

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 230310

Amending Chapter 88, Code of Ordinances, by repealing Section 88-805-04, Commercial Use Group, and enacting in lieu thereof a new section of like number and subject matter to change the definition of restaurant to be consistent with Chapter 10 of the Code of Ordinances (CD-CPC-2023-00030).

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Code of Ordinances, is hereby amended by repealing section 88-805-04, Commercial Use Group, and enacting in lieu thereof a new section of like number and title, with said new section to read as follows:

88-805-04 COMMERCIAL USE GROUP

The commercial use group includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use group includes the following use categories.

88-805-04-A. ADULT BUSINESS

"Adult business" is an inclusive term used to describe collectively: adult cabaret; adult motion picture theatre; adult media store; bathhouse; massage shop; modeling studio; and/or sex shop. This collective term does not describe a specific land use and will not be considered a single use category.

1. ADULT CABARET

An adult live entertainment facility, or that part of an adult live entertainment facility, that regularly features or otherwise offers to the public, customers or members in a viewing area, any live exhibition, performance or dance by persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

2. ADULT MEDIA STORE

An establishment that rents and/or sells adult media and that meets any of the following tests:

- (a) More than 40% of the gross public floor area is devoted to adult media;
- (b) More than 40% of the stock in trade consists of adult media; or

- (c) A media store that advertises or holds itself out in any forum as "XXX," "adult," "sex" or otherwise as an adult business.

3. **ADULT MOTION PICTURE THEATER**

A building or portion of a building (including any portion of a building that contains more than 150 square feet) used for presenting motion pictures, movies, videos or other projected images if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if, as a prevailing practice, the movies, videos or other material presented are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

4. **BATHHOUSE**

An establishment or business that provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated by a medical practitioner or professional physical therapist, licensed by the state.

5. **MASSAGE SHOP**

An establishment that has a fixed place of business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of, external parts of the human body with the hands or with the aid of any mechanical, electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity provided that this term does not include any establishment operated by a medical practitioner, professional physical therapist, or massage therapist licensed by the state.

6. **MODELING STUDIO**

Modeling studio means an establishment or business that provides the services of modeling for the purposes of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing, or otherwise.

7. **SEX SHOP**

A business offering goods for sale or rent and that meets any of the following tests:

- (a) It offers for sale items from any two of the following categories: adult media; sexually-oriented toys or novelties; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10% of the stock in trade of the business or occupies more than 10% of the gross public floor area of the business;

- (b) More than 5% of the stock in trade of the business consists of sexually-oriented toys or novelties; or
- (c) More than 5% of the gross public floor area of the business is devoted to the display of sexually oriented adult toys or novelties.

88-805-04-B. ANIMAL SERVICES

The following are animal services use types:

1. **SALES AND GROOMING**
Sales and grooming of dogs, cats, and similar small animals. Typical uses include pet stores, dog bathing and clipping salons, and pet grooming shops.
2. **SHELTER OR BOARDING KENNEL**
Animal shelters and kennel services for dogs, cats, and small animals. Typical uses include boarding kennels, pet resorts/hotels, dog training centers, and animal rescue shelters.
3. **VETERINARY**
Typical uses include pet clinics, dog and cat hospitals, and animal hospitals.
4. **STABLE**
Stables and boarding facilities for horses and similar large animals.

88-805-04-C. ARTIST WORK OR SALES SPACE

Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries and artist studios, but not including art museums. Art museums are classified in the "Libraries and Cultural Exhibits" use category.

88-805-04-D. BUILDING MAINTENANCE SERVICE

Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance, and window cleaning services. Also includes exterminator services for residential, commercial, or industrial applications.

88-805-04-E. BUSINESS EQUIPMENT SALES AND SERVICE

Sales, rental, or repair of office, professional and service equipment and supplies to companies rather than to individuals. Excludes automotive and heavy equipment sales or service. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.

88-805-04-F. BUSINESS SUPPORT SERVICE

Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Typical uses include employment agencies and telephone answering services and business or trade schools. Business or trades schools that involve outdoor storage and work areas or manufacturing processes are not considered business support services but rather are to be classified in an Industrial use group category.

1. DAY LABOR EMPLOYMENT AGENCY

Any enterprise, other than a labor union or a not-for-profit organization, engaged in procuring or providing persons to perform temporary unskilled work at a site other than the day labor business premises in which (1) the day laborers are paid, by the day labor business or a third party employer, each work day or on the business day following the work day, and (2) persons arrive at the day labor business premises to make application for work as a day laborer, to obtain assignment for day labor, to obtain transportation to a day labor site or to obtain payment of wages or benefits for day labor. For purposes of this definition, "unskilled work" means work involving physical tasks for which the (1) the worker is not required by law to hold a professional or occupational license, or (2) the employer or contractor controlling the site of the work does not require the worker to have (a) a high school diploma or its equivalent, or (b) education beyond high school, or (c) relevant vocational education or (d) demonstrated proficiency with a specified type of machinery to be used in the work, but does not include white collar, secretarial, clerical or professional work.

