

# **Johnson County Zoning Regulations**

## **PART III**

### **SUPPLEMENTARY PROVISIONS**

# SECTION 9. DEVELOPMENT STANDARDS

## I. Purpose and Applicability

- A. The purpose of the Development Standards is to protect the health, safety, and welfare of people and property on and near lands being developed in Johnson County, including wildland interface areas and adjacent lands.
- B. Standards are applicable county wide for all districts.
- C. The Zoning Administrator shall determine which development standards apply.
- D. The Zoning Administrator shall coordinate with local, state, and federal agencies as applicable to ensure compliance with all known regulations of said agencies.

## II. Standards for All Uses

### A. Approved Sewage Disposal System Required

1. All sewage disposal systems shall conform to the specific requirements in the relevant Zoning District and to all standards established by the State of Wyoming.
2. Applications for a *Zoning Certificate (Certificate)* shall provide the Administrator with sufficient information to document that the proposed sewage system conforms to State and County standards or requirements.
3. Every sewage disposal system shall be inspected by the County in order to ensure that the system is constructed and installed in conformity with State and County requirements. This inspection will occur after the system has been installed and before any fill or other material has been placed over the system.

### B. Domestic Water Supply

1. All water systems shall conform to the specific requirements in the relevant Zoning District and to all standards established by the State of Wyoming.

### C. Roads / Access

1. Road and access design standards shall comply with Johnson County Road and Bridge Standards.
2. Property Access for Emergency Services (fire, ambulance, etc.)
  - a. To facilitate access, the address as issued by the county, shall be posted at each driveway entrance and visible from both directions of travel along the road.
  - b. The address shall be posted and maintained by the property owner.
  - c. To reduce wildland hazards and enhance emergency service access to landowners, their property and homes, adjacent land, and emergency personnel, safe, usable property ingress and egress needs to be maintained.
  - d. Safe and usable egress/ingress considerations include but are not limited to, slope, fuel loads, road clearance (including rutting) and structure location.
  - e. Prior to issuance of *Certificates*, applications may be reviewed by appropriate County departments.

#### **D. Stormwater**

1. All development and site improvement shall be designed and constructed to minimize disruption of natural drainage, minimize surface runoff onto adjacent watercourses or properties, and maximize percolation and infiltration into the ground.
2. Development applications shall demonstrate compliance with the pertinent *Stormwater Permit* requirements of the National Pollution Discharge Elimination System (NPDES) and the Wyoming Department of Environmental Quality (DEQ).

#### **E. Solid Waste**

1. Solid waste shall be stored in enclosed buildings or containers in all districts except the Agriculture District.
2. Solid waste shall be handled in a manner that minimizes:
  - a. the attraction of rodents, flies, or other animals;
  - b. the generation of liquid runoff or odors perceptible off the site; and
  - c. waste blown off the site by the wind.
3. Solid waste handling and storage areas for multifamily, commercial or industrial uses shall be effectively screened from public view.

#### **F. Exterior Lighting**

1. Outdoor lighting shall meet the following standards in all districts except the Agriculture District:
  - a. Light shall not intrude into adjoining properties.
  - b. Light shall be covered or shielded so that the light is directed toward the ground.
2. Exempt uses:
  - a. The following uses are exempt from the outdoor lighting requirements of this Section due to their unique requirements for nighttime visibility and their limited hours of operation:
    - 1) Rodeo/roping arenas.
    - 2) Sports playing fields, including baseball diamonds and tennis courts.
    - 3) Other similar uses.
3. Prohibited Lights:
  - a. The following lighting is prohibited for all uses in all Districts:
    - 1) Flickering or flashing lights except as specified in *Part III -- Section 11: Sign Requirements*.
    - 2) Searchlights, laser lights, or holograms.

#### **G. Fencing, Stock Trails, and Livestock Control**

1. Fencing out of livestock is the responsibility of the individual property owner in accordance with State statute.
2. Fencing shall not interfere with the movement of livestock on designated stock trails.
3. Designated stock trails, which include all county roads, shall be protected from all encroachments.

#### **H. Noise**

1. No use shall be operated that results in noise that continually exceeds 55 decibels, as measured by a sound level meter meeting the American National Standards Institute (ANSI) S1.4-1961 American Standard Specification for General Purpose Sound Level Meters (or most current standards), beyond the boundaries of the property on which the use is located.

2. Exempt from this Section is intermittent noise above 55 decibels from vehicles, ranching and farming operations, chainsaws or similar equipment in private use, in the Agriculture, Highway Commercial, and Industrial Districts.

#### **I. Protection of Irrigation Systems**

1. No development shall divert storm water or snowmelt runoff into any irrigation system without the consent of the appropriate irrigation authority.
2. Development shall not adversely impact the operation of any irrigation system.
3. Any proposed development on or adjacent to irrigated lands or containing irrigation facilities shall comply with the requirements of the appropriate irrigation authority.
4. Any development or use shall not violate any State statute or rules of the Wyoming State Engineer's office.

#### **J. Topography and Soils**

1. Development on slopes greater than 15% requires a licensed engineer to certify that such development is not subject to a significant hazard due to slope failure or soil erosion.
2. Use of steep slopes as open space is encouraged for Principal Allowable Uses. Use of steep slopes will be evaluated when reviewing Site Plans for and approval of Conditional Uses.

#### **K. Wildlife Review Requirements**

1. Development applications shall be forwarded by the Planning and Zoning Department (Department) to the Wyoming Game and Fish Department for comments and recommendations for impact mitigation on wildlife when deemed appropriate.

### **III. Standards for Specific Uses**

#### **A. Mineral Resource Development**

1. Nothing contained within these *Regulations* shall be construed to prevent any use or occupancy reasonably necessary to the extraction or production of the mineral resources, including oil and natural gas, in or under lands subject to these *Regulations*.
2. Mineral resource development (mining) shall be conducted in a manner that protects property, livestock, wildlife, water quality, and public safety.
3. All mining activities and uses shall conform to all applicable local, State and Federal requirements.

#### **B. Recreational Vehicles and Recreational Vehicle Parks**

1. An RV park is classified as a commercial use and shall be allowed in zoning districts that allow an RV Park as a *Principle Allowable Use* or *Conditional Use*.
2. Recreational vehicles (RVs) may be used as temporary housing for up to one year by the property owner during construction or reconstruction of principal residence. The time period begins when the Department receives application for a Zoning Certificate.
3. RV parks must comply with all requirements found in these Regulations and shall have required approvals from the Department of Environmental Quality (DEQ).

4. In addition, the following standards shall be met:
  - a. Each RV site in an RV park shall have adequate parking.
  - b. Restroom facilities shall be provided in an adequate number to service RV parks.

# SECTION 10. NONCONFORMING USE, STRUCTURE, LOT, or PARCEL (“GRANDFATHERING”)

## I. Purpose

- A. The purpose of this Section is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of these *Regulations* or any amendment to these *Regulations* that otherwise renders such use unlawful.
- B. This Section prescribes conditions under which nonconforming uses, structures or lots may legally exist or continue to exist, and to specify provisions that apply to such uses, structures, or lots.
- C. Legal nonconforming uses are often said to be “grandfathered.”

