

## Firearms Dealers Operations and Zoning in the Town of Dedham FAQ

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**NOTE: Be reminded that the Town may not be able to answer all of your questions, either because an application is pending or because the information is not currently available or appropriate to share in a document such as this. We will endeavor to update these FAQs on an ongoing basis and appreciate your patience during this process. Understand, however, that all of these matters are fact based and require review on a case by case basis. Therefore, while the following is intended to be generally informational in nature, the Town's actions are subject to state law at all times. The Town reserves the right to alter or amend this FAQ at any time.**

### **REGULATION OF FIREARMS DEALERS**

#### **Are Firearms Dealers in Massachusetts allowed to sell semi-automatic weapons?**

The state has an assault weapons ban, but such ban does not prohibit the sale of all automatic weapons. See [here](#) for the Attorney General's notice on enforcement of the assault weapons ban, which includes a list of banned items, and [here](#) for more from Mass.gov concerning frequently asked questions about enforcement. That FAQ provides further:

The Massachusetts Assault Weapons Ban does prohibit the sale of certain semi-automatic pistols, including the INTRATEC TEC-9, TEC-DC9 and TEC-22; and the Action Arms Israeli Military Industries UZI and Galil. Only these weapons and copies or duplicates of these specific pistols are prohibited under the ban, and none appear on the approved list. Handguns are still subject to MA 940 CMR 16.00 *et seq.* Consumer Protection Regulation.

#### **What firearms can be sold?**

The property owner can sell any of the firearms listed on the [roster of approved firearms](#) prepared by the Executive Office of Public Safety and Security ("EOPSS"). In addition, firearms sold in Massachusetts must comply with the Attorney General's consumer protection [regulations on handgun sales](#).

#### **Are online sales restricted to the same products as in-person sales in MA?**

Yes. Online sales of firearms cannot be legally conducted without compliance with Massachusetts state law. In accordance with federal law, 18 U.S.C. § 922, when an individual purchases a gun online, that gun must be shipped to a federally licensed firearms dealer rather than directly to the purchaser's home or business. Thereafter, a licensed firearms dealer must comply with all applicable state laws regarding the transfer, sale, or rental of such firearms, as if the product in question had been part of the licensed dealer's own inventory and the transaction had originated in the store (i.e. the weapon appears on the roster of approved firearms consistent G.L. c.140, §123, clauses 18<sup>th</sup>-20<sup>th</sup>). See, for example, the following non-governmental website describing the process: <https://gun.laws.com/purchasing-guns/online-purchasing>

## **FAQ: Firearms Dealers Operations and Zoning in the Town of Dedham**

### **Can a firearms dealer hold inventory of guns that are not permitted to be sold in MA?**

No. Massachusetts law prohibits a firearms dealer from holding inventory of guns that the dealer is not licensed to sell.

### **What security measures are firearms dealers required to have?**

Although not specific to firearms dealers, Massachusetts law requires that firearms be secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, or properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user.

Additionally, the Federal Bureau for Alcohol, Tobacco, Firearms and Explosives (“ATF”) has issued guidance on ways to increase the security of a federally licensed dealer’s establishment. Click [here](#) for a link to the ATF document.

### **What federal, state or local agency is in charge of ensuring the store has adequate security measures?**

The Massachusetts Gun Control Advisory Board, established by the Governor pursuant to G. L. c. 140, §131½, is responsible for advising EOPSS on matters relating to the implementation of the Commonwealth’s gun laws, and therefore advising on what constitutes adequate safety measures. In practice, the Dedham Chief of Police, as the local licensing authority, is in charge of ensuring that the store is in compliance with security measures required by law.

ATF is the federal agency responsible for ensuring compliance with additional federal regulations.

### **What federal, state or local agency is in charge of ensuring a firearms dealer is in compliance with the list of approved firearms, ammunition and accessories allowed for sale in Massachusetts?**

As discussed in response to various questions, above, the local chief of police is the licensing authority, and has authority to suspend or declare forfeited a license.

At the state level, in accordance with G.L. c. 140, §131¾ and 501 CMR 7.00, EOPSS promulgates the Approved Firearms Roster based on testing conducted by the Gun Control Advisory Board and approved by the Secretary of Public Safety and Security.

The Massachusetts Department of Criminal Justice Information Systems (“DCJIS”) receives an electronic transmission of the record of every sale and therefore monitors compliance with that official Roster. Information can be reported from the DCJIS to the town or ATF for use in investigations or inspections.

ATF is the relevant federal entity with oversight of gun sales. The scope of ATF’s enforcement activity involves federal regulations on commerce of firearms in general, rather than on whether a particular entity complies with a state imposed law, such as the EOPSS Roster.

