

**ZB 223-10: Proposed Text Change to Amend certain Use Definitions (Section 5.E.)**

**UPDATED 4/24/2023**

**UPDATED 5/9/2023**

**DELETE Section 7.P and AMEND Definition “Adult Establishment” in Section 5.E. “Use Regulations” as follows:**

**Adult Establishment**

A commercial establishment where a substantial portion of the premises includes an Adult Bookstore, Adult Eating or Drinking Establishment, Adult Theater, Adult Commercial Establishment, or Adult Physical Culture Establishment or any combination thereof, as defined herein:

1. An **Adult Bookstore** is a bookstore that has as a substantial portion of its stock-in-trade any one or more of the following:
  - a. books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
  - b. photographs, films, motion pictures, videocassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
2. An **Adult Eating or Drinking Establishment** is a cafe, restaurant, cabaret, tavern, club or other similar establishment that regularly features any one or more of the following:
  - a. live performances which are characterized by an emphasis on specified anatomical areas or specified sexual activities; or
  - b. films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
  - c. employees who, as part of their employment, regularly expose to patrons specified anatomical areas;  
and which is not customarily open to the general public during such features because it excludes minors by reason of age.
3. An **Adult Theater** is a theater that regularly features one or more of the following:

- a. films, motion pictures, videocassettes, slides or similar photographic reproductions characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or
  - b. live performances characterized by an emphasis on specified anatomical areas or specified sexual activities; and which is not customarily open to the general public during such features because it excludes minors by reason of age. An Adult Theater shall also include commercial establishments where such materials or performances are viewed from individual enclosures.
4. An **Adult Commercial Establishment** is a facility, other than an Adult Bookstore, Adult Eating or Drinking Establishment, Adult Theater, commercial studio, which features employees who as part of their employment, regularly expose to patrons specified anatomical areas and which is not customarily open to the general public during such features because it excludes minors by reason of age.
5. An **Adult Physical Culture Establishment** is any establishment, club or business by whatever name designated which offers or advertises or is equipped or arranged so as to provide as part of its services, massages, body rubs, oil rubs, alcohol rubs, baths or other similar treatment, except for activities which are excluded below:
- a. treatment by or under the direction of a licensed physician, a licensed chiropractor, a licensed osteopath, a Connecticut licensed masseur or masseuse, a licensed physical therapist, a licensed practical nurse or a registered professional nurse;
  - b. electrolysis treatment by a licensed operator of electrolysis equipment;
  - c. hospitals, nursing homes, medical clinics or medical offices;
  - d. barbershops or beauty parlors which offer massage to the scalp, the face, the neck, the shoulders, the feet or back only; and
  - e. athletic facilities of an educational institution or of a philanthropic or charitable institution.

Adult Physical Culture Establishments are not permitted in any District. (93-002; 202-02)

For the purpose of defining Adult Establishments “specified sexual activities” are:

- a. human genitals in a state of sexual stimulation or arousal;
- b. actual or simulated acts of human masturbation, sexual intercourse or sodomy; or
- c. fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast.

For the purpose of defining Adult Establishments, “specified anatomical areas” are:

- a. less than completely and opaquely concealed: (i) human genitals, pubic region, (ii) human buttock, anus, or (iii) female breast below a point immediately above the top of the areola; or

- b. human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

For the purpose of determining whether a “substantial portion” of an establishment includes an Adult Bookstore, Adult Eating or Drinking Establishment, Adult Theater, Adult Commercial Establishment, or Adult Physical Culture Establishment, or combination thereof, the following factors shall be considered:

- a. the amount of *Floor Area* accessible to customers and allocated to such uses; and
- b. the amount of *Floor Area* accessible to customers and allocated to such uses as compared to the total *Floor Area* accessible to customers in the establishment; and
- c. the gross receipts allocated to such uses as compared to the total gross receipts of the establishment.

For the purpose of determining whether a bookstore has a “substantial portion” of its stock in materials defined in paragraphs 1.a or 1.b hereof, the following factors shall be considered:

- a. the amount of such stock accessible to customers as compared to the total stock accessible to customers in the establishment; and
- b. the amount of *Floor Area* accessible to customers containing such stock;
- c. the amount of *Floor Area* accessible to customers containing such stock as compared to the total *Floor Area* accessible to customers in the establishment; and
- d. the gross receipts allocated to such stock as compared to the total gross receipts of the establishment.

For the purpose of defining an Adult Establishment, the term "regularly features" means a consistent and substantial course of conduct, such that the sexually explicit films or semi-nude performances exhibited constitute an ongoing and intentional objective of the business and are promoted as such.

For purposes of determining whether a proposed commercial establishment is an Adult Establishment, the *Zoning Enforcement Officer* may review, inter alia, the layout, design, square footage, signage and window display area of the proposed use.

