

§ 280-6.1. Adult Uses Overlay District.

A. Purpose.

- (1) The purpose of this Bylaw is to address the well-documented secondary effects of Adult Uses, as defined herein and to provide a suitable location for Firearms Businesses. Such secondary effects of Adult Uses have been found to include increased levels of crime, blight resulting from the clustering and concentration of Adult Uses, adverse impacts on the business climate of municipalities, and adverse impacts on property values of residential and commercial properties. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This Section is enacted pursuant to G.L. c. 40A, s. 9A, with the purpose and intent of addressing and mitigating the secondary effects of Adult Uses that are adverse to the health, safety, and welfare of the Town and its inhabitants. **[Amended 11-19-2019 ATM by Art. 12]**
- (2) The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter of materials, including sexually oriented matters or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitutions of the United States or of the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, dissemination, or exhibition of obscene or other illegal matter or materials, as defined in G.L. c. 272, § 31.

B. Establishment of adult uses overlay district, and relationship to underlying districts.

- (1) The Adult Uses Overlay District ("AUOD") is established as a district that overlays the underlying districts, so that any parcel of land lying in the AUOD shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning Bylaw. Land and buildings in the AUOD may be used for any purpose permitted as of right or by special permit in the underlying district, and all requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.
- (2) The AUOD shall include assessor's map and block numbers 149-3B, 150-5, 150-7A, 150-7B, 162-1, 162-3, 162-44, and 162-45 in the Research, Development, and Office Zoning District, as depicted on the plan prepared by the Town of Dedham Department of Infrastructure Engineering titled 'Enterprise Drive Adult Use Overlay District, which is incorporated herein by reference and which is on file with the Town Clerk.

C. Definitions.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matter which are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

ADULT ENTERTAINMENT ESTABLISHMENT — Any establishment which provides live entertainment for its patrons, a substantial or significant portion of which consists of entertainers engaging in sexual conduct or nudity as defined in G.L. c. 72, s. 31.¹

ADULT MOTION PICTURE THEATER — An establishment used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock in trade devices, objects, tools, or toys that are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

ADULT USES — Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Adult Entertainment Establishment, as defined herein.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film materials that are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

FIREARM — A gun, pistol, or any weapon capable of firing a projectile and using an explosive charge as a propellant. **[Added 11-19-2019 ATM by Art. 12]**

FIREARMS BUSINESS — A retail or wholesale operation involving the purchase or sale of firearms, with or without sale of ammunition and/or firearms accessories, by a federally licensed firearms dealer. **[Added 11-19-2019 ATM by Art. 12]**

SUBSTANTIAL OR SIGNIFICANT PORTION — This term as used herein shall mean any of the following:

- (1) 20% or more of the business inventory or stock or merchandise for sale, rental, distribution, or exhibition during any period of time.
 - (2) 20% or more of the annual number of gross sales, rentals, or other business transactions
 - (3) 20% or more of the annual gross business revenue.
 - (4) 20% or more of the hours during which the establishment is open.
- D. Scope of permitting authority. Adult Uses and Firearms Businesses, as defined in this Section, may be permitted in the AUOD upon the granting of a Special Permit by the Board of Appeals, subject to requirements, conditions, and limitations as

1. Editor's Note: See MGL c. 272, § 31.

specified in this Section. Adult Uses and Firearms Businesses are not allowed in the Town, other than in the AUOD in accordance with the requirements of this Section. **[Amended 11-19-2019 ATM by Art. 12]**

- (1) Adult Uses and Firearms Businesses shall not be considered accessory uses.
- (2) A Public Hearing shall be held on an application for a Special Permit for an Adult Use or Firearms Business, and the Board of Appeals shall act on the application in accordance with the provisions of G.L. c. 40A, ss. 9, 9A, and 11; provided, however, that the hearing shall be closed no later than 60 days after the opening of the hearing, and the Board of Appeals shall act on the application within 30 days after the hearing is closed, unless the applicant consents in writing to an extension of such time periods.

E. Special permit submittal requirements.

- (1) A completed application and form shall be submitted pursuant to the rules and regulations of the Board of Appeals. The completed application must also include all of the following: **[Amended 11-19-2019 ATM by Art. 12]**
 - (a) Name, address, business address, and telephone numbers of the legal owner or owners of the proposed Adult Use or Firearms Business.
 - (b) Name, address, business address, and telephone number of the manager of the proposed Adult Use or Firearms Business.
 - (c) Name, address, business address, and telephone numbers of all persons having any equity, including beneficiaries or other interest in such Adult Use or Firearms Business, including but not limited to security interest, liens, mortgages, or other interest. In the event that a corporation, partnership, trust, or other entity is listed, the name, address, business address, and telephone number of every person who is an officer, director, shareholder, or trustee of the entity must be listed, in order that the Board of Appeals may know who are the persons who actually own and control that Adult Use or Firearms Business.
 - (d) A sworn statement that neither the application, the manager, nor any person having any equity or other interest in the Adult Use or Firearms Business has been convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28, or similar laws in other states.
 - (e) The total number of employees.
 - (f) Proposed provisions for security within and without the Adult Use or Firearms Business.
 - (g) The physical layout of the interior of the structure in which the Adult Use or Firearms Business will be located.
 - (h) A full description of the intended nature of the business.

