

ARTICLE X: Amend Zoning Bylaw: Firearms Businesses

To see if the Town will vote to amend the Zoning Bylaw by Amending Section 1.3 (Definitions), Section 3.10 (Table of Principal Uses), and Section 8 (Special Regulations) by adding a new Section 8.11 (Firearms Business Uses) to read in their entirety as stated below in sections A-C of this article; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

A) Amend Section 1.3 (Definitions) by adding the following definitions to be integrated in alphabetical order within the existing Section 1.3:

AMMUNITION – As defined or amended by State statute or regulations, cartridges or cartridge cases, primers (igniters), bullets, tear gas cartridges, or propellant powder designed for use in any FIREARM. For the purposes of this definition, “FIREARM” is to have the meaning prescribed in this Bylaw, and shall include, but not be limited to: FIREARMS (as that term is defined in M.G.L. Ch.140, §121), rifles or shotguns.

FIREARM – Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including, but not limited to, guns, pistols, shotguns, and rifles.

FIREARM ACCESSORY – Any device designed, modified or adapted to be inserted into or affixed onto any FIREARM to enable, alter or improve the functioning or capabilities of the FIREARM or to enable the wearing or carrying about one’s person of a FIREARM.

FIREARMS BUSINESS – Any of the following uses:

- a. **FIREARM DEALER**: A retail or wholesale operation involving the purchase or sale of any Weapon, Machine Gun, FIREARM, AMMUNITION, or Stun Gun, as such terms are defined in M.G.L. Ch. 140, §121, and/or FIREARM ACCESSORY.
- b. **GUNSMITH** – Any retail or wholesale operation involving the repairing, altering, assembling, cleaning, polishing, engraving, bluing or performing of any mechanical operation of any FIREARM.

B) Amend Section 3.10 (Table of Principal Uses) by adding the following Principle Use to be integrated in alphabetical order within the existing Section 3.10:

Principle Use	Residential	Business	Compact Business	Lower Village Business	Industrial	Commercial	Recreation/Conservation	Floodplain Wetlands	Refuse Disposal	Site Plan Approval
<u>FIREARMS BUSINESS</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>SPP</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>(3)</u>

C) Amend Section 8 (Special Regulations) to include a new Section 8.11 to read in its entirety as stated below:

8.11 FIREARMS BUSINESS Uses

8.11.1 Purpose

The purpose of this bylaw is to regulate the location, siting, design, placement, security, safety, monitoring, and modifications of FIREARMS BUSINESSES within the Town of Stow to minimize the adverse impacts of FIREARMS BUSINESSES on adjacent properties, residential neighborhoods, schools and other places where children congregate, and to protect and promote the quality of the Town of Stow's neighborhoods, commercial and business districts, conservation land and trails, and the general welfare, health and safety of the citizens of Stow.

8.11.2 Compatibility with State and Federal Laws and Regulations

The provisions of this bylaw are not intended to supersede federal or state laws or regulations except to the extent that any such laws or regulations allow a community to adopt standards more stringent than the minimum standards provided in such laws and regulations.

8.11.3 Applicability

- a. No FIREARMS BUSINESS use shall commence unless permitted by the issuance of a special permit as authorized by this bylaw.
- b. No FIREARMS BUSINESS use shall commence until all necessary Federal, State, and other required local approvals and licenses are obtained.
- c. No special permit for a FIREARMS BUSINESS use shall be issued unless the use is in the Industrial District. FIREARMS BUSINESSES are not allowed in the Town of Stow other than in the locations designated within the Zoning Bylaw specifically authorizing FIREARMS BUSINESS use.
- d. The establishment and operation of FIREARMS BUSINESSES shall be subject to continued compliance with all special permits, including any conditions thereof, the provisions of this Section 8.11, any other applicable requirements of the Zoning Bylaw, and all applicable Federal, State, and local laws and regulations.

8.11.4 Location requirements

- a. No special permit for a FIREARMS BUSINESS shall be granted where such use would be located within 500 feet of a:
 - i. Residential use, residential zoning district, or mixed-use districts within which residential uses are allowed;
 - ii. Public or private elementary school, middle school, or high school;
 - iii. CHILD CARE FACILITY, including family childcare homes, childcare centers, and/or nursery schools;
 - iv. Any establishment catering to or providing services primarily intended for minors, including, but not limited to, establishments such as activity centers or commercial recreation centers;
 - v. Church or other religious use;
 - vi. Public park or conservation land including a trail network intended for passive or active recreation; or
 - vii. Playground.

