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Barney S. Heath  
Director

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### PUBLIC HEARING MEMORANDUM

**DATE:** May 6, 2021

**TO:** Councilor Crossley, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director of Planning and Development  
Zachery LeMel, Chief of Long Range Planning

**RE:** #145-21 Request for Chapter 30 Amendment to establish regulations for gun establishments  
HER HONOR THE MAYOR AND COUNCILORS ALBRIGHT, KRINTZMAN, LEARY, OLIVER, GREENBERG, NORTON, LUCAS, KELLEY, WRIGHT, MALAKIE, MARKIEWICZ, GENTILE, DOWNS, CROSSLEY, HUMPHREY, DANBERG, NOEL, BOWMAN, LAREDO, GROSSMAN, BAKER, LIPOF, KALIS AND RYAN requesting amendments to the Newton Zoning Ordinance, Chapter 30, including, but not limited to, the addition of definitions of "Firearm" and "Firearm Businesses", and amendments to Section 4.4.1 Allowed Uses and Section 6.10 Restricted Uses to regulate the use of land, structures and buildings for the siting and operation of gun ranges or the retail or wholesale operation involving gunsmithing, the purchase or sale of firearms, the sale of ammunition, or firearms accessories, and to restrict such uses to the Business 4, Mixed Use 1, Manufacturing, and Light Manufacturing Districts only and only upon the granting of a special permit, and to establish minimum standards and criteria for the granting of such special permits.

**MEETING DATE:** May 10, 2021

**CC:** City Council  
Planning and Development Board  
Jonathan Yeo, Chief Operating Officer  
Alissa O. Giuliani, City Solicitor  
John Lojek, Commissioner of ISD

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## Executive Summary

The City of Newton does not currently regulate the zoning for firearms business (or related uses). A firearm dealer would be considered a general retail use and would be allowed either by-right or by special permit in most business and mixed-use zones as well as the limited manufacturing zoning district. The City Council has broad authority to regulate all land uses in Newton, including the location of firearm dealers. Currently, the zoning ordinance identifies certain uses that are to be treated differently than other retail uses such as adult businesses and marijuana retailers. Firearm businesses represent another use that warrants specialized zoning regulations.

The subject docket item is a request to amend Newton's current zoning ordinance to restrict firearm businesses only to certain zoning districts, to require a special permit, and to provide minimum standards for those uses. Attached to this memo is a draft zoning ordinance for firearm businesses developed by the Law and Planning Departments, both a redlined version showing changes from the April 26<sup>th</sup> version and a clean version (**Attachments A and B**), and an updated frequently asked questions (FAQ) document from the Law Department, including responses to questions raised at the April 26<sup>th</sup> ZAP meeting (**Attachment C**). More information, including the maps showing zoning and buffer alternatives, can be found here: <https://www.newtonma.gov/government/planning/plans-policies-strategies/firearms-zoning-amendment>. Staff reviewed a sampling of zoning ordinances and bylaws for firearm businesses from other municipalities both in and outside of Massachusetts. Zoning regulations for firearm businesses are not common and the only nearby communities that currently regulate firearm businesses through zoning that staff has found are Dedham and Westwood.

The key elements of the proposed ordinance are limiting firearm businesses to the certain zoning districts; always requiring a special permit (a discretionary approval from the City Council requiring a public hearing); requiring buffers from sensitive uses; and applying additional operational standards and criteria for approval. Based on feedback from the April 26<sup>th</sup> Zoning and Planning (ZAP) Committee meeting, City staff have analyzed various options including variations in the proposed zoning districts, the proposed buffer distances, and the sensitive uses to be buffered. Based on this analysis, Planning staff recommend allowing firearm businesses in the Business 2 (BU2), Business 4 (BU4) and Manufacturing (M) districts and requiring 150-foot buffers between all firearm businesses and properties containing a residential use, and a 1,000-foot buffers between all firearm businesses and k-12 schools, childcare facilities (including daycares and preschools), colleges and universities, parks and playgrounds, libraries, nursing homes and any existing firearm dealers or firing ranges. We have found these to be the most restrictive buffers that can be applied while still allowing for the opportunity for firearm businesses. The Mixed Use 1 (Needham Street) and Limited Manufacturing (Wells Avenue) districts were proposed in the draft ordinance presented at the April 26<sup>th</sup> ZAP meeting. These districts have been removed from the draft as they are fully covered by the recommended buffers.

## Firearm Zoning Examples

Staff reviewed a sampling of zoning ordinances for firearm businesses in other municipalities in Massachusetts and beyond. Almost all ordinances require special approval for firearm businesses (a special permit in Massachusetts or a conditional use permit elsewhere). Below is a summary of the key points from other ordinances:

- Dedham, MA - Dedham recently passed a by-law regulating firearm sales.
  - Firearms businesses are limited to the Adult Use Overlay District
  - 150-foot buffer from a residential use or residential zoning district, school, library, church or other religious use, child-care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, establishments selling alcohol for on-site consumption, and other adult use and firearms businesses.
- Westwood, MA
  - Firearms/Explosives sales and service are limited to the Local Business Districts, Highway Business District and Industrial District
  - Westwood does not appear to require specific buffers between firearms businesses and other uses, however most uses in the Highway Business and Industrial districts are required to provide a buffer from adjacent residential properties.
- Bloomington, MN – Bloomington regulates primary and incidental firearms sales and firing ranges.
  - Firearms sales are permitted in certain commercial districts; firing ranges are only permitted in some industrial districts.
  - 250-foot buffer from residential zoning districts, daycares, and k-12 schools.
  - Primary firearm sales must also be 1,000 feet from another primary firearm sales facility.
- Piscataway, NJ
  - Firearm sales to certain commercial districts.
  - 1,000-foot buffer from nursery schools, preschools, child, adult and special needs day care centers, schools, colleges and universities, funeral homes, health services facilities, other firearms sales dealers, assisted living facilities, places of worship, liquor stores, establishments selling alcohol for onsite consumption, and parks, playgrounds and commercial recreational facilities.
- Contra Costa, CA
  - 500-foot buffer from schools, daycares, parks, establishments that have on-site or off-site alcohol sales, places of worship, and existing firearm sales facilities.
- Windsor, CA
  - 500-foot buffer from parks, libraries, churches, personal services, and preschools.
  - 1,000-foot buffer from all schools.
- Healdsburg, CA