## II. General Regulations

- A. All uses, structures, lots or parcels will be considered to have met these *Regulations* if they exist at the time of the adoption of these *Regulations*, subject to limitations of this Section.
- B. Nothing in these *Regulations* shall prevent the sale of a *Nonconforming Lot or Parcel*. A property containing a *Nonconforming Use*, or the *Nonconforming Use*, may be sold or otherwise transferred contingent on meeting all the requirements of this Section.

## III. Nonconforming Use

- A. A *Nonconforming Use* may be continued on the same land area and within the same floor area as that which existed on the date when the use first became nonconforming.
- B. An *Allowable Use* shall not be considered *nonconforming* for failure to conform to off-street parking requirements, off-street loading requirements or sign regulations.
- C. A *Nonconforming Use* may be changed within its existing structure or on its existing land area to a conforming use.
- D. The area occupied by a *Nonconforming Use* within an existing structure or on a tract of land may not be enlarged or extended.
- E. If active and continuous operation of a *Nonconforming Use* is discontinued for a period of twelve (12) consecutive months, the structure or tract of land shall thereafter be used only for a conforming use.
  - 1. A stated intent to resume operations shall not affect this provision.
  - 2. Request for extension may be made through the Appeal process as detailed in Section 20: *Zoning Appeals and Variances*.
  - 3. Extension request must be submitted to the Department prior to end of twelve (12) month period of inactivity of *Nonconforming Use*.

## IV. Nonconforming Structure

- A. A *Nonconforming Structure* may be altered, repaired or enlarged, provided the nonconformity is not increased (e.g. exceeding nonconforming setbacks and building heights).
- B. A *Nonconforming Structure*, found to be unsafe, may be restored to a safe condition.

- C. A *Nonconforming Structure* that is damaged or destroyed may be reconstructed, provided:
  - 1. the reconstruction begins within 6 months of the date of destruction;
  - 2. reconstruction is completed within 6 months of the commencement of reconstruction; and
  - 3. the reconstruction does not increase the degree of nonconformity of the structure.
- D. The right to keep a *Nonconforming Structure* shall terminate if active and continuous use of a *Nonconforming Structure* is discontinued for a period of twelve (12) consecutive months.
  - 1. A stated intent to resume operations shall not affect this provision.
  - 2. Request for extension may be made through the Appeal process as detailed in Section 20: *Zoning Appeals and Variances*.
  - 3. Extension request must be submitted to the Department prior to end of twelve (12) month period of inactivity of *Nonconforming Structure*.

## V. **Nonconforming Lot or Parcel**

- A. A *Nonconforming Lot or Parcel*, whether in or out of a subdivision, though smaller than the District requirements, is subject to all requirements of these *Regulations* except minimum lot size.

# SECTION 11. SIGN REQUIREMENTS

## I. Purpose and Scope of Sign Requirements

The purpose of this Section is to allow signs that:

- A. will not endanger the public safety, by reason of their size, location, construction, or manner of display; and
- B. will not confuse, mislead or obstruct the vision necessary for traffic safety; or
- C. will not otherwise endanger the public health and safety; and to
- D. will allow signs that support and complement the land use objectives contained in the *Johnson County Land Use Plan*.

## II. General Requirements

- A. Signs controlled by the State of Wyoming:
  1. Outdoor advertising along interstate, national, and state highways shall comply with Wyoming Department of Transportation (WYDOT), *Outdoor Advertising -- Rules and Regulations*, current version.
- B. Signs not controlled by the State of Wyoming:
  1. Signs may be constructed to any height and surface area provided they:
    - a. are not constructed in, nor encroached within, any dedicated road right-of-way or dedicated access easement;
    - b. do not present a public safety hazard;
    - c. are not located in such a manner as to obscure traffic visibility; and
    - d. are maintained in a state of good repair.
  2. If signs are used for off-premise advertising, the sign owner shall obtain permission from the underlying landowner.
- C. Prohibited signs. The following signs are prohibited:
  1. A sign in any public road right-of-way other than signs maintained pursuant to and in discharge of any governmental functions
  2. Flashing, blinking, rotating, or flickering signs that create a traffic hazard
  3. Signs posted on publicly-owned or utility-owned property except by authority of the utility company and/or public land managing agency
  4. Political signs, except on private property, with owner's permission

## III. Exemptions

- A. The following types of signs shall be deemed to be outside the scope of these *Regulations*:
  1. Signs required by law or authorized for a public purpose
  2. Danger or warning signs of a cautionary nature
  3. Traffic and utility signs
  4. Religious symbols
  5. Signs restricting access to or the use of property such as "no hunting" or "no trespassing" signs as long as such signs are not placed in a public road right-of-way

# SECTION 12. PARKING and LOADING REQUIREMENTS

## I. Purpose

- A. This Section sets minimum standards for off-street parking requirements for new construction and expansion of, or changes to, existing uses.
- B. The purpose of this Section is to ensure that uses have a minimum level of off-street parking and to avoid congestion on surrounding streets and roads.

## II. General Requirements

- A. Parking and loading spaces shall be provided for new structures or uses, or the enlargement of an existing structure or use, based on the following:
  1. Residential Districts: Two (2) off-street parking spaces for each dwelling unit.
  2. Non-residential Districts: One (1) parking space for each 400 square feet of floor area devoted to the *Principle Allowable and/or Conditional Use*. *Floor area*, as used herein for computing off-street parking requirements, shall mean the gross floor area of the building devoted to the use.
  3. In any District, additional parking spaces beyond the minimum may be required if the County determines, based upon the specifics of the project, that the traffic to be generated by the proposed use will exceed the minimum parking requirements of this Section.
  4. In the Commercial and Industrial Districts, off-street loading spaces at the rate of one (1) space for every 15,000 square feet devoted to the *Principle Allowable and/or Conditional Use* shall be provided.
  5. Sufficient off-street loading spaces will be provided to insure that all loading and unloading activities will take place within the boundaries of the site.
  6. Minimum parking space size shall be ten foot by twenty foot (10' X 20').
  7. Minimum loading space size shall be at least twelve feet (12') wide, fifty feet (50') long and have a minimum height clearance of fourteen feet (14').
  8. Adequate backing area and turning area shall be provided.

## III. Parking Exemptions

- A. The following *Principle Allowable and Conditional Uses* shall be exempt from all parking and loading requirements provided that, when parking or loading is provided, it shall conform to the minimum criteria for parking and loading space size stated in this Section:
  1. general agriculture
  2. animal feed lot
  3. cemetery
  4. contractor's yard
  5. essential public utility or public service installation, which does not include business offices, repair, sales or storage facilities
  6. golf course
  7. junk yard
  8. oil, gas or mineral exploration, drilling, production, processing, separation or storage
  9. parking or storage of vehicles

10. public park, playground or open recreational facility
11. recreation camp
12. transmission lines or tower

#### **IV. Parking and Loading Design Requirements**

- A. Off-street parking and loading will be designed, used and maintained in accordance with the following specifications:
  1. Handicapped parking must conform to American with Disabilities Act (ADA) requirements.
  2. Parking and loading areas shall be graded for proper drainage.
  3. All parking and loading areas shall be designated according to the layout approved on the *Certificate*.
  4. Required parking and loading areas shall be provided with designated entrances and exits located so as to minimize traffic congestion and avoid undue interference with public use of streets, alleys and walkways.
  5. Parking and loading areas shall not be used for the sale, repair, assembly or disassembly, storage, or servicing of vehicles or equipment. Unlicensed or inoperable vehicles shall not be stored in any required parking or loading space.

