

ARTICLE ____ FIREARM BUSINESS USES

1/25/24

To see if the Town will vote to amend the Sudbury Zoning Bylaw, Sections 2200 and 7000, as set forth below by adding the following provisions; or act on anything relative thereto:

2200. PRINCIPAL USE REGULATIONS

A.

Insert in Section 2230, Table of Principal Use Regulations, Part C. Commercial, after “28. Marijuana Establishment” a new use category entitled “29. Firearm Business”, as shown in the table below.

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD	ID	LID	IP	RD
C. COMMERCIAL										
29. Firearm Business Use	N	N	N	N	N	N	SB	N	N	N

B.

2250. Firearm Business Use.

2251. Purpose: To establish reasonable criteria for the establishment of Firearm Business Uses in the Town of Sudbury to address public safety concerns arising from the operations of such businesses and the potential disruption of peace and quiet enjoyment of the community and to address the location, siting, design, placement, security, safety, monitoring and modifications of Firearm Business Uses within the Town to minimize the adverse impacts on Firearms Businesses on adjacent properties, residential neighbors, schools and other locations where children congregate, and to protect and promote the quality of the Town’s neighborhoods, commercial and business districts, and the general health, safety and welfare of the residents of Town.

2252. Compatibility with State and Federal Laws and Regulations: This bylaw is not intended to supersede federal or state laws or regulations except to the extent that any such laws or regulations allow the Town to adopt standards more stringent than other applicable legal requirements. No Firearm Business Use shall operate until the operator of such business has obtained all necessary federal, state and other required local firearms approvals and licenses.

2253. Applicability: This section shall apply to all Firearm Business Uses including related buildings. Unless in specific conflict with this section, all other applicable provisions of the Zoning Bylaw shall apply to Firearm Business Uses.

2254. Configuration and Operations – Firearm Business Uses shall be conducted entirely within a Building and shall comply with the following standards:

a. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses.

Deleted: This section provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare in conjunction with the protections from G.L. c. 140, ss. 122-131Y and other State laws and regulations. To the extent this section or any related section can be read to potentially conflict with G.L. c. 140 or other State laws or regulations, the section shall be interpreted to minimize any conflict with State laws or regulations while maximizing the furtherance of the public safety and other public purposes underlying this section.

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Commented [JMA2]: Given pending legislation with respect to firearms licensing, we recommend referencing state firearms licensing and security requirements and incorporating them herein to align with currently in effect federal and state firearms licensing laws and regulations.

Deleted: Firearm Business Uses shall obtain and maintain all necessary Federal, State, and other required local approvals and licenses prior to beginning operations, including but not limited to a valid current State license issued pursuant to G.L. c. 140, ss. 122, as applicable. Required State and Federal licenses must be obtained before applying for a Special Permit.

Commented [RS3]: This appears to need clarification, what is the goal of this provision.

The hours of operation shall follow all applicable, statutory and regulatory requirements, and shall be limited to 9:00AM-6:00PM.

- b. Firearm Businesses shall not sub-lease space from a tenant of any BUILDING or STRUCTURE and is prohibited from sub-leasing the Firearms Business use space to another Firearm Business.
- c. The Firearm Business shall procure and at all times while in operation maintain insurance issued by an insurance company licensed to do business in the Commonwealth, insuring the Firearm Business against liability for damage to property and for injury to, or death of, any person as a result of the theft, sale, lease or transfer, or offering for sale, lease or transfer of a firearm or ammunition, or any other operation of the Firearm Business. The limits of liability shall not be less than \$1,000,000 for each incident of damage to property or incident of injury to death to a person; provided however, that increased limits of liability may be required by the Special Permit Granting Authority upon a finding that the size of the operation warrants greater liability. Notice of termination of any applicable insurance must be given to the Special Permit Granting Authority at least 30 days prior to the effective date of the cancellation.
- d. Firearm Businesses shall submit a security plan to the Sudbury Police Department for review and approval prior to applying for special permit. Review of the plan may require an on-site inspection of the property. The security plan must include, but is not limited to, the following:
 - 1. Names and phone number of all management staff and employees.
 - 2. Firearms Business Uses shall conduct criminal history background checks in compliance with state and federal law. The Firearms Business Use shall submit written certification that no employees have past criminal history of felony record or are otherwise prohibited from firearms licensure under state and federal law.
 - 3. A plan showing exterior ground lighting.
 - 4. Description of security systems and alarms.
 - 5. 24-hour video surveillance system in parking lots, building entrances and exits and transaction or point-of-sale locations.
 - 6. Location of dumpsters shall be locked with screening.
 - 7. Floor plan showing interior layout of operation.
 - 8. Evidence of after-hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
- e. The Special Permit Granting Authority shall require that Firearm Business Use notify the Police Department of any changes to the name or phone numbers of all management staff and keyholders.
- f. The Firearms Business Use shall be equipped with, and the operation of such Firearm Business Use shall maintain in working order at all times, security system to the satisfaction of the Town.
- g. A video surveillance system shall be installed and maintained which shall monitor all parking lot areas, main building entrances and exits, storage areas, and any and all transition areas for sale of merchandise. Recordings shall be maintained for a minimum of three (3) years. A sign no larger than 2 square feet shall be placed in a visible location on the building which notes that video surveillance is in use on the property.