- 500-foot buffer from churches, chapels, places of worship, schools, libraries, youth centers, commercial day care establishments, parks, and other locations with firearm sales.
- McCordsville, IN
  - Firearm sales limited to a medium intensity industrial district.
  - 200-foot buffer zone from any school.
- Worcester, MA – Worcester only regulates shooting ranges
  - 1,000-foot buffer from schools and a 100 foot buffer from a public park or playground. Worcester does not appear to regulate firearm sales.

Notably, zoning regulations for firearm businesses are rare and we have found few examples in Massachusetts so far. Most of our neighboring communities do not appear to regulate firearm businesses through zoning. Staff reviewed zoning ordinances for the following Massachusetts communities: Acton, Arlington, Ashland, Bedford, Belmont, Beverly, Bolton, Boston, Boxborough, Braintree, Brockton, Burlington, Carlisle, Cambridge, Chatham, Chelsea, Concord, Danvers, Dedham, Dover, Essex, Everett, Fall River, Fitchburg, Framingham, Gloucester, Hamilton, Holliston, Hudson, Ipswich, Lexington, Lincoln, Littleton, Lynn, Lynnfield, Malden, Manchester-by-the-Sea, Marblehead, Medfield, Medford, Medway, Melrose, Middleton, Milton, Nahant, Natick, Needham, North Reading, Norwood, Peabody, Quincy, Reading, Revere, Rockport, Salem, Saugus, Sherborn, Stoneham, Stoughton, Sudbury, Swampscott, Topsfield, Wakefield, Watertown, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop, Woburn, and Worcester. Of these communities, the only ones that regulate firearms sales were Dedham and Westwood. Framingham excludes firing ranges from the definition of outdoor recreational facilities and North Reading prohibits gun and shooting clubs in their Highway Business zoning district. Everett appears to have regulated gun shops previously, but they are no longer included after a big rezoning in 2020.

### **Ordinance Framework**

The proposed draft ordinance draws from firearms zoning regulations from other municipalities as well as the City's existing ordinances regulating adult businesses and marijuana uses. The draft ordinance defines terms related to firearm business uses not currently included in our zoning ordinance, such as ammunition, firearm, firearm accessory, firearm dealer, firing range, and gunsmith and proposes that the uses only be permitted by special permit and only in certain districts. In the prior draft, firearm sales were defined as a firearm business. To avoid confusion with the larger use category of firearm business uses, firearm sales are now defined as a firearm dealer. The ordinance also identifies sensitive uses from which a firearm business use should be buffered from, the minimum distances required between sensitive uses and firearm businesses, provides additional operational standards, includes required application materials, and identifies new special permit criteria which must be met in addition to the general special permit criteria.

## Zoning Districts

Currently in Newton, a firearm dealer would be classified under zoning as a retail use. Retail uses are currently permitted, either by-right or by special permit in the Business 1 (BU1), Business 2 (BU2), Business 3 (BU3), Business 4 (BU4), Mixed Use 1 (MU1), Mixed Use 2 (MU2), Mixed Use 4 (MU4), Mixed Use 3 (MU3), and Limited Manufacturing (LM) zoning districts. The MU1 district only allows for retailers with more than 5,000 square feet. The attached zoning amendment recommends limiting firearm business uses to the BU2, BU4, and Manufacturing (M) zones. The initial proposal discussed at the April 26<sup>th</sup> ZAP meeting recommended the BU4, MU1, LM, and M zoning districts. Several City Councilors recommended expanding the zoning districts but applying more restrictive buffers. Planning staff added in the BU2 district as it provided additional opportunity and removed the MU1 and LM districts because once the recommended buffers are applied there are no areas remaining within these districts. This combination of zoning districts provided the ability to apply the most restrictive buffers from sensitive uses.

Other zoning districts were also considered but not ultimately recommended. The BU1 district is typically limited to the core of village centers, which are not considered appropriate locations for firearm businesses. The BU3 district is not mapped and the BU5 district only exists in a couple locations and would be largely eliminated by buffers. The MU2 district is a small portion of Needham Street that immediately abuts residential properties and a park. The MU3 district is only located at Riverside Station where the proposed development includes retail spaces on the ground floor of buildings with residential units above. The MU4 district is only mapped at locations where there has been a rezoning in conjunction with a mixed-use multifamily building in a village center, such as 28 Austin Street and Trio at Washington and Walnut Streets. The MU4 district also requires active, transparent uses on the ground floor and residential units above.

Planning staff considered the suggestion to explore an overlay district for firearm businesses. An overlay was not considered in the docket or public hearing notice for this item and would require a new public hearing notice. The City of Newton does not currently have any overlay districts so introducing a new tool could also take additional time. Additionally, an overlay district does not solve the problem of Newton having very few commercial areas and even fewer that are not immediately surrounded by residential or other sensitive uses. The proposed districts along with the buffers represent a balance of providing opportunities while also distributing those across the City as much as possible given the locations of commercial zoning districts and providing sufficient buffering from sensitive uses. The zoning districts also represent a starting point and are not an indication that every remaining building located outside of a buffer would be an appropriate location for a firearm business. Any firearm business will still require a Special Permit and the City Council has the authority to determine whether the proposed business is appropriate in the given location.