# SECTION 13. COMMERCIAL TELECOMMUNICATION TOWERS

## I. Purpose

- A. The purpose of this Section is to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of Johnson County residents.
- B. This Section establishes requirements for the siting of commercial telecommunication towers and antennas by licensed telecommunications providers.

## II. General

- A. Commercial telecommunication providers are licensed commercial telecommunication services that include cellular, personal communication services, specialized mobilized radio, cable microcell networks, enhanced specialized mobilized radio, paging, and similar services that are marketed to the general public.
- B. Towers supporting amateur radio antennas, private business radio dispatching and television antennas intended for private home reception, are exempt provided the use is personal and non-commercial.
- C. Commercial telecommunication towers are classified as a *Conditional Use* and subject to these *Regulations*, particularly *Part IV -- Section 19: Procedures for Applications and Certificates* and *Part IV -- Section 24: Conditional Uses*.
- D. Commercial telecommunication tower projects must comply with all applicable State and Federal regulations.

## III. Siting Requirements and Tower Standards:

- A. Commercial telecommunication tower siting shall conform to the following:
  - 1. Selected sites will be at locations that are in the best interest of the health, safety, and welfare of Johnson County residents and shall not have a detrimental effect on the character of the surrounding area.
    - a. Documentation shall be provided by the applicant to support the desired location as being the best location.
  - 2. Co-location of commercial communication facilities on existing structures or towers is encouraged.
    - a. Written documentation shall be provided to demonstrate that co-location of the new antenna on an existing tower is not feasible, or that request to co-locate was denied, including basis for denial.
  - 3. Towers and associated structures and facilities shall be set back from adjoining properties, recorded rights-of-way, roads and streets, as follows:
    - a. A minimum distance of 110% of the height of the proposed tower or facility structure.
    - b. Accessory structures shall conform to the minimum District setback requirements for the property on which it is located.

- B. The following standards apply to commercial telecommunication towers:

1. Towers and facilities shall not be artificially lighted or marked, except as required by State and Federal regulations.
  - a. If lighting is required, the applicant must submit a detailed plan that explains how the lighting requirement will be met, while keeping it as unobtrusive and inoffensive as possible.
2. Towers shall be galvanized or painted with a rust-preventive paint of a color that harmonizes with the surroundings and shall be maintained in accordance with Federal Aviation Administration (FAA) regulations.

#### **IV. Certificate Application Requirements:**

- A. Applications for commercial telecommunication tower shall contain with the following:
  1. Compliance with requirements of *Part IV -- Section 19: Procedures for Applications and Certificates* and *Part IV -- Section 25: Site Plans*.
  2. Stamped engineered design drawings that demonstrate safety compliance for the foundation and tower assembly based on the location selected for erection.
  3. Documentation that justifies the total height of the commercial communication tower, facility, and/or antenna.
  4. Written documentation of co-location effort.
  5. A copy of the ground lease that includes legal description of the property.
  6. Written verification from the landowner, granting permission for the placement of the tower.
  7. A copy of required FAA permit(s).
  8. A map, drawn to scale, showing:
    - a. lease boundaries
    - b. access roads
    - c. support buildings and structures
    - d. tower location
    - e. a north arrow
    - f. property lines and distances from designated roads

# Section 14. SAND & GRAVEL OPERATIONS

## I. Purpose

The purpose of this Section is to:

- A. promote the safe, effective, and efficient placement of sand and gravel operations in Johnson County;
- B. balance the County's need for sand and gravel products against the impacts caused by extracting such materials;
- C. protect the integrity of public roads in the County; and
- D. protect the health and safety of the public using public roads.

## II. Definitions

For the purposes of this Section, the following words and terms as used herein shall be defined as follows:

**APPLICANT:** The person, corporation or entity that is responsible for and operation and has a property interest in the land.

**COUNTY ROADS:** any public roadway under the jurisdiction of Johnson County.

**MINERAL EXTRACTION:** Sand and gravel operations are not considered to be 'mineral extraction' for the purposes of these *Regulations*.

**PUBLIC ROADS:** any public roadway under the jurisdiction of any governmental agency.

**SAND & GRAVEL OPERATIONS:** Any process by which aggregate, dirt, gravel, sand, shale, scoria or similar product is removed from the ground for commercial or industrial purposes, and shall include excavation, crushing, processing, stockpiling, sale, and on and off-site hauling of the product by the operator of the sand and gravel operation and/or by the contract hauler.

## III. General Regulations:

- A. A sand and gravel operation may be established in Johnson County (County) with an approved *Conditional Use Certificate (Certificate)*.
- B. A sand and gravel operation may only be allowed in the Agriculture and Heavy Industrial Districts.
- C. A *Certificate* for a sand and gravel operation shall be issued for no longer than five (5) years.
- D. The operator of a sand and gravel operation with an expired or expiring *Certificate* shall be required to obtain a new *Certificate* in order to continue operations.
  - 1. The Board of County Commissioners (Board), upon written request by the Planning and Zoning Commission (Commission), may grant temporary *Certificate* extensions not to exceed six (6) months.
- E. A sand and gravel operation is classified as a *Conditional Use* and subject to these *Regulations*, particularly *Part IV -- Section 19: Procedures for Applications and Certificates* and *Part IV -- Section 24: Conditional Uses*.
- F. Public roadway projects by governmental agencies will be exempt from this Section for "borrow" excavation material where there is no off-site processing, excavating and/or hauling of material.

#### **IV. Sand And Gravel Operation Siting / Operation Standards:**

- A. The Board has the authority to impose standards, relative to but not limited to the following, as requirements of any sand and gravel operation *Conditional Use Certificate (Certificate)*:
  - 1. dust (resulting from hauling, stockpiles, work areas, and access roads);
  - 2. noise;
  - 3. light;
  - 4. air quality;
  - 5. water quality;
  - 6. hours of operation;
  - 7. blasting operations, including signage and storage of explosives;
  - 8. storage of materials, products, and/or machinery;
  - 9. hauling operations;
  - 10. use of public roads as detailed in this Section;
  
- B. Proposed sand and gravel operations less than one (1) mile from any residence or business may have stricter standards imposed. However, the County may also impose restrictions for sand and gravel operation operations sited beyond one (1) mile from any residence or business.
  
