

ARTICLE 32.
PLANNED ADULT ENTERTAINMENT DISTRICT

Section 1. GENERAL PROVISIONS:

Intent and Purpose: To regulate uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. These regulations acknowledge the experience of, and studies produced by, other municipal jurisdictions, as more fully set forth in the Adult Entertainment Code of Johnson County, Kansas, which have found blighting or the downgrading of the surrounding neighborhoods, among other effects, to be attributable to adult entertainment uses. Special regulation of these uses is necessary to insure that these and other adverse secondary effects will not occur to or detrimentally impair surrounding neighborhoods. The purpose of this Article, therefore, is to prevent a concentration of these uses in any one area and to regulate the uses in such a manner that is reasonably believed to limit the adverse secondary effects of such uses.

Section 2. DEFINITIONS:

- A. For the purposes of these regulations, unless otherwise specifically provided, the words and phrases defined in this Section shall have the following meanings:
1. **ADULT ARCADE** means a commercial establishment where the public is permitted or invited wherein coin-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
 2. **ADULT BOOKSTORE** or **ADULT VIDEO STORE** means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:
 - a. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - b. instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
 3. **ADULT CABARET** means a nightclub, bar, juice bar, restaurant, or similar commercial establishment which regularly features:
 - a. persons who appear in a state of nudity; or
 - b. live performances which are characterized by the exposure of "specified sexual activities" or by "specified sexual activities"; or
 - c. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

4. ADULT ENTERTAINMENT means any exhibition, performance, display or dance of any type, including but not limited to talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing or any service offered for amusement on a premises, regardless of whether provided live, mechanically or electronically where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer or other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, public hair, buttocks, anus, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.
5. ADULT ENTERTAINMENT USE means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, including any private club or membership organization, and including by not limited to business establishments identified as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, juice bar, nude modeling studio, sexual encounter center, massage parlor, parlor, or similar or like business establishments, as classified and defined by the Zoning and Subdivision Regulations of Johnson County, Kansas.
6. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
7. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
8. ENTERTAINER means any person who provides adult entertainment within an adult entertainment use or establishment as defined in these regulations, whether or not a fee is charged or accepted for entertainment.
9. ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
10. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
11. ESTABLISHMENT means and includes any of the following:
 - a. the opening or commencement of any sexually oriented business as a new business;
 - b. the conversion of an existing business, whether or not an adult entertainment use, to any adult entertainment use;
 - c. the addition of any adult entertainment use to any other existing adult entertainment use; or
 - d. the relocation of any adult entertainment use.

12. JUICE BAR means an adult entertainment use, no portion of which is licensed to sell alcoholic liquor or cereal malt beverages, where food or drink are provided, including, but not limited to, fruit or vegetable juices, soft drinks, mineral water and such other nonintoxicating drinks capable of being consumed as a beverage by a human being, and which establishment regularly features:
 - a. persons who appear in a state of nudity; or
 - b. live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
 - d. adult entertainment.

13. MASSAGE PARLOR means an establishment which has a fixed place of business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of external parts of the human body with the hands or with the aid of any mechanical or electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity and which is characterized by the exposure of "specified anatomical areas" or the conduct of "specified sexual activities."

14. NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

15. NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

16. PERSON means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

17. RAP PARLOR means a commercial establishment primarily in the business of providing, for any form of consideration, nonprofessional conversation or similar services for adults, and which is characterized by the exposure of "specified sexual activities" or "specified anatomical areas".

18. SEMI-NUDE means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

19. SEXUAL ENCOUNTER CENTER means a commercial establishment that, as one of its primary business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
20. SPECIFIED ANATOMICAL AREAS means (1) uncovered or exposed human genitals , pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola or nipple; or any combination of the foregoing, or (2) human male genitals in a discernible erect state, even if completely and opaquely covered.
21. SPECIFIED SEXUAL ACTIVITIES mean sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse, or physical contact, in an act of apparent sexual stimulation, or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

Section 3. PERMITTED USES:

- A. In the Planned Adult Entertainment District, no building, structure, land or premises shall be used, and no building or structure shall be hereinafter erected, constructed, reconstructed, moved or altered, except for one of the following adult entertainment uses:
- 1. Adult Arcade,
 - 2. Adult Bookstore or Adult Video Store,
 - 3. Adult Cabaret,
 - 4. Adult Entertainment Business,
 - 5. Adult Motion Picture Theater,
 - 6. Adult Theater,
 - 7. Escort Agency,
 - 8. Juice Bar,
 - 9. Massage Parlor,
 - 10. Nude Model Studio,
 - 11. Rap Parlor, and
 - 12. Sexual Encounter Center.
- B. In the Planned Adult Entertainment District, no building, structure, land or premises shall be used, and no building or structure shall be hereinafter erected, constructed, reconstructed, moved or altered for an adult entertainment use unless the operation of the adult entertainment use shall first be in full compliance with and satisfies any and all requirements and regulations set forth within the Adult Entertainment Code of Johnson County, Kansas, and any amendment thereto, if any.
- C. Furthermore, the following adult entertainment uses, which offer to patrons live entertainment, may be permitted in the Planned Adult Entertainment District if, in addition to all other requirements set forth herein, an approved conditional use permit is also obtained pursuant to and in accordance with the provisions set forth in Section 12 of this Article and Article 23 of these regulations.
- 1. Adult Cabaret,
 - 2. Adult Theater, and
 - 3. Juice Bar.