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Commented [RS4]: Is the intent of this to require the use be the only principal use of a property? If so, recommend re-wording this to require that as zoning does not regulate forms of ownership/tenancy.

For example: A Firearm Business Use shall be the only principal use of the Lot on which it is located.

Commented [LS5]: This clause is moved from s. 2260.

Commented [LS6]: This clause is moved from s. 2262(f)

- h. The exterior grounds, including the parking lot and landscape areas, shall be lit in such a manner that all areas are clearly visible at all times during business hours; all lighting shall be full cut off with a temperature of no more than 3,000K.
- i. No person under the age of eighteen (18) shall be permitted on the premises of the Firearms Business Use unless they are accompanied by a parent or legal guardian and notice of such limitation shall be posted outside the business.

2255. Storage of Firearms. Firearms shall be secured consistent with state and federal firearms security requirements, including, but not limited to, G.L. c. 140.

2258.

2261. Location Requirements. All distances in this section shall be measured in a straight line from the Lot, line of the lot containing the Firearm Business Use to the nearest Lot line of any of the following designated uses:

- a. A Firearm Business Use shall not directly abut any Lot, containing a residential use.
- b. A Firearm Business Use shall not be located within 250 feet of the following uses: a public or private K-12 school, child care facility (including family daycare homes, daycare centers, preschools, and/or nursery schools), public park or playground, establishment catering to minors or seniors, religious organization, business establishment that sells or serves malt, wine, or spirits for consumption off premises, or existing Firearm Business Use.
- c. A Firearm Business Use shall not be located within a building containing a dwelling unit.

2262. Special Permit for Firearm Business Use: In addition to the requirements of Section 6200, an application for Special Permit for Firearm Business Use shall include, at a minimum, the following information:

- a. Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the premises.
- b. Lighting Analysis: A lighting plan showing the location of proposed lights on the building and the lot, and a photometric plan showing lighting levels.
- c. Context Map: A map depicting all properties and land uses within a 1,000-foot radius of the lot on which the Firearm Business is proposed to be located.
- d. Comprehensive Signage Plan in conformance with the Sign Bylaw.

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2255. Prior

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a. Proposed provisions for security.¶
¶
b. A trained employee shall check identification and compliance with age restrictions prior to customers entering the establishment.¶

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- e. Report from the Police Chief or Designee: Confirming that the applicant has submitted the plans and information described in 2254 above and that those plans have been approved.
- f. Certificate of Insurance as required by Section 2254 above.

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2263. Special Permit Criteria: In granting a Special Permit for a Firearm Business Use, in addition to the general criteria for granting a Special Permit, the Zoning Board of Appeals shall find that the following criteria are met:

- a. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the lot.
- b. The establishment will have adequate storage, security, and lighting.
- c. Loading, refuse, and service areas are designed to be secure and shielded from abutting uses.
- d. The establishment is designed to minimize any adverse impacts on abutters or pedestrians.
- e. The location and characteristics of the proposed use will not be detrimental to the public health, safety, and welfare of the neighborhood, which may extend into an adjacent municipality, or the Town.
- f. All signage has been reviewed and approved by the Building Commissioner or Design Review Board, as applicable, as to letter size, color, and design per section 3200 to ensure mitigation of impact to the surrounding neighborhood, consistent with applicable Federal and State law.
- g. The establishment has satisfied all of the conditions and requirements in this section.