- C. Road Surface/Facility and Traffic Impacts and Remediation
  - 1. The safety and preservation of the integrity of Johnson County's roads is of paramount importance. The County will impose requirements to maximize safety and to minimize abuse or degradation of County and other public roads.
    - a. The County may require a *Traffic Impact Study (Study)* based on the anticipated amount and type of traffic generated by the sand and gravel operation.
      - 1) The *Study* is to be completed by an engineer, licensed in the State of Wyoming, to determine the road's initial structural condition and capacity to accommodate traffic generated by the sand and gravel operation.
      - 2) The data gathered and analyzed for the *Study* shall be submitted in a report, which shall be approved by the County prior to issuance of a sand and gravel operation *Certificate*.
      - 3) Subsequent structural analysis may be required, at the discretion of the County, during the life of the sand and gravel operation.
      - 4) Any required study must also address appropriate signage, speed limits, and other actions necessary for mitigating risks associated with heavy truck traffic.
      - 5) All costs for the initial or subsequent traffic impact studies will be the responsibility of the applicant.
    - b. The *Certificate* holder may be required, at holder's cost, to upgrade portions of public roads intended for hauling, including cattleguards and other site-specific road facilities.
    - c. Dust control shall be required, at holder's cost, on public roads used to haul materials from a sand and gravel operation.
    - d. Road maintenance and dust prevention/suppression shall be done in accordance with the County Road and Bridge Department's recommendations.

- e. The *Certificate* holder shall be responsible for all expenses to maintain or to reestablish any impacted road to its initial condition as required by the *Certificate*.
- f. If any public road deteriorates as a result of sand and gravel operation hauling, or the operation is to be of a short, intense nature, a bond may be required to insure the *Certificate* holder's ability to repair damage to any road damage caused by sand and gravel operations.
- g. Should visual inspection and/or structural capacity analysis indicate excessive deterioration due to sand and gravel operations, the County shall immediately notify the *Certificate* holder.

#### D. Required Supplemental Plans

- 1. All supplemental plans shall address procedures on and off the sand and gravel operation site, including haul roads.
- 2. The following plans shall be submitted with all applications for sand and gravel operation *Certificate*:
  - a. A proposed Operating Plan, that shall include, but is not limited to, the following:
    - 1) types of material to be quarried and produced;
    - 2) description of all operations to be conducted, including blasting, excavation, crushing, stockpiling, and hauling;
    - 3) proposed duration of sand and gravel operation;
    - 4) proposed hours of operation;
    - 5) specific machinery to be used; and
    - 6) storage of explosive material.
  - b. A proposed Road Maintenance Plan as per this Section.
  - c. Proposed Mitigation Plan which shall include, but is not limited to, measures to mitigate the following potential impacts:
    - 1) dust;
    - 2) noise;
    - 3) light;
    - 4) air quality;
    - 5) erosion;
    - 6) noxious weeds;
    - 7) potential for damage or contamination of any public, private, residential, or agricultural water supply;
    - 8) potential impacts to any groundwater wells, springs, creeks, rivers, ponds, or lakes;
    - 9) spilled materials on public roads; and
    - 10) specified time frame for implementation of specific mitigation measures.
  - d. Proposed Reclamation Plan for sand and gravel operations area and any other affected property.
- 3. Adherence to the approved Operating Plan, Road Maintenance Plan, Mitigation Plan, and Reclamation Plan shall be required as part of the *Conditional Use Certificate*.

4. Operating, Road Maintenance, Mitigation, and Reclamation Plans shall meet all requirements of Wyoming Department of Environmental Quality and any other applicable regulations.

E. Non-Compliance

1. The County Attorney may issue a Cease and Desist Order for non-compliance with the terms of the *Certificate*, including the Operating, Mitigation, and Reclamation Plans.
  - a. Any sand and gravel operation following said Order, except those activities necessary to bring the operation into compliance, shall be considered a violation of these *Regulations*.
  - b. The Order shall remain in effect until the *Certificate* holder complies with all requirements.

# Section 15. Wind Energy Systems

## I. Purpose

The purpose of this Section is to promote the safe, effective, and efficient placement and operation of non-commercial and commercial wind energy systems.

## II. Definitions

For the purposes of this Section the following words and terms as used herein shall be defined as follows:

**APPLICANT:** The person, corporation or entity that is responsible for wind energy development and operation and has a property interest in the land.

**ANEMOMETER:** An instrument that measures wind speed.

**A-WEIGHTED SOUND LEVEL (dbA):** A measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1000 Hz and above 5000 Hz. This measurement is the most commonly used filter in both industrial noise applications (OSHA) and community noise regulations.

**COMMERCIAL WIND ENERGY FACILITY:** a wind-powered electrical generation development meeting the requirement of a Commercial Wind Energy System that includes all the contiguous lands where the owner or developer has legal rights to erect turbines.

**DECIBEL (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 db (A-weighted).

**ENLARGEMENT:** adding wind turbines that are not certified as part of an original certification process.

**NACELLE:** The enclosure located at the top of a wind turbine tower that houses the gearbox, generator and other equipment.

**PURE TONE:** A sound whose instantaneous sound pressure is a simple sinusoidal function of time and is characterized by a single frequency or singleness of pitch. For the purpose of these Regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by 5 db for center frequencies of 500 Hz and above, and 8 db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.

**ROTOR:** The rotating part of a turbine, including the turbine blades.

**STALL-CONTROL:** A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade that is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

**TOTAL HEIGHT:** The distance from the highest point of a vertical rotor blade to the tower base.

**TOWER:** The structure on which the wind energy system is mounted.

**TURBINE:** A wind driven machine that converts wind energy into electrical power, also known as a wind energy conversion system.

**UPWIND ROTOR:** A design in which the rotor on a wind turbine tower faces into the wind.

**WELL-DESIGNED BRAKING SYSTEM:** The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.

**WIND ENERGY SYSTEM:** A wind-driven machine or turbine with associated tower and equipment that converts wind energy into electrical power for either on-site or off-site consumption.

- **WIND ENERGY SYSTEM, COMMERCIAL:** A wind energy conversion system consisting of a single wind-driven machine or turbine or a collection of wind-driven machines or turbines, towers, and associated and associated control or conversion electronics which has a rated capacity of more than 100 kW per wind-driven machine or turbine, that converts wind energy into electrical power for the primary purpose of sale, resale, or off-site use.

- **WIND ENERGY SYSTEM, NON-COMMERCIAL:** A wind energy conversion system consisting of wind-driven machine(s) or turbine(s), tower, and associated control or conversion electronics which has a rated capacity of not more than 100 kW per wind-driven machine or turbine.
  - **WIND ENERGY SYSTEM, SMALL NON-COMMERCIAL :** A wind energy that:
    - generates less than 2,000 watts of capacity per wind-driven machine or turbine; and
    - is not more than 35 feet in total height .
  - **WIND ENERGY SYSTEM, LARGE NON-COMMERCIAL:** A wind energy that:
    - generates between 2,000 watts and 100 kW per wind-driven machine or turbine; or
    - exceeds 35 feet in total height.

**WYOMING INDUSTRIAL SITING COUNCIL (Council):** the council created by *W.S. 35-12-104*.

### III. Non-Commercial Wind Energy Systems

#### A. A Non-Commercial Wind Energy System:

1. has a rated capacity of 100 kW or less per wind driven-machine or turbine;
2. is allowed in all Districts as an *Accessory Use* to a *Allowed* or *Conditional Use*;
3. may be categorized either as a Small Non-Commercial Wind Energy System or a Large Non-Commercial Wind Energy System depending on the characteristics and requirements of each system as outlined in this Section; and/or
4. may contain more than one wind energy conversion system, if all applicable regulations are met.

