**ARTICLE ZA1 #**
(Two-thirds vote)

**AMEND ZONING BYLAW**
**OUTDOOR SALES PROHIBITION –**
**CLARIFICATION FOR EXISTING EXEMPTIONS**

To see if the Town will vote to amend the Zoning Bylaw, Section 3.7 – Prohibited USES, by deleting the last sentence of the first paragraph and replacing 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.*

,or take any other action relative thereto.

**SUMMARY**

The first paragraph of Section 3.7 is followed by a list of 34 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 other existing sections of the Zoning Bylaw allows open air displays of merchandise 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).

Direct inquiries to: Roland Bartl, Planning Director: planning@acton-ma.gov / (978) 929-6631
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**Finance Committee:**
**Planning Board:**

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**ARTICLE ZA2 #** **AMEND ZONING BYLAW**
(Two-thirds vote) **ONGOING OUTDOOR SALES**

To see if the Town will vote to amend the Zoning Bylaw, Section 3.8 – ACCESSORY USE Regulations, by inserting 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 PRINCIPLE 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

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.

, or take any other action relative thereto.

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## SUMMARY

The Acton Zoning Bylaw does not currently allow the open air display of merchandise, except in very limited settings such as displays of merchandise for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22). In addition, outdoor sales are not listed as an allowed use in the current Zoning Bylaw. This article allows PRINCIPLE retail USES in the business and village districts to display and sell merchandise outdoors on the same premises that they are located. In reality, outdoor sales are happening at many retail business locations in Acton, often on weekends when zoning enforcement staff is off duty. Outdoor sales can be enjoyable to the customers and clients of businesses, and help retailers retain and attract new customers. This article, if adopted, would allow retail PRINCIPAL USES to have outdoor displays and sale of merchandise regularly sold inside the retail business as well as seasonal items.

The article includes limits on –

- **Operators:** Only a PRINCIPLE retail business located on the same LOT.
- **Merchandise:** Items regularly sold inside the retail business and seasonal items.
- **Location:** Display and sale areas must comply with side and rear zoning setbacks and be contiguous to the building in which the primary business is located.
- **Configuration:** Display and sales areas may not obstruct access, egress, parking, driveways, etc. or be placed on lawns or landscaped area.

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Selectman assigned:

**Board of Selectmen:**
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**ARTICLE ZA3 #** **AMEND ZONING BYLAW**
(Two-thirds vote) **OUTDOOR SALE EVENTS**

To see if the Town will vote to amend the Zoning Bylaw by inserting in Section 3.8.3 – ACCESSORY USES Permitted in the Business and Village Districts (as inserted in the previous article of this warrant), by inserting a new subsection, 3.8.3.2 as follows:

3.8.3.2 The Zoning Enforcement Officer may issue one permit per calendar year for each private property where Retail is a PRINCIPLE USE allowing a temporary outdoor sale event 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 Applicant 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 7AM to 10PM 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.

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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.

, or take any other action relative thereto.

**SUMMARY**

The Acton Zoning Bylaw does not currently allow the open air display of merchandise, except in very limited settings such as displays of merchandise for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22). In addition, outdoor sales are not listed as an allowed use in the current Zoning Bylaw. This bylaw would allow in the village and business districts temporary events on retail properties during which retailers may display and sell merchandise outdoors.

The article includes limits on –

- Operators: Property owner must apply for permit to allow sale event.
- Time: Not more than one event per calendar year on a LOT, lasting no more than 3 days, and held within the hours of 7AM-10PM
- Location: Display and sales areas must comply with side and rear zoning setbacks.
- Configuration: Display and sales areas may not obstruct access, egress, parking, driveways, etc. or be placed on lawns or landscaped areas.

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**ARTICLE ZA4 #** **AMEND ZONING BYLAW**
(Two-thirds vote) **OUTDOOR SALE OF NEW ENGLAND FARM PRODUCTS**

To see if the Town will vote to amend the Zoning Bylaw, Section 3.8.4– ACCESSORY USES Permitted in any Zoning Districts (as renumbered in a previous article of this warrant), by inserting 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 once per week.

f) The event's hours of operation shall be limited to 7AM to 10PM Monday through Sunday, unless otherwise specified by the Zoning Enforcement Officer.

