

ORDINANCE V

AN ORDINANCE AMENDING AND REENACTING SECTION 2 OF TOWN OF JACKSON ORDINANCE NO. 1074 (PART) AND SECTIONS 2.3.10, 6.1.1, 6.1.7, 6.2.2 AND 6.4.1 OF THE TOWN OF JACKSON LAND DEVELOPMENT REGULATIONS TO ADD DEFINITIONS AND ALLOWED USES FOR ADULT ENTERTAINMENT BUSINESS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JACKSON, WYOMING, IN REGULAR SESSION DULY ASSEMBLED THAT:

SECTION I.

Section 2 of Town of Jackson Ordinance No. 1074 (part) and Section 2.3.10 of the Town of Jackson Land Development Regulations are hereby amended and reenacted to read as follows:

(See next page)

C. Allowed Uses and Use Standards

Standards applicable to uses in the BP-ToJ zone are provided or referenced below. Allowed uses are listed in Subsection 1. Uses that are not listed are prohibited, unless a similar use determination is made pursuant to 6.1.2.D. Where a cross reference is provided, please see the referenced division or section for additional standards applicable in the BP-ToJ zone. This Subsection is intended to indicate all of the use standards applicable in the BP-ToJ zone, however, all standards in Article 6 are applicable in the BP-ToJ zone, unless stated otherwise.

1. Allowed Uses				2. Use Requirements	
Use	Permit	BSA (min)	Density (max)	Parking (min) (Div. 6.2.) (E.1.)	Employee Housing Floor Area (min) (Div. 6.3.)
Residential					
Live/Work Unit (<u>6.1.4.H.</u>)	C	0 sf	n/a	1.5/DU or 1.5/1,500 sf	n/a
Commercial					
Heavy Retail/Service (<u>6.1.6.F.</u>)	B	0 sf	n/a	2/1,000 sf + 3/repair bay + 1/wash bay	16 sf/1,000 sf
Mini-Storage Warehouse (<u>6.1.6.G.</u>)	B	0 sf	n/a	1/10 storage units + 1/employee	independent calculation
Nursery (<u>6.1.6.H.</u>)	C	0 sf	n/a	2/1,000 sf + 1/4,000 sf outdoor display area + 1/company vehicle + 1/employee	independent calculation
Amusement/Recreation					
Outdoor Recreation (<u>6.1.7.C.</u>)	C	0 sf	n/a	independent calculation	independent calculation
Developed Recreation (<u>6.1.7.D.</u>)	C	0 sf	n/a	4.5/1,000 sf	independent calculation
Outfitter/Tour Operator (<u>6.1.7.E.</u>)	C	0 sf	n/a	independent calculation	independent calculation
<u>Adult Entertainment Business (6.1.7.F.)</u>	<u>C</u>	<u>0 sf</u>	<u>n/a</u>	<u>1/30 sf seating area</u>	<u>independent calculation</u>
Institutional					
Assembly (<u>6.1.8.B.</u>)	C	0 sf	n/a	independent calculation	exempt
Daycare/Education (<u>E.3.</u>) (<u>6.1.8.C.</u>)	C	0 sf	n/a	independent calculation	exempt
Industrial					
Light Industry (<u>6.1.9.B.</u>)	B	0 sf	n/a	1/1,000 sf + 1/company vehicle	8 sf/1,000 sf
Heavy Industry (<u>6.1.9.C.</u>)	C	0 sf	n/a	2/1,000 sf + 1/company vehicle	8 sf/1,000 sf
Disposal (<u>6.1.9.D.</u>)	C	0 sf	n/a	1/employee	8 sf/1,000 sf
Transportation/Infrastructure					
Utility Facility (<u>6.1.10.C.</u>)	C	0 sf	n/a	1/employee + 1/stored vehicle	independent calculation
Wireless Communication Facilities (<u>6.1.10.D.</u>)	C	0 sf	n/a	1/employee + 1/stored vehicle	independent calculation
Heliport (<u>6.1.10.E.</u>)	C	0 sf	n/a	7/daily aircraft movement	independent calculation

Y=Use allowed, no permit required, B=Basic Use Permit (Sec. 8.4.1.), C=Conditional Use Permit (Sec. 8.4.2.)

SECTION II.