- b. The 500-foot distance shall be measured in a straight line from the nearest point of the STRUCTURE within which the FIREARMS BUSINESS would operate (from the nearest point of the exterior of the tenant space if the FIREARMS BUSINESS is located in a STRUCTURE occupied by multiple tenant spaces), to the nearest boundary line of a residential zoning district, a mixed-use district within which residential uses are allowed, or the nearest point of any property on which a public or private elementary school, middle school, or high school is located, or to the nearest point of any STRUCTURE containing or associated with other uses listed in Section 8.11.4.A above, provided, however, that if no STRUCTURE is on the property the distance shall be measured to the property line of such use.
- c. The commencement of one or more of the uses listed in Section 8.11.4.A above within 500 feet of a proposed FIREARMS BUSINESS location during the review of a special permit application for a FIREARMS BUSINESS (beginning on the date of submittal), following the issuance of a special permit, or following the commencement of the FIREARMS BUSINESS use shall not invalidate the FIREARMS BUSINESS uses, the special permit issued therefor, or the ability to renew any unexpired or unrevoked special permit.
- d. No FIREARMS BUSINESS shall be located inside a BUILDING containing residential DWELLING UNITS, including, but not limited to, transient housing, group housing, HOTEL, INN, MOTEL, TOURIST HOME, LODGING HOUSE, BED AND BREAKFAST ESTABLISHMENT OR HOME, and/or dormitories.
- e. No FIREARMS BUSINESS shall be located within 500 feet of another FIREARMS BUSINESS. The 500-foot distance shall be measured in a straight line from the nearest point of the STRUCTURE within which the FIREARMS BUSINESS would operate (from the nearest point of the exterior of the tenant space if the FIREARMS BUSINESS is located in a STRUCTURE occupied by multiple tenant spaces) to the nearest point of the STRUCTURE within which a FIREARMS BUSINESS is already operating.

8.11.5 Administration and procedure

- a. A FIREARMS BUSINESS may be allowed in locations set forth in Section 3.10 Table of Principal Uses by special permit from the Planning Board as the Special Permit Granting Authority (SPGA) in accordance with M.G.L. Ch. 40A, §9, only subject to the procedures, regulations, requirements, conditions, and limitations set forth herein. The SPGA may deny or grant with conditions all such applications. Only an applicant holding a valid, current State license issued pursuant to M.G.L. Ch. 140, §122, as applicable, and all required Federal and local licenses is eligible to apply for a special permit pursuant to Section 8.11.
- b. Prior to the application for a special permit pursuant to Section 8.11, all FIREARMS BUSINESS uses shall submit an operations and management plan including, but not limited to, a security plan to the Stow Police Department for review and approval.
- c. Applicants for a special permit pursuant to Section 8.11 are strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed application for a new FIREARMS BUSINESS and to discuss in general terms the proposed FIREARMS BUSINESS prior to the formal submission of an application.
- d. The application for a special permit for a FIREARMS BUSINESS shall comply with the rules for such applications adopted by the Planning Board and filed with the Town Clerk. In addition, the application for such special permit for a FIREARMS BUSINESS must include the following information:
 - i. Name, residential address, business address, and telephone numbers of the legal owner or owners of the proposed FIREARMS BUSINESS;