Deleted: The Firearm Business Use shall procure and at all times while in operation maintain insurance issued by an insurance company licensed to do business in the Commonwealth, insuring the Firearm Business Use against liability for damage to property and for injury to, or death of, any person as a result of the theft, sale, lease or transfer, or offering for sale, lease or transfer of a firearm or ammunition, or any other operation of the Firearm Business Use. The limits of liability shall not be less than \$1,000,000 for each incident of damage to property or incident of injury to death to a person. Notice of termination of any applicable insurance must be given to the Special Permit Granting Authority at least 30 days prior to the effective date of the cancellation

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Deleted: <#>A Special Permit for a Firearm Business Use shall be valid for one year. The owner of a Firearm Business Use shall annually apply to the Special Permit Granting Authority for renewal of the Special Permit, which renewal shall not exceed one (1) year. ¶

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Commented [RS12]: The Town may be limited in its ability to enforce zoning outside of the Town.

2264. Limitation and Termination of Special Permit - No more than two Firearm Business Uses are allowed within the Town of Sudbury at any given time. A Special Permit for a Firearm Business Use shall be valid for one year. The owner of a Firearm Business Use shall annually apply to the Special Permit Granting Authority for renewal of the Special Permit, which renewal shall not exceed one (1) year.

Commented [RS13]: It is our understanding that no Firearms Business Uses are currently operating in Town such that two will be allowed by special permit.

While someone may try to challenge this, we note that the AG approved a similar provision in Acton recently.

A Special Permit for Firearm Business Use, if granted, shall at a minimum be issued in the name of a specific individual and is not transferable upon a sale, transfer, or assignment of the Firearms Business Use. A special permit for a Firearm Business Use may be revoked, for violation of state and federal law, including, but not limited to, G.L. c. 140, ss. 122B, 130, 131N. Upon expiration or cancellation of the policy of insurance as required herein, and if no additional insurance is obtained, the special permit may be revoked. The Special Permit granting authority may hold a public hearing with notice, posting and publication as required by G.L. c. 40A, §11 to consider revoking a Special Permit under this paragraph. A concurring vote of four members of the Select Board shall be necessary to revoke a special permit for a Firearms Business Use.

Commented [RS14]: It is our understanding that you intend for the Special Permit to be connected to one person, please confirm.

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2265. Severability: The provisions of the Bylaw are severable. To the extent this Bylaw conflicts with G.L. c. 140 or other State laws or regulations currently in effect, the section shall be interpreted to minimize any conflict with State laws or regulations while maximizing the furtherance of the public safety and other public purposes underlying this Bylaw. The invalidity of any Section or provision of this Zoning Bylaw shall not invalidate any other Section or provision hereof.

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C.
DEFINITIONS

Insert in Article 7000, Definitions, the following new definition:

Ammunition: Cartridges or cartridge cases, primers (igniters), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

Firearm: Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to guns, pistols, shotguns, rifles.

Firearm Accessory: Any device designed, modified, or adapted to be inserted into or affixed onto any Firearm to enable, alter, or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one's person of a Firearm.

Firearm Business Use:

- A. Firearm Dealer: A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
- B. Gunsmith: Any retail operation involving the repairing, altering, cleaning, polishing, engraving, blueing, or performing of any mechanical operations on any Firearm.

Commented [JMA15]: This is the definition that was approved by the AG in its review of the Acton Firearm Zoning Bylaw:

3.5.26 Firearm Business – An indoor retail or wholesale operation involving the sale of Firearms and Ammunition. Accessory sale of Firearm sighting systems, slings and scabbards, or maintenance of Firearms including the repairing, altering, cleaning, polishing, engraving, or blueing of any Firearm. Sale of conversion devices such as suppressors or similar products that when combined with a Firearm are used to fire a projectile.

Is the Town intending to also include firearms manufacturing in this bylaw? We note that the Table of Use Regulations separately lists manufacturing as an Industrial Use.

Also, is the intent that this apply even when firearms may be a small percentage of overall sales? If so, we recommend specifying that.

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Page 3: [2] Commented [JMA8] **Author** **1/17/2024 3:11:00 PM**

We recommending referencing state law requirements with respect to firearms security measures. Although not specific to firearms dealers, Massachusetts law requires that firearms be secured in a locked container, equipped with a tamper-resistant mechanical lock or other safety device, or properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user.

Additionally, the Federal Bureau for Alcohol, Tobacco, Firearms and Explosives (“ATF”) has issued guidance on ways to increase the security of a federally licensed dealer’s establishment. Click [here](#) for a link to the ATF document.

For example, G.L. c. 140, s. Section 131L. (a) states as follows:

"It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. It shall be unlawful to store or keep any stun gun in any place unless such weapon is secured in a locked container accessible only to the owner or other lawfully authorized user."

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We recommend preparing a plan or map to document that this restriction does not constitute an actual prohibition of the use in the district.