

Amendment 9156

**AN ORDINANCE AMENDING THE WORCESTER
ZONING ORDINANCE, ADOPTED APRIL 2, 1991,
RELATIVE TO ADULT ENTERTAINMENT USES**

Be it ordained by the City Council of the City of Worcester as follows:

1. Article IV of the Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by deleting the existing section ten in its entirety and inserting the following new section ten as follows:

Section 10 – Adult Entertainment Establishments

A. 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 G.L. c.272, §31.

ADULT ENTERTAINMENT ESTABLISHMENT – An establishment or venue whereby one or more of the following uses, as defined under this ordinance, is conducted, sponsored, produced or otherwise allowed to take place upon the property: adult bookstore, adult motion picture theatre, adult establishment which displays live nudity for its patrons, adult paraphernalia store, adult video store.

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 G.L. c.272, §31.

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 G.L. c. 272, §31.

ADULT VIDEO STORE – An establishment having as 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 G.L. c. 272, §31.

ESTABLISHMENT WHICH DISPLAYS LIVE NUDDITY FOR ITS PATRONS – Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in G.L. c. 272, §31.

B. An adult entertainment establishment may be operated only in the zoning district(s) determined by **Table 4.1** and only then upon the issuance of a special permit by the Zoning Board of Appeals acting solely in accordance with the standards and procedures set forth in this section ten.

C. No special permit shall be granted for any proposed adult entertainment establishment where the “point of entry” to any such building or structure containing the adult entertainment use is within five hundred linear feet of the exterior of any building or structure containing any of the following uses:

1. other adult entertainment establishment; or
2. establishment licensed under the provisions of G.L. c. 138, §12; or
3. a free public library;

nor shall a special permit be granted for any proposed adult entertainment establishment where the “point of entry” to any such building or structure containing the adult entertainment use is within five hundred linear feet of property zoned for residential purposes unless such point of entry and the residential zone are separated by Interstate Highway 290, in which case the extent of the buffer zone shall be limited by the boundary of Interstate Highway 290.

For purposes of this section, “point of entry” shall mean the midpoint of any doorway where patrons of the adult entertainment will enter and exit the building or structure to contain such adult entertainment use to and from any public way, private way or off-street parking area available for use by such patrons.

- D. No special permit shall be granted for any adult entertainment establishment owned, controlled or managed by any person convicted of violating the provisions of G.L. c. 119, §63 (Inducing or abetting delinquency of a child), or G.L. c. 272, §28 (Dissemination or possession of matter harmful to minors).
- E. None of the provisions of Article II of this ordinance governing special permits shall apply to special permits granted under this section except those governing the size, form, contents, style and number of copies of the application, the fee to be charged, the notifications for the public hearing, the filing of decisions, violations and penalties contained therein.
- F. Each applicant for a special permit under this section shall submit a security plan showing the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public or private street or off-street parking area, any walkway structures and detailing how the property will be policed so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises.
- G. Each applicant for a special permit under this section shall submit a plan signed by a licensed surveyor, depicting compliance with the linear distance requirements listed in subsection C above.
- H. Notwithstanding any contrary provision of this Zoning Ordinance, no applicant under this section shall be required to obtain site plan approval or to include a landscaped buffer zone and no application filed under this section ten shall be denied on account of the failure to obtain any site plan approval or a landscaped buffer zone.
- I. Upon receipt of any application for a special permit under this section ten, the board shall immediately schedule a public hearing to be held within thirty-five days of the date of receipt of the application. Failure of the board to take final action upon an application for a special permit under this section ten within ninety days of the date the application is first filed with the board shall be deemed to be a grant of the permit; provided, however, that the applicant may in its sole discretion waive this provision to provide additional time to submit information required by this section ten or relevant to any requirement of this section ten.
- J. Any special permit granted under this section shall lapse and become null and void:
 1. If a substantial use thereof has not commenced within six months from the date of the grant thereof, including such time required to pursue or await the determination of an appeal, except for good cause; or, in the case of a permit for construction, if construction has not begun by such date, except for good cause; or,

2. Thirty days after the date of a conviction under the provisions of G.L. c. 119, §63, or G.L. c. 272, §28 by any person having an interest in said adult entertainment establishment, unless said person divests him or herself of such interest by such date; or,
 3. Immediately whenever any person having been convicted of violating M.G.L. c. 119, §63, or G.L. c. 272, §28 shall acquire an interest in said adult entertainment establishment.
- K. Every adult entertainment establishment which is lawfully in existence as of the date of adoption of this section and not previously issued a special permit under this provision shall apply for a special permit as a condition of its continued operation at such location, within ninety days of the effective date of adoption of this section 10.

In City Council May 13, 2008

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk
David J. Rushford
City Clerk