- ii. Name, residential address, business address, and telephone number of the manager of the proposed FIREARMS BUSINESS;
- iii. Name, residential address, business address, and telephone numbers of all persons having any equity, including beneficiaries or other interest in such FIREARMS BUSINESS, including but not limited to security interest, liens, mortgages, or other interest. In the event that a corporation, partnership, trust, or other entity is listed, the name, residential address, business address, and telephone number of every person who is an officer, director, shareholder, or trustee of the entity must be listed, in order that the SPGA may know who are the persons who actually own and control that FIREARMS BUSINESS;
- iv. A sworn statement that neither the applicant, the manager, nor any person having any equity or other interest in the FIREARMS BUSINESS has been convicted of violating the provisions of M.G.L. Ch. 140, §122B, §130, §131N, or similar laws in other states;
- v. A letter from the Stow Police Department indicating their approval of an operations and management plan including a security plan for the FIREARMS BUSINESS;
- vi. The total number of employees;
- vii. Proposed security precautions;
- viii. Evidence that the applicant has site control and the right to use the proposed site as a FIREARMS BUSINESS. Such evidence shall be in the form of a deed, purchase and sale agreement, lease, or other legally binding document. If draft documents are submitted, a letter from the current property owner or lessor shall be included to indicate their intent to provide the applicant with site control;
- ix. The physical layout of the premises including the interior of the STRUCTURE in which the FIREARMS BUSINESS will be located;
- x. A full description of the intended nature of the business;
- xi. Copies of all State, Federal, and local FIREARMS licenses and permits issued to the applicant; and
- xii. Proof of a policy of insurance executed by an insurance company insuring the applicant against liability for damage to property and for injury to, or death of, any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a FIREARM or AMMUNITION, or any other operations of the FIREARMS BUSINESS. The limits of liability shall not be less than \$1,000,000.00 for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the SPGA in its discretion. The policy of insurance must contain an endorsement providing that the policy shall not be cancelled until written notice has been given to the SPGA at least 30 days prior to the effective date of the cancellation.

Upon the filing of the special permit application with the SPGA, the applicant shall simultaneously deliver copies of the full application to the Select Board, the Building Commissioner, the Board of Health, the Police Department, and the Fire Department.

8.11.6 Signage

- a. All SIGNS associated with FIREARMS BUSINESSSES shall comply with Section 6.3 SIGNS of the Zoning Bylaw.
- b. All special permit applications for FIREARMS BUSINESSSES shall include a proposed exterior SIGN package, which may be included as a condition of issuance of the special permit.
- c. TEMPORARY SIGNS, as defined in Section 6.3.5 of the Zoning Bylaw are prohibited.

- d. No graphics, symbols, or images of FIREARMS, AMMUNITION, or FIREARM ACCESSORIES shall be displayed or clearly visible from the exterior of a FIREARMS BUSINESS. No exterior display of FIREARMS, FIREARMS BUSINESS products or services is allowed.

8.11.7 Security

- a. FIREARMS BUSINESSES shall provide the Stow Police Department, Building Commissioner, and the SPGA with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment; this information shall be updated when staff of the FIREARMS BUSINESS changes.
- b. All FIREARMS BUSINESSES shall submit a security plan to the Stow Police Department for review and approval prior to submitting an application for a special permit in accordance with 8.11.5.B. The plan must include, but is not limited to, the following:
 - i. Proposed provisions for security;
 - ii. The physical layout of the interior delineating all areas, including but not limited to employee only access areas, storage, administrative, and public access areas;
 - iii. After hours storage of all FIREARMS in locked containers or by otherwise securing the FIREARMS with tamper-resistant mechanical locks; and
 - iv. The number of employees.
- c. No operator and/or employee of a FIREARMS BUSINESS shall have been convicted of any felony under state or federal law.
- d. Trash dumpsters shall be locked and enclosed by a screening enclosure so as not to be accessible to the public.
- e. The exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours; all light fixtures shall comply with Section 3.8.1.5 of the Zoning Bylaw.
- f. The FIREARMS BUSINESS shall be equipped with, and the operators of such FIREARMS BUSINESS shall maintain in working order at all times, burglary/robbery alarms.
- g. A video surveillance system shall be installed and maintained which shall monitor all parking lot areas, main BUILDING entrances and exits, storage areas, and any and all transaction areas for the sale of merchandise. FIREARMS BUSINESSES shall videotape the point-of-sale of all FIREARMS transactions and maintain videos for six months to deter illegal purchases and monitor employees.

8.11.8 Access to Premises and Information

- 8.11.8.1 In addition to the inspection requirements set forth in M.G.L. Ch.140 §123, the granting of a Special Permit from the SPGA shall serve as consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner, Planning, Health, Fire and Police Departments or their designee during normal business hours, for the purpose of determining compliance with applicable State and local laws, permits, licenses and agreements. Inspectors shall be granted access to all areas of the FIREARMS BUSINESS. The FIREARMS BUSINESS shall be subject to re-inspection fees upon identification of a circumstance that requires re-inspection.
- 8.11.8.2 Within 24 hours of receipt of notice, a FIREARMS BUSINESS shall file with the Police Department, Building Commissioner, and Planning Board, any summary cease and desist

order, cease and desist, quarantine, suspension or revocation order, order limiting sales, deficiency statement, plan of correction, notice of hearing, notice of any administrative process or legal action, denial of license, or denial of license renewal.