Section 2 of Town of Jackson Ordinance No. 1074 (part) and Sections 6.1.1, 6.1.7, 6.2.2 and 6.4.1 of the Town of Jackson Land Development Regulations are hereby amended and reenacted to read as follows:

(See next page)

- viii. veterinary and other pet and livestock services
- ix. landscaping services
- x. the boarding of horses

G. Mini-Storage Warehouses

1. **Definition.** Mini-warehouse means a building or group of buildings in a compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of a customer's goods or wares.
2. **Standards**
 - a. no sales, service, repair, or other activities shall be conducted from a storage area
 - b. storage of junk, explosives, flammable materials, or other noxious or dangerous materials is specifically prohibited
 - c. maximum leasable space per stall shall be 1,000 square feet
 - d. pick-up or delivery by semi-tractor trailers shall be prohibited
 - e. outdoor storage shall be screened

H. Nursery

1. **Definition.** Nursery means an establishment primarily engaged in the retail or wholesale sale of horticultural specialties such as flowers, shrubs and trees, intended for ornamental or landscaping purposes.

6.1.7. Amusement and Recreation Uses (effective date)

A. All Amusement and Recreation Uses

1. **Definition.** An amusement and recreation use is the provision of entertainment.

B. Amusement

1. **Definition.** Amusement is the provision of non-recreation entertainment.
 - a. **Includes:**
 - i. bowling alleys
 - ii. movie theaters
 - iii. music halls
 - iv. video arcades
 - v. miniature or putt-putt golf course
 - vi. pool and billiard halls

vii. shooting arcades

b. Does Not Include:

i. Adult Entertainment Business (see 6.1.7.F)

C. Outdoor Recreation

1. **Definition.** Outdoor recreation is the use of land for passive or active recreational or athletic purposes that requires minimal permanent physical development relative to the open space.

a. **Includes:**

- i. parks
- ii. arboretums
- iii. athletic fields not in stadiums
- iv. equestrian centers
- v. nordic ski trails

b. **Does Not Include:**

- i. Golf course
- ii. Downhill Ski Slopes

2. **Standards**

a. **All Zones.** In all zones, outdoor recreation uses shall only be permitted subject to a use management plan. The use management plan shall ensure that outdoor recreational uses are designed to minimize any glare from night lighting into residential areas, and that the hours of operation of potentially noisy uses which might disrupt a residential area are limited.

b. **NRO.** For land within the Natural Resources Overlay, the use management plan shall comply with the following:

- i. **Limitation of Access During Eagle Nesting.** Access to the protective radius around a bald eagle nest shall be limited to times of the year when eagles are not nesting.
- ii. **River and Stream Bank Buffers for Trumpeter Swans.** River and stream bank buffers for trumpeter swans shall be 2 times that required in Sec. 5.1.1. and Sec. 5.2.1.

D. Developed Recreation

1. **Definition.** Developed recreation is the use of a physical development for active recreation or athletic purposes.

a. **Includes:**

- i. gymnasiums
- ii. swimming pools
- iii. tennis
- iv. skateboarding
- v. rodeos
- vi. skating rinks
- vii. racquetball
- viii. handball courts
- ix. rock climbing practice facilities
- x. health and exercise clubs

E. Outfitter/Tour Operator

- 1. **Definition.** The base of operations for providing guides, materials, supplies, and equipment for outdoor activities.
 - a. **Includes:**
 - i. rafting/boat trips
 - ii. fishing or hunting guide operations
 - iii. raft and boat rental
 - iv. snowmobile tours
 - v. mountain bike tours
 - vi. horseback trail rides and pack trips

F. Adult Entertainment Business

- 1. **Definition.** Adult Entertainment Business means a business that generates a substantial or significant portion of its revenues, or devotes a substantial or significant portion of its interior business, advertising, sale floor, or display space for the exhibition, display, sale, or performance, whether presented as printed materials, live entertainment, recorded entertainment, or devices emphasizing or focusing on whole or partial exposure to view of “Intimate Parts” or the depiction, simulation or facilitation of “Sexual Contact”.
 - a. **Includes:**
 - i. “Intimate Parts” as defined by W.S. § 6-2-301.

