

ADULT ENTERTAINMENT BY-LAW (PLAINVILLE)

ARTICLE: ____ *To see if the Town will vote to amend the Zoning Bylaw by making the following changes:*

(1) Add the following new section 3.17:

3.17 Adult Entertainment

3.17.1 Authority to Regulate

This section is enacted pursuant to M.G.L. Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

3.17.2 Purpose

The purpose of this Adult Entertainment Section of the Town of Plainville Zoning Bylaw is to address and mitigate the secondary effects of adult entertainment establishments. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate, adverse impacts on the property values of residential and commercial property and adverse impacts on the quality of life. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Plainville and its inhabitants.

The provisions of this Section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that is protected by the Constitutions of the United States or 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.

3.17.3 Regulation of Adult Entertainment Uses

1. "Adult entertainment", as defined in this Bylaw, shall be permitted only in the "ID" Zoning District, upon the issuance of a special permit from the Planning Board, in accordance with the provisions of Section 2.9 of this Bylaw.
2. No adult entertainment special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28.

3.17.4 Dimensional Requirements:

1. The distances specified below shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of any of the residential zoning district or to the nearest property line of any of the other uses set forth below:
 - a. Any such proposed use shall be located a minimum of [700 feet] from any residential Zoning District as designated by the Town of Plainville Zoning Bylaws.
 - b. Any such proposed use shall be located a minimum of [700 feet] from any public school, public library, day-care facility or religious facility.
 - c. Any such proposed use shall be located a minimum of [700 feet] from any public playground, park or recreational area, or youth center.
2. Structures associated with the proposed use shall be located a minimum of [150 feet] from any street line.
3. All Adult Entertainment Uses shall have a maximum floor area of 27,000 square feet and maximum building coverage of 13,500 square feet.
4. No more than one structure to be used for adult entertainment shall be located on any one lot.

3.17.5 Expiration

A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date or issuance and shall be automatically 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.

3.17.6 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.

(2) Add the following to Section 4.1 Definitions:

Adult Bookstore - An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

Adult Entertainment - shall refer to the following uses as defined in this Bylaw: "Adult bookstore", "adult motion picture theaters", "adult paraphernalia store", "adult video store" and "establishments which display live nudity".

Adult Motion Picture Theaters - 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 by M.G.L. chapter 272, Section 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 M.G.L. Chapter 272, Section 31.

Adult Video Store - An establishment having a substantial or significant portion of its stock in trade, videos, movies or other film, material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by M.G.L. Chapter 272, Section 31.

Establishments which display live nudity - Any establishment which provides live entertainment for its patrons, which include the display of nudity as defined in M.G.L. Chapter 272, Section 31.

(3) Add the following to Section 2.1 Districts:

ID - Industrial District

(4) Add the following to Section 2.6 Intensity of Use Schedule:

Zoning District ID added, with same lot, yard, coverage, landscaped open and maximum floor area as the existing IA zoning district. Add footnote "h" stating "See Section 3.17 Adult Entertainment District" to "Maximum building coverage", "Maximum floor area" and "Minimum yard requirements".

(5) Add the following to Section 2.8 Use Regulations:

Zoning District ID added, with the same allowed uses, prohibited uses and uses specifically authorized by special permit as the IA zoning district, with the exception of the following addition:

In the Commercial Uses category heading, Adult Entertainment be added as a use, prohibited in all districts except the ID and WPD zones, where it will be specifically authorized by special permit.

Or, to see if the Town will vote to do or act in any manner relative thereto.