## Standards

The proposed draft ordinance includes additional standards for firearm businesses. These include:

- Requiring compliance with all federal, state and local laws and regulations;
- Prohibiting graphics, symbols, or images of firearms or firearm accessories from being displayed or visible from the exterior of the business;
- Prohibiting a firearm business from locating within a building containing a residential use;
- Requiring all firearm businesses to be located within a fully enclosed building;
- Giving the City Council authority to review and impose restrictions on signage;
- Limiting hours of operation to 9 a.m. to 9 p.m. with the ability to further restrict as part of the Special Permit review;
- Requiring the submittal of a security plan for review and approval by the Newton Police Department, including security provisions, physical layout of the interior, how firearms will be secured outside business hours, number of employees;
- Requiring submittal of an operations and management plan for review and approval by the Newton Police Department;
- Requiring the firearm business to conduct criminal background checks for all employees.
- Restricts unaccompanied minors from entering a firearm business; and
- Requires all firearm dealers to videotape the point of sale of all firearm transactions and maintain videos for six months.

At the April 26<sup>th</sup> ZAP meeting several City Councilors expressed a desire to restrict or prohibit transparency into firearm businesses as well as to limit businesses to the upper floors of buildings. Planning staff consulted with the Newton Police Department, who strongly advised against any restrictions on transparency or locations other than the ground floor. The police recommended that firearm businesses, particularly firearm dealers, be located in visible locations and that visibility into the business be maintained for safety purposes. Maintaining visibility increases safety as there are more eyes on the business and police can more easily monitor the store and can see into the store prior to entering if they are ever called to the scene, such as for a robbery. State law also prohibits firearms from being visible from the street, so it is unnecessary to put restrictions on visibility.

### *Additional Firearm Regulations*

Firearm sales are highly regulated in Massachusetts and all state and Federal requirements will remain in effect. Some key aspects of firearm regulations include a ban on the sale of assault weapons, a requirement that all firearms within stores are secured in a locking container or by equipping the firearm with a tamper-proof locking mechanism, a firearms dealer is prohibited from displaying firearms in the window of a store, and the Police Department is the local licensing authority and is required to review and approve any license to sell firearms and to ensure all required safety measures are in place as well as perform annual inspections of a

dealer's sales records. All firearm businesses will be subject to all other applicable local and state ordinances and regulations as well, such as noise limitations, hazardous waste removal, parking requirements, etc. More information can be found in the attached FAQ as well as here: [Firearms Zoning Amendment | City of Newton, MA.](#)

### Special Permit Application

#### *Application Requirements*

Under the proposed ordinance, all firearm businesses will require a Special Permit from the City Council. As part of the application, and in addition to the standard application requirements, applicants for a firearm business will be required to submit the following:

- Narrative providing a description of the proposed activities;
- Lighting analysis;
- Context map showing all properties and land uses within a 1,000-foot radius;
- Description of ownership, management and employees
- Comprehensive sign plan.

Depending on the nature of the application the City Council may also request additional information through the special permit review process. Firing ranges are required to show they will not result in adverse impacts due to noise, hazardous materials, or air quality, which will likely require the submittal of additional studies and analyses. Additional plans such as those showing landscaping, screening, and/or loading areas may also be requested.

### Special Permit Criteria

All firearm businesses will require a Special Permit from the City Council. A Special Permit is a discretionary approval, meaning even if a business is located in an allowed district, outside of the buffers, and meets all of the standards listed above, the City Council still has the discretion to deny the request if they find the business does not meet the required criteria.

All Special Permits require the City Council to make a finding that the proposed application meets all of the following criteria:

- The specific site is an appropriate location for such use, structure;
- The use as developed and operated will not adversely affect the neighborhood;
- There will be no nuisance or serious hazard to vehicles or pedestrians; and
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.

In addition to the standard criteria for all Special Permits, the draft ordinance adds the following additional criteria for all firearm businesses:

- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot;
- The location will have adequate and safe storage, security, and a lighting system;

- Loading, refuse, and service areas are designed to be secure and shielded from abutting uses;
- The establishment is designed to minimize any adverse impacts on abutters; and
- The establishment has satisfied all of the conditions and requirements of this section.

Firing ranges will also need to meet this additional criterion:

- The use will not result in adverse impacts due to noise, hazardous materials, or air quality.

### Buffers

In addition to restricting the number of zoning districts where a firearm business may locate and requiring a Special Permit for all firearm businesses, establishing reasonable buffers are another tool to help ensure compatibility between a proposed firearm business and surrounding uses.

#### *Buffer Comparisons*

Most of the firearm zoning regulations reviewed contained buffers from sensitive uses. The buffers reviewed range from 150 feet to 1,000 feet depending on the size of the community and the category of sensitive use. Sensitive uses also varied though all included schools, most included daycares, parks, and playgrounds, and some also included buffers from residential uses and/or residential districts. Buffers from residential uses or districts were the smallest at 150 – 250 feet. Newton’s current zoning ordinance also requires a 500-foot buffer between adult businesses and the nearest school, religious use, public park intended for passive or active recreation, youth center, day care facility, family day care facility, center for child counseling, great pond, or navigable river and 150 feet from any residential property line. Additionally, adult businesses must maintain a 1,000-foot buffer from any other adult business within the City or an adjacent municipality and from any zoning district that allows for an adult business in an adjacent municipality. Marijuana retailers and medical marijuana treatment centers are also required to be at least 500 feet from k-12 public and private schools and a half mile from other marijuana retailers and medical marijuana treatment centers.

#### *Buffer Analysis*

Based on feedback from the April 26<sup>th</sup> ZAP meeting, staff analyzed different combinations of sensitive uses and buffer distances. The following buffer distances and sensitive uses were analyzed:

- 100-foot, 150-foot, 250-foot, and 500-foot buffers from properties containing a residential use
- 500-foot and 1,000-foot buffers from k-12 schools, daycare centers, preschools, child-care facilities, land or structures used for religious purposes, libraries, nursing homes, marijuana retailers, and establishments with a liquor license



Staff reviewed different iterations in order to find the most effective combination of buffer distances and sensitive uses. Residential uses and schools were prioritized first then other uses where children would be expected to congregate. Given the residential nature of the city, the residential buffers had the largest effect of eliminating potential properties. In the ordinances reviewed, residential buffers were not very common and were typically smaller than other buffers. Several residential buffers were analyzed ranging from 100 feet to 500 feet and both 500-foot and 1,000-foot buffers were analyzed for all other sensitive uses.

