

ARTICLE XV  
Zoning Amendments

**§ 135-1501. Amendments.**

Any change in this chapter or the Zoning Maps shall be made in accordance with the Massachusetts General Laws (MGL). Amendments to this chapter or the Zoning Map may be presented to the Board of Selectmen for insertion into the warrant of a Town Meeting, as provided in MGL c. 40A, § 5:

- A. In accordance with the provisions of MGL c. 39, § 10,
- (1) For the Annual Town Meeting, by petition in writing of no fewer than 10 registered voters;
  - (2) For a Special Town Meeting, by petition in writing of no fewer than 100 registered voters or 10% of the total number of registered voters of the Town, whichever number is smaller.

- B. By the Board of Selectmen on its own initiative.
- C. By the Planning Board on its own initiative.
- D. By the Zoning Board of Appeal on its own initiative.
- E. By an individual owning land to be affected by change or adoption.
- F. By a regional planning agency.

**§ 135-1502. Submission requirements.**

- A. Amendments to this chapter proposed for Annual Town Meeting shall be submitted to the Board of Selectmen no later than 90 days prior to the date of Annual Town Meeting.
- B. Amendments to this chapter proposed for a Special Town Meeting shall be submitted to the Board of Selectmen no later than 45 days prior to the date of the Special Town Meeting.
- C. A person or board proposing a rezoning of land shall submit with the application to the Board of Selectmen:
  - (a) A copy of the plan showing the proposed rezoning, drawn to a scale of one inch equals 40 feet;
  - (b) A copy of the proposed warrant article;
  - (c) A legal description of the property proposed to be rezoned sufficient for identification.No proposed rezoning articles shall be included in the warrant until all the materials required under items (a), (b) and (c) have been submitted.
- D. A person or board proposing a rezoning of land from one zoning district to another shall submit to the Planning Board a certified abutters' list for all abutters within 300 feet of the proposed rezoning. Said certified abutters' list shall be submitted within 15 days after submission of the warrant article to the Board of Selectmen. A certified abutters' list shall not be required for proposed amendments to an overlay district such as floodplain and wetlands districts or watershed district.

**§ 135-1503. Submission of proposed amendment to Planning Board.**

The Board of Selectmen shall submit to the Planning Board all proposed amendments or changes to this chapter within 14 days of receipt of such amendment or change.

**§ 135-1504. 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:

- A. 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.

- B. Said notice shall contain date, time and place of said hearing, subject matter sufficient for identification and places where texts and maps may be inspected.
- C. Said notice shall be posted in the Town Hall for a period of not less than 14 days prior to hearing date.
- D. 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. For all rezonings proposing a change from one zoning district to another, notice of said hearing shall also be mailed by the Planning Board postage prepaid to the owner or owners of the property being rezoned and to those abutters within 300 feet of the property being rezoned. Said notice need not be sent in the case of an amendment or change of an overlay district such as floodplain and wetlands district or watershed district. The proposer of the rezoning shall reimburse the Town for the costs of giving notice. A certificate, signed by the Chairman of the Planning Board, that the notices have been sent shall be proof of compliance.

**§ 135-1505. Defects in notice.**

No defect in the form of any notice under this article shall invalidate any Zoning Bylaw amendment or change, unless such defect is found to be misleading.

**§ 135-1506. Submission of report of Planning Board prior to vote; failure to adopt proposed amendment within time limit.**

No vote to adopt any bylaw or amendments shall be taken until a report with recommendations by the Planning Board has been submitted at the Town Meeting or until 21 days after said hearing have elapsed without submission of such report or recommendations. If any proposed bylaw or amendment is not adopted at a Town Meeting within six months of said hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and reports as provided above.

**§ 135-1507. Required vote for adoption.**

No Zoning Bylaw or amendment shall be adopted except by two-thirds vote at a Town Meeting.

**§ 135-1508. Limitations on reintroduction of defeated amendments.**

No proposed Zoning Bylaw or amendment which has been unfavorably acted upon at a Town Meeting shall be considered at a Town Meeting within two years after the date of such

unfavorable action, unless the adoption of such proposal is recommended in the final report of the Planning Board.

**§ 135-1509. Submission of materials to Attorney General.**

- A. The Planning Board, after adoption at a Town Meeting of any Zoning Bylaw or amendment, shall furnish a statement and pertinent maps or plans explaining said changes to the Town Clerk for submission to the Attorney General. The effective date of adoption of, or amendment to, any Zoning Bylaw shall be the date such adoption or amendment was voted on at the Town Meeting. If said bylaw shall be disqualified by the Attorney General, the previous bylaw or portion thereof shall be deemed to be in effect from the date of said vote.
- B. Notice to Department of Community Affairs. After approval of the Zoning Bylaw by the Attorney General, the Town Clerk shall send a copy of the amended Zoning Bylaw to the Department of Community Affairs.

**§ 135-1510. Effect on other legislation.**

- A. Conflicting provisions. This chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. If any provision of this chapter conflicts with any other provision of this chapter, any other section of the Braintree bylaw or any applicable state or federal law, the more restrictive provision shall apply.
- B. Relief from other provisions. Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, site plan review or other permit issued under any Zoning Bylaw previously in effect or any other local, state or federal ordinance or statute.

**§ 135-1511. 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 Bylaw arising out of any possible defect in the procedure of adoption or amendments shall be made in any legal proceeding. No municipal officer shall refuse, deny or revoke any permit, approval or certification because of any such claim of invalidity, unless legal action challenging said validity has been commenced within 120 days after adoption of the bylaw. A notice specifying invalidity claim, date of filing, parties and court and a copy of the petition must be filed with Town Clerk within seven days of commencement of action.