods, wares or merchandise within the limits of the Town, apply for a permit from the Board of License Commissioners; such permit shall be subject to such reasonable rules and regulations as may from time to time be made by the Board of License Commissioners. (Prior code § 99-4)

**SECTION 5.565.040 Temporary Licenses for Charitable Organizations and Veterans**

The Board of License Commissioners may from time to time make reasonable rules and regulations governing the granting of temporary licenses to any organization engaged exclusively in charitable work, or to a post of any incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection for the sale of flags, badges, medals, buttons, flowers, souvenirs and similar small articles, in accordance with the provisions of Chapter 101, Section 33 of the General Laws. (Prior code § 99-6)

**SECTION 5.565.050 Solicitation and Canvassing**

- A. Purpose. The purpose of this ordinance is to protect the citizens of Braintree from crime, undue annoyance and fraudulent door-to-door solicitors and canvassers by requiring those who wish to engage in such activity to register with the Braintree Police Department.
- B. Definitions.
  - 1. “Solicitation or canvassing” means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, whether for salary, commission or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and (a) selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or (b) seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity; even if the original solicitation is made in writing, by telephone or any electronic communication;
  - 2. “Residential property” includes without limitation each individual dwelling unit.
- C. Prohibition and Requirements.
  - 1. No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Braintree, and no business, firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
  - 2. Persons engaged in solicitation or canvassing shall display on their person such certificate of registration while so engaged and shall produce such certificate upon request.
  - 3. Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his/her business, and if he/she is representing an organization, firm, or other entity.
  - 4. Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

“Game room” means a building or place containing five or more amusement games.

“Owner” means a record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

“Person” means one or more individuals, a corporation, partnership, association trust or firm and any trustee, receiver or assignee.

“Town” means the town of Braintree. (Prior code § 56-1)

**SECTION 5.400.020 License Required—Application**

- A. No person shall maintain or operate a game room in the Town without a permit issued by the Board of License Commissioners.
- B. License fee per machine is one hundred dollars (\$100.00) per year.
- C. Any application for a license will be acted upon after a hearing before the Board of License Commissioners (the “Board”). The Board will establish a time and location for such hearing and will notify the applicant of same.
- D. The Board will consider the granting of a license based on the merits of each application.
- E. A plan shall be filed with the application, designating the street and number, entrance and exits, the type of establishment and the exact location and number of the machine(s) to be licensed. (ATM 5-5-2003 Art. 24 (part); prior code § 56-2)
- F. When acting upon an application to operate a game room, the Board of License Commissioners shall consider the following factors:
  - 1. The overall type of business conducted on site;
  - 2. Whether food and alcohol are to be served on the premises;
  - 3. Whether the game room is separated from the rest of the establishment;
  - 4. The means by which the applicant proposes to restrict minors under the age of 21 on the site;
  - 5. The reputation and character of the applicant and general manager; and
  - 6. The presence and use of police details as an integral part of the establishment’s business plan.

**SECTION 5.400.030 Operation of Amusement Games**

- A. The owner of any amusement game within the Town shall comply with all provisions of law, ordinances, rules or regulations applicable thereto and relating to the conduct of the business in connection with which the game is used and the use and maintenance of the premises where it is located.
- B. The owner of the game shall maintain good order on the premises at all times. The lack of good order on the premises shall include but not be limited to the following:
  - 1. Fighting and rowdy behavior;
  - 2. Possession or consumption of alcoholic beverages, except upon premises licensed for on-premises consumption thereof;
  - 3. Gambling;
  - 4. Permitting the use of marijuana or any controlled substance, the possession or use of which is prohibited by Massachusetts Law or these Ordinances.
- C. The owner of an amusement game shall not permit it to be played or operated after 10 p.m. by a person under the age of sixteen (16) unless accompanied by and under the supervision of a parent or other guardian over the age of twenty-one (21).
- D. The owner of an amusement game shall not allow it to be available for use or used unless it is under the control of and supervision by a person at least eighteen (18) years of age, who shall ensure that it is operated in compliance with this chapter.

- E. A person under the age of sixteen (16), unless accompanied by and under the supervision of a parent or other guardian over the age of twenty-one (21), is not permitted to operate amusement games during normal school hours (as established by the school committee or appropriate authority) on weekdays only exclusive of holidays.
- F. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement game, and no such game shall be permitted.