8.11.9 Procedures and Findings

- a. Procedure. In addition to the procedures established in Section 9.2 Special Permits, special permits issued for FIREARMS BUSINESSES shall be:
 - i. Limited to the current applicant and shall lapse if the permit holder ceases or transfers ownership of the operation of the FIREARMS BUSINESS; and
 - ii. Renewed annually.
- b. Mandatory Findings by SPGA- In addition to determining compliance with the requirements and conditions of Section 8.11 and all other applicable Sections of the Zoning Bylaw, the SPGA shall not issue a special permit unless without exception it shall find that the proposed use and development:
 - i. Meets all other applicable requirements of the Zoning Bylaw and the permitting requirements of all applicable agencies of the Commonwealth of Massachusetts and the Town, and will otherwise comply with all applicable state and local laws and regulations;
 - ii. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
 - iii. Provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals. In making this determination the SPGA shall consider input from the Stow Police Department, if any; and
 - iv. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking, and queuing, especially during peak periods at the FIREARMS BUSINESS.

8.11.10 Special Permit Conditions

- a. A FIREARMS BUSINESS use shall be located in, and conduct all operations and transactions within, an enclosed BUILDING; this shall not prohibit operations involving the delivery or receiving of permitted goods and products, which may involve transfer to or from a motor-vehicle outside of an associated BUILDING.
- b. All publicly accessible BUILDING entrances shall be visible from a public way, a private way with public right of entry, or an easement with public right of entry. The SPGA may impose conditions requiring that fencing or plantings be installed along rear and side lot lines to screen the premises from adjoining properties.
- c. Drive-through windows and/or any interactions or sales to customers within vehicles are prohibited.
- d. The days and hours of allowed operation of a FIREARMS BUSINESS shall be approved by the SPGA, but in no event shall a FIREARMS BUSINESS be open to the public, performing deliveries, and/or otherwise operating before 8:00 AM and after 9:00 PM on Mondays through Friday, or before 9:00 AM and after 6:00 PM Saturdays and Sunday. There shall be no exemptions to the prohibited hours of operation for emergencies.
- e. No person under the age of eighteen (18) shall be permitted on the premises of the FIREARMS BUSINESS unless they are accompanied by a parent or legal guardian.
- f. All FIREARMS BUSINESS uses shall conduct criminal background checks for all employees in accordance with state law.

- g. A FIREARMS BUSINESS shall not sub-lease space from a tenant of any BUILDING or STRUCTURE, and is prohibited from sub-leasing the FIREARMS BUSINESS use space to another FIREARMS BUSINESS.

8.11.11 Revocation of Special Permit

- a. A special permit for a FIREARMS BUSINESS is not transferrable upon a sale, transfer, or assignment of the FIREARMS BUSINESS.
- b. If there is a change in the identity of the manager of the FIREARMS BUSINESS, the Police Department, Planning Board, Building Commissioner, and Select Board shall be notified of such change within thirty (30) days. Failure to comply with this provision shall be cause for revocation of the special permit by the SPGA.
- c. A special permit for a FIREARMS BUSINESS shall be subject to revocation by the SPGA for violating M.G.L. Ch. 140, §122B, §130, or §131N, or similar laws in other states.
- d. Upon expiration or cancellation of the policy of insurance required by 8.11.5.D(11), and if no additional insurance is obtained, the special permit shall be subject to revocation by the SPGA.
- e. If a special permit is subject to revocation, the SPGA must send written notice to the FIREARMS BUSINESS. In accordance with M.G.L. Ch.40A §11, the SPGA must hold a public hearing upon receipt of an application at which the owner of the FIREARMS BUSINESS shall have an opportunity to be heard, and a decision shall be issued by the SPGA.

8.11.12 No accessory use FIREARMS BUSINESSes- Use of property as a FIREARMS BUSINESS shall necessarily be deemed a principal use for purposes of the Zoning Bylaw and shall be permitted exclusively in accordance with this Section 8.11. No FIREARMS BUSINESS may be allowed within the Town on the basis that such use qualifies as a permissible accessory use.

8.11.13 Severability- The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw, or the application thereof to any person, establishment, or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this Section 8.11 or the Zoning Bylaw.