Section 4. HEIGHT, AREA AND BULK REGULATIONS:

- A. Height. The height of buildings and structures shall not exceed 30 feet.
- B. Front Yard. A front yard at least 50 feet deep shall be provided along all streets.
- C. Side Yard. There shall be a side yard on each side of a building, and no side yard shall be less than 25 feet.
- D. Rear Yard. A rear yard at least 25 feet deep shall be provided.

Section 5. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS:

Supplementary Height, Area and Bulk Regulations for this district are contained in Article 17 of these regulations.

Section 6. SUPPLEMENTARY USE REGULATIONS:

Supplementary Use Regulations for this district are contained in Article 16 of these regulations.

Section 7. DEVELOPMENT STANDARDS:

This district shall be subject to the Planning Considerations, Development Standard, and Performance Standard of the Planned Urban Neighborhood Retail Business District (PRB-3) in Article 13, Section 4 (I), (J), and (K) of these regulations.

Section 8. PARKING REGULATIONS:

- A. One (1) off-street parking space per two (2) seats or seating spaces, or one (1) off-street parking space per 100 square feet of floor space, whichever is greater, shall be provided on the premises for each adult entertainment use.
- B. All off-street parking and loading spaces shall be improved and designed in accordance with the Article 19 requirements for paving, size, curbing and lighting.
- C. Notwithstanding Article 19 to the contrary, all adult entertainment uses shall provide an unobstructed driving lane at least twenty (20) feet wide when measured in a straight line from the outer wall providing the main entrance to the establishment, which lane shall run parallel to and the entire length of the building or structure. The location, length and width of the driving lane may be changed or increased if, in the opinion of the county fire marshal, the driving lane would not be adequate to provide access for emergency apparatus because of vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

Section 9. SIGN REGULATIONS:

Notwithstanding Article 20 of these regulations or any other county rule or regulation to the contrary, the owner or operator of any adult entertainment use, or any other person, shall not erect, construct, or maintain any sign for the adult entertainment use other than one "primary sign" and one "secondary sign", as provided herein.

- A. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - 1. Not contain any flashing lights;

2. Be a flat plane, rectangular in shape;
 3. Not exceed forty nine (49) square feet in sign area if a wall sign, nor twenty five (25) square feet if other than a wall sign; and
 4. Not exceed seven (7) feet in height or seven (7) feet in length.
- B. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner.
- C. Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- D. Secondary signs shall have only one (1) display surface. Such display surface shall:
1. Be a flat plane, rectangular in shape;
 2. Not exceed nine (9) square feet in sign area;
 3. Not exceed three (3) feet in height or three (3) feet in length; and
 4. Be affixed or attached to any wall or door of the establishment.
- E. The provisions of item (1) of Subsection (A) and Subsections (B) and (C) shall also apply to secondary signs.
- F. All primary and secondary signs in this district shall be one of the Structural types of signs allowed in Group 3 zones per Table 1, Article 20 of these regulations and shall comply with the Maximum Sign Height and Minimum Setback requirements for Business Identification, General Advertising, or General Identification Signs in Group 3 zones per Table 1, Article 20, of these regulations.

Section 10. EXTERIOR DISPLAYS AND REGULATIONS:

- A. No adult entertainment use shall be conducted in any manner:
1. To allow the merchandise or activities of the establishment to be visible from any point outside of the building or structure containing such use.
 2. That permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any point outside of the building or structure containing such use.
- B. The provisions of Subsections (1) and (2) above shall apply to any display, decoration, sign, window or other opening.

Section 11. LOCATION AND USE RESTRICTIONS:

The following restrictions shall not be varied from by any adult entertainment use in the Planned Adult Entertainment District:

- A. No adult entertainment use shall be allowed within one thousand (1,000) feet of another existing adult entertainment use.

- B. No adult entertainment use shall be located within one thousand (1,000) feet of any zoning district which allows residential uses.
- C. No adult entertainment use shall be located within one thousand (1,000) feet of a pre-existing church or place of worship, day-care facility, park, educational institution, library, museum, community center, or children's amusement park.
- D. For purposes of Subsections (A), (B) and (C) above, measurements shall be made in a straight line, without regard to intervening buildings, structures or objects, from the nearest point on the property line of the applicant's adult entertainment use to the nearest point on the property line of the church, etc.
- E. No more than one use shall be conducted within any building or structure containing an adult entertainment use.

Section 12. CONDITIONAL USE PERMIT:

The approval of a conditional use permit for those adult entertainment uses designated in Subsection 3 (C) of this Article shall be made subject to the following minimum requirements:

- A. All windows, doors and other apertures shall be of opaque design so as to prevent the viewing of the interior of the establishment from without.
- B. No adult entertainment use shall be kept open for any purpose, including but not limited to private parties or celebrations, between the hours prohibited in the Adult Entertainment Code of Johnson County, Kansas.
- C. The adult entertainment use shall be physically arranged in such a manner that the interior portion of the booths, cubicles, rooms or stalls wherein entertainment is provided is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever. Furthermore, any room or area used for the purpose of adult entertainment shall be kept readily accessible at all times and shall be opened to view in its entirety for inspection by the sheriff or any deputy sheriff at all reasonable times.

Section 13. CRIMINAL CONDUCT CLOSURE PROVISION:

If the existence of lewd and lascivious behavior, prostitution or promoting prostitution, as made a crime pursuant to the laws of the State of Kansas be admitted or established in a criminal proceeding in any court, to have occurred within or upon a building, structure or land containing an adult entertainment use, then the owner of the property shall forfeit the use of the building, structure, place or the ground itself, in or upon which the criminal activity is conducted, permitted or carried on, for any adult entertainment use, and shall so keep it closed for a period of one (1) year from the date of judgment.