**SECTION 5.400.040 Inspection of Premises**

Any premises in the Town containing an amusement game or games, when open for the transaction of business, shall be subject to inspection by any police officer. (Prior code § 56-4)

**SECTION 5.400.050 Violation—Penalty**

- A. Any person who violates any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding three hundred dollars (\$300.00);
- B. Each day that a violation exists, occurs or continues shall constitute a separate offense. (Prior code § 56-5)

**Chapter 5-450 - FOOD SALES  
(Former By-law Chapter 5.16)**

**SECTION 5.450.010 Definitions**

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

“Food” means and includes any articles or commodity however stored or packaged intended for human consumption, excluding alcoholic beverages. (Prior code § 72-5)

**SECTION 5.450.020 Applicability**

This ordinance shall not apply to the sale of alcoholic beverages by persons, stores or places of business licensed in accordance with the provisions of Chapter 138 of the General Laws. (Prior code § 72-8)

**SECTION 5.450.030 Permit Required for Sale of Food**

No person shall, store or place of business engaged in the retail sale of food, without a written permit from the Board of License Commissioners, sell any food at retail between the hours of 11 p.m. and 7 a.m. unless otherwise conditioned by the Board of License Commissioners based on the nature of the business, proximity to residences, and impact to neighborhood. (Prior code § 72-1)

**SECTION 5.450.040 Common Victuallers**

No person licensed as a common victualler in accordance with the provisions of Chapter 140 of the General Laws shall, without a written permit from the Board of License Commissioners, be open for the transaction of any retail business or sell any food at retail between the hours of 1 a.m. and 6 a.m., unless otherwise conditioned by the Board of License Commissioners based on the nature of the business, proximity to residences, and impact to neighborhood. (Prior code § 72-3)

**SECTION 5.450.050 Violations Deemed Separate Offenses**

For purposes of this ordinance, each separate sale shall be deemed a separate offense. In the event of sale of several items or articles at one time to one customer, only one sale shall be deemed to have taken place. In case of continuing violation, every calendar day upon which a store shall remain open shall be deemed a separate offense. (Prior code § 72-6)

- H. Junk shall be stored in piles not exceeding eight feet in height and shall be arranged so as to permit easy access to all such junk for fire-fighting purposes.
- I. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.
- J. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
- K. No junk or other material shall be burned on the premises in any incinerator not meeting the requirement of federal, state or town laws, statutes and codes, and no junk or other material shall be burned on the premises in the open.
- L. Processing of junk or any other operations conducted within a junk or salvage yard shall cease between the hours of 6 p.m. and 7 a.m. of the following day.
- M. No junk or salvage yard shall be allowed to become a nuisance, nor shall any junk or salvage yard be operated in such manner as to become injurious to the health, safety or welfare of the community or of any residents close by. (Prior code § 85-9)

**SECTION 5.560.120 Sanitary Facilities Required**

Each licensee under this chapter shall install enclosed sanitary facilities upon the junk or salvage yard for the use of all personnel upon the premises in connection with the business in accordance with regulations of the Town’s Building Division. (Prior code § 85-10)

**SECTION 5.560.130 Health Hazards Prohibited**

The junk or salvage yard shall be maintained and kept in such a manner as will prevent the habitation and breeding of rodents or vermin in the ground under junk piles or in or about such piles and as will prevent the accumulation of stagnant water on the ground in or about such piles of junk. The licensee shall comply with all orders issued by the Health Division which are designed to eliminate the breeding of rodents or vermin. (Prior code § 85-11)

**SECTION 5.560.140 Established Junk or Salvage Yards**

For the purpose of this ordinance, the location of junk or salvage yards already established shall be considered approved, provided that such junk or salvage yards comply with this ordinance, the provisions of the Town zoning ordinances and the laws of the Commonwealth of Massachusetts and that they pay the license fee fixed in this ordinance. Such established junk or salvage yards shall have one hundred twenty (120) days from the date of mailing of notice to them to comply with such provisions of this ordinance. (Prior code § 85-12)

**SECTION 5.560.150 Records**

Each licensee shall keep a record of all vehicles, appliances or junk purchased in the course of business, setting forth the identity of the items purchased, the dates of such purchases, the names and addresses of the sellers and the amounts paid therefor. Such records shall be available for inspection to all law enforcement officers or other persons having lawful authority to make inquiry as to the source from which the junk material was acquired, the nature of the transaction and the title of the seller. (Prior code § 85-13)

**SECTION 5.560.160 Violation—Penalty**

Any person who violates any provision of this chapter shall upon conviction thereof be punished by a fine of one hundred fifty dollars (\$150.00) a day. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Prior code § 85-14)