The first draft of the ordinance required that buffer distances be measured from the property line of the firearm business to the property line of the sensitive use. When doing the mapping analysis, we found that under all scenarios there were few, if any, entire parcels that remained outside of the buffers. The attached draft ordinance has been revised to require the measurement be taken from the building containing the firearm business to the property line of the sensitive use. As currently written, this would mean that even if there are multiple tenants in a building, no point on the building could be within the minimum buffer distance from a property containing a sensitive use.

### Recommendation

After careful analysis of various combinations of zoning districts, buffer distances, and sensitive uses the Planning Department recommends including the BU2, BU4 and M districts with a 150-foot buffer between any firearm business and any property containing a residential uses and a 1,000-foot buffer from between any firearm business and any public and private k-12 school, daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home or existing firearm dealer or firing range. The only suggested sensitive uses not included are marijuana retailers and establishments with a liquor license. When those uses are added they eliminate all possible opportunities (see Alternative 3 below). The recommended proposal limits firearm businesses to a portion of Route 9 in Chestnut Hill and part of the area near the Waltham border at Rumford Avenue and Riverview Avenue and provides for the largest buffers of any of the firearm zoning ordinances reviewed. The map illustrating the recommended zoning districts and buffers can be found [here](#).

### Alternatives Analysis

The maps linked below illustrate several of the alternatives analyzed by the Planning Department but ultimately not recommended.

Alternative 1: <https://www.newtonma.gov/home/showpublisheddocument/69406>

Alternative 1 provides the most opportunity for firearm businesses and most closely aligns with the buffers required for adult businesses in Newton. This alternative is not recommended as a more restrictive option is feasible.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use

- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 2: <https://www.newtonma.gov/home/showpublisheddocument/69408>

Alternative 2 is the same as Alternative 1, except the BU2 zone is not included and the proposed zoning districts align with those in the April 26<sup>th</sup> proposal. Alternative 2 provides fewer opportunity areas than Alternative 1 (and the number of existing buildings that are fully outside of buffers would further reduce the available areas) while providing smaller buffers than the recommended alternative.

- BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 3: <https://www.newtonma.gov/home/showpublisheddocument/69412>

Alternative 3 is the same as Alternative 1, except marijuana retailers and establishments with a liquor license are included in the list of sensitive uses. When buffers are applied to these additional sensitive uses only small slivers of sites are left and no existing buildings are fully outside of the buffers, making this alternative unfeasible.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, marijuana retailer or establishment with a liquor license

Alternative 4: <https://www.newtonma.gov/home/showpublisheddocument/69414>

Alternative 4 is the same as Alternative 1, except a larger residential buffer is included. While there are still a few areas that are outside of the buffers, with the larger residential buffer far fewer buildings are located outside of the buffers and the buffer around the other sensitive uses is still smaller than the recommended alternative.

- BU2, BU4, M, LM, MU1 zoning districts
- 250-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 5 – Recommended Alternative (also discussed above):

<https://www.newtonma.gov/home/showpublisheddocument/69410>

Alternative 5 is the same as Alternative 1, except a 1,000-foot buffer is used for all non-residential sensitive uses. Planning Staff recommend this alternative as it limits the possibility of a firearm business to just two areas of the city – part of Route 9 in Chestnut Hill and part of the area near the Waltham border at Rumford Avenue and Riverview Avenue. In this alternative there are fewer locations shown across the city than Alternative 4 (with the larger residential buffer but smaller buffer from all other uses) but within those areas there are an adequate number of buildings located outside of the buffers.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 1,000-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

### Summary

Planning staff finds that the revised draft ordinance, including the zoning districts and buffers shown in Alternative 5 balance the Constitutional protections for firearms, the Police Department’s desire to have firearm businesses be as visible as possible, and the community and City Council’s desire to restrict firearm businesses as much as possible from sensitive uses. It is unlikely that further zoning or buffer restrictions would withstand a legal challenge. The recommended proposal draws from ordinances and best practices from across the country and if adopted, would be the most robust firearm zoning ordinance in the region. It also is still only a starting point, and any firearm business seeking to locate in Newton would still require a Special Permit. As part of the Special Permit process the City Council would hold at least one public hearing, would have the ability to ask for more specific studies and analysis, and would have the discretion to deny an application if it did not meet the required criteria or add conditions to any potential approval of an application.

### Next Steps

A public hearing will be held by the Zoning and Planning Committee at 7 p.m. on May 10, 2021.

ATTACHMENT A: Proposed Draft Firearm Business Ordinance Redline  
 ATTACHMENT B: Proposed Draft Firearm Business Ordinance Clean  
 ATTACHMENT C: Firearm Frequently Asked Questions – May 6, 2021

## Section 4.4. ALLOWED USES

### 4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Firearm Business	--	<del>SP</del>	--	SP	--	<del>SP</del>	--	--	--	SP	<del>SP</del>	Sec. 6.10.4
Firing Range	--	<del>SP</del>	--	SP	--	<del>SP</del>	--	--	--	SP	<del>SP</del>	Sec. 6.10.4
Gunsmith	--	<del>SP</del>	--	SP	--	<del>SP</del>	--	--	--	SP	<del>SP</del>	Sec. 6.10.4

### 6.10.4. FIREARM BUSINESS USES

A. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare.

B. **Definitions.**

**Ammunition.** Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

**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 a gun, pistol or rifle.

**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.

**Firearm Business Uses.** Any of the following uses:~~shall include the following:~~

1. **Firearm Dealer Business.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
2. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice.
3. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, bluing or performing of any mechanical operation on any Firearm.

C. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful

business permitted as of right or by special permit as provided in this Chapter.

D. **Firearm Business Uses allowed by special permit.** Use of land, buildings or structures for a Firearm Business ~~Use, Firing Range, or Gunsmith~~ shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

E. **Minimum criteria and limitations on approval.**

1. ~~A~~ Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall not be located within a radius of 150 feet from any property containing a residential property line use.

2. Firearm Business Uses shall not be located within 1,000 feet of any private or public k-12 school.

~~3.~~ Firearm Business Uses shall not be located within 1,000 feet of any daycare center, preschool, child-care facility, ~~college or university~~, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, or an existing ~~another~~ Firearm Dealer or Business, Firing Range at another location, ~~or Gunsmith, unless~~

~~4.3.~~ All distances in this Section shall be measured in a straight line from any point on the building containing the the nearest property line of the proposed Firearm Business Use, Firing Range, or Gunsmith to the nearest property line of any of the designated uses set forth herein.

~~5.4.~~ In appropriate circumstances, the City Council may grant a special permit for a Firearms Business Use even if the location of the proposed use does not comply with the buffer requirements set forth in Sec. 6.10.4.E.1-3 herein, but only upon a finding that the proposed location the City Council finds that such Firearm Business, Firing Range, or Gunsmith is sufficiently buffered by existing conditions such that the uses enumerated in paragraph Sec. 6.10.4.E.1-3se facilities or uses will not be adversely impacted by the Firearm Business Use.

~~6.5.~~ ~~A~~ Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations.

~~7.6.~~ ~~A~~ Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall comply with all applicable Federal, State and local laws and regulations in the operation their business.

~~8.7.~~ A special permit granted by the City Council authorizing the establishment of a Firearm Business ~~Use, Firing Range, or Gunsmith~~ shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the Firearm Business ~~Use, Firing Range, or Gunsmith~~ has been authorized by the special permit.

~~9.8.~~ No graphics, symbols or images of Firearms, Ammunition, or Firearm Accessories shall be displayed or clearly visible from the exterior of ~~the~~ Firearm Business ~~Uses, Firing Range, or Gunsmith~~. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

- ~~10.9.~~ No Firearm Business Use, Firing Range, or Gunsmith shall be located within a building containing a residential use.
- ~~11.10.~~ A Firearm Business shall be located indoors within a fully enclosed building.
- ~~12.11.~~ The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall any Firearm Business Use be open before 9:00 a.m. or remain open after 9:00 p.m. Uses shall not be open to the public between the hours of 11:30 p.m. and 6:00 a.m. The City Council may, as a special permit condition, further limit the hours of operation of a Firearms Business Use to mitigate any adverse impacts on nearby uses.
12. A special Permit for a Firearm Business Use, Firing Range, or Gunsmith shall not be granted if such business is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 140, §§ 122B, 130, 131N, or similar laws in other states.
13. All Firearm Business Uses shall submit a security plan to the Newton Police Department for review and approval. The plan must include, but not be limited to, the following:
- a. Proposed provisions for security.
  - b. The physical layout of the interior.
  - c. After hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
  - d. The number of employees.
14. All Firearm Business Uses shall submit an operations and management plan to the Newton Police Department for review and approval.
15. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with state law.
16. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by an adult.
17. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.

F. **Special permit application and procedure.** The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:

- 1. Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
- 2. Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
- 3. Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot, ~~whether such uses are located in the City or within~~

~~surrounding communities, including but not limited to all educational uses, day care, preschool and afterschool programs.~~ The context map shall include the measured distance to all uses described in Sec. 6.10.4.E.1 paragraph E.1 above.

4. Description of Ownership, Management, and Employees: The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the use. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name and address of the manager(s) and assistant manager(s).

### 3-5. Comprehensive Signage Plan.

G. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, Firing Range, or Gunsmith, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. Criteria for all Firearm Business Uses:

a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.

~~a-b.~~ The establishment will have adequate and safe storage, security, and a lighting system.

~~b-c.~~ Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

~~c-d.~~ The ~~Firearm Business, Firing Range, or Gunsmith~~ establishment is designed to minimize any adverse impacts on abutters.

e. The ~~Firearm Business, Firing Range, or Gunsmith~~ establishment has satisfied all of the conditions and requirements in this section.

2. Additional Criteria for Firing Ranges:

~~d-a.~~ The use will not result in adverse impacts due to noise, hazardous materials or air quality.

H. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

## Section 4.4. ALLOWED USES

### 4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Firearm Business	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Firing Range	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Gunsmith	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4

### 6.10.4. FIREARM BUSINESS USES

A. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare.

B. **Definitions.**

**Ammunition.** Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

**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 a gun, pistol or rifle.

**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.

**Firearm Business Use.** Any of the following uses:

1. **Firearm Dealer.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
2. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice.
3. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, bluing or performing of any mechanical operation on any Firearm.

C. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful



business permitted as of right or by special permit as provided in this Chapter.

**D. Firearm Business Uses allowed by special permit.** Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

**E. Minimum criteria and limitations on approval.**

1. Firearm Business Uses shall not be located within a radius of 150 feet from any property containing a residential use.
2. Firearm Business Uses shall not be located within 1,000 feet of any private or public k-12 school.
3. Firearm Business Uses shall not be located within 1,000 feet of any daycare center, preschool, child-care facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, or an existing Firearm Dealer or Firing Range at another location. All distances in this Section shall be measured in a straight line from any point on the building containing the proposed Firearm Business Use to the nearest property line of any of the designated uses set forth herein.
4. In appropriate circumstances, the City Council may grant a special permit for a Firearms Business Use even if the location of the proposed use does not comply with the buffer requirements set forth in Sec. 6.10.4.E.1-3 herein, but only upon a finding that the proposed location is sufficiently buffered by existing conditions such that the uses enumerated in paragraph Sec. 6.10.4.E.1-3 will not be adversely impacted by the Firearm Business Use.
5. Firearm Business Uses shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations.
6. Firearm Business Uses shall comply with all applicable Federal, State and local laws and regulations in the operation their business.
7. A special permit granted by the City Council authorizing the establishment of a Firearm Business Use shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the Firearm Business Use has been authorized by the special permit.
8. No graphics, symbols or images of Firearms, Ammunition, or Firearm Accessories shall be displayed or clearly visible from the exterior of Firearm Business Uses. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.
9. No Firearm Business Use shall be located within a building containing a residential use.
10. A Firearm Business shall be located indoors within a fully enclosed building.
11. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall any Firearm Business Use be open before 9:00 a.m. or remain open after 9:00 p.m.

