

**Town of Bridgewater**  
**Town Council**  
**FY19 Ordinances Voted**

*(Effective 7/1/2017 legislation will be numbered and tracked according to fiscal year initiated.)*

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**Town Council Ordinances**

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## Bridgewater Town Council

In Town Council, Tuesday, September 11, 2018

Council Ordinance: D-FY18-001

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Introduced By:	Councilor William Wood
Date Introduced:	June 26, 2018
First Reading:	June 26, 2018
Second Reading:	August 7, 2018
Third Reading:	September 11, 2018
Amendments Adopted:	August 7, 2018
Date Adopted:	September 11, 2018
Date Effective:	October 12, 2018

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### **Ordinance D-FY19-001**

### **ZONING ORDINANCE – AMEND SECTION 19, MIXED USES – CBD OF ZONING BYLAWS**

ORDERED, pursuant to MGL, Chapter 40A that the Town Council assembled votes amend Section 19 of the Town of Bridgewater Zoning Bylaws as follows:

#### **19.01 Purpose:**

The purpose of this section is to allow for the redevelopment of the Central Business District to expand small retail and restaurant uses while providing flexibility to respond to changing household sizes and needs.

#### **19.02 Powers and Administrative Procedures**

The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for Mixed Use Development. The SPGA shall adopt rules relative to the issuance of special permits **for** Mixed Use Development and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A.

In all matters in which it has jurisdiction to issue use Special Permits pursuant to the provisions of this Section, the Planning Board may issue such Special Permits only upon a finding that the proposed use is in harmony with the general purpose and intent of this Section. Any such Special Permit shall be subject to such conditions and safeguards as the Planning Board may prescribe and shall include design guidelines applicable to development of the site. In reviewing any application for such a Special Permit, the Planning Board shall give due consideration to promoting the public health, safety, convenience and welfare, shall encourage the most appropriate use of land and shall permit no building or use that is injurious, noxious, offensive or detrimental to its neighborhood.

Approval criteria. No Special Permit under Section 19 shall be granted unless the Planning Board finds that:

- (a) The Plan complies with the provisions of this Article.
- (b) The impact of the development activities shown on the Plan is anticipated to be of benefit to the Town.
- (c) The intersections and roadways providing access to the project will operate at an acceptable level of service based on the anticipated impact of vehicular traffic from all proposed development.
- (d) The Plan provides adequately for the convenience and safety of vehicular and pedestrian movement

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within the Project and in relation to streets, property or improvements outside the Project.

- (e) The Plan provides for the adequacy of the methods of disposal of sewage, refuse and other wastes, provision of utilities, and the methods of drainage for surface water and seasonal flooding, if any, and adequate provision of water for domestic purposes.

After notice and public hearing and after due consideration of the reports and recommendations of other town boards, commissions and or departments, the SPGA may grant such a permit. The SPGA shall also impose, in addition to any applicable conditions specified in this section, such applicable conditions as the SPGA finds reasonably appropriate to improve the site design, housing, traffic flow, safety and or otherwise serve the purpose of this section. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

### **19.03 Applicability:**

No Mixed Use Development special permit shall be granted unless the application and site plan meet the requirements contained in Section 19.4 and the SPGAs Rules and Regulations for Mixed Use Development applications.

### **19.04 Requirements (Amended 7/22/2016 D-2016-001)**

A Mixed Use Development shall be allowed by special permit, subject of the following requirements:

1. The proposal shall meet all the land space requirements table (Section 8.40);
2. The location, size and proposed uses of the development are properly located on the site;
3. Adjacent properties are protected from nuisance caused by noise, fumes, drainage, shading, traffic and/or glare of lights;
4. Significant natural features are preserved as much as possible;
5. Preservation of historic features or buildings;
6. Properties located within the Historic District shall comply with the rules and regulations of the Historic District Commission.
7. Commercial uses shall be required on the first floor in its entirety. No residential uses are allowed at ground floor, or first floor, in mixed use development;
8. The allowed residential density under this Section is 18 units per acre. The Planning Board may allow for density bonuses up to 26 units per acre for the following:
  - a. Transfer of Development Rights (TDR) – 1.5 units for every 1 TDR
  - b. Preservation of Historic Structures – 2 units for the preservation of 1 Structure
  - c. Donation of Open Space or the Preservation of Land through a Conservation Restriction – 1 unit for every 2 acres protected
  - d. Payment to the Affordable Housing Trust Fund – a 1 bedroom unit for each donation of \$30,000 and a 2 bedroom unit for each donation of \$60,000. These amounts will be adjusted annually for inflation at a rate of 2% beginning in 2020.
  - e. Public Streetscape Improvements (i.e. plantings, sidewalk improvements, crosswalks, bike lanes, traffic amenities, benches, public art, pocket parks, etc.) – Developer’s Agreement with the Town Manager in consultation with the Community & Economic Development Director shall be completed prior to Special Permit application. The Developer’s Agreement shall recommend the appropriate density bonus.
  - f. Providing Solar Energy or Green Roofs if allowed under the Town’s zoning ordinance – 1 unit for the construction of solar energy or green roof for each building.