**Chapter 5-565 - PEDDLING AND SOLICITING  
(Former By-law Chapter 5.32)**

**SECTION 5.565.010 Peddling of Goods, Wares and Merchandise—License Required**

No person shall hawk or peddle goods, wares or merchandise within the limits of the Town, except as otherwise authorized by law, without first obtaining a license therefor from the Commonwealth of Massachusetts in accordance with the provisions of Chapter 101 of the General Laws. (ATM 5-10-2005 Art. 37 (part); prior code § 99-1)

**Chapter 5-500 - FORTUNETELLERS, PALMISTS AND SIMILAR PRACTITIONERS  
(Former By-law Chapter 5.20)**

**SECTION 5.500.010 License Required**

No phrenologist, medium, clairvoyant, soothsayer, astrologist, fortuneteller, palmist, reader-advisor or the like, by whatsoever name called, shall conduct business or practice their trade for monetary consideration in the town without first obtaining a license from the Board of License Commissioners and only after a criminal history check conducted by the Chief of Police of Braintree or his/her designee, the issuance of a certificate from the office of the Building Inspector that the property to be used for such purpose conforms with all zoning ordinances of the Town, and only after a determination by the Board of License Commissioners that issuance of such license would not be adverse to the public welfare, and after a public hearing. (STM 5-1-89 Art. 13 (part): prior code § 57-1)

**SECTION 5.500.020 License—Issuance Limitations—Display**

A license to conduct a business described in this chapter shall be issued only to individuals and shall apply only to the premises shown on a plan furnished by the applicant. The plan need not be by a registered engineer but must be in a form and scale acceptable to the Town Engineer. The license, when issued, shall set thereon the name of the licensed individual and the approved location. The licensee shall be the operator of the licensed business. No person who is not duly licensed may conduct any business pursuant to this Chapter nor shall any license issued for one premise be issued upon another. The license shall be displayed at all times in a prominent place upon the licensed premises. (STM 5-1-89 Art. 13 (part): prior code § 57-2)

**SECTION 5.500.030 License—Effective date—Transfer or Renewal**

- A. The fee for the license shall be set by the Board of License Commissioners. No license shall be issued until such fee and any other costs have been paid to the Board of License Commissioners.
- B. Any license issued under the provisions of this ordinance shall be effective from the date of its issuance. A new application for a license must be made annually by December 31st if the licensee continues in business. The fee for such license for less than one year shall be pro-rated. Such license is personal with the licensee and does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of without the permission of the licensing authority. Applications for renewal shall be made within sixty (60) days from the date of expiration of the license and such renewal shall not be unreasonably withheld, unless for a good cause shown. (STM 5-1-89 Art. 13 (part): prior code § 57-3)

**SECTION 5.500.040 Application**

An application for a license pursuant to this chapter shall be made by the applicant in writing, on forms approved by the Board of License Commissioners. The application shall be submitted under oath and shall set forth the name and address of the person who will conduct such business and the names and addresses of all persons having a beneficial interest in the business. It shall set forth an accurate description of the premises for which the license is sought, as described in this chapter. It shall contain such other detailed information as to the character and location of the business as may be required by the Board of License Commissioners to determine whether the issuance of the license sought would serve the public interest. Every applicant for a license pursuant to this ordinance shall submit to the licensing authority a valid Social Security Number or Massachusetts Driver's License or Employer Identification Number as proof of the identity of the applicant. (STM 5-1-89 Art. 13 (part): prior code § 57-4)

**SECTION 5.500.050 Expense of Hearing—Deposit Required**

In each application, except in the case of an application for renewal of a license, the applicant shall undertake to defray the expense to the Town of the public hearing on his/her application in addition and simultaneously with the filing of his/her application, the applicant shall be responsible for the cost of advertising and postage for notice to abutters for the public hearing. (STM 5-1-89 Art. 13 (part): prior code § 57-5)

**SECTION 5.500.060 Notice Requirements—Public Hearing**

- A. Upon the filing of the application with the Board of License Commissioners, written notice shall be given to the applicant, and public notice shall be given by advertisement in a newspaper circulating in the town at least seven days prior to the hearing, of the time and place fixed for the hearing to be

**SECTION 5.560.070 Expense of Hearing—Deposit Required**

In each application, except in the case of an application for renewal of a license, the applicant shall undertake to defray the expense to the town of the public hearing on his/her application. The applicant shall be responsible for the cost of advertising and mailing notices to abutters of the public hearing. (Prior code § 85-7)