- ii. “Sexual Contact” means touching, with the intention of sexual arousal, gratification or abuse, of the patron’s intimate parts by performers, or of the performer’s intimate parts by patrons, or of the clothing covering the immediate area of the patron’s or performer’s intimate parts.
 - b. **Does Not Include:**
 - i. This definition shall not be construed to apply to or otherwise allow any form of activity prohibited or punished by law such as exhibitions, displays, or performances deemed by law to be obscene.
 - ii. This definition shall not be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or other artistic work in any theater, concert hall, museum, school, institution of higher education, or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.
- 2. **Legislative Findings.** This Land Development Regulation is based on findings concerning the adverse secondary effects of the Adult Entertainment Business on the community presented in studies, case law, and expert papers reviewed by the Town Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), City of Erie v. Pap’s A.M., 120 S. Ct. 1382 (2000); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002), and on studies in and by other communities including, but not limited to, all those in the National Law Center for Children and Families 2005 Summaries of SOB Land Use Studies; Richard McCleary, Rural Hot Spots: The Case for Adult Businesses, Criminal Justice Policy Review 19(2), 153-163 (2008); Eric Domain Kelly, et. al., Survey of Florida Appraisers: Effects of Land Uses on Market Values, (2008); Alan C. Weinstein et. al., The Association of Adult Businesses with Secondary effects: Legal Doctrine, Social Theory, and Empirical Evidence, 29 Cardozo Arts and Entertainment Law Journal 565 (2011); Richard McCleary, Do “Off-Site: Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory, and Empirical Evidence, Law & Policy Vol. 31, No.2 218-35 (2009).
- 3. **Purpose.** It is the purpose of this section to regulate the location and placement of Adult Entertainment Businesses to promote the health, safety, and general welfare of the citizens of Jackson, Wyoming, and to establish reasonable and uniform regulations to address the adverse secondary effects of Adult Entertainment Businesses within the Town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction of the content of any communication material, including sexually-explicit materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to sexually-explicit materials protected by the First Amendment to the United States Constitution, or Articles 1 & 20 of the Wyoming Constitution, or to deny

access by the distributors and exhibitors of sexually-explicit entertainment to their intended market. It is not the intent or effect of this ordinance to condone or legitimize the distribution of obscene material as defined by W.S. § 6-4-301(iii).

4. Location Standards

- a. No Adult Entertainment Business shall be operated or located outside the Business Park (BP-ToJ) zone.
- b. The property line of an Adult Entertainment Business closest to the following shall be at least:
 - i. 300 feet from the closest property line of any school, public or private; and
 - ii. 300 feet from the closest property line of any residential zone; and
 - iii. 200 feet from the closest boundary of the South Park Loop Road right-of-way; and
 - iv. 200 feet from the closest boundary of the High School Road right-of-way; and
 - v. 200 feet from the closest boundary of any public pathway easement.
- c. For the purposes of this ordinance these distances shall be measured in a straight line, without regard to intervening structures, streets, or political boundaries.

5. Operation Standards

- a. Configuration. The Adult Entertainment Business shall be configured in such a manner that there is an unobstructed, direct line of sight view from a designated Manager's Station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
- b. Public View. Adult Entertainment Business, as defined in this section, shall be obscured from public view such that the Business is not readily apparent to a reasonable observer.
- c. Illumination
 - i. Interior. All Adult Entertainment Businesses shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level. This level of illumination shall be maintained at all times that any patron is present in the Adult Entertainment Business.

6.1.8. Institutional Uses (1/1/15)

- ii. Exterior. All off-street parking areas and building entries and exits shall be illuminated from dusk to closing with a lighting system which provides an average range of maintained horizontal illumination of not less than 1.5 and not more than 2 foot-candles of light on the parking surface and walkways.

6.1.8. Institutional Uses (1/1/15)

A. All Institutional Uses

- 1. **Definition.** An institutional use is the provision of a public or semi-public service by a public or private entity.

B. Assembly

- 1. **Definition.** An assembly use is an institutional use typically characterized by a public or semi-public gathering area.

a. **Includes:**

- i. cemeteries
- ii. churches
- iii. community centers
- iv. libraries
- v. museums
- vi. hospitals

C. Daycare/Education

- 1. **Definition.** A daycare or education use is the provision of educational instruction and/or care for part of the day.

a. **Includes:**

- i. schools
- ii. childcare centers

2. **Standards**

- a. **Wyoming Statutes.** Each daycare or education use shall comply with the relevant provisions of the Wyoming Statutes and with local health, safety and fire codes.

6.1.9. Industrial Uses (1/1/15)

A. All Industrial Uses

- 1. **Definition.** An industrial use is the manufacturing, assembly, processing, or distribution of material.