88-805-04-G. COMMUNICATIONS SERVICE ESTABLISHMENTS

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "major utilities and services" and "minor utilities." Typical uses include recording studios, television and radio studios, telecommunication service centers, data centers, and telegraph service offices.

88-805-04-H. DRIVE-THROUGH FACILITY

Any service window, automated device or other facility that provides goods or services to individuals in a motor vehicle. Also includes "drive-in" businesses and facilities, such as drive-in restaurants and car washes.

88-805-04-I. EATING AND DRINKING ESTABLISHMENTS

Provision of prepared food and/or beverages for on- or off-premises consumption. Typical uses include restaurants, taverns, and nightclubs.

1. RESTAURANT

An establishment primarily engaged in serving prepared food to the public and in which sales of such prepared foods and meals constitutes at least 30% of the establishment's gross income, pursuant to chapter 10 of the municipal code.

2. TAVERN OR NIGHTCLUB

An establishment that is not a restaurant and that is primarily engaged in the serving of alcohol for consumption on the premises or engaged in allowing the smoking of tobacco or other substances.

88-805-04-J. ENTERTAINMENT VENUES AND SPECTATOR SPORTS

Provision of cultural, entertainment, athletic and other events to spectators, such as occurs in theaters, cinemas, auditoriums, fairgrounds, sports stadiums and racetracks. The following are spectator sports and entertainment use types:

1. **SMALL VENUE**

Entertainment and spectator sports establishments with a capacity of no more than 149 persons. Typical uses include small theaters and meeting or banquet halls.

2. **MEDIUM VENUE**

Entertainment and spectator sports establishments with a capacity of more than 149 and fewer than 500 persons. Typical uses include theaters and meeting or banquet halls.

3. **LARGE VENUE**

Entertainment and spectator sports establishments with a capacity of 500 persons or more. Typical uses include large theaters, cinemas and meeting or banquet halls.

4. **OUTDOOR VENUE**

Entertainment and spectator sports functions held outdoors. Typical uses include theaters, fairgrounds, sports stadiums, and racetracks.

88-805-04-K. FINANCIAL SERVICES

Financial or securities brokerage services. Typical uses include banks, savings and loans, credit unions, mortgage companies, pawnshops, and short-term loan establishments.

1. **BANK**

An establishment that is engaged in the business as a bank or trust company, and is federally chartered or state chartered. "Bank" also includes credit unions that are federally or state chartered, and mortgage companies that provide mortgage loans as a principal part of their operation, with the loans secured by an interest in real property as collateral for the loan.

2. **PAWN SHOP**

Businesses that lend money on the security of pledged goods or that is engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. Pawnshops and pawnbrokers are further governed by Chapter 367, RSMo.

3. **SAVINGS AND LOAN ASSOCIATION**

An establishment that is engaged in the business as a savings and loan association and is federally chartered or state chartered.

4. **SHORT-TERM LOAN ESTABLISHMENT**

An establishment which (a) engages in the business of providing money to customers on a temporary basis, wherein such loans are secured by post-dated

check, paycheck or car title, or (b) is registered as a lender under state or federal law. The classification does not include a state or federally chartered bank, savings and loan association, credit union, or mortgage broker or originator. Further, this classification does not include establishments selling consumer goods, including consumables, where the loans or the cashing of checks or money orders are incidental to the main purpose of the business. This classification does include, but is not limited to, check cashing stores, payday loan stores, and car title loan stores.

88-805-04-L. FOOD AND BEVERAGE RETAIL SALES

Retail sale of food and beverages for home consumption. Typical uses include groceries and liquor stores.

88-805-04-M. FUNERAL AND INTERMENT SERVICES

Provision of services involving the care, preparation, or disposition of human dead. The following are funeral and interment services use types:

1. **CEMETERY/COLUMBARIUM/MAUSOLEUM**
Land or facilities used for burial of the dead, including pet cemeteries.
2. **CREMATING**
Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums.
3. **UNDERTAKING**
Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

88-805-04-N. GASOLINE AND FUEL SALES

Uses primarily engaged in retail sales of personal automobile and vehicle fuels, including rapid (level 3) battery charging stations, battery exchange stations and retail electric charging of vehicles.