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 PRINCIPLE USES on the property, and under the Massachusetts Architectural Access Board (AAB); Parking spaces for PRINCIPLE 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.

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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.

, or take any other action relative thereto.

**SUMMARY**

The Acton Zoning Bylaw does not currently allow the open air display of merchandise, except in very limited settings such as displays of merchandise for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22). In addition, outdoor sales are not listed as an allowed use in the current Zoning Bylaw. This bylaw would allow the outdoor seasonal display and sales of New England farm products in the Village, Office, Business and Industrial Districts, unassociated with the principle use on the LOT.

The article includes limits on –

- Operators: Property owners must apply for permit to allow sale of New England farm products unassociated with the principle use on the LOT.
- Time: Either a onetime, reoccurring or permanent event during the growing season. Restricted to the hours of 7AM-10PM.
- Merchandise: Products produced and/or made from locally grown resources in the New England region, and seasonal Christmas tree sales.
- Location: Display and sales areas must comply with side and rear zoning setbacks.
- Configuration: Display and sales areas may not obstruct access, egress, parking, driveways, etc.

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**ARTICLE ZA5 #** **AMEND ZONING BYLAW**
(Two-thirds vote) **TEMPORARY YARD OR GARAGE SALES**

To see if the Town will vote to amend the Zoning Bylaw, Section 3.8.4 – ACCESSORY USES Permitted in any Zoning District (as renumbered in a previous article of this warrant), by inserting a new subsection, 3.8.4.8 as follows:

3.8.4.8 Temporary yard or garage sales limited to a total of no 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 in very limited settings such as displays of merchandise for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22). In addition, outdoor sales are not listed as an allowed use in the current Zoning Bylaw. In reality, yard or garage sales are happening on residential LOTS in Acton, often on weekends when zoning enforcement staff is off duty. This type of outdoor sale is a typical ACCESSORY residential USE. This article, if adopted, would legalize garage or yard sales on private residential LOTs.

The article includes limits on –

- Operators: Residential property owner.
- Time: Not more than 3 days per calendar year.
- Merchandise: The sale of items typically found in the home.
- Location: Display and sales areas must comply with side and rear zoning setbacks.
- Configuration: Display and sales areas may not obstruct access, egress, parking, driveways, etc.

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**ARTICLE ZA6 #** **AMEND ZONING BYLAW**
(Two-thirds vote) **OUTDOOR SELF SERVICE CONVENIENCE**

To see if the Town will vote to amend the Zoning Bylaw, Section 3.8.3 – ACCESSORY USES Permitted in the Business and Village Districts (as inserted in a previous article of this warrant), by inserting 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 PRINCIPLE 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 PRINCIPLE 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.

, or take any other action relative thereto.

**SUMMARY**

The Acton Zoning Bylaw does not currently allow the open air display of merchandise, except in very limited settings such as a displays of merchandise for garden centers, florists, and commercial greenhouses (Section 3.5.1) and for automobile dealerships (Section 3.5.22). In addition, outdoor sales are not listed as an allowed use in the current Zoning Bylaw. In reality, Self Service Conveniences are located outside many retail business locations in Acton. This article allows outdoor Self Service Conveniences in the Business and Village Districts on LOTS where Retail is the PRINCIPLE USE. This article, if adopted, would legalize Self Service Conveniences on a LOT with PRINCIPAL Retail USE.

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The article includes limits on –

- **Merchandise:** Self Service Convenience kiosks and vending machines.
- **Location:** Self Service Convenience must comply with side and rear zoning setbacks and be contiguous to the building in which the primary business is located.
- **Configuration:** The Self Service Convenience shall not obstruct access, egress, parking, driveways, etc. or be placed on lawns or landscaped area.

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