Required Parking		
Use	Parking Spaces	Queuing Spaces
Nursery	2 per 1,000 sf + 1 per 4,000 sf outdoor display area + 1 per employee	
Amusement/Recreation Uses		
Amusement	1 per 30 sf seating area or independent calculation	
Outdoor recreation	independent calculation	
Developed recreation	4.5 per 1,000 sf	
Outfitter/Tour operator	independent calculation	
<u>Adult Entertainment Business</u>	<u>1 per 30 sf seating area or independent calculation</u>	
Institutional Uses		
Assembly	independent calculation	
Daycare/Education	independent calculation	
Industrial Uses		
Light industry	1 per 1,000 sf + 1 per company vehicle	
Heavy industry	2 per 1,000 sf + 1 per company vehicle	
Disposal	1 per employee	
Infrastructure Uses		
Parking	n/a	
Utility facility	1 per employee + 1 per stored vehicle	
Wireless communication facility	1 per employee + 1 per stored vehicle	
Heliport	7 per daily aircraft movement	
Accessory Uses		
Accessory residential unit	1.25 per DU	
Bed and breakfast	0.75 per LU	
Home occupation	n/a	
Home business	1 per employee	
Family home daycare	1 per employee	1 off-street for pick-up
Home daycare center	1 per employee	2 off-street for pick-up
Drive-in facility	n/a	3 per service lane
Temporary Uses		
Christmas tree sales	1 per 1,000 sf outdoor display area + 1 per employee	
Real estate sales office	3.3 per 1,000 sf	
Temporary shelter	2 per DU	
Farm stand	5 per 1,000 sf display area	
Temporary gravel extraction	1 per employee	

Div. 6.4. Operational Standards

6.4.1. Outside Storage [\(effective date\)](#)

A. Use of Front Yards

The use of the front yard (street yard) of a residential use for the storage of boats, snowmobiles, trailers, RVs, and similar motor vehicles and equipment is prohibited.

B. Storage of Structures

The storing of structures of any kind is not permitted in any residential zone.

C. Vehicle and Equipment Storage - Vacant Property

The storage of any vehicle on vacant property in a residential zone for more than 3 consecutive days is prohibited. This includes boats, rafts, trailers, snowmobiles, campers, RVs and similar vehicles, and equipment. This also includes heavy equipment, construction equipment, and construction materials. Nothing herein shall be construed to prohibit the storage of vehicles and equipment for temporary construction, provided the storage area is fenced, well marked, and posted. For purposes of this provision, lots which are normally kept and maintained as yard area for an adjacent residence shall not be considered vacant property, provided the vehicles, equipment, and materials stored thereon are owned, supervised, and controlled by an occupant of the adjacent residence.

D. Outdoor Display

The organized outdoor display of goods for sale in association with a nonresidential use, [except an Adult Entertainment Business \(see 6.1.7.F\)](#), is allowed, provided it is contained on private property.

6.4.2. Refuse and Recycling [\(1/1/15\)](#)

A. Town Trash and Recycling Enclosures

Trash and recycling enclosures shall be provided for all nonresidential uses and multi-family developments of 4 or more units. Enclosures shall be of similar material and color to the building. Enclosures shall be entirely enclosed with the side facing the street or alley to be a gate whenever feasible. Enclosures shall provide adequate space for recycling as determined by the Planning Director. Enclosures shall be consolidated wherever possible.

6.4.3. Noise [\(1/1/15\)](#)

All uses shall conform with the following standards.

A. Maximum Noise

Noises shall not exceed the maximum sound levels prescribed in the table below, beyond the site boundary lines, except that when a nonresidential activity in contiguous to a residential zone, the residential zone standard shall govern.

SECTION III.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION V.

This Ordinance shall become effective after its passage, approval and publication.

PASSED 1ST READING THE ____ DAY OF _____, 2016.

PASSED 2ND READING THE ____ DAY OF _____, 2016.

PASSED AND APPROVED THE ____ DAY OF _____, 2016.

TOWN OF JACKSON

BY: _____
Sara Flitner, Mayor

ATTEST:

BY: _____
Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

I hereby certify that the foregoing Ordinance No. _____ was duly published in the Jackson Hole News and Guide, a newspaper of general circulation published in the Town of Jackson, Wyoming, on the ____ day of _____, 2016.

I further certify that the foregoing Ordinance was duly recorded on page _____ of Book _____ of Ordinances of the Town of Jackson, Wyoming.

Town Clerk