Density Bonuses are solely at the discretion of the Planning Board, if the Board finds that the bonus provides a significant benefit to the Town of Bridgewater or public at large.

9. Architectural details of new buildings and additions, textures of wall and roof materials, should be harmonious with the building’s overall architectural style and should preserve and enhance the character of the surrounding area and meet Design Guidelines as established herein.
10. The mass, proportion and scale of the building, proportions and relationships between doors and windows should be harmonious among themselves and with those of the surrounding area and meet Design Guidelines established herein.
11. Parcels in contiguous ownership shall be designed as and considered one project.

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12. Projects designed under this section shall have no minimum lot size, frontage requirement or setback requirement.
13. Each project submitted under this section must provide the commercial development on the first floor of each building or the commercial development shall equal 30% of the gross floor area of the project. In all instances the first floor of and street facing building shall be commercial development. The SPGA may reduce this requirement with a finding of exceptional circumstances. Exceptional circumstance may include: topography, environmental conditions, soil conditions and shape of the lot.

#### BDesign Guidelines

14. The building's location shall be parallel or perpendicular to the street. The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roof line, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.
15. Buildings should be placed close to the road and sidewalk to encourage pedestrian traffic;; long horizontal facades should be avoided by incorporating recesses and projections, of a minimum of two feet in depth; entrance ways should be emphasized by use of rooflines, changes in materials, landscape treatments or other architectural elements; franchise architecture with highly contrasting color scheme, non-traditional forms, reflective siding and roof materials should be avoided; drive-through elements should be architecturally incorporated into the building; drive-through elements generally should not face the street; the material used for additions should complement the materials of the original structure.
16. Building styles do not necessarily have to be identical to existing styles or mimic historic styles, but should be complimentary and enhance the appearance of the area.
17. Buildings may be 4 stories tall or 45' in height.
18. Rooflines: A-frame roofs are preferred, but flat roofs may be allowed for taller building and when green roofs are proposed; roof colors should be earth tones or a color that is darker than the facade and garish roof colors should not be used; visible roofing materials should complement the color and texture of the building's facade; roof mounted mechanical equipment should be screened from public view or grouped at the rear of the structure where visibility is limited. To prevent a canyon effect along the street scape, proposed structures achieving the maximum building height must utilize terracing of the structure, or creating architectural elements (including angled roofs, dormers and gable elements) above the second story.
19. 20% of the gross square feet of each lot shall be vegetated. A landscaping plan stamped by a Registered Landscape Architect shall be submitted to the SPGA for review and approval.
20. Street facades should ensure that the building and landscaping enhances the streetscape and does not detract from the character of the area.
21. Building Signs: sign colors should complement the colors on the building; carved wooded signs are encouraged; internally illuminated signs are not allowed; lighting fixtures illuminating signs should be located so light is directed only onto the sign facade.
22. A minimum of 60% of the building's street side facade shall contain windows. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building facade; metal awnings are discouraged.

CThe requirement for commercial development may be accommodated on an adjacent parcel or parcels, providing the commercial development is constructed in conjunction and coordination with the residential development and reflects the character of a village or town center. An approved site plan of the entire development project must outline project phasing and scheduling as well as conditions of approval. Unless otherwise permitted elsewhere in this section, no residential units are allowed on the ground floor of a mixed use development within the Central Business District zone.

