

ARTICLE I-J-K-L-M-N
(Two-thirds vote)

AMEND ZONING BYLAW
OUTDOOR SALES

To see if the Town will vote to amend section 3 of the Zoning Bylaw as set forth below:

- A. In section 3.7 – Prohibited USES, delete the last sentence of the first paragraph and replace it with the following new sentence:

“In addition, the following USES are prohibited in all zoning districts, unless otherwise specifically permitted in this Bylaw.”

[Note – the first paragraph of Section 3.7 currently reads]:

3.7 Prohibited USES – All USES that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare are expressly prohibited in all zoning districts. In addition, the following USES are expressly prohibited in all zoning districts.

- B. In section 3.8 – ACCESSORY USE Regulations, insert a new subsection 3.8.3 as follows:

3.8.3 ACCESSORY USES permitted in the Business and Village Districts.

3.8.3.1 The on-premises outdoor display and sale of merchandise by Retail PRINCIPAL USES on private property, subject to the following requirements:

- a) The outdoor display and sale of merchandise shall be conducted only by a PRINCIPAL Retail USE located on the same LOT, and shall only include merchandise that is regularly offered for sale inside that business establishment. The outdoor display of seasonal merchandise that is not typically offered for sale indoors, such as but not limited to winter tools, flowers, and beach or pool accessories shall be allowed.
- b) The outdoor display and sale shall be confined to an area that is directly contiguous to the BUILDING space that the PRINCIPAL Retail USE occupies.
- c) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.
- d) Outdoor display and sale areas shall not be placed on lawns and other landscaped areas.
- e) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: pedestrian or building access or egress; the minimum number of vehicle parking and handicap parking spaces required under this Bylaw and under the Massachusetts Architectural Access Board (AAB); ACCESS driveways; interior driveways; maneuvering aisles; loading areas; public or private utilities, services, or drainage systems; fire lanes, alarms, hydrants, or other fire protection equipment; or emergency access or egress.
- f) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

, and

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Renumber the current section 3.8.3, including all its subsections 3.8.3.1 through 3.8.3.6 to become section 3.8.4 and subsections 3.8.4.1 through 3.8.4.6.

C. Insert in Section 3.8.3 – ACCESSORY USES Permitted in the Business and Village Districts (as inserted in Part B above) a new subsection 3.8.3.2 as follows:

3.8.3.2 The Zoning Enforcement Officer may issue up to two permits per calendar year for each private property where Retail is a PRINCIPAL USE allowing temporary outdoor sale events, such as a bazaar, festival, fair or similar event, that includes the outdoor display and sale of merchandise, subject to the following requirements:

- a) The property owner shall submit a permit application to the Zoning Enforcement Officer sixty (60) days prior to the start of the event.
- b) Prior to issuance of the permit, the property owner shall have obtained all other applicable permits and licenses for the event that may be required under other local, State or Federal law.
- c) Prior to issuance of the permit, the property owner shall have obtained written notice from the Acton Police Department to proceed with the event.
- d) Only the retailers that are permanent tenants on the property may participate in the outdoor sales event. The owner shall not allow off-site or traveling retailers or vendors to participate.
- e) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.
- f) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: pedestrian or building access or egress; the minimum number of handicap parking spaces under the Massachusetts Architectural Access Board (AAB); ACCESS driveways; fire lanes, alarms, hydrants, or other fire protection equipment; and emergency access or egress.
- g) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.
- h) The event shall last a maximum of three days.
- i) The event's hours of operation shall be limited to 7 AM to 9 PM Monday through Sunday, unless otherwise specified by the Zoning Enforcement Officer.
- j) Signs displayed during the event shall not be subject to the zoning regulations for signs set forth in section 7 of this bylaw.
- k) All signs, trash and debris shall be removed from the event site immediately upon the termination of the activity.
- l) The Zoning Enforcement Officer when issuing the zoning permit shall require documents and information sufficient to determine compliance with this section.

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D. Insert in section 3.8.3 – ACCESSORY USES Permitted in the Business and Village Districts (as inserted in Part B above) a new subsection 3.8.3.3 as follows:

3.8.3.3 On-premises outdoor self service conveniences such as rental movie kiosks, vending machines, propane tank dispensers or similar convenience on private property where Retail is a PRINCIPAL USE, subject to the following requirements:

- a) Outdoor self service conveniences shall be confined to an area immediately contiguous to the BUILDING space that the PRINCIPAL Retail USE occupies.
- b) Outdoor self service conveniences shall not be placed on lawns and other landscaped areas.
- c) Outdoor self service conveniences shall meet the minimum front, side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.
- d) Outdoor self service conveniences shall not be placed or located so as to interfere with the following: pedestrian or building access or egress; the minimum number of vehicle parking and handicap parking spaces required under this Bylaw and under the Massachusetts Architectural Access Board (AAB); ACCESS driveways; interior driveways; maneuvering aisles; loading areas; public or private utilities, services, or drainage systems; fire lanes, alarms, hydrants, or other fire protection equipment; or emergency access or egress.
- e) The outdoor self service conveniences shall be maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