**SECTION 5.560.080 Notice of Hearing—Conditions Warranting Denial of License**

- A. Upon the filing of the application with the Board of License Commissioners and the making of the deposit for costs, written notice shall be given to the applicant, and public notice shall be given by advertisement in a newspaper circulating in the town at least seven days prior to the hearing, of the time and place fixed for the hearing to be held before the Board of License Commissioners on the issuance of the license. In the case of an application for renewal of a license, the licensing authority may dispense with the requirement for public notice. The applicant and all interested persons shall have reasonable opportunity to be heard at such hearing.
- B. No license shall be granted under this chapter until the enforcement officer certifies that the proposed junk or salvage yard meets the requirements of this chapter, the town zoning ordinances and the laws of the Commonwealth of Massachusetts and unless it appears after the public hearing that the issuance of such license would not cause unreasonable depreciation of surrounding property or be otherwise adverse to the best interests of the town.
- C. In the licensing procedure under this chapter the Board of License Commissioners shall take into consideration any record of a conviction of the crime of receiving stolen goods or larceny of any applicant or of any stockholder, director or officer of any corporation applying for such license. (Prior code § 85-8(A), (B), (C))

**SECTION 5.560.090 License—Fee—Effective date—Transfer or Renewal**

Any license issued under the provisions of this ordinance shall be effective from the date of its issuance. A new application for a license must be made annually by December 31st if the licensee continues in business. The fee for such license for the operation of a junk or salvage yard for less than one year shall be pro-rated. Such license is personal with the licensee and does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of without the permission of the Board of License Commissioners. Applications for renewal may be made within sixty (60) days from the date of expiration of the license and such renewal shall not be unreasonably withheld, unless for a good cause shown. (Prior code § 85-8(D))

**SECTION 5.560.100 Display of License**

Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business. (Prior code § 85-8(E))

**SECTION 5.560.110 General Operating Requirements**

- A. Before use, a junk or salvage yard shall comply with all provisions of the Town zoning ordinance and with a suitable gate which shall be closed and locked, except during the working hours of such junk or salvage yard or when the applicant or his/her agent shall be within.
- B. The junk or salvage yard together with things kept therein shall at all times be maintained in a sanitary condition.
- C. No space not covered by the license shall be used in the licensed business.
- D. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
- E. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four inches.
- F. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk, as defined herein, and is in use in the licensed business.
- G. No junk shall be allowed to rest upon or protrude over any public street, walkway or curb or become scattered or blown off the business premises.

held before the Board of License Commissioners on the issuance of the license. In the case of an application for renewal of a license, the Board of License Commissioners may dispense with the requirement for public notice. The applicant and all interested persons shall have reasonable opportunity to be heard at such hearing.

B. In the licensing procedure under this chapter, the Board of License Commissioners shall take into consideration any record of a conviction of any crimes. (STM 5-1-89 Art. 13 (part): prior code § 57-6)

#### **SECTION 5.500.070 Sanitary Facilities Required**

Each licensee under this chapter shall provide sanitary facilities for the use of all customers upon the licensed premises in accordance with regulations of the Building Division of the Town. (STM 5-1-89 Art. 13 (part): prior code § 57-7)

#### **SECTION 5.500.080 Inspection**

Any premises in the Town licensed under this ordinance, when open for the transaction of business, shall be subject to inspection by any police or special police officer, acting pursuant to his/her duties. (STM 5-1-89 Art. 13 (part): prior code § 57-8)

#### **SECTION 5.500.090 License Suspension, Modification or Revocation**

Upon notice to the licensee and after a hearing by the Board of License Commissioners at which it has been determined that the licensee has been convicted in a court of competent jurisdiction of a crime or cause has been shown that the licensee has violated the ordinances and/or zoning ordinances of the Town or the laws of the Commonwealth, a license issued pursuant to this ordinance may be suspended, modified or revoked by the Board of License Commissioners. (STM 5-1-89 Art. 13 (part): prior code § 57-9)

## **Chapter 5-550 - GASOLINE STATIONS**

(Former By-law Chapter 5.24)

#### **SECTION 5.550.010 Hours of Operation**

No gasoline station or garage shall be operated between the hours of twelve midnight and six a.m. without a written permit from the Board of License Commissioners. (Prior code § 77-1)