23. No units larger than 2 bedrooms will be allowed. All projects should provide a balanced mix of 1 & 2 bedrooms.
24. One parking spaces per unit plus one visitor parking space for every three units shall be provided.
25. The Planning Board may allow for shared parking between the Commercial and Residential uses on site.
26. All parking areas shall be designed behind the buildings and not adjacent to the street. The SPGA may waive this requirement if topography or other extenuating circumstances warrant it.
27. All drive aisle widths shall be a minimum of 18' unless one-way traffic is proposed and all parking areas shall maintain a minimum of 10% of the gross area as landscaping in addition to the requirement in section B (19).
28. A properly screened dumpster shall be located that meets the following requirements; buffer adjacent residential uses, provides easy access for removal service, doesn't conflict with parking or interior vehicle access, plastic tops to reduce noise.

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29. A suitable snow storage area shall be provided without loss of any of the required parking spaces or displacement of drainage basin, swales, etc. The snow storage area shall accommodate a six (6) inch storm event for the driveways and access ways, parking, loading and sidewalk areas contained within the development.
30. Drives and parking areas shall not be illuminated by lighting fixtures higher than twenty (20) feet. Sidewalks shall not be illuminated by lighting fixtures higher than fifteen (15) feet. All lighting fixtures shall be shielded to have a total cutoff of all light at less than ninety (90) degrees. The total cutoff of all light shall occur within the property lines of the parcel to be developed.
31. A Traffic Impact Assessment, Traffic Impact Statement and Regional Traffic Analysis shall be submitted as required by the Traffic Impact Study By-law.

### **19.05 Compliance:**

An as -built, certified by a registered professional land surveyor or engineer shall be submitted to the SPGA and Building Inspector before the issuance of a permanent occupancy permit. The as-built plan shall attest to a development's conformity to its approved site plan by indicating landscaping, buildings, drainage flow, number of parking stalls, and limits of parking areas and drives.

Any changes in the approved special permit shall be submitted to the SPGA for review and approval prior to issuance of permanent occupancy permit.

The special permit is granted for a period of two years and shall lapse if substantial use or construction has not been commenced by such date, except for good cause shown and provided that said construction once begun shall be actively and continuously pursued to completion within a reasonable time. Good cause and reasonable time shall be determined by a vote of the SPGA.

### **19.06 Appeals:**

Any person aggrieved by a decision of the SPGA under this section may appeal to the Superior Court, the Land Court or the District Court pursuant to Chapter 40A of the Massachusetts General Laws.

#### *Committee Referrals and Dispositions:*

<b>Referral(s)</b>	<b>Disposition(s)</b>
<ul style="list-style-type: none"> <li>• Community &amp; Economic Development Committee</li> <li>• Planning Board</li> </ul>	<ul style="list-style-type: none"> <li>• 7/23/18: Public hearing conducted. Vote unanimous to recommend measure.</li> <li>• 7/23/18: Public hearing conducted. Vote unanimous to recommend adoption.</li> </ul>
<ul style="list-style-type: none"> <li>• Amendments adopted by Council 8/7/18. This measure has been duly advertised in the Enterprise and on the Town's website, therefore may be finally considered.</li> </ul>	

**In accordance with the applicable provisions of the Town of Bridgewater Home Rule Charter and Town Council Rules and Procedures, the Town Council assembled voted, at their meeting on Tuesday, September 11, 2018, to approve the aforementioned Ordinance by a Roll Call vote (8-1) (Councilor Sousa dissent).**

**A TRUE COPY ATTEST:**

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Ann M. Holmberg  
Town Council Clerk

**ROLL CALL VOTE – REQUIRES 2/3 VOTE OF FULL COUNCIL (6)**



# Bridgewater Town Council

In Town Council, Tuesday, October 23, 2018

Council Ordinance: D-FY19-002

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Introduced By:	Councilor Frank Sousa
Date Introduced:	September 11, 2018
First Reading:	September 11, 2018
Second Reading:	October 9, 2018
Third Reading:	October 23, 2018
Amendments Adopted:	None
Date Adopted:	October 23, 2018
Date Effective:	November 23, 2018

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## Ordinance D-FY19-002

### **GENERAL ORDINANCE – AMEND ADMINISTRATIVE CODE - TEMPORARY REPAIRS ON PRIVATE WAYS**

**WHEREAS**, In accordance with M.G.L. c40, Section 6N, it is therefore;

**ORDERED**, that the Town Council assembled votes to amend the Bridgewater Town Code by adding the following:

Chapter 260, Article XVI.  
Temporary Repairs on Private Ways

#### Section 1. General

The maintenance and repair of all public and private ways being of utmost importance to the economic development of the Town; to the control of pollutants entering Town waters; to the preservation of Town property; and to the accessibility of public safety vehicles from public ways to residences, Town facilities, and conservation land; the Department of Public Works is authorized to make temporary repairs to private ways which have been open to the public for a period of at least five (5) years.