#### B. A Small Non-Commercial Wind Energy System:

1. has a capacity of less than 2000 watts per wind-driven machine;
2. is less than 35 feet total height;
3. must be set back from any property line a minimum of 110% of the total height of the system or District setback requirements, whichever is greater; and
4. may include more than a single wind-driven machine or turbine if all requirements of this subsection are met.
5. There is no minimum parcel size for a Small Wind Energy System.
6. A *Zoning Certificate (Certificate)* is not required provided all applicable requirements are met.

#### C. Large Non-Commercial Wind Energy System

1. The following describes a Large Non-Commercial Wind Energy System:
  - a. A wind energy system that generates between 2,000 watts and 100 kW per wind-driven machine or turbine that complies with all of the requirements specified below.
  - b. Small wind energy system that exceed 35 feet in total height.
  - c. Requires issuance of a *Zoning Certificate*, the issuance of which is subject to compliance with the requirements for a non-commercial wind energy system as set forth in parts 2, 3, and 4 below:
2. Requirements for a Large Non-Commercial Wind Energy System
  - a. Minimum parcel size is one acre.
  - b. There is no limitation on total height, except as imposed by setback, clear zone and Federal Aviation Administration (FAA) regulations.
  - c. System shall be set back a distance equal to one hundred and ten (110) percent of the total height from all adjacent property lines.
    - 1) No portion, including guy wire anchors, may extend closer than ten (10) feet to any property line.

- d. A circular clear zone shall be maintained that has a radius equivalent to one hundred and fifty (150) percent of total height.
    - 1) This clear zone shall be maintained free of any occupied structures, tanks containing combustible/ flammable liquids, and above-ground utility/electrical lines.
  - e. Noise level shall not exceed 40 dbA, as measured at the closest neighboring property line.
    - 1) The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
  - f. Tower Security:
    - 1) Tower must be designed to prevent climbing within the first 12 feet.
    - 2) The tower base is to be enclosed with a fence a minimum of 6 feet in height.
  - g. Lighting:
    - 1) Shall not be artificially lighted with accent lighting.
    - 2) Must be lighted in accordance to the regulations and guidelines of the FAA regulations or other appropriate authorities.
  - h. No tower shall have any sign, writing, or picture that may be construed as advertising.
  - i. Multiple systems are allowed on a single parcel as long as the owner/operator complies with all requirements for non-commercial wind energy systems contained in these Regulations.
  - j. At the time of application, the applicant must present certification from the manufacturer that the system's turbine and other components equal or exceed the standards of any wind certification program recognized by the American Wind Energy Association.
  - k. Must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
  - l. A Wyoming Licensed Professional Engineer shall certify the tower, base and footing design are compatible with the wind turbine components.
  - m. Prior to activation of the system, the property owner or qualified third party inspector must certify in writing that the proposed system was installed in accordance with the engineered tower, base and footing design.
  - n. Applicant must provide evidence that the utility company has been informed of the intent to install an interconnected customer-owned generator prior to activation of the system.
    - 1) Off-grid systems shall be exempt from this requirement.
3. Removal of Defective Wind Energy Systems
- a. Any non-commercial wind energy system believed to be unsafe by the County shall be repaired by the owner after notification to comply with Federal, State and County safety standards or removed within forty-five (45) calendar days of notice.
  - b. Failure to repair unsafe non-commercial wind energy systems after proper notification is deemed a violation and subject to legal action as provided by State statutes.
4. Neighborhood Concerns and Zoning Certificate Issuance
- a. To provide for adequate public input, all applications for large non-commercial wind energy systems as defined in this Section, shall follow the process for *Discretionary Use Certificates* as described in *Part IV -- Section 19: Procedures for Applications & Certificates* and *Part IV -- Section 25: Site Plans* of these Regulations.
  - b. The applicant shall prepare and submit a *Zoning Certificate Application* including the required Site Plan and other support material to the Planning and Zoning Department

(Department) for review and consideration by the Planning and Zoning Commission (Commission).

- c. Any decision by the Department or the Commission may be appealed to the Board of County Commissioners (Board). Appeals will follow the process described in *Part IV -- Section 20: Zoning Appeals and Variances* of these *Regulations*.

## IV. Commercial Wind Energy Systems

### A. Commercial Wind Energy Systems

1. A wind energy conversion system consisting of a single wind-driven machine or turbine or a collection of wind-driven machines or turbines, towers and associated control or conversion electronics with a rated capacity of more than 100 kW per machine;
2. A wind energy conversion that converts wind energy into electrical power for the primary purpose of sale, resale or offsite use.
3. Commercial Wind Energy Systems will only be allowed in the Agriculture (A) District regardless of whether they are developed and/or operated by a public utility, private company/corporation or individual. They are not allowed in any other District.
4. Prior to submitting an application for a Commercial Wind Energy System, the applicant is required to arrange a pre-application meeting with the Department to review application requirements.
5. Commercial Wind Energy Systems are classified as a *Conditional Use* and subject to these *Regulations*, particularly *Part IV -- Section 19: Procedures for Applications and Certificates* and *Part IV -- Section 24: Conditional Uses*.

### B. Application requirements for Commercial Wind Energy Systems

1. General
  - a. It is unlawful to locate, erect, construct, reconstruct or enlarge a wind energy facility without first obtaining a *Zoning Certificate (Certificate)* from the Johnson County Board of Commissioners (Board).
  - b. If a facility is to be located in two (2) or more counties, approval shall be obtained in each county in which the wind energy facility is to be located.
2. Application process for Commercial Wind Energy System
  - a. To obtain the *Certificate* from the County, the owner or developer shall submit an application to the Board. All applications shall be referred to Commission for study and recommendation prior to approval by the Board except as exempted in these *Regulations*.
  - b. All projects required to obtain siting approval from the Wyoming Industrial Siting Council (Council) shall submit a *Notice* of the project and a copy of the approved Council's Permit to the Board. The Board may authorize issuance of a *Certificate* based on the information and material contained in the Council's application package.
  - c. All projects **not** subject to Council permitting shall be required to submit an application to the Board for review and approval.
  - d. All applications submitted to the Board shall be processed by the Department and reviewed by the Commission at a Public Hearing prior to any action by the Board.

- e. In addition to the requirements of these *Regulations*, including *Part IV -- Section 22: Conditional Uses*, all applications for Commercial Wind Energy Systems as defined by these *Regulations* shall comply with the requirements of *W.S. 18-5-503 and 18-5-504(a)*.

### C. Minimum standards

1. The Board shall not issue a *Certificate* for a wind energy facility if that facility:
  - a. does not comply with standards properly adopted by the Board for the construction of wind energy facilities, which standards shall not be less stringent than the standards required by *W.S. 18-5-504(a)* and which does not contain the information required in *W.S. 18-5-503*.
  - b. is located, entirely or in part, in the area of the Big Horn Mountains with the following boundaries: From the northwest corner of Johnson County to easterly along the Johnson County/Sheridan County boundary to Interstate Highway 90; then southerly along Interstate Highway 90 to the Interstate Highway 25 interchange at the City of Buffalo; then south on Interstate Highway 25 to State Highway 191 at Kaycee; then west on State Highway 191 to the intersection with State Highway 190; then westerly along State Highway 190 to the terminus of State Highway 190; then west on the township boundary between Township 42 and Township 43 to the western boundary of Johnson County.