#### **SECTION 5.550.020 Storage of Motor Vehicles**

No gasoline station or commercial garage shall store more than four registered or unregistered automobiles or motor vehicles on the same lot without a written permit from the Board of License Commissioners. (ATM 5-11-1992 Art. 19: prior code § 77-2)

#### **SECTION 5.550.030 Rules and Regulations**

The Board of License Commissioners may from time to time make reasonable rules and regulations governing the operation of gasoline stations, garages and motor vehicle towing services. (Prior code § 77-3)

#### **SECTION 5.550.040 Requirements for Storage Permits**

Each application for the storage of motor vehicles shall be accompanied by a plot plan, certified by a registered professional engineer, detailing the location of the business and indicating the location and number of parking spaces for customers, employees, and the storage of motor vehicles, as well as showing the location of fire lanes, and access to and egress from the site. Each certified plot plan shall be subject to the review of various Town departments, as determined by the Board of License Commissioners, including but not limited to, the Fire Chief, Police Chief, and Building Inspector, prior to submission to the Board of License Commissioners. The Board of License Commissioners shall make the discretionary determination as to the number of vehicles for which storage may be considered, based upon the uses of the surrounding area, traffic, aesthetics, and what is in the best interest of the Town with the storage capacity for each site being not greater than the lesser of the number shown on the certified plot plan, the number permitted by the requirements of the applicable fire, zoning and building codes and the recommendations of the appropriate Town departments. (ATM 5-22-2001 Art. 26)

## **Chapter 5-560 - JUNK, SECONDHAND AND SALVAGE DEALERS**

(Former By-law Chapter 5.28)

#### **SECTION 5.560.010 Purpose**

Pursuant to the authority conferred upon the Town by Chapter 140, Section 54 of the General Laws, the following is adopted for the regulation and restriction of the collection and storage of previously damaged, used, secondhand, worn out, scrapped or discarded materials or objects such as, inter alia, automobiles, building materials, machinery, metal, wastepaper, rags, glassware and tinware which are or in the future may be collected and stored in a dangerous, unsightly or unsanitary manner in yards or other places within the town. (Prior code § 85-1)

#### **SECTION 5.560.020 Definitions**

Except where otherwise indicated by law, the following definitions shall apply in the interpretation and enforcement of this ordinance:

“Enforcement officer” means the inspector of buildings or such other person designated by the Mayor.

“Junk” means any old, secondhand, previously used, discarded or scrapped metals, plastics, 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,

“Junk dealer” means a person who engages in the buying, selling, exchanging, storing, processing, preparing for sale or use, or dealing in any manner commercially with junk within the town.

“Junk or salvage yard” means a yard, lot or place or any place of collection, storage or deposit outdoors, within the Town of Braintree, where junk is kept or stored. An area maintained and operated by the Town of Braintree for the collection and storage of recyclable materials shall be excluded from this ordinance.

“Licensing authority” means the Board of License Commissioners of the town of Braintree.

“Person” means any individual, firm, partnership, association, corporation, company, organization or any business entity permitted to do business within the Commonwealth of Massachusetts. (Prior code § 85-2)

#### **SECTION 5.560.030 License Required**

No person shall engage in business as a dealer in junk or salvage unless he/she obtains a license from the Board of License Commissioners in accordance with the provisions of this chapter. (Prior code § 85-3)

#### **SECTION 5.560.040 License—Annual Fee**

The annual fee for a license to conduct the business of a dealer in junk or salvage shall be one thousand dollars (\$1,000.00) per year. No license pursuant to the provisions of this chapter shall be issued, and no renewal of an existing license shall be granted, until the full amount of the fee has been paid to the Board of License Commissioners. (Prior code § 85-4)

#### **SECTION 5.560.050 Scope of License**

Each license issued pursuant to the provisions of this chapter shall apply only to the premises shown on the survey furnished by the licensee with the application for the license. The licensee may not use any other premises. (Prior code § 85-5)

#### **SECTION 5.560.060 Application—Form and Contents**

An application for a dealer in junk or salvage license shall be made by the applicant in writing, on forms approved by the Board of License Commissioners. The application shall be submitted under oath and shall set forth the name and address of the person who will conduct such business and the names and addresses of all persons having a beneficial interest in the business. It shall set forth an accurate description of the premises for which the license is sought, as shown by a survey to be attached. It shall contain such other detailed information as to the character and location of the business as may be required by the Board of License Commissioners to determine whether the issuance of the license sought would serve the public interest. (Prior code § 85-6)