

DEFINITIONS

B. ADULT STORE : an establishment having as a substantial or significant portion of its stock in trade, books, magazines, videos, movies, devises, objects, tools, toys or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31. [Added STM 10/11/00]

C. ADULT MOTION PICTURE THEATER : an enclosure or building, or any portion thereof, used for presenting visual media material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31. [Added STM 10/11/00]

D. ADULT LIVE ENTERTAINMENT ESTABLISHMENT : any establishment, including but not limited to a nightclub, bar, restaurant, tavern, dance hall, stage or other performance venue, which displays live entertainment, including but not limited to persons or entertainers appearing in a state of nudity or other live performance distinguished by an emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31. [Added STM 10/11/00]

SECTION XI. ADULT ENTERTAINMENT OVERLAY DISTRICT

11.01. PURPOSE AND INTENT

It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Establishments are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This bylaw is enacted pursuant to Massachusetts General Law Chapter 40A, Section 9A at Section XI. Adult Entertainment Overlay District, Subsection 11.01. Purpose and Intent. and the Massachusetts Home Rule Amendment with the purpose and intent of regulating and limiting the location of Adult Entertainment Establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Douglas.

The provisions of this Section XI have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the intent or effect of this Section XI to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute, or exhibit such

matter or materials. Nor is it the intent or effect of this Section XI to legalize the distribution of obscene matter or materials.

11.02. APPLICABILITY

This Section XI applies to all Adult Entertainment Establishments, as defined in Sections 11.05 and 1.04 of this bylaw. Any existing Adult Entertainment Establishment shall apply for an Adult Entertainment Special Permit within 90 days of the effect of this bylaw.

11.03. ESTABLISHMENT OF ADULT ENTERTAINMENT OVERLAY DISTRICT & RELATIONSHIP TO UNDERLYING DISTRICTS

- a. The Adult Entertainment Overlay Districts are established as districts which overlay the underlying districts, so that any parcel of land lying in an Adult Entertainment Overlay District 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.
- b. An area of land may be placed within an Adult Entertainment Overlay District and by a two-thirds vote of Town Meeting.

11.04. PERMITTING AUTHORITY

The Special Permit granting authority shall be the Planning Board.

11.05. SPECIAL PERMIT USES

The following uses shall required a Special Permit from the Planning Board:

- a. Adult Store
- b. Adult Motion Picture Theater
- c. Adult Live Entertainment Establishment

These uses shall be known as Adult Entertainment Establishments.

11.06. SPECIAL PERMIT SUBMITTAL REQUIREMENTS

In addition to the submittal requirements for Site Plan Approval as detailed in Section 6.02, Special Permit applications for approval under this Section XI shall contain the following additional information:

- a. Name and address of the legal owners of the Establishment and the property, as well as the manager of the proposed Establishment.

- b. The total number of employees
- c. Proposed security precautions
- d. The external and internal physical layout of the premises
- e. Full description of the intended nature of the business

11.07. SPECIAL PERMIT STANDARDS FOR ADULT ENTERTAINMENT

No Special Permit may be granted by the Planning Board for an Adult Entertainment Establishment unless the following conditions are satisfied:

a. Location Conditions:

No Adult Entertainment Establishment may be located outside of an Adult Entertainment Overlay District and less than 300 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas, any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12, or another Adult Entertainment Establishment. The 300 feet shall be measured from all property lines of the proposed use.

b. Display Conditions:

No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31 shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

c. Screening

All building openings, entries, and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the Adult Entertainment Establishment. A five (5) foot high solid fence or a landscaped buffer of evergreen trees or shrubs five (5) foot high at the time of planting shall be provided and maintained along the side and rear property lines.

d. Minors

No Adult Entertainment Establishment shall be allowed to disseminate adult matter to minors, cause Adult Entertainment Establishment displays to be viewed by minors, or allow minors to linger on the premises.

e. Applicant Conditions

No Special Permit shall be issued to any person convicted of violating the provisions of Massachusetts General Law Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.

f. Parking

Parking for Adult Entertainment Establishments shall be provided only in side or rear yard areas. All parking areas shall be illuminated and such lighting shall be contained within the subject property lines.

11.08. CONDITIONS OF APPROVAL

A. Special Permit issued under this Section XI shall lapse upon any one of the following occurrences:

- a. There is a change in the location of the adult use;
- b. There is a sale, transfer or assignment of the business or the license;
- c. There is any change in ownership or management of the applicant.
- d. Failure to begin a permitted Adult Entertainment Establishment within two years of the granting of such permit, except for "good cause", including the time necessary to await a court appeal to establish an Adult Entertainment Establishment.

11.09. SEVERABILITY

If any section or portion of this bylaw is ruled invalid, such ruling shall not affect the validity of the remainder of the bylaw.