### D. Application review

Upon receipt of an application, the Board shall refer the application to the Department for review.

1. The Department reviews application to determine if it is complete.
  - a. The Department shall review the application to determine if the application is complete, it shall, within thirty (30) calendar days of receipt of the application, notify the applicant of the specific deficiencies in the application.
2. The applicant shall provide the additional information necessary within thirty (30) calendar days of receipt of a request for additional information.
3. When the Department determines that the application is complete, it shall:
  - a. notify the applicant that the application is complete;
  - b. schedule a public hearing before the Commission; and
  - c. provide notice of the date and time of the Commission hearing.
4. Following the public hearing before the Commission, the Department will forward the Commission's recommendation and support material to the Board for consideration.

### E. Hearing and public comment

1. Following receipt of an application for a wind energy facility, accompanied by the Commission's recommendation and support material, the Board shall:
  - a. Schedule a public hearing to occur between forty-five (45) calendar days and sixty (60) calendar days after receipt of the Commission recommendation.
    - 1) The purpose of the hearing is for the Board to receive public comment on the application.
  - b. Accept written comment on the application for not less than forty-five (45) calendar days prior to the public hearing scheduled by the Board.

#### F. Decision of the Board

1. Within forty-five (45) calendar days from the date of completion of the hearing required by *W.S. 18-5-506*, the Board shall:
  - a. make complete findings;
  - b. issue an opinion;
  - c. render a decision upon the record either granting or denying the application; and
  - d. state whether or not the applicant has met the standards required by these *Regulations*.
    - 1) The decision shall be subject to the remedies provided in *W.S. 18-5-508*.
  - e. Issue a *Certificate* if it determines that the proposed wind energy facility complies with all standards properly adopted by Johnson County.
2. No *Certificate* shall be granted if the application is incomplete or if all notices required by *W.S. 18-5-503* have not been timely given.

#### G. Remedies

1. Any party aggrieved by the final decision of the Board may have the decision reviewed by the District Court pursuant to Rule 12 of the *Wyoming Rules of Appellate Procedure*.
2. When a decision is issued after hearing on an application for a *Certificate*, the decision is final for purposes of judicial review.

#### H. Referral to Industrial Siting Council (Council)

1. In accordance with *W.S. 18-5-509*, if the Board receives an application for a wind energy facility which does not meet the definition of a facility as defined in *W.S. 35-12-102(a)(vii)*, the Board may refer the facility to the Council for additional permitting consistent with the requirements of the *Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119*.
2. A referral shall be made when the Board finds there are potentially significant adverse environmental, social, or economic issues which the Board does not have the expertise to consider or authority to address.
3. Binding effect
  - a. Upon referral of a facility to the Council pursuant to *W.S. 18-5-509*, the facility shall not be withdrawn from the Council's consideration without consent of the Council. Any decision by the Council shall be final except as provided in this article or pursuant to the remedies provided to other facilities permitted by the Council.

#### I. Revocation or suspension of *Certificate*

1. A *Certificate* issued by Johnson County may be revoked or suspended for:
  - a. any material false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted the refusal to grant a *Certificate*;
  - b. failure to comply with the terms or conditions of the *Certificate* after notice of the failure and reasonable opportunity to correct the failure;
  - c. violation of the adopted rules and regulations or valid orders of the Board or the Council;
  - d. failure to receive and/or maintain a required *Certificate* from the Council;

- e. failure to transmit electricity created by wind energy for a period of two (2) consecutive years or more; or
- f. failure to maintain land rights necessary to operate the facility.

## J. Final Project Reclamation

1. For Commercial Wind Energy System projects not owned or operated by a Public Utility subject to decommissioning and reclamation requirements of the Public Service Commission per *W.S. 35-12-105*, a *Site and Facility Reclamation and Decommissioning Plan (Reclamation Plan)* shall be provided.
2. The *Reclamation Plan* shall:
  - a. State the planned life of the facility.
  - b. Describe the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life.
  - c. Include certification that any owner of land within the facility and its site who is not the applicant has been consulted in development of the *Reclamation Plan*.
  - d. Comply with all requirements adopted by the Council under *W.S. 35-12-105(d)*.
  - e. Be updated every five (5) years until site reclamation and decommissioning is complete.
  - f. Include evidence demonstrating that the applicant has entered into an agreement with the property owner that ensures proper final reclamation of the commercial wind energy system project site.
    - 1) The landowner may be given the option to retain access roads for demonstrated ranching or farming purposes as approved by the Board.
3. Reclamation Bond (Bond) Requirements
  - a. A Bond shall be furnished to Johnson County not later than 30 days before commencement of project construction.
  - b. The Bond will be used to restore the site to a condition consistent with the pre-construction environment.
  - c. The purpose of the Bond is to assure that adequate funding is available to pay the costs of site reclamation, including removal of individual turbines and other project improvements at the end of the project or in the event of abandonment of individual turbines or the entire project.
  - d. The Bond shall be in an amount equal to one hundred (100) percent of such costs, where such amount is determined by the Board based upon estimates from qualified, knowledgeable engineers/contractors.
  - e. The Bond may not be cancelled, released or in any way terminated, without prior written approval from Johnson County, and shall continue as long as wind turbines or other above-ground improvements associated with the *Certificate* exist.
  - f. The Bond must be written so as to survive any sale or other form of transfer of ownership of such turbines and other improvements.
  - g. The company providing the Bond must be authorized to provide bonds in the State of Wyoming and be acceptable to the Board.

## K. Violations and Penalties

1. It is a violation to:
  - a. commence construction of a commercial wind energy facility without first obtaining a

- required *Certificate*; or
- b. construct, reconstruct, operate, locate, erect, maintain, enlarge, change, or use a wind energy facility other than in specific compliance with the *Certificate*.
2. Violations are subject to penalties specified in *W.S. 18-5-512(b) and (c)*.

L. Fees

1. Applicants for a *Commercial Wind Energy System Certificate* shall be charged a fee in accordance with *Part IV -- Section 22: Fees of these Regulations*.

## Section 16. HOME-BASED BUSINESS

### I. Purpose:

- A. Home-based businesses provide a necessary economic component to the local economy and as such are welcomed and encouraged in Johnson County. However, they are accessory uses and are not intended to change the character of residential areas.
- B. These *Regulations* are intended to define the limitations under which home-based businesses operate. Businesses that cannot operate within these limitations should be located in an appropriate commercial or industrial district.
- C. Nothing in these *Regulations* is intended to replace or supplant any existing covenants within Johnson County. However, it is the policy of Johnson County that developers and subdivision associations consider adoption of covenants that are consistent with these *Regulations*.