12. A special Permit for a Firearm Business Use shall not be granted if such business is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 140, §§ 122B, 130, 131N, or similar laws in other states.
13. All Firearm Business Uses shall submit a security plan to the Newton Police Department for review and approval. The plan must include, but not be limited to, the following:
  - a. Proposed provisions for security.
  - b. The physical layout of the interior.
  - c. After hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
  - d. The number of employees.
14. All Firearm Business Uses shall submit an operations and management plan to the Newton Police Department for review and approval.
15. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with state law.
16. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by an adult.
17. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.

F. **Special permit application and procedure.** The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
2. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
3. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot. The context map shall include the measured distance to all uses described in Sec. 6.10.4.E.1 above.
4. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the use. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name and address of the manager(s) and assistant manager(s).
5. **Comprehensive Signage Plan.**

**G. Special Permit Criteria.** In granting a special permit for a Firearm Business Use, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. Criteria for all Firearm Business Uses:
  - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.
  - b. The establishment will have adequate and safe storage, security, and a lighting system.
  - c. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
  - d. The establishment is designed to minimize any adverse impacts on abutters.
  - e. The establishment has satisfied all of the conditions and requirements in this section.
2. Additional Criteria for Firing Ranges:
  - a. The use will not result in adverse impacts due to noise, hazardous materials or air quality.

**H. Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

**LAW DEPARTMENT RESPONSES TO CITY COUNCILOR QUESTIONS FROM  
ZONING AND PLANNING COMMITTEE MEETING HELD ON APRIL 26, 2021**

**May, 6, 2021**

**Under the proposed zoning, how many votes will be required for the issuance of a Firearm Business Use special permit by the City Council?**

All special permits for Firearm Business Uses will require a two-thirds vote of the City Council.

**Can the City limit the number of Firearm Business Uses?**

An interpretation of state law suggests that the City Council has the authority to limit the number of firearm dealer licenses issued pursuant to state law through adoption of a general ordinance. The Law Department is currently drafting an ordinance for Council review.

**Can the City prohibit off-site signage for Firearm Business Uses?**

The City only has the authority to regulate signage located within the City. The City's Zoning Ordinance already prohibits non-accessory signs on private property. Signs for businesses are regulated and only permitted on the premises of the business itself. This means that no businesses can have off-site signage in Newton. The City, however, does not have the authority to prohibit a business located in Newton from erecting signage outside of the City.

**Can the City limit or prohibit signage on-site at a Firearm Business Use?**

The City cannot completely ban signage on site, but the City Council may impose some reasonable limitations as to size and location through its discretionary special permit review process. The proposed ordinance also prohibits the exterior display of graphics, symbols, or images of firearms and ammunition.

**Can the City require additional security on-site at a Firearm Business Use? Can the City require firearm purchases be made by appointment only?**

Additional requirements have been added to the draft ordinance to address security in greater detail. For example, all applicants must submit a security plan to the Newton Police Department for review and approval and conduct employee background checks in accordance with state law. A required finding has also been added to ensure any Firearm Business Use takes all appropriate safety measures: in order for the City Council to issue a special permit it must first determine that the business has adequate and safe storage, security, and lighting.

As part of the discretionary special permit review process, the City Council has broad authority to impose additional conditions and requirements on the use and operation as necessary to ensure the

business meets the special permit standards. While the proposed zoning ordinance does not require that all Firearm Business Uses operate on an appointment only basis, that is a valid consideration for the City Council to evaluate during the special permit process and require when appropriate.

**If a specific provision of the firearm zoning amendment is overturned by a court challenge, will the remainder of the ordinance remain valid?**

The draft ordinance does include a “severability provision” that seeks to protect the validity of any portion of the firearm ordinance not specifically ruled invalid.

**Can the City tax firearm sales?**

The City does not have the authority to impose a local tax on the sale of firearms. Under state law, the City does not have the power to assess taxes unless explicitly authorized by the State Legislature. For example, state law explicitly authorizes the City to collect a local tax option on the retail sale of marijuana. There is no statutory authority permitting the City to assess a local tax on firearm sales.

**The current proposed zoning amendment prohibits a Firearm Business Use from opening within a certain buffer to specific land uses, such as childcare facilities. Will those specified land uses be prohibited from locating within the buffer of an existing Firearm Business Use?**

No. The proposed restriction against a Firearm Business Use from opening within a certain proximity of other specified uses only applies against the proposed Firearm Business Use at the time it receives a special permit. For example, a childcare facility that wishes to open within the buffer of an existing Firearm Business Use retailer may do so.

**Can the City ban firing ranges?**

In light of the implications of Constitutional protections and the current legal landscape, it is likely that a complete ban would ultimately be deemed unconstitutional.

## **Regulation of Firearms Dealers – FAQs**

**Updated April 23, 2021**

### **How can residents learn about developments concerning firearms dealers in Newton?**

The City's Department of Planning & Development Department has created a webpage with relevant information that is updated regularly and can be found by clicking [here](#). This FAQ document is located at the same link and will be updated periodically with the latest information in an effort to remain open and transparent.

