

**12-770. Nonconforming uses; sexually oriented businesses; definitions.** (a) When used in this section:

- (1) The words and phrases used in this section shall have the same meaning ascribed thereto by K.S.A. 12-742, and amendments thereto;
- (2) "adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated or 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 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.
- (3) "adult bookstore", adult novelty store" or "adult video store" means a commercial establishment which, as one of its principal 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 are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
  - (B) instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities;
  - (4) "adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
    - (A) Persons who appear in a state of nudity or semi-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;
  - (5) "adult motel" means a hotel, motel or similar commercial establishment which:
    - (A) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, 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 and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
    - (B) offers a sleeping room for rent for a period of time that is less than 10 hours; or
    - (C) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours;
  - (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 semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
  - (8) "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;
  - (9) "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;
  - (10) "nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided 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 a college, community college or university supported entirely or in part by public money; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely, partly by public money or in a structure or private studio:
    - (A) 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;
    - (B) where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
    - (C) where no more than one nude or semi-nude model is on the premises at any one time;
  - (11) "nudity" or a "state of nudity" means 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 of 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 discernibly turgid state.
  - (12) "sexual encounter center" means a business or commercial enterprise that, as one of its principal 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 either male and female persons or persons of the same sex, or both, when one or more of the persons is in a state of nudity or semi-nude;
  - (13) "semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. Such term shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part;
  - (14) "sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center;
  - (15) "specified anatomical areas" means:
    - (A) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
    - (B) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(b) The governing body may adopt, in the manner provided by K.S.A. 12-741 et seq., and amendments thereto, reasonable regulations for the gradual elimination of sexually oriented businesses which constitute nonconforming uses.

**History:** L. 1997, ch. 147, § 10; May 1.