### **How often is the Chief of Police expected to inspect a firearms dealer’s operations and record keeping?**

General Laws c. 140, §123 provides that as a condition of a firearms dealer license, the dealer’s book of sales records shall be open to the police for inspection at all times. Currently, there is no specific law mandating the frequency of such inspection. Effective January 1, 2021, however, the licensing authority shall be required to enter “one time per calendar year, during regular business hours” to inspect the dealer’s records and inventory.

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Be aware that in addition to complying with any statutory requirements, inspections must also satisfy applicable due process requirements.

### **Are Firearms Dealers permitted to display guns in the window?**

No. Massachusetts law prevents firearms dealers from displaying guns in the store window. See [G.L. c.140, §123](#).

### **Are Firearms Dealers allowed to operate in close proximity to schools and playgrounds?**

There are no Massachusetts laws restricting the location of Firearms Businesses relative to schools, parks, churches, or other public buildings or amenities. This issue may be addressed at the local level, however, including through adoption of zoning.

Note further, however, that state law imposes restrictions on bringing guns onto school property. See [G.L. c. 269 §10\(j\)](#).

### **What are the applicable state laws on selling firearms?**

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

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

Conditions of licenses – [G.L. c.140, §123](#)

Attorney General’s Consumer Protection Regulations – [940 CMR 16.00, et seq.](#)

### **If residents have concerns about the operations of a firearms dealer, who do they contact?**

Residents may contact DCJIS through its Firearms Records Bureau, which maintains a transaction history for any firearms dealer in accord with the provisions of G.L. c. 140 §123.

Residents may also contact the Police Department. General Laws c.140, §123 provides that the Chief of Police, as the local firearms licensing authority, may suspend or declare forfeited such license if the firearms dealer is found in violation of a condition thereof. The statute also requires that the dealer be provided due notice of, and an opportunity to be heard on, such violation, and the Chief may not issue a penalty unless presented with “satisfactory proof” that the dealer has violated or permitted a violation of a condition of the license, violated any provision of G.L. c. 140, or been convicted of a felony.

## **GUN LICENSES**

### **How does someone obtain a gun license?**

If a person wants to purchase a gun, they would need to obtain a necessary firearms license from the police department where they reside or have a place of business pursuant to the statutory requirements set forth in [G.L. c. 140, §129B](#) (FID cards) and [G.L. c.140, §131](#) (License to Carry). Dedham residents must file an application with the Dedham Chief of Police, while residents of other cities and towns will have to apply in the municipality in which their homes or businesses are located.

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See more [here](#) and [here](#) for the process applicable to seeking a gun license.

### **Is the Licensing Authority (in this case the Dedham Chief of Police) empowered to ever deny a permit? If so, on what grounds might a permit be denied?**

A firearms license may be denied by the Chief of Police, as the licensing authority, if the applicant is prohibited by law from obtaining the license for which they have applied. In addition, pursuant to Massachusetts law, the local chief of police has the authority to deny a firearms license if the applicant is deemed to be “unsuitable” to be issued a license. See [here](#) for more.

## **Community Safety**

### **Is it possible to create gun-free zones, prohibiting even licensed gun owners from bringing guns into public buildings or onto public land such as parks and playgrounds?**

Under G.L. c. 269 §10(j) it is unlawful for anyone other than law enforcement to carry a firearm onto the premises of an elementary or secondary school, college, or university without the consent of the entity in charge of said institution. Aside from this law, however, there are no state laws prohibiting properly licensed firearm owners from bringing their firearms to public places.

### **What is the process for creating such gun-free zones?**

Without the support of state law, creation of a gun-free zone could be susceptible to a constitutional challenge, which, if successful, could include an award of treble damages and attorneys’ fees.

## **Zoning Definitions for Firearms Dealers**

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

Not at this time. The Select Board and Planning Board are working together within each of their respective statutory jurisdictions to draft and sponsor a proposed Zoning Bylaw amendment or amendments to define what constitutes a “Firearms Business” and to consider limiting the zoning district or districts in which such a use will be permitted, if any. The Planning Board has provided notice of a public hearing in the newspaper on August 23, 2019 and August 30, 2019 of such an amendment or amendments and will discuss draft language at its September 12, 2019 meeting at 7:00 pm at Town Hall.

### **Will Zoning Restrictions passed at Town Meeting be retroactive? Will the zoning apply to Firearms Dealers who are already in business?**

In general, zoning is prospective and would not limit ongoing regulated uses. This area of the law is nuanced and fact based, however, and the impact and applicability of any amendment must therefore be reviewed on a case by case basis.

### **What options do we have when amending zoning bylaws regarding firearm sales?**

At this time, our attorneys have informed us that Town Meeting has broad authority to regulate all land uses in the Town, including a Firearms Dealer use. Note, however, that as a practical matter, in light of the nature of the issues and the implications of Constitutional protections, it may be reasonable to expect that the more restrictively gun sales are regulated, the more likely such regulations will be subjected to a court challenge.

