



Planning Department

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TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

January 6, 2010

Notice of Public Hearing on Proposed Zoning Changes

Please publish the following as a LEGAL NOTICE on *January 14, 2010* and *January 21, 2010*.

Acton Planning Board public hearing - 2/2/10, 9:00 PM, Town Hall – Faulkner Room (204), on proposed zoning bylaw changes to: (A) Allow outdoor retail sales as an accessory use for businesses; (B) Change rules for temporary special event signs (s. 7.10); and (C) Amend the flood plain district delineations and regulations (s. 4.1) in conformance with the new FEMA flood hazard determinations and flood insurance program regulations. Agricultural operations will not be impacted. Proposals are available at the Planning Dept. and Town Clerk.

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ARTICLE ZA #
(Two-thirds vote)

AMEND ZONING BYLAW
OUTDOOR RETAIL SALES

To see if the Town will vote to amend the zoning bylaw by inserting in Section 3.8.3 – Accessory Uses Permitted in Any Zoning District, a new subsection 3.8.3.7 as follows:

- 3.8.3.7 Temporary on-premises outdoor display and sale of merchandise for Business PRINCIPAL USES only, subject to the following requirements:
- a) The outdoor display and sale of merchandise shall be limited to a total of no more than 28 days per PRINCIPAL USE for each calendar year.
 - b) The outdoor display and sale of merchandise shall be conducted only by a PRINCIPAL USE located on the same LOT, and shall only include merchandise that is regularly offered for sale inside that business establishment.
 - c) The outdoor display and sale of merchandise shall be prohibited at any time that the Business PRINCIPAL USE is not open for business.
 - d) Each outdoor display and sale area shall meet the minimum front, side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.
 - e) Outdoor display and sale areas 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 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 continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

, or take any other action relative thereto.

SUMMARY

The Acton Zoning Bylaw does not currently allow outdoor sales on a business' premises except in very limited settings such as a garden center. Outdoor sales can be enjoyable to the customers and clients of businesses, and help businesses retain and attract new customers. In reality, outdoor sales are happening at many business locations in Acton, often on weekends when zoning enforcement staff is off duty. The Town has not received any complaints about such outdoor sales. The question then is: Should Acton formally allow outdoor displays and sales? This article, if adopted, would allow business in Acton to conduct outdoor sales events on the same premises that they are located. The article includes limits on –

- Operators: Only a business located on the same lot.
- Time: Only during regular business hours, and not more 28 days per calendar year.

- Merchandise: Only what is sold regularly inside the business.
 - Location: Display and sales areas must comply with zoning setbacks.
 - Configuration: Display and sales areas may not obstruct access, egress, parking, driveways, etc.
- The article does not extend to or regulate “sidewalk sales” on public property which remain under the jurisdiction of the Board of Selectmen.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

DRAFT

To see if the Town will vote to amend the zoning bylaw, Section 7 – Signs and Advertising Devices, by deleting subsection 7.10 – Special Event Signs and replacing it with a new subsection 7.10 as follows:

7.10 Special Event SIGNS – One SIGN may be ERECTED to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business, or similar event. Such SIGN may identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature. It shall not exceed 10 square feet in DISPLAY AREA and shall be ERECTED on the same LOT where the event is to occur. Such a SIGN shall neither be ERECTED on a sidewalk, walkway or driveway, nor be ERECTED within 5 feet from the sideline of a STREET or right of way customarily used by the general public. Such SIGN shall not be illuminated and shall comply with the provisions of Sections 7.3 and 7.4, except as set forth in this section. Notwithstanding subsections 7.3.4, 7.3.6, and 7.4.1, a Special Event SIGN may be a MOVABLE SIGN, may consist of a flag or balloon, may be decorated with ribbons, flags, streamers or balloons which remain reasonably within the confines of the SIGN, and in Village Districts may be made with materials not otherwise allowed such as plastic or sheet metal. Such a SIGN shall not be ERECTED sooner than 7 days before the event and it shall be removed not later than 1 day after completion of the event. Only one such SIGN shall be ERECTED per PRINCIPAL USE at any given time. The display of all such SIGNS, taken together, shall be limited to 90 days per PRINCIPAL USE for each calendar year. The SIGN owner shall maintain records sufficient to demonstrate compliance with this section including without limitation dated photographs confirming when each Special Event SIGN was ERECTED and removed. All Special Event Signs shall require SIGN permits from the office of the Zoning Enforcement Officer pursuant to section 7.6, which may be blanket SIGN permits that cover all special event SIGNS for a PRINCIPAL USE for the one calendar year.

[Note – this section currently reads

7.10 Special Event SIGNS – One SIGN may be ERECTED to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business, or similar event. Such SIGN shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature. It shall not exceed 10 square feet in DISPLAY AREA and shall be ERECTED on the same LOT where the event occurs. Such a SIGN shall not be ERECTED on a sidewalk, walkway or driveway, nor within 5 feet from the sideline of a STREET or right of way customarily used by the general public. Such SIGN shall comply with all provisions of Sections 7.3 and 7.4, but it shall not be illuminated, and notwithstanding Sections 7.3.4 and 7.3.6 it may be a MOVABLE SIGN and may consist of a flag or balloon, or may be decorated with ribbons, flags, streamers or balloons which remain reasonably within the confines of the SIGN. Such a SIGN shall not be ERECTED sooner than 7 days before the event and it shall be removed not later than 1 day after completion of the event. Only one such SIGN shall be ERECTED per PRINCIPAL USE at any given time. The number of times such a SIGN may be ERECTED shall not exceed four events per PRINCIPAL USE and calendar year. The display of such SIGNS shall be limited to 28 days per PRINCIPAL USE for each calendar year.]

, or take any other action relative thereto.