### II. Standards:

- A. Home-based businesses shall be incidental to the principal residential or agricultural use of the land.
- B. Notwithstanding any other part of these *Regulations*, home businesses may be operated as an *Accessory Use* in all Residential and Agricultural Districts.
- C. No home business shall exceed the maximum limitations set forth in *Table 16-1*.
- D. All home businesses shall be conducted solely in the area(s) specified in *Table 16-1*, in compliance with these *Regulations*.
- E. The business shall be conducted only by the immediate members of the family residing on the premises and up to two outside employees.
- F. All home business shall be entitled to occupy at least 500 square feet within a residential structure or accessory structure regardless of structure size.
- G. As long as a home-based business can meet and maintain the standards of this Section, it may be legally continued, regardless of how the property is held by the owners or how the business is legally organized.
- H. Any home business in existence prior to the adoption of these *Regulations* which exceeds the limitations of these *Regulations* may continue at its current square footage within the same building or lot area and with its current employee level.
- I. Any home business established or expanded after the adoption of these *Regulations* must comply with the provisions of these *Regulations*.
- J. There shall be no offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable at or beyond the property line.
- K. Off-street parking, beyond that required for the residence, shall be provided for customers and/or employees, commensurate with needs of the business.
- L. Day care service for 1 to 10 children shall be considered a home-based business. All day care services which require a State of Wyoming license are subject to relevant State regulations.
- M. Commercial breeding of livestock, fowl, exotic species, or furbearing animals is not allowed in any residential district.

**Table 16-1. Home-Based Business Allowances\***

Lot Size	Area of Home **	Accessory Bldg	Outside Storage Area
Less than 1 acre	Up to 25%	Up to 2% of lot area	Not allowed
1 – 5 acres	Up to 25%	Up to 1% of lot area	Not allowed
6 – 40 acres	Up to 25%	Not to exceed 2000 sq. ft.	Up to 1% of lot area
41 – 160 acres	Up to 25%	Not to exceed 3000 sq. ft.	Up to 1% of lot area
Agricultural District	Up to 25%	No limitation	No limitation

\* All home business shall be entitled to occupy at least 500 square feet within a residential structure regardless of structure size.

\*\* Habitable floor space

# Section 17. SEXUALLY ORIENTED ADULT BUSINESS

## I. Purpose

- A. It is the intent this Section of these *Regulations* to:
1. regulate adult entertainment establishments and sexually oriented businesses to preserve, promote, and protect the health, safety, morals, and general welfare of the citizens of Johnson County; and
  2. establish reasonable and uniform regulations to prevent the adverse secondary effects of injurious location and concentration of adult entertainment establishments and sexually oriented businesses within Johnson County.
- B. It is not the intent of this Section to:
1. impose a limitation or restriction on the content of any communicative material, including sexually oriented material.
  2. restrict or deny access by adults to sexually oriented material protected by the First Amendment.
  3. deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
  4. condone or legitimize the distribution of sexually oriented material.

## II. Findings

- A. Based on evidence, made available to the Board of Johnson County Commissioners (Board) and the Johnson County Planning and Zoning Commission (Commission), concerning the adverse secondary effects of sexually-oriented adult businesses on the community, the Board finds that:
1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by the operators of the establishments. There is presently limited mechanism in Johnson County to require the owners of these establishments to be responsible for the activities that occur on their premises.
  2. Sexually oriented businesses have a deleterious effect on neighboring businesses and adjacent residential areas, causing adverse secondary effects, including but not limited to, increased crime, decreased property values, and deterioration of neighborhoods.
  3. Sexually oriented businesses have serious objectionable operational characteristics, particularly when they are operating in close proximity to each other, thereby contributing to crime, lower property values, blight and downgrading of the quality of life in adjacent areas.
  4. Sexually oriented businesses are frequently used for unlawful sexual activities including prostitution.
  5. Increased crime and unhealthful conduct tend to accompany, concentrate around and be aggravated by sexually oriented businesses including but not limited to prostitution, drug use, pandering, public indecency, public disturbances and exposing minors to harmful materials.
  6. Sexually transmitted diseases are a legitimate health concern of the County. Regulating sexually oriented businesses helps to protect the health and well-being of the citizens.
  7. Regulating sexually oriented businesses advances a substantial public interest in curbing illegal and unsanitary sexual activity.
  8. Regulating sexually oriented businesses promotes the safety of law enforcement personnel.

### III. Definitions specific to this Section -- Sexually Oriented Adult Businesses

- A. The definitions of this Section are intended to apply in these *Regulations* only to matters concerning sexually oriented adult businesses. Certain words or phrases may be defined differently in other parts of these *Regulations*; in such circumstances, the definition given in this Section shall only apply to this Section.
- B. As used in this Section, unless the context otherwise requires:

**Adult Arcade, Adult Booth, or Adult Motion Picture Theater:** An establishment, or a separate enclosure within an establishment, where, for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions or images where the images so displayed are characterized by the depiction or description of “*specified sexual activities*” or “*specified anatomical areas*” as defined herein. The term adult booth does not include a restroom or a foyer through which any person can enter or exit the establishment.

**Adult Bookstore, Adult Novelty Store, or Adult Video Store:** a commercial establishment which:

- a. devotes more than ten (10) percent of its stock-in-trade or ten (10) percent of its retail floor space to the sale or rental of:
  - i. books, magazines, periodicals or other printed matter, or image-producing devices, other visual representations, or other audio or video matter, that are on display to the public, which are characterized by the depiction or description of “*specified sexual activities*” or “*specified anatomical areas*”; or
  - ii. instruments, devices, or paraphernalia, that are on display to the public, which are designed for use in connection with “*specified sexual activities*”;
- b. uses the following terms in advertisements or other promotional activities relating to the adult materials: “XXX,” “XX,” “X,” or any series of the letter “X” whether or not interspersed with other letters, figures, or characters; “erotic” or deviations of that word; “adult entertainment” or similar phrases; “sex” or “sexual acts” or similar phrases; “nude” or “nudies” or similar phrases; or any other letters, words, or phrases that promote the purchase or rental of adult material.
- c. has other principal business purposes that do not involve the offering for sale or rent material depicting or describing “*specified sexual activities*” or “*specified anatomical areas*” may still be categorized as ‘*adult bookstore*,’ ‘*adult novelty store*,’ or ‘*adult video store*’ as defined herein and are subject to the provisions of this Section.

**Adult Booth:** See *Adult Arcade, Adult Booth, or Adult Motion Picture Theater*

**Adult Cabaret:** An establishment devoted to adult entertainment, either with or without a liquor license, which presents material distinguished by their emphasis on matter depicting, describing, or relating to “*specified sexual activities*” or “*specified anatomical areas*” and may include topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainment for observation by patrons.

**Adult Entertainment:** Any modeling, posing, exhibition, display, or exposure, of any type, whether through book, pictures, film displays, live performance, dance, or modeling, that has as its dominant theme, or is distinguished or characterized by an emphasis on any one of more of the following:

- a. any actual or simulated “*specified sexual activities*”;
- b. “*specified anatomical areas*”;
- c. the removal of articles of clothing; or
- d. appearing nude or semi-nude, except as otherwise provided for in these Regulations.

**Adult Entertainment Establishment:** Any adult video, novelty, or bookstore; adult arcade, booth, or motion picture theater; adult cabaret; adult modeling or display establishment; adult motel; adult theater, or other business which features ‘*adult entertainment*’ or ‘*adult material*’ as defined herein.

**Adult Material:** One or more of the following materials that have as their primary or dominant theme matter depicting illustrating, describing or relating to adult entertainment, regardless of whether it is new or used:

- a. Books, magazines, periodicals or other printed matter;
- b. Photographs, films, motion pictures, video cassettes, slides, or other electronic visual representations;
- c. Recordings or other audio matter;
- d. Instruments, novelties, devices or paraphernalia that are designed for the use in connection with adult entertainment.