**We have an Adult Use Overlay District defined in zoning bylaws. Why wouldn't we only allow firearms sales in that zone?**

Some municipalities have amended their Zoning Bylaws to prohibit a Firearms Business use everywhere other than in their adult use districts. That is an option that Dedham could pursue. Ultimately, however, the proposed Zoning Bylaw amendments to be put forth by the Select Board and Planning Board will be written to take the community sentiment into account, and in consultation with Town Counsel.

**Are there other gun shops in Town?**

There are two other businesses currently licensed to sell firearms - Dick's Sporting Goods and AAA Police Supply.

It is the Town's current understanding that both businesses stopped selling firearms some time ago and, further, that neither business is selling firearms at this time.

**Where does J & J Arms, 224 Bussey Street, stand in the permitting process?**

The owner of J & J Arms applied to the Zoning Board of Appeals ("ZBA") for a Special Permit to be able to refurbish and customize firearms on site and that application was heard at a ZBA meeting on July 17, 2019. The Applicant testified at the ZBA Public Hearing that he had a one-year lease with an option to renew. A number of neighbors and members of the community attended that meeting and expressed concern about the proximity of the store to a park and residential neighborhood. The Applicant and his attorney testified that the refurbishment of firearms would represent 30%-50% of the business, an activity permitted at that location only by special permit.

Following the presentation of testimony and questions from Zoning Board members, the ZBA Chairman shared that he did not anticipate the proposal being approved by a majority of the board. The ZBA Chair therefore suggested to the Applicant that he withdraw his application without prejudice. The Applicant did so withdraw the application.

J & J Arms was granted a License to Sell Firearms by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives on June 17, 2019. The license expires July 1, 2022.

J & J Arms met with the Dedham Design Review Advisory Board on August 7, 2019 for review and approval of signage. At that meeting, the Applicant agreed to take images of firearms off of the signage that will be posted on the building.

J & J Arms applied for a building permit with the Dedham Building Department on August 12, 2019, which permit must, by law, be acted upon within 30 days. Before such a permit issues, the Assistant Building Commissioner must be satisfied that the proposed work complies with state and local building codes. The Building Department is required by state law to process building permits within 30 days of the filing of the application.

J & J Arms applied for a local license to sell firearms, and has met with the Police Chief two times to discuss the application. No license has yet been issued.

**Has the building permit application been filed?**

Yes, the building permit application was filed on Tuesday, August 13, 2019. See more about the process, above.

**What criteria does the Building Department use to review the building permit application?**

The submission and approval of a building permit is subject to the State Building Code. See 780 CMR 105, et seq., available [here](#). The provisions of 780 CMR 105.3.1 provide, in their entirety, as follows:

105.3.1 Action on Application. The building official shall examine or cause to be examined applications for permits and amendments, and shall issue or deny the permit, within 30 days of filing. If the application or the construction documents do not conform to the requirements of this code and all pertinent laws (see note below) under the building official's jurisdiction, the building official shall deny such application in writing, stating the reasons therefore. The building official's signature shall be attached to every permit. The following requirements, where applicable, must be satisfied before a building permit is issued:

1. Zoning: in accordance with M.G.L. c. 40A or St. 1956, c. 665.
2. Railroad Right-of-way: in accordance with M.G.L. c. 40, § 54A.
3. Water Supply: in accordance with M.G.L. c. 40, § 54;
4. Debris Removal: in accordance with M.G.L. c. 40, § 54
5. Workers Compensation Insurance: in accordance with M.G.L. c. 152, § 25C(6).
6. Hazards to Air Navigation: in accordance with M.G.L. c. 90, § 3SB.
7. Construction in coastal dunes, see section Appendix G: Flood-resistant Construction.

**I heard J&J Arms was going to also run a firing range in the basement at 224 Bussey. Do they need additional licenses or permissions to do so? From who?**

In order to operate a “shooting gallery” under state law, the local licensing authority, the Chief of Police, would have to issue a separate license pursuant to G.L. c. 140, §56A. While lower courts have offered guidance on how the term “range” should be interpreted for purposes of complying with the statute, and in that regard have followed prevailing National Rifle Association standards, this appears to be a somewhat nuanced legal issue.

**What are the background checks, age and document requirements to buy a gun in Massachusetts? Do the wait periods vary depending on what gun you purchase?**

The legal requirements stated in [G.L. c. 140, §129B](#) (Firearm Identification (FID) Cards) and [G.L. c.140, §131](#) (License to Carry (LTC)), are found summarized by the state [here](#), and include that the applicant must, in addition to other requirements, meet the following standards for each type of license:

FID – Must be at least 14 to apply and 15 to receive card. Anyone under 18 also needs parental consent to apply. The FID Card permits purchase possession of non-large-capacity rifles, shotguns, and ammunition.