F. Special permit requirements and conditions. **[Amended 11-19-2019 ATM by Art. 12]**

- (1) General. A Special Permit for an Adult Use or Firearms Business shall be granted by the Board of Appeals upon its written determination that the requirements and conditions of this Subsection F have been satisfied. The Board of Appeals may impose such reasonable conditions on the operation of the Adult Use or Firearms Business as the Board of Appeals deems appropriate for the protection of public health, safety, and welfare, including reasonable limits on the hours of operation. § 280-9.3B of the Bylaw shall not apply to the consideration of an application for a Special Permit for an Adult Use.
- (2) Location. No Adult Use or Firearms Business may be located less than 150 feet from a residential use or residential zoning district, school, library, church or other religious use, child-care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, any establishment licensed under the provisions of G.L. c. 138, s. 12, or another Adult Use or Firearms Business. The distance specified above shall be measured by a straight line from the structure in which the Adult Use or Firearms Business is to be located to the nearest boundary line of a residential zoning district, or the nearest property line of any of the designated uses set forth herein.
- (3) Display. No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items, or advertising depicting, describing, or relating to sexual content or sexual excitement as defined in G.L. c. 272, s. 31 shall be displayed in the windows of, or on the building of, any Adult Use, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such Uses. No exterior display of Adult Use or Firearms Business product or services is allowed.
- (4) Screening. All building openings, entries, and windows shall be screened in such a manner as to prevent visual access by the public to the interior of the Adult Use or Firearms Business. The Board of Appeals may impose conditions requiring that fencing or plantings be installed along rear and side lot lines to screen the premises from adjoining properties.
- (5) Building appearance. The appearance of the building in which the Adult Use or Firearms Business is to be located shall be consistent with the appearance of buildings in similar (but not specifically "adult") use in the Town, and shall not employ unusual colors or building design that would attract attention to the premises.
- (6) Interior booths. If the Adult Use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors, or screens. All such booth openings shall be clearly seen from the center of the establishment.
- (7) Minors. No Adult Use shall be allowed to disseminate adult matter to minors,

to cause Adult Use displays to be viewed by minors, or to allow minors to linger on the premises. No minors shall have access into or within a Firearms Business unless accompanied by an adult.

- (8) Parking. Adult Uses or Firearms Businesses are subject to the requirements set forth in § 280-5.1 of the Zoning Bylaw.
- (9) Lighting. No exterior lighting (or internal lighting visible from the exterior of the building) shall be flashing or intermittent in nature.
- (10) Owners and managers. A Special Permit for an Adult Use shall not be granted if the Adult Use is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28, or similar laws in other states.

A Special Permit for a Firearms Business shall not be granted if the Firearms Business is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c.140, s.122B, G.L. c.140 s.130, G.L. c.140 s.131N, or similar laws in other states.

- (11) Operation of Firearms Businesses. Firearms Businesses shall be subject to the following operational requirements to the extent such requirements do not conflict or prevent compliance with applicable Federal and State law:
 - (a) Videotaping the Point of Sale for All Firearms Transactions. Permitted retailers shall videotape the point of-sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.
 - (b) Computerized Crime Gun Trace Log and Alert System. Permitted Retailers shall maintain a computerized system to log crime gun traces. If a customer who has a prior trace at that retailer attempts to purchase a firearm, the sale shall be electronically flagged, but may proceed at the dealer's discretion.
 - (c) Purchaser Declaration. For sales flagged by the trace alert system, permitted retailers shall ask purchasers to fill out a declaration indicating that they meet the legal requirement to purchase the firearm.
 - (d) Deterring Fake IDs. Permitted retailers shall only accept valid federal- or state-issued picture IDs as primary identification. Retailers shall utilize additional ID checking mechanisms.
 - (e) Consistent Visible Signage. Permitted retailers shall post signage to alert customers of their legal responsibilities at the point-of-sale.
 - (f) Employee Background Checks. Permitted retailers shall conduct criminal background checks for all employees selling or handling firearms.
 - (g) Employee Responsibility Training. Permitted retailers shall conduct or otherwise provide a training program for employees focused on deterring

illegal purchasers.

- (h) **Inventory Checking.** Permitted retailers shall conduct daily and quarterly audits of firearms within their stores.
 - (i) **No Sales Without Background Check Results.** Permitted retailers shall prohibit sales based on "default proceeds," which are permitted by law when the background check has not returned a result within 3 days.
 - (j) **Securing Firearms.** Participating retailers shall maintain firearms kept in customer accessible areas in locked cases or locked to racks.
- G. **Termination of special permit for adult uses. [Amended 11-19-2019 ATM by Art. 12]**
- (1) A Special Permit for an Adult Use or Firearms Business shall be issued to the owner of the Adult Use or Firearms Business, and is not transferrable upon a sale, transfer, or assignment of the Adult Use or Firearms Business, except with the approval of the Board of Appeals.
 - (2) If there is a change in the identity of the manager of the Adult Use or Firearms Business, the Building Commissioner and the Board of Selectmen shall be notified of such change. Failure to comply with this provision shall terminate the Special Permit.
 - (3) A Special Permit for an Adult Use or Firearms Business shall be terminated if the owner or manager of the Adult Use or Firearms Business is found to have been convicted of violating G.L. c. 119, s. 63, or GL c. 272, s. 28, or similar laws in other states.
 - (4) A Special Permit for a Firearms Business shall be terminated for violating G.L. c.140, s.122B, G.L. c.140 s.130, G.L. c.140 s.131N, or similar laws in other states.
- H. **Severability.** If any provision of this Section is ruled invalid by a court of competent jurisdiction, such ruling shall not affect the validity of the remainder of the Section.