## **ZONING AND REGULATION OF FIREARMS DEALERS**

### **Does Newton have any zoning regulations around firearms dealers?**

The City of Newton currently does not have any zoning regulations around firearms dealers. Firearms dealers fall within the general use category of "retail sales" that is currently allowed by right in all Business Use zoning districts, by special permit in the Limited Manufacturing District, and either by right or by special permit – depending on the size of the retail store – in the Mixed Use districts.

### **What options does Newton have to regulate firearms dealers through zoning?**

The City Council has broad authority to regulate all land uses in Newton, including the location of firearms dealers. That said, in light of the nature of the issues and the implications of Constitutional protections, it may be reasonable to expect that the more restrictively firearm sales are regulated, the more likely such regulations will be subject to a court challenge.

### **What steps are currently being taken by the City to address firearms dealers?**

On Friday, April 16, the Mayor and all 24 City Councilors jointly docketed an amendment to the City's zoning ordinance that would restrict all firearms dealers and related uses to the following zoning districts: Business Use 4, Mixed Use 1, Manufacturing, and Light Manufacturing. The proposed amendment also requires all firearm businesses to be approved by special permit by the City Council. It will create specific special permit criteria, including a buffer zone between a firearms dealer and residences and schools. A copy of the text of the proposed zoning amendment will be posted on the Planning Department website [here](#) on Friday, April 23.

### **What is the City Council process for reviewing the proposed zoning amendments?**

It is the role of the City Council, as the City's legislative body, to approve all zoning ordinances and amendments. The review and approval process is dictated by the State Zoning Act, Chapter 40A. In accordance with the required process, the City Council assigned the proposed zoning amendment to the Zoning and Planning Committee (ZAP). The Zoning and Planning Committee will hold a public hearing on the proposed amendment on Monday, May 10, 2021. At the public hearing, the Council will hear input from the public. It will then discuss the draft language, potentially make revisions, and ultimately recommend that matter to the full City Council for a final vote to approve the zoning amendments.

Prior to the opening of the public hearing, ZAP will hold a committee discussion of the proposed zoning amendments at its regularly scheduled meeting on Monday, April 26, 2021. There will not be an opportunity for public comment at that meeting.

**If and when the proposed zoning ordinances are passed, will they apply retroactively?**

In general, zoning is prospective and would not limit ongoing uses and businesses that are already operating. However, the State Zoning Act, does state that any approved zoning amendment will apply to any use/business that has not commenced prior to the publication of notice of the public hearing for the zoning amendment.

The City Council is providing the first required notice of the May 10 public hearing in the newspaper on Friday, April 23. Practically speaking, if there is a proposed firearm business that has not started operating by that date, it will be subject to the proposed zoning amendments whenever those amendments are passed.

**What is the current zoning status of the proposed firearms dealer that is seeking to operate at a location on Washington Street in Newton?**

While a firearms dealer is currently an allowed by right use at the current proposed location of 709 Washington Street, the City's Department of Inspectional Services (ISD) still requires new businesses to apply for and receive an occupancy permit before commencing operation in a new location. This review is necessary to ensure the building and the use are in compliance with the City's zoning ordinance, the State building code, and other applicable codes, such as the State fire code.

In addition, when a new business opens at a location that was not previously designed for that type of use (as in this instance the proposed location was previously a dry cleaner) interior improvements or renovations are often necessary and must be undertaken pursuant to a building permit issued by ISD. Recently, ISD learned that extensive interior renovations were being conducted at the proposed location without the benefit of a building permit. After observing the property on April 20, 2021, the Commissioner of ISD issued a Stop Work Order for violations under the State Building Code. As a result, no further construction work can continue at this location until a building permit is applied for and issued by ISD. As of today, ISD has not received any applications for a building permit or an occupancy permit concerning this property. ISD is required by state law to process building permits within 30 days of the filing of an application.

At this time, a firearms dealer cannot begin operating at this location until these issues are resolved. The business owner must apply for and be issued a building permit, the outstanding building code violations must be remedied, and an occupancy permit must be issued before any business can commence operation.

**Is a firearms dealer allowed to begin operating after the public notice date of April 23, 2021 but before the zoning amendments are passed?**

If the proposed firearms dealer receives all the necessary licenses and approval from local, state, and federal authorities, and also receives all necessary permits and approvals from the City's

Department of Inspectional Services, it may be allowed to operate for a period of time. The dealer, however, will still be subject to the new zoning whenever it is passed and could have to cease operation if the use is no longer allowed at that location. In other words, a firearms dealer could potentially open after the notice of the public hearing but at its own risk of being subject to the later approved zoning amendments.

**It is in the news that Salem recently rejected an application for a firearms dealer. Why can't Newton do the same?**

The situation in Salem is very different than what Newton currently faces. The proposed firearms dealer in Salem was located in a residential zoning district where retail was not an allowed use and was replacing a nonconforming industrial use. Like Newton and most Massachusetts communities, Salem does not regulate firearms dealers through zoning and treats the use as retail. As a result, the applicant had to apply to the Salem Zoning Board of Appeals for a special permit to change from one nonconforming use (industrial) to another nonconforming use (retail) as neither uses are allowed in that particular residential district. Under its discretionary review, the Salem ZBA denied the request for a special permit. The Salem ZBA vote took place on April 21 and a decision, which may be appealed, has not yet issued.

In contrast, the proposed firearms dealer on Washington Street in Newton constitutes a by right retail use in a business zoning district. The dealer does not require any zoning relief from the City Council or the ZBA. Therefore, under current zoning, there is no opportunity nor basis for the City or the City Council to reject this business. However, under the proposed zoning ordinance, all firearms dealer uses will require a special permit from the City Council, which will allow the City Council to engage in the same discretionary review recently undertaken by Salem ZBA. The proposed ordinance also restricts firearms dealers to certain zoning districts. The proposed firearms dealer on Washington Street will be subject to these zoning changes if the proposed zoning ordinance is adopted.