License to Carry – Must be at least 21 years of age to obtain an LTC. An LTC is required for large-capacity firearms, i.e., semi-automatic handguns or rifles capable of accepting more than 10 rounds.

Please also note that [G.L. c. 140, §131P \(a\)](#) requires all first time firearm license applicants to successfully complete a Massachusetts Certified Firearms Safety Course or a Basic Hunter Education Course and submit a certificate of completion with their firearms license application to the local Police Department.

**What requirements apply to employees of the gun shop?**

To work in a gun shop, a person less than 18 years of age must have the prior written consent of a parent or guardian, and that consent must be in the person’s possession at all times while working. The parent or guardian providing consent cannot themselves be prohibited by law from possessing a firearm.

Massachusetts also requires any person who sells ammunition to obtain a valid license. The Chief of Police may grant a license after a criminal history check, to anyone who is not:

- An alien;
- A minor;
- A person who has been adjudicated a youthful offender, including those who have not received an adult sentence; or
- A person who has been convicted of a felony in any state or federal jurisdiction, or of the unlawful use, possession or sale of narcotic or harmful drugs.

The license must specify the street and number, if any, of the building where the business is to be carried on. The Department of Criminal Justice Information Services (DCJIS) conducts the background check, and the Police Department must send CJS a copy of the license

**Can there be a limit on the amount of ammunition purchased? Or a registry regarding large purchases of ammunition?**

There is currently no state or federal law limiting the purchase of ammunition based upon quantity.

Massachusetts, however, requires a valid firearms license to purchase or possess ammunition. An individual with a valid license to carry is permitted to purchase, rent, lease, borrow, possess and carry all types of lawful firearms, including both large and non-large capacity handguns, rifles, shotguns, and feeding devices and ammunition for these firearms.

In addition, in Massachusetts a person may purchase and possess rifles, shotguns and “non large capacity” feeding devices and ammunition for rifles and shotguns with a valid firearm identification (FID) card issued pursuant to state law.

Further, according to the ATF, federal firearms licensees are required by statute to report to ATF the sale of two or more handguns to the same purchaser within five consecutive business days. These reports are intended to allow cross-referencing with crime gun trace information at the federal levels, useful for identifying illegal firearms trafficking.

**What about security for the store itself? Are the doors kept locked at all times, do you have to be buzzed in, how are guns and ammunition stored inside the facility? Safety glass on the outside windows? (Basically, how do they protect against break-ins or people who don't belong in the store gaining access/entry?). Are the guns left on the walls and in glass cases when the store is closed or can the owner be required to store all firearms in a safe like pharmacists have to store OxyContin?**

As indicated above, Massachusetts requires all guns to be stored in a safe manner. In addition, a firearms dealer may not display guns in the window. See [here](#) for more from the Attorney General on applicable laws.



**What are the repercussions for a Firearms Business owner if he fails to comply with laws and regulations? Can the shop be closed after violations of the law?**

In accordance with G.L. c.140, §125, a firearms dealer may have their license suspended or declared forfeited upon “satisfactory proof” that such dealer has violated any provision of G.L. c.140 or has been convicted of a felony.

**Would the proposed changes of no selling of firearms, keep an establishment from setting up in town that just is a shooting range or can repair guns?**

These issues remain to be addressed and will be considered by staff and appropriate boards.

**What are the rules in Dedham when a purchaser walks out the door?**

The purchaser must have a valid firearms license pursuant to state law and is subject to all applicable laws.

**Based on a 2007 Globe article regarding the three suicides in an Arlington (MA) gun shop (including the death by suicide of a Dedham resident), what steps are taken to ensure no one intent on self-harm is able to? What type of suicide prevention materials and resources are made available in the store? What expectation does the store owner have to report a customer who talks of or exhibits signs of harm to self or others?**

As part of the background check necessary to obtain a license, there are certain requirements that an individual must meet, including a review by the Department of Mental Health. However, once an individual is licensed pursuant to state law, a firearms dealer must ensure only that the purchaser has the proper and valid firearms license for the firearm they seek to purchase. In the event the dealer has particular concerns regarding a particular purchaser of firearms, employees could notify local law enforcement officials, who can respond accordingly. Note that there is an extreme risk protection order process available in Massachusetts. See [G.L. c.140, §§131R-131Y](#).

**Given that running a small business is challenging and requires lots of capital including those small cafes and specialty stores, what is the next type of business that is lucrative and we might not want in our neighborhoods? Are there other businesses we want to limit?**

Any ideas can be brought to the Planning Board and/or the Board of Selectmen. In addition to citizen-petitioned articles for consideration by Town Meeting, members of the Representative Town Meeting may be willing to sponsor a zoning change. Our Zoning Bylaw is a living document and continues to evolve to reflect the interests of the community.