**Adult Modeling or Display Establishment:** Any establishment whose employees engage in ‘*adult entertainment*’ or ‘*adult private modeling*,’ as defined herein, except as otherwise provided for in these Regulations.

**Adult Novelty Store:** See *Adult Bookstore, Adult Novelty Store, or Adult Video Store*

**Adult Private Modeling:** Modeling, posing, exhibition, display, or exposure by an employee relating to adult entertainment before a non-employee while the non-employee is in an area not accessible to all other persons in the establishment, or while the non-employee is in an area whether totally or partially screened or partitioned during such display from the view of all persons outside the area. The term ‘*private performance*’ is considered ‘*adult private modeling*.’

**Adult Motel:** Any motel, hotel, or other temporary lodging place that includes the word “adult” or erotic” in any name it uses, or otherwise provides and advertises adult entertainment or adult material.

**Adult Motion Picture Theater:** See *Adult Arcade or Adult Booth or Adult Motion Picture Theater*

**Adult Theater:** a theater, concert hall, auditorium, or similar commercial establishment with regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of “*specified anatomical areas*” or by “*specified sexual activities*.”

**Adult Video Store:** See *Adult Bookstore, Adult Novelty Store, or Adult Video Store*

**Employee:** a person who performs, for any consideration, any service on the premises of a sexually oriented business on a full-time, part-time or contract basis.

**Escort:** a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, and who agrees or offers to privately perform “*adult entertainment*” for another person.

**Escort Agency:** 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.

**Massage Parlor:** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**Nude Model Studio:** any place where a person who appears nude or semi-nude, in a state to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

*Nude Model Studio* shall not include:

1. a proprietary school licensed by the State of Wyoming or a college, junior college, university, or community facility supported entirely or in part by public taxation; or is
2. conducted in a structure:
  - a. where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
  - b. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  - c. where no more than one nude or semi-nude model is on the premises at any one time.

**Nudity or State of Nudity:** the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing the female breast with less

than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

**Private Performance:** See *Adult Private Modeling*

**Semi-Nude or in a Semi-Nude Condition:** a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Sexual Encounter Establishment:** An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with “specified sexual activities” or the exposure of “specified anatomical areas.”

**Sexually Oriented Business:** an individual, proprietorship, partnership, corporation, Limited Liability Company, association, or other legal entity that operates any of the following:

- a. An ‘adult entertainment establishment’ as defined herein.
- b. An ‘escort agency,’ ‘massage parlor’ or ‘nude model studio’ as defined herein.
- c. A ‘sexual encounter establishment’ as defined herein.

**Specified Anatomical Area:** As used herein, “specified anatomical areas” means and includes any of the following:

- a. less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
- b. human male genitals in a discernible turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** As herein, “specified sexual activities” means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in a. through c. of this definition.

## IV. Standards of Operation

### A. Location:

1. Sexually oriented adult businesses are only allowed in the Industrial Districts of Johnson County as a *Conditional Use*.
2. Sexually-oriented businesses are not allowed as accessory uses.
3. No adult entertainment establishment shall be operated or located within:
  - a. any building, structure, or portion thereof, containing another sexually oriented business.
  - b. a one thousand (1,000) foot radius\* of another existing adult entertainment establishment
    - \* The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest point on the property line of the lot or parcel in which each business is located.
  - c. No adult entertainment establishment shall be operated or located within two thousand (2,000) feet\*\* of a residence which is located on a lot larger than forty (40) acres.
    - \*\* This distance limitation shall be measured in a radial fashion by measurement from the nearest customer entrance of the proposed or existing adult entertainment establishment to the nearest exterior part of the residence.

Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying these distance requirements.

- d. a one thousand (1,000) foot radius<sup>\*\*\*</sup> of:
- 1) any religious institution;
  - 2) any school, public or private;
  - 3) any State-licensed daycare center;
  - 4) the property line of any lot devoted to residential use, which is forty (40) acres or less;
  - 5) a park;
  - 6) an historic property; or
  - 7) a public library.

<sup>\*\*\*</sup> This distance limitation shall be measured in a radial fashion from the nearest customer entrance of the proposed or existing adult entertainment establishment to the lot, tract, or parcel of any use stated in d. above. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying these distance requirements.

#### **B. Signs:**

1. All adult entertainment establishments shall comply with the *Part III -- Section 11: Sign Requirements*, of these *Regulations* including, but not limited to, the type, size, usage, lighting, construction of, and placement of signs.
2. Signs for adult entertainment establishments shall not contain any emphasis, whether by movement, picture, or otherwise, on matter relating to adult entertainment as defined herein.
3. To protect minors from exposure to obscene material, any business providing adult entertainment or adult material shall display the following sign(s):
  - a. "*Persons under 18 years of age shall not be admitted.*"
  - b. Said sign(s) are to be visibly placed at each entrance to such business.
  - c. These sign(s) shall not be less than one square foot in size.
4. Parking lots shall contain signage stating that loitering and consumption of alcoholic beverages are prohibited in parking lots.

#### **C. Hours of Operation:**

1. No adult entertainment establishment, except for an adult motel, shall be open for business at any time between the hours of:
  - a. 2:00 a.m. and 8:00 a.m., Monday through Saturday; or
  - b. 2:00 a.m. and 10:00 a.m. on Sunday.

#### **D. Minors:**

1. No person under the age of eighteen (18) shall be allowed:
  - a. in any adult entertainment establishment;
  - b. to purchase good or services at an adult entertainment establishment; or
  - c. to work at an adult entertainment establishment as an employee.
2. Adult entertainment establishments will comply with the sign requirements in this Section pertinent to minors.

#### **E. Other Operation Standards:**

1. All windows, doors and other apertures shall be architecturally screened or otherwise obscured so as to prevent the viewing of the interior of the adult oriented entertainment business from without.
2. No advertisement, display or merchandise available for sale or rent that includes or depicts “*specified sexual activities*” or “*specified anatomical areas*” shall be visible from any public right-of-way.
3. All sexually oriented adult businesses shall provide security personnel to control behavior of patrons, both indoors and outdoors. For businesses with more than ten parking spaces, security personnel shall be provided at a ratio of one per ten parking spaces.
4. No loitering or consumption of alcoholic beverages shall be allowed in sexually oriented business parking lots.
5. Parking lots shall contain signage stating that loitering and consumption of alcoholic beverages are prohibited in parking lots.
6. Parking requirements shall be as determined by the Commission based on the extent to which the adult oriented business provides seating for patrons. Parking shall be provided at a ratio of:
  - a. one space per two seats; or
  - b. one space per 100 square feet of floor area devoted to the sexually oriented business.

#### **F. Zoning Certificate Requirements**

Sexually oriented adult businesses are allowed in the Industrial Districts of Johnson County as a *Conditional Use*. A *Zoning Certificate* shall be required for:

1. the opening or commencement of any sexually oriented business as a new business;
2. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. the additions of any sexually oriented business to any other existing sexually oriented business; or
4. the relocation of any sexually oriented business.