

RESOLUTION NO. 1235

A RESOLUTION PROVIDING FOR THE SUSPENSION OF CERTAIN TYPES OF IMPROVEMENTS ON ANY LANDS WITHIN THE UNINCORPORATED AREA OF ATCHISON COUNTY; AND DIRECTING THAT REGULATIONS FOR ATCHISON COUNTY BE DEVELOPED THAT WILL PROVIDE AN IMPROVED METHOD OF MANAGEMENT OF RURAL DEVELOPMENT.

WHEREAS, Atchison County's current regulations and codes do not provide an adequate means of managing sexually oriented businesses that either exist or are proposed for development in the unincorporated areas of the County; and,

WHEREAS, Kansas statutes authorize counties to establish regulations and codes to address their local development concerns and needs; and,

WHEREAS, the Board of County Commissioners, recognizing that a need exists to develop and adopt regulations and/or codes for Atchison County, has directed that new regulations and/or codes be developed in conformance with the state statutes and in a manner that best fits the needs of Atchison County; and,

WHEREAS, the time necessary to complete this task could result in an influx of new sexually oriented businesses that may not be in the best interests of Atchison County; that could be detrimental to the health, safety and general welfare of the citizens of Atchison County; and, that might be inspired to occur only in an attempt to become established before any new land regulations and/or codes are adopted which might limit, restrict or prohibit said development;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS, THAT:

1. New construction of buildings and/or the conversion of existing buildings for the purposes of establishing a sexually oriented business within the unincorporated portion of Atchison County, Kansas, is hereby ordered suspended for the reasons cited herein and for the length of time stated herein.
2. All Atchison County officials, agencies, agents and/or boards charged with the responsibility to approve, license, permit, or otherwise administratively authorize the establishment of a sexually oriented business under any law, regulation or administrative duty are hereby directed to suspend the granting of such approval, licenses, permits or authorization for the period stated herein.
3. All other public and utility officials, agencies, agents and/or boards charged with the responsibility to approve, license, permit, or otherwise administratively authorize the establishment of services to a business engaged in a sexually oriented business, and whom

are authorized to conduct business and provide services within the unincorporated portion of Atchison County shall suspend the granting of such approval, licenses, permits or administrative authorization for the period stated herein.

4. No sexually oriented business shall be deemed to have become established for the purposes of granting such use a classification of nonconforming use under any regulations for Atchison County unless such land use was established and legally operating prior to the effective date of this resolution and remained fully in compliance with all other federal, state and/or local rules, regulations and laws.
5. For the purposes of this resolution, the term sexually oriented business shall be as defined by K.S.A. 12-770 and all other terms defined in said statute shall have like application for the purposes of this resolution.
6. The Atchison County Counselor is directed to pursue the development of appropriate regulations and/or codes with due diligence; addressing the specific need of providing a method of managing the development of sexually oriented businesses within Atchison County.
7. The Atchison County Sheriff is hereby directed to be the administrator of the provisions of this resolution. Any administrative interpretation as to the applicability of any provision of this resolution shall be made by the Atchison County Sheriff.
8. Any person aggrieved by a decision of the administrator of this resolution shall have the right to appeal such decision to the Board of County Commissioners. The Board of County Commissioners, after calling for a public hearing on such request in the same manner required for adoption of the county budget, may uphold, overturn or modify the decision made by the administrator. Decisions of the Board of County Commissioners shall be subject to appeal to District Court in the manner provided by K.S.A. 12-760.
9. Each section of this resolution is hereby declared to be independent of every other section, so far as inducement for the passage of this Resolution is concerned. If any section of this resolution shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction the same shall not effect the validity of this resolution as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.
10. This resolution shall be in effect from its adoption and publication once in the official county newspaper until April 15, 2004.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Atchison
County, Kansas, this 4th day of February, 2004.

, Chairman *Floyd Oswald*

, Commissioner *Michael Conway*

George Ross

, Commissioner

ATTEST:

Pauline M. Lee
, County Clerk