

[PROPOSED AMENDMENT TO LENOX BY-LAWS]

Section 2: 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 Massachusetts General Laws Chapter 272,

**ADULT MOTION PICTURE THEATER** . 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 Massachusetts General Laws Chapter 272,

**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 Massachusetts General Laws Chapter 272,

**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 Massachusetts General Laws Chapter 272,

**ADULT CLUB** . An establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Massachusetts General Laws Chapter 272, also, an establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272,

**SUBSTANTIAL OR SIGNIFICANT PORTION** . The term "substantial or significant portion" as used in this section shall mean twenty-five percent (25%) or more of any one or more of the following: business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time; annual number of gross sales, rentals, or other business transactions; annual gross business revenue; hours during which the establishment is open.

## Section 9: Special Provisions

### 9.25 Adult Entertainment Uses.

#### 9.25.1 Purpose and Intent.

The purpose and intent of this section is to address and mitigate the secondary effects of the adult uses and businesses referenced herein. The provisions of this section are not intended to impose a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Also, the provisions of this section are not intended to restrict or deny access by adults to adult uses and to sexually oriented matter or material protected by the Constitution of the United States of America and of the Commonwealth of Massachusetts, nor 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, or exhibition of obscene or other illegal matter or materials.

It is also the purpose of this section to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety, and general welfare of the Town of Lenox and its inhabitants.

#### 9.25.2 Special Permit

##### 9.25.2.1 Authority

No adult use shall be allowed except by a Special Permit granted by the Board of Appeals. Said Board may impose such conditions as it deems appropriate for the protection of public health, safety, and welfare in any district permitting such use. Said Special Permit shall only be issued following a public hearing held within sixty-five (65) days after filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.

##### 9.25.2.2 Location

9.25.2.2.1 An adult use shall be prohibited in all zoning districts except in the C-1A Zone.

9.25.2.2.2 An adult use may not be located within four hundred (400) feet of (a) a boundary line of a residential zoning district, (b) any other adult bookstore or adult motion picture theater, or (c) any establishment licensed under the provisions of Chapter 138,  
The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed adult use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

### 9.25.3 Zoning Requirements

9.25.3.1 All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

9.25.3.2 No adult entertainment use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Chapter 272,

9.25.3.3 No adult entertainment use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

9.25.3.4 No adult entertainment use shall be allowed within a building containing other retail, consumer or residential uses.

9.25.3.5 No adult entertainment use shall be allowed within a shopping center, shopping plaza or mall.

9.25.3.6 The proposed adult entertainment use shall comply with the off-street parking requirements set forth in Section 10.

9.25.3.7 No adult entertainment use shall have any flashing lights visible from outside the establishment.

9.25.3.8 No adult entertainment use shall have a freestanding accessory sign.

9.25.3.9 No adult entertainment use shall be established prior to submission and approval of a site plan by the Board of Appeals. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. The site plan shall show the distances between the proposed adult entertainment use and the boundary of the nearest residential zoning district and the property line of each of the uses set forth in Section 9.25.2.2.2.

#### 9.25.4 Application

The application for a Special Permit for an Adult Use shall include the following information: name and address of the legal owner of the proposed establishment; name and address of all persons having a lawful ownership, equity or security interest in the proposed establishment; a sworn statement that neither the applicant, owner, nor any person having a lawful ownership, equity or security interest in the proposed establishment has been convicted of violating the provisions of Massachusetts General Laws Chapter 119, or Chapter 272, name and address of the manager of the proposed establishment; proposed provisions for security; number of employees; and proposed physical layout of the interior of the proposed establishment.

#### 9.25.5 Conditions

The special permit granting authority may impose reasonable conditions, safeguards and limitations on time or use of any special permit granted shall be personal to the applicant, shall not run with land and shall expire upon sale or transfer of the subject property.

#### 9.25.6 Expiration

A special permit to conduct an adult entertainment use shall expire after a period on one calendar year from its date of issuance and shall be renewable for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original special permit was granted, and that a site plan is submitted to, and approved by the Board of Appeals as set forth in paragraph 9.25.3.9 of this bylaw.

#### 9.25.7 Severability

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

Table 6.6.-1  
E. Retail Business & Consumer Service  
Establishments  
C-1A S.  
Provisions

19. Adult Uses XA 9.25 9.21 10.11  
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