

ARTICLE XIII
**Adult Entertainment/Bookstore/Video Store/
 Motion-Picture Establishments**
 [Amended 5-14-1996 ATM by Art. 16]

§ 135-1301. Purpose.

The purpose of this bylaw is to regulate the establishment of adult entertainment, adult bookstores/video stores and adult motion-picture establishments within the Town by special permit pursuant to MGL c. 40A, § 9A in order to promote the safety and welfare of the inhabitants of Braintree.

§ 135-1302. Definitions.

As used in this chapter, the following words shall have the following meanings:

ADULT BOOKSTORE/VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and recorded matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT ENTERTAINMENT — An establishment providing live entertainment or dancing which is sexual in nature or conduct as defined in MGL c. 272, § 31.

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 MGL c. 272, § 31.

OBSCENE ENTERTAINMENT — All entertainment which is "obscene" within the meaning of that term as defined by MGL c. 272, § 31, and final adjudication of a court of competent jurisdiction.

SPECIAL PERMIT GRANTING AUTHORITY — The special permit granting authority shall be the Planning Board.

§ 135-1303. Restrictions.

- A. All obscene entertainment, including bookstores/video stores and motion picture theaters that make available obscene materials, is prohibited within the Town.
- B. Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments are prohibited within any zoning district other than commercial zoning districts.
- C. Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments may not be located within 1,000 feet of each other nor within 1,000 feet of:
 - (a) A residential district;
 - (b) Any private or public school;

- (c) Any church, temple or other place of worship;
- (d) Any playground; and
- (e) Any establishment licensed under the provisions of MGL c. 138, § 12.

§ 135-1304. Applications [Amended 5-14-1996 ATM by Art. 26]

Adult bookstores/video stores, adult motion-picture theaters, and adult entertainment establishments are allowed within commercial zoning districts, subject to the restrictions of § 135-1303 and subject to reasonable regulations imposed by the special permit granting authority upon application for a special permit in accordance with the following procedures:

- A. The applicant for permission to operate an adult motion-picture theater or adult bookstore/video store or adult entertainment establishment must file his application on a form approved by the special permit granting authority and the Town Clerk. Such form shall contain information as set forth in the rules and regulations established by the special permit granting authority, but shall include as a minimum:
 - (a) Name and address of the legal owner of the bookstore/video store or theater.
 - (b) Name and address of all persons having lawful equity or security interests in the bookstore/video store or theater.
 - (c) Name and address of the manager.
 - (d) The number of proposed employees.
 - (e) Proposed security precautions.
 - (f) Physical layout of the premises in a format established by the special permit granting authority.
- B. The special permit granting authority shall hold a public hearing on any application for special permit for an adult bookstore/video store, adult motion-picture theater or adult entertainment establishment within 65 days of the filing of the application with the special permit granting authority and Town Clerk. Notice of said public hearing shall be given by publication or posting as provided in MGL c. 40A, § 11 and by mailing to all parties in interest.
- C. The special permit granting authority shall act on said application within 90 days following said public hearing. The procedure for holding said public hearing and for preparing and filing a notice of decision shall be that procedure provided for in the granting of all special permits under the Zoning Bylaw and the applicable sections of MGL c. 40.
- D. Failure by the special permit granting authority to take final action upon a special permit within 90 days following the date of public hearing shall be deemed to be a grant of the permit applied for.
- E. Special permits issued by the special permit granting authority shall require a four-fifths vote of the special permit granting authority.

- F. A special permit granted under this chapter shall lapse within six months of issuance, including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced, as determined by the special permit granting authority, except for good cause, or, in the case of permit for construction, if construction has not begun by such date except for good causes.

§ 135-1305. Rules and regulations.

In addition to the requirements of § 135-1304, the special permit granting authority shall adopt and from time to time amend rules relative to the issuance of special permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe the size, form, contents, style and number of copies of plans and specifications to accompany the application; the information required in the application; the procedure for submission and approval of such special permits; and other reasonable rules and regulations governing the issuance of such special permits.

§ 135-1306. Additional requirements.

Because of the unique hardships to the surrounding area, the following criteria shall be required:

- A. Private duty police security detail shall be provided as deemed necessary by the Chief of Police.
- B. No establishment providing adult goods or entertainment shall be open between 11:00 p.m. and 7:00 a.m. without a permit issued at the discretion of the Board of Selectmen.
- C. The parking requirement for adult entertainment and adult motion-picture theaters shall be one space for every 1.25 individuals of maximum allowed occupancy, plus one space for each employee as counted during the maximum shift.
- D. The parking requirement for adult bookstores/video stores shall be one space for each 100 square feet of gross floor space. All parking shall be located in the area between the street line and the rear line of the building projected to the side lines of the lot.
- E. No special permit shall be issued without a valid entertainment permit issued by the Board of Selectmen.
- F. All parking for adult entertainment establishments and adult motion-picture theaters shall be located in the area between the street line and the front line of the building projected to the side lines of the lot.
- G. No exterior lighting shall be flashing or sequential in nature.
- H. 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 establishment. No exterior display of product or services is allowed.

§ 135-1307. Criteria for approval.

In considering a special permit hereunder, the special permit granting authority shall insure that the proposed adult bookstore/video store and/or adult motion-picture theater is consistent with and conforms to the then existing community standard within the Town of Braintree for such a use.

§ 135-1308. Accessory use.

Adult bookstores/video stores, adult movie theaters, and adult entertainment establishments and the services and goods provided by them shall not be considered accessory uses.

§ 135-1309. (Deleted by amendment)**§ 135-1310. Amenities.**

- A. Except for adult bookstore/video store, a ten-foot-wide buffered landscape shall be required along the side and rear property lines which shall be a minimum of eight feet in height.
- B. Maximum building coverage shall be 10%.
- C. Minimum open space shall be 60%.