88-805-04-O. LODGING

Provision of lodging services on a temporary basis of not more than 30 days, with incidental food, drink and other sales and services intended for the convenience of guests. The following are lodging use types:

1. **BED AND BREAKFAST**
A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.
2. **HOTEL/MOTEL**
An establishment, other than a detached house, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels, motels, and boarding houses.

3. RECREATIONAL VEHICLE PARK

A development site, parcel, or tract of land designed, maintained or intended to be used for the purpose of providing short-term accommodation of not more than 30 days for placement of two or more recreational vehicles, including all buildings used or maintained for the use of the occupants in the recreational vehicle park.

88-805-04-P. OFFICE

1. ADMINISTRATIVE, PROFESSIONAL OR GENERAL OFFICE

Professional, governmental, executive, management, or administrative offices of private organizations or government agencies. Typical uses include administrative offices, law offices, architectural firms, insurance companies, and government offices.

2. MEDICAL OFFICE

Personal health services including prevention, diagnosis and treatment; rehabilitation services provided by physicians, dentists, nurses, and other health personnel; and medical testing and analysis services, including medical marijuana testing facilities. Typical uses include medical and dental offices, health maintenance organizations, blood banks, plasma centers, and government-operated health centers. Excludes use types more specifically classified, such as hospitals.

88-805-04-Q. PARKING, NON-ACCESSORY

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.

88-805-04-R. PERSONAL IMPROVEMENT SERVICE

Informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include hair salons, barber shops, beauty shops, nail salons, health clubs, yoga or dance studios, driving schools and martial arts studios.

88-805-04-S. REPAIR OR LAUNDRY SERVICE, CONSUMER

Provision of repair, dry cleaning, or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), hand laundries, appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

88-805-04-T. RESEARCH SERVICE

An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution, or sale of products. Research services do not produce odors, dust, vibration, noise, or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as "manufacturing, production, and industrial services."

88-805-04-U. RESIDENTIAL SUPPORT SERVICES

Commercial uses provided primarily to serve the needs of residents in large, multi-unit residential buildings. The following are considered residential support services:

1. Restaurants;
2. Financial services, except pawnshops, consumer loan agencies, and payday loan stores;
3. Food and beverage retail sales;
4. Medical office (other than blood/plasma center);
5. Administrative, Professional, or General Offices;
6. Personal improvement service; and
7. Retail sales establishments.

88-805-04-V. RETAIL SALES

Businesses involved in the sale, lease, or rent of new or used products or merchandise to consumers. Typical uses include drug stores, grocery stores, department stores, and apparel stores. Also includes medical marijuana dispensary facilities.

1. OUTDOOR RETAIL SALES - CLASS A

Outdoor retail sales - class A are permanent uses outside of a completely enclosed building or structure used to display goods for sale to the general public as part of and subordinate to retail sales or similar business establishment. This includes but is not limited to garden supplies, building supplies, and plant materials.

2. OUTDOOR RETAIL SALES - CLASS B

Outdoor retail sales - class B are permanent uses where the majority of the retail space is outdoors and items are for sale to the general public. This includes but is not limited to garden nurseries, manufactured home sales, and recreational and play equipment sales.

88-805-04-W. SPORTS AND RECREATION, PARTICIPANT

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). Examples include bowling alleys, skating rinks, billiard parlors, driving ranges and miniature golf courses, shooting and archery ranges, batting cages, and go-cart tracks.

88-805-04-X. VEHICLE SALES AND SERVICE

Sales of motor vehicles or services related to motor vehicles. The following are vehicle sales and service use types:

1. **CAR WASH/CLEANING SERVICE**

A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.

2. **HEAVY EQUIPMENT SALES/RENTALS**

Sale, retail or wholesale and/or rental from the premises of heavy construction equipment, trucks and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.

3. **LIGHT EQUIPMENT SALES/RENTALS**

Sale, retail, wholesale, or rental from the premises of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, recreational vehicles and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicle sales and rental agencies.

4. **MOTOR VEHICLE REPAIR, LIMITED**

- a. A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services.
- b. Also included vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

5. **MOTOR VEHICLE REPAIR, GENERAL**

Any vehicle repair activity other than "minor vehicle repair." Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

6. **VEHICLE STORAGE AND TOWING**

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services; private tow lots; impound yards; parking station for buses; and fleet storage yards. Includes the use of a site for temporary storage of motor vehicles to be sold, rented, salvaged, dismantled, or repaired for a period of not more than 15 days.

Section 2. That the Council finds and declares that before taking any action on the proposed amendment hereinabove, all public notices and hearings required by law have been given and had.

I hereby certify that as required by Chapter 88, Code of Ordinances, the foregoing ordinance was duly advertised and public hearings were held.

Secretary, City Plan Commission

Approved as to form:

Sarah Baxter
Senior Associate City Attorney