SUMMARY

Special event signs, or temporary signs, are important marketing tools, especially for small businesses. The Acton zoning bylaw currently allows special event signs, but, the rules and limitations may be too stringent and impractical to be useful. There is a significant discrepancy between the zoning requirements for special event signs and the reality; in other words a great number of businesses violate the rules, for instance, with too many signs, too large signs, too frequent signs, or by not obtaining required sign permits. The Town does not have the resources for systematic enforcement of the rules for special event signs. This article would introduce more generous rules. The expectation is that businesses will acknowledge the Town's business friendly gesture and then seek to comply with the rules rather than ignore them. The article would make the following changes for special event signs:

- Remove requirement that the sign must identify the event and the date of the event.
- Allow all types of sign materials and surfaces in village districts such as plastic or sheet metal.
- Remove the limit on only four display periods per calendar year.
- Change the overall display time from 28 days to 90 days per calendar year.
- Emphasize that a sign permit form the Zoning Enforcement Officer is required.
- Provide for blanket special event sign permits for a whole calendar year.

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 264-9636
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Board of Selectmen:

Finance Committee:

Planning Board:

ARTICLE ZC #
(Two-thirds vote)

AMEND ZONING BYLAW
FLOOD PLAIN DISTRICT

To see if the Town will vote to amend the zoning bylaw as follows and to make this amendment effective on June 4, 2010:

A. Delete the second bullet of section 2.2 – Zoning Map, and replace it with a new second bullet as follows:

- “Flood Insurance Rate Map” (FIRM) for Middlesex County issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP), dated and effective beginning on June 4, 2010, Scale 1" = 500', consisting of the 14 map panels that are wholly or partially within the Town of Acton, designated herein as Map Number 2, and enumerated by FEMA as panels: 25017C0238E, 25017C0239E, 25017C0241E, 25017C0242E, 25017C0243E, 25017C0244E, 25017C0351E, 25017C0352E, 25017C0353E, 25017C0354E, 25017C0356E, 25017C0357E, 25017C0358E and 25017C0366E; and including the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010.

*[Note: The second bullet of section 22 currently reads:
“Flood Insurance Rate Map”, dated January 6, 1988 (Scale 1" = 400' consisting of 8 sheets designated Map Number 2, Sheet 1 of 8 through 7 of 8 plus the map index and street index) and the associated data in the “Flood Insurance Study, Town of Acton, January 6, 1988”.]*

B. Amend Section 4.1 – Flood Plain District as follows:

a) Delete the introductory paragraph of section 4.1 and replace it with a new paragraph as follows:

4.1 Flood Plain District – The Flood Plain District is an overlay district whose boundaries and regulations are superimposed on all districts established by this Bylaw. The Flood Plain District includes all special flood hazard areas designated as Zones A, AE, AH, AO, AR, and A99 to the extent that they are shown on Zoning Map Number 2, which is the Acton Panels of the Middlesex County Flood Insurance Rate Map (FIRM), dated June 4, 2010.

*[Note: the introductory paragraph of section 4.1 currently states:
Flood Plain District – The Flood Plain District is an overlay district whose boundaries and regulations are superimposed on all districts established by this Bylaw.]*

b) Delete the introductory paragraph of sub-section 4.1.3 and replace it with a new paragraph as follows:

4.1.3 Methods for Determining Flood Plain District Boundaries – The exact boundaries of the Flood Plain District shall be as shown by the 100-year Base Flood elevation(s) shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010, as determined by an actual field survey of the Base Flood elevation(s).

*[Note: The introductory paragraph of sub-section 4.1.3 currently reads:
4.1.3 Methods for Determining Flood Plain District Boundaries – The exact zoning*

district boundaries of the Flood Plain District shall be the location on the ground, as determined by an actual field survey of the Base Flood elevation(s).]

c) Delete sub-section 4.1.3.1 and replace it with a new sub-section as follows:

4.1.3.1 The Base Flood elevations for AE-Zones shall be the regulatory elevations from Table 8 and the cross section locations from the Flood Profiles contained in the "Middlesex County, Massachusetts, Flood Insurance Study, June 4, 2010" published by the Federal Emergency Management Agency (FEMA).

[Note: Sub-section 4.1.3.1 currently reads:

4.1.3.1 The Base Flood elevations for AE-Zones shall be the regulatory elevations from Table 3 and the cross section locations from the Flood Profiles contained in the "Flood Insurance Study, Town of Acton, January 6, 1988" published by the Federal Emergency Management Agency (FEMA).]

d) Insert the following new subsection:

4.1.9.2 All structural and non-structural activities and development in the Flood Plain District, whether allowed under this Bylaw by right or by special permit must be in compliance with applicable State laws and regulations as amended from time to time, including, but not limited to M.G.L. Ch. 131, S. 40; 780 CMR 120.G; 310 CMR 10.00; 310 CMR 13.00; 310 CMR 15 (Title 5).

, or take any other action relative thereto.

SUMMARY

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation and update of Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS). The FIRM identifies special flood hazard areas, i.e. areas subject to inundation at a one percent annual chance (100-year flood plain). The new FIRM and FIS will become effective on June 4, 2010 and will be for the entire Middlesex County, rather than just for Acton. The FIRM includes 14 panels that show portions of the Town of Acton.

This article updates the references to and descriptions of the new FIRM and FIS in the zoning bylaw. The updates are only administrative in nature. The new FIRM and FIS do not physically change the 100-year flood plain in Acton. Nevertheless, the updates are necessary in order to maintain Acton's eligibility in the National Flood Insurance Program (NFIP). Loss of NFIP eligibility would mean the loss of flood insurance subsidies to homes and properties and could bar the Town access to FEMA flood disaster mitigation funding.

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