

## ADULT ENTERTAINMENT

### 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 depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than twenty-five percent (25%) of the subject establishment's inventory stock; or twenty-five percent (25%) of the subject premise's gross floor area, or 200 sf, whichever is greater.

**ADULT MOTION PICTURE THEATRE** : An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws.

**ADULT PARAPHERNALIA STORE** : An establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than twenty-five percent (25%) of the subject establishment's inventory stock; or twenty-five percent (25%) of the subject's premise's gross floor area, or 200 sf, whichever is greater.

**ADULT LIVE NUILITY ESTABLISHMENTS** : Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in sections 31 of chapter 272 of the Massachusetts General Laws.

**ADULT USE** : For the purposes of this by-law, Adult Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, and Live Nudity Establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws. For the purposes of this definition an adult use is any use or combination of uses which either have greater than twenty-five percent (25%) of the subject establishment's inventory stock; or twenty-five percent (25%) of the subject premise's gross floor area, or 200 sf, whichever is greater devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws.

**ADULT VIDEO STORE** : An Establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General

Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than twenty-five percent (25%) of the subject establishment's inventory stock; or twenty-five percent (25%) of the subject premise's gross floor area, or 200 sf, whichever is greater.

## 5-5 ADULT ENTERTAINMENT ESTABLISHMENTS

1. All Adult Entertainment Establishments as defined in Section II of this Zoning Bylaw are allowed in the Industrial District (I) upon the granting of a special permit by the Zoning Board of Appeals. All Adult Entertainment uses shall comply with the following requirements:

A. No adult entertainment establishment shall be located within the following designated areas:

1) within 500 feet from the nearest boundary line of any residential zoning district or from the nearest property line of any residential use;

2) within 500 from the nearest property line of any public or private school, or municipal building open to the general public;

3) within 500 feet from the nearest property line of any church or other religious facility;

4) within 500 feet from the nearest property line of any public park or recreation area and any principal or accessory private recreational facility use;

5) within 500 feet from the nearest property line of any group day care center, family day care center, nursing home and hospital;

6) within 1000 feet from the nearest property line of any other entertainment establishment.

7) within 500 feet from any establishment licensed under the provisions of section twelve of

Massachusetts General Laws chapter one hundred thirty-eight. The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the adult entertainment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day care center, family day care center, nursing home, hospital or any other adult entertainment use, as the case may be.

8) within 50 feet of a public or private way or 50 feet from all other property lines.

## B. Additional Siting Requirements:

- 1) The maximum lot coverage, including building, parking and driveways shall be 50 percent of the upland lot area. 2) A 50 foot vegetated buffer containing adequate screening appropriate to the character of the area and the intensity of the use shall be provided between an adult entertainment establishment and other abutting commercial uses.
- 3) An adult entertainment use shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.
- 4) The appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically `adult`) use, and not employ unusual color or building design which would attract attention to the premises.
- 5) There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right of way or abutting property.

## C. Sign Requirements

1. Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one identification sign to be mounted on the building wall face shall be allowed for an adult use. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited.
2. No adult entertainment establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate, or contain reflective or fluorescent elements.
3. No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult cabaret, adult motion picture theater, adult paraphernalia store or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment establishment.

## D. Special Permit Submission and Approval

1. A site plan shall be submitted by the applicant in order that the Special Permit Granting Authority may determine that the above standards have been met. The site plan shall be prepared and submitted in accordance with Section 12-3 Site Plan Review of this by-law. The site plan shall also show when appropriate the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family

day care center, nursing home and hospital, municipal building, and any other adult entertainment establishment(s).

2. All applications for a Special Permit must include the following information:

a. Names and addresses of the legal owner(s) of the Adult Entertainment Establishment.

b. Name and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed in order that the Special Permit Granting Authority will know who are the persons who will actually own and control the establishment. The applicant and/or owner must disclose if they have been convicted of violating the provisions of Massachusetts General Laws section sixty-three of chapter one hundred and nineteen or section twenty-eight of chapter two hundred and seventy-two.

c. Name and address of the manager.

d. The number of employees, or proposed number of employees, as the case may be.

e. Proposed security precautions.

3. Special Permits shall be granted for adult entertainment establishments only upon determination by the Special Permit Granting Authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

4. In approving a Special Permit, the Special Permit Granting Authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. No Special Permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:

a. Street, side or rear setbacks greater than the minimum required by this bylaw.

b. Requirement of screening or parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.

- c. Modification of the exterior features or appearances of the structure.
- d. Limitation of size, number of occupants, method or time of operation, or extent of facilities.
- e. Regulation of number, design and location of access drives or other traffic features.
- f. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
- g. The Special Permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.
- h. Where the Adult Use is not governed by other State or local Licensing Board, the following conditions shall apply:

1) A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager. The manager shall register with the Board of Selectmen. No manager shall be designated who has been convicted of violating MGL Ch. 119, Section 63, (Inducing or abetting delinquency of a child) or MGL Ch. 272, Section 28, (Matter harmful to minors, etc.) or similar laws in other states.

2) The Special Permit Granting Authority may limit the hours of operation.

5. Special permits for Adult Entertainment Establishments shall not be granted to any person or persons convicted of violating the provisions of Massachusetts General Laws Chapter 119, Section 63, nor Massachusetts General Laws Chapter 272, Section 28, similar laws in other states.

#### E. Lapse of Permit.

1) Any special permit granted hereunder for an adult entertainment establishment shall lapse after one year, including such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or if in the case of a permit for construction, if construction has not begun by such date except for good cause, including such time to pursue or await the determination of an appeal referred to in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof.

2) The Special Permit shall lapse after two years, unless a shorter term is specified by the Special Permit Granting Authority. Upon receipt of a valid application, the Special Permit Granting Authority may grant another Special Permit provided that the Board finds that all conditions of this Section and of approval have been complied with.

3) The Special Permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises, a) unlawful sexual activity; b) gambling; c) drug use; d) violent crimes; e) offenses against children; f) repeated public disturbances requiring intervention by the police; and, g) any other illegal activities.

4) Violation of any of the conditions of approval of the Special Permit shall be grounds for non-renewal of the Special Permit as provided for above.

#### F. Existing Adult Entertainment Establishments

Any Adult Entertainment Establishment that was in existence as of the first date of the publication of the notice of public hearing on this zoning amendment regulating adult uses may continue to operate in the same location, without material change in scale or content of the business but shall apply for such Permit within 90 days following the adoption of this bylaw.

#### G. Prohibited Uses:

Nothing in this Ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town Ordinance or Statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.