6. **Standards.** Adult Establishments shall conform to all of the following standards and provisions:

- a. An Adult Establishment shall be located a minimum of 1,000 feet from another Adult Establishment and a minimum of 500 feet from any religious institution, school, community center, public park, municipal boundary, property zoned for residential use or property zoned for mixed residential/ commercial use where not less than 50% of total Building Floor Area is committed to residential use. Such distances shall be determined as the nearest horizontal distance between any portion of any Lot or parcel of land supporting a proposed Adult Establishment and any portion of any

residentially zoned property, mixed residential/commercial property, municipal boundary or property supporting any religious institution, school, community center, public park or another Adult Establishment.

- b. Signage shall be governed by the standards of the C-N Neighborhood Commercial District, provided that no display, device or Sign that depicts or describes specified sexual activities or specified anatomical areas shall be visible from any public way or surrounding property.
- c. Not more than one Adult Establishment permitted under this section shall be located on a zoning Lot.
- d. An Adult Establishment shall not exceed a total of 5,000 square feet of Gross Floor Area.
- e. An Adult Establishment shall be permitted by right within the M-L Light Industrial and M-G General Industrial districts, provided the Gross Floor Area of the adult establishment shall not exceed 2,000 square feet and the Adult Establishment shall be located not less than 1,500 feet from another Adult Establishment and satisfies all other standards of these Regulations. An Adult Establishment exceeding a Gross Floor Area of 2,000 square feet or located less than 1,500 feet from another Adult Establishment may be located within the M-L and M-G Industrial Districts, subject to issuance of a Special Permit by the Zoning Board of Appeals pursuant to the criteria and standards of Section 19.C.2 and Section 19.D. of these Regulations. (93-002; 202-02)

**AMEND Section 5.E., “Home Occupation”, as follows:**

**Home Occupation**

Any use customarily conducted for remuneration entirely within a dwelling and carried on solely by the inhabitants thereof, which use is clearly incidental and ~~secondary~~ customarily subordinate to the principal use of the dwelling ~~for dwelling purposes~~. Activities requiring a State of Connecticut Cottage Food license pursuant to PA 18-141 shall be considered a Home Occupation. The conducting of a clinic, hospital, retail store or any similar use shall not be deemed to be a Home Occupation.

**AMEND Section 5.E. Use Regulations Definition “Short-Term Rental” as follows:**

**Short-Term Rental**

A Short-Term Rental shall mean the offering for lease or sublease of, or otherwise providing, one or more rooms on a Short-Term Rental Property by a Short-Term Rental Operator pursuant to a Short-Term Rental Transaction.

~~Short-Term Rentals shall be permitted in all Zoning Districts where residential uses are permitted; provided, however, that~~ In the RA-3, RA-2, RA-1, R-20, R-10, R-7½ or R-6 Zoning

Districts no Short-Term Rentals shall be permitted in the RA-3, RA-2, RA-1, R-20, R-10, R-7½ or R-6 Zoning Districts, unless the Short-Term Rental Operator resides in such Short-Term Rental Property at all times when guests occupy such property and such property is the Short-Term Rental Operator's primary residence.

There shall be no more than two short-term renters on premises at any time. Short-term renters must be accommodated within the Principal Dwelling without separate housekeeping facilities. Accessory Dwelling Units (ADUs) shall not be used for Short-Term Rentals.

In all other Zoning Districts where residential uses are permitted, Short-Term Rentals shall be permitted unless prohibited by private agreements between owner and tenant of the Short-Term Rental Property.

Short-Term Rentals shall be prohibited on any non-residential property.

Short-Term Rental Operator shall mean the owner, lessee, sub-lessee or other provider of a Short-Term Rental Property ~~who resides at the property as their primary residence~~ who offers the Short-Term Rental Property for occupancy pursuant to a Short-Term Rental Transaction.

Short-Term Rental Property means a Dwelling Unit, or any portion thereof, that is (1) a property designed for residential use (commercial and industrial spaces are not eligible), (2) the subject of a Short-Term Rental Transaction, and (3) not a hotel, lodging house, bed and breakfast establishment, any other commercial residential establishment, below market rate unit, a public housing unit or a homeless shelter.

Short-Term Rental Transaction shall mean a Short-Term Rental for a period of one (1) to 27 consecutive days but for no more than 90 days per calendar year in total.

#### **AMEND APPENDIX A Table 1**

Change use 24.1 "Group Day Care Home" to a Permitted Use in all listed districts except M-G and M-L and replace "A" and "B" with "X". Add "-" against this use in Table 1 for M-L and M-G to indicate the use is not permitted. Add Group Day Care Home as a Permitted Use in all District Regulations in Section 4 and Section 9 except M-L and M-G.