#### Section 2. Type and Extent of Repairs

The repairs made must be temporary in nature, such as filing, grading, patching and surface coating, and may include such repairs to drainage swales or structures, installation of water or sewer, and conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway, and shall not be such as to constitute a reconstruction of the roadway. The temporary repair shall have a minimum expected life equal to twenty (20) years. Temporary repairs may be undertaken in a way subject to this ordinance, or to a continuous portion of such way, which portion begins and ends at an intersection or conjunction with another way.

#### Section 3. Petition

**ROLL CALL VOTE – REQUIRES MAJORITY OF FULL COUNCIL (5)**

Two-thirds of the ownership interests on a private way may petition for temporary repair under this ordinance. Each lot abutting the private way shall count as one ownership interest, unless the Town Manager finds it is impractical, in which case the Town Manager is authorized to waive or amend this calculation.

#### Section 4. Betterment Charges

The owners of such land abutting such private way who derive benefit from said repairs shall be assessed betterment charges by the Town Manager. Betterment charges, in an amount of 100% of the aggregate cost of the planning, preparation, and repair of the private way shall be assessed on a per lot basis or on the proportion of lot frontage on the way or portion of the way to be repaired, or other proportional method as may be required by the Town Manager.

The Town may be considered an abutter if property under care, custody and control of the Town abuts said way to be repaired.

#### Section 5. Status of Way

This ordinance does not confer any obligation or duty on the Town or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair.

The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the Town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under Massachusetts Subdivision Control Law.

Any private way repaired under the provisions of this ordinance need not be brought up to full Town standards and may continue to remain a private way.

#### Section 6. Liability

The Town of Bridgewater, in making repairs under this section, shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

#### Section 7. Indemnity Agreement

No repair of a private way shall be undertaken until the Town Manager and the abutting two-thirds of the property owners have executed agreements holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:

- a. The Town assumes no liability to such owners by making the repairs;
- b. Jointly and severally, to indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorney's fees and other costs of defense;
- c. That should the town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
- d. That such repairs shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under Massachusetts Subdivision Control Law, and;

- e. That if assessed for repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over a number of years of the expected lifetime of the repair to be determined by the Town Manager.

Section 8. Continuous Public Use

The indemnity agreement required in Section 7 shall provide that any private way for which repairs and maintenance are performed and maintenance are performed pursuant to the ordinance shall remain open to public use for a period not less than the expected lifetime of the repair as determined by the Town Manager.

Reference, M.G.L. c. 40, section 6N

Explanation:

*Adoption of the above ordinance will amend the Bridgewater Administrative Code by adding Section XVI to Chapter 260. Historically, the Town has improved private ways (most commonly with the installation of water and sewer) and has usually charged assessments to the abutters to cover the expenditures. However, through the work with the First Street property owners to sewer that area, staff has determined that there is not the proper blanket authority to do such work. This ordinance would resolve this issue now and for all future projects.*

*Committee Referrals and Dispositions:*

<b>Referral(s)</b>	<b>Disposition(s)</b>
<ul style="list-style-type: none"> <li>• Rules &amp; Procedures Committee</li> <li>• This measure has been duly advertised in the Enterprise and on the Town’s website, therefore may be finally considered this evening.</li> </ul>	<ul style="list-style-type: none"> <li>• 10/1/18: Vote 3-0 recommend approval.</li> </ul>

**In accordance with the applicable provisions of the Town of Bridgewater Home Rule Charter and Town Council Rules and Procedures, the Town Council assembled voted, at their meeting on Tuesday, October 23, 2018, to approve the aforementioned Ordinance by a Roll Call vote (7-0) (Councilors Haley and Chase absent).**

**A TRUE COPY ATTEST:**

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Ann M. Holmberg  
Town Council Clerk