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**LICENSING OF FIREARMS DEALERS**

**What local, state, and federal licenses are required to operate a firearms dealer?**

To operate a business as a firearms dealer in MA, the dealer must seek and obtain a federal firearms license (FFL) to purchase firearms from the Bureau of Alcohol, Tobacco and Firearms (ATF) and a separate license to sell firearms from the Chief of Police, as the local licensing authority. The license to sell firearms is authorized by state law, M.G.L. c. 140 § 122, which lays out the criteria that the Chief must follow in reviewing applications for the license. The MA application for the license to sell firearms is also reviewed by the MA Firearms Records Bureau.



**What is the local review process for the Newton Chief of Police to issue a firearms dealer license?**

The Chief and designees will conduct a background check consisting of a review of reports from the Department of Mental Health, the Board of Probation, the MA Warrant Management System and the National Instant Criminal Background Check System. The applicant is fingerprinted by the Newton Police Department and the fingerprints are reviewed by the MA State Police. The Chief and designees will conduct a site view of the proposed location to ensure that the building is properly alarmed, secured, outfitted with appropriate locked storage containers, and that the windows are appropriately screened to prevent being able to see any firearms from outside of the store. There is no notification or hearing requirement for a license to sell firearms.

**Can the Chief of Police deny an application for a license to sell firearms?**

The Chief of Police may deny a license to sell firearms if the applicant is prohibited by law to hold the license.

**What is the current licensing status of the proposed firearms dealer that is seeking to operate at a location on Washington Street in Newton?**

The applicant has met all state and federal statutory requirements and the license is in the process of being issued.

**Can the proposed firearms dealer operate at a different location?**

A firearms dealer must list a specific address on the application for a license to sell firearms and the license must be exercised at that location. If the dealer would like to move the business to a different location, the dealer must notify the Chief of Police of the new location so that the Chief can conduct a site plan and security review prior to allowing the business to relocate. If the dealer wishes to operate a second location, the dealer must submit a new application for review and approval.

**What operating restrictions apply to firearms dealers?**

Firearms dealers license holders are held to a series of restrictions and requirements outlined in M.G.L. c. 140 § 123. Among the twenty-one conditions on the license are the following:

- Every item sold must be recorded in a log, which must be made open to inspection by the Chief of Police at any time
- Firearms may not be sold to a person who does not have MA issued License to Carry or a MA issued Federal Identification card
- Dealer is required to verify the license status of purchasers through the state licensing system, MIRCS (MA Instant Record Check System)
- Dealer must display a required placard from the MA Dept of Health about suicide prevention and a separate placard about the storage requirements for firearms in MA
- Dealer may not possess or sell any firearms that are illegal in MA

- Firearms that are stolen from the store must be reported immediately to the Chief of Police and to the MA Criminal Justice Information Services

In addition to the conditions on the license, in MA firearms dealers are also required to demonstrate how to safely load, unload and store handguns, how to operate the handgun's safety devices, and provide specific written safety warnings to purchasers of handguns.

A firearms dealer must perform a CORI background check on prospective employees.

Firearms dealers may not operate out of a residence or dwelling.

### **What is the oversight role of the Chief of Police?**

Dealers are required to have their transaction records open for inspection at all times to the police. In addition, the license holder must provide the Chief with a yearly accounting of sales records.

### **What firearms may be sold in MA?**

The Executive Office of Public Safety and Security (EOPSS) maintains a [list of approved firearms](#) that may be purchased from a duly licensed dealer in MA. The list is updated as needed and includes rosters for Olympic competition firearms, large capacity firearms, formal target shooting firearms and other approved firearms. Handguns must meet all consumer protection regulations including childproofing and protections against accidental discharges. 940 CMR 16.00

### **Can someone buy firearms online?**

Yes, but they may not be delivered directly to the buyer. The firearms must, instead, be delivered to a federal firearms license (FFL) holder who must certify that the firearms are compliant with all applicable MA gun control laws prior to transferring the firearms to the buyer. The transfer of the firearms must take place at the FFL's place of business.

### **Are Firearms Dealers in MA allowed to sell assault weapons?**

Since 1998, Massachusetts has had an assault weapons ban in place that prohibits the sale, transfer or possession of assault weapons, including some semi-automatic weapons. In 2016, the MA Attorney General issued a [Notice on Enforcement](#) which provides a description and list of banned firearms. Firearms dealers must comply with all requirements of the law and violations will result in a revocation of the license to sell firearms.

### **What safety and security measures are a firearms dealer required to take at its business place?**

Dealers and gun owners are all required to secure their firearms either by keeping it in a locked container or by equipping the firearm with a tamper-proof locking mechanism that renders the firearm inoperable when the firearms are not under their control.

A firearms dealer is also prohibited from displaying firearms in the window of a store.

**Who makes sure that a dealer has the proper security measures in place?**

The Massachusetts Gun Control Advisory Board, along with the Executive Office of Public Safety and Security (EOPPS), provide guidance on appropriate safety and security measures to support and implement the gun control laws in MA. The Newton Chief of Police, as the local licensing authority, investigates and enforces the gun control laws to ensure that all required safety measures are in place for all license holders.

**How often does the Chief of Police perform inspections of firearms dealerships?**

The Chief of Police is required to perform annual inspections of a dealer’s sales records but is permitted to conduct inspections at any time.

**Can the City of Newton completely ban guns in Newton?**

No. Under the current status of federal law, possession of firearms is protected by the Second Amendment and any effort on the part of the City of Newton to ban the possession of firearms would be struck down by a Court as unconstitutional.

**What are some other resources on gun control in MA?**

License to sell firearms: [M.G.L. c. 140 § 122](#)

License to sell ammunition – [M.G.L. c. 140 § 122B](#)

Conditions of Licenses – [M.G.L. c. 140 § 123](#)

Consumer Protection Regulations for the sale of handguns – [940 CMR 16.00](#)

Information on the MA Assault Weapons Ban – [MA FAQs about the Assault Weapons Ban](#)