E. Insert in section 3.8.4– ACCESSORY USES Permitted in any Zoning Districts (as renumbered in Part B above) a new subsection 3.8.4.7 as follows:

3.8.4.7 In Village, Office, Business and Industrial Districts only, the Zoning Enforcement Officer may issue a permit for the recurring outdoor seasonal sales of New England farm products (farmers' market) on private property, subject to the following requirements:

- a) Such permit shall be limited to one calendar year.
- b) The owner of the property upon which the event will be held shall submit a permit application to the Zoning Enforcement Officer sixty (60) days prior to the start of the first farmers' market of the calendar year.
- c) Prior to issuance of the permit, the property owner shall have obtained all other applicable permits and licenses for the farmers' market that may be required under other local, State or Federal law.
- d) Prior to issuance of the permit, the property owner shall have obtained written notice from the Acton Police Department to proceed with the farmers' market.
- e) The farmers' market shall not recur more than one day per week.
- f) The event's hours of operation shall be limited to 7 AM to 9 PM Monday through Sunday, unless otherwise specified by the Zoning Enforcement Officer.

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- g) When applying for the permit, the property owner must specify the proposed hours, and the dates and/or regularity of the farmers' market.
 - h) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.
 - i) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: the minimum required number of handicap parking spaces and their associated interior driveways and maneuvering aisles as required under this Bylaw for PRINCIPAL USES on the property, and under the Massachusetts Architectural Access Board (AAB); Parking spaces for PRINCIPAL USES on the property remaining open during the event; ACCESS driveways; loading areas; fire lanes, alarms, hydrants, or other fire protection equipment; and emergency access or egress.
 - j) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.
 - k) At all times adequate ingress and egress and sufficient parking shall be maintained as determined by the Zoning Enforcement Officer.
 - l) Products sold at the farmers' markets must be produced or made on farms in the New England region, with the exception of seasonal Christmas tree sales.
 - m) Signs displayed during the hours of operation of the farmer's market shall not be subject to the zoning regulations for signs set forth in section 7 of this bylaw.
 - n) All signs, trash and debris shall be removed from the event site immediately upon the termination of the activity.
 - o) The Zoning Enforcement Officer when issuing the zoning permit for a farmers' market shall require documents and information sufficient to determine compliance with this section.
- F. Insert in section 3.8.4 – ACCESSORY USES Permitted in any Zoning District (as renumbered in Part B above) a new subsection 3.8.4.8 as follows:
- 3.8.4.8 Temporary yard or garage sales limited to a total of not more than 3 days for each calendar year on a LOT with Residential USE on it.

, or take any other action relative thereto.

SUMMARY

The Acton Zoning Bylaw does not currently allow the open air display of merchandise except, with some contradiction (see next paragraph), in very limited settings; and outdoor sales of any kind, including yard sales, are not allowed at all. Yet, outdoor merchandise displays and sales, including yard sales, do occur in Acton, often on weekends. Outdoor sales can be enjoyable to the customers and businesses clients, and help stores retain existing and attract new customers. This article eases restrictions and prohibitions on the outdoor display and sale of merchandise.

Part A clears up a contradiction in the zoning bylaw pertaining to the few outdoor merchandise displays that seem currently allowed. The first paragraph of Section 3.7 is followed by a list of

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thirty-four prohibited land uses or land use groups including “open air establishment for storage, distribution, or sale of materials, merchandise, products or equipment”. This article amends Section 3.7 to acknowledge that a few other existing sections of the Zoning Bylaw allow the open air merchandise displays for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22), and the outdoor storage of materials, goods, and equipment as an accessory use in industrial zoning districts (Section 3.8.2.6).

Part B allows all retail stores in the Business and Village Districts to continuously display and sell outdoors merchandise that is regularly sold inside, as well as other seasonal items, subject to certain regulations on the locations of the display and sales areas.

Part C allows temporary sales events such as bazaars, festivals, fairs or similar events, on retail properties in the Business and Village Districts during which retailers may display and sell merchandise outdoors. Regulations would apply on the location, frequency, duration, and hours of operation of such events. Pre-approval would be required through an administrative permit procedure.

Part D allows outdoor Self Service Conveniences such as vending machines, propane tank dispensers, ATM’s or movie kiosks on retail properties in the Business and Village Districts, subject to regulations about placement and location.

Part E allows on any private lot in the Village, Office, Business and Industrial Districts the outdoor seasonal display and sales of New England farm products. Regulations would apply on the location, frequency, duration and hours of operation of outdoor sale events. Pre-approval would be required through an administrative permit procedure.

Part F legalizes garage or yard sales on private residential lots for three days per calendar year.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631
Selectman assigned:

Recommendations: **Board of Selectmen** **Finance Committee** **Planning Board**
