

RESOLUTION NO. 1238

A RESOLUTION PROVIDING FOR
THE ADOPTION OF THE ATCHISON COUNTY
ADULT ENTERTAINMENT CODE

WHEREAS, the Board of County Commissioners of Atchison County, Kansas, finds that for adequate and reasonable control over the conditions in unincorporated areas of the County of Atchison are necessary; and

WHEREAS, the Atchison County Adult Entertainment Code is modeled after codes of a similar type in Kansas and structured under the auspices of the Board of County Commissioners of Atchison County, Kansas; and

WHEREAS, the adoption of said code is necessary for the well being, comfort and safety of the inhabitants of Atchison County; and,

WHEREAS, the purposes of said code is to prescribe the procedures to be followed in administering said Code and any amendments thereto; to prescribe rules and regulations; and for the further purpose of regulating development, in order that the public health and welfare will be protected; and

WHEREAS, it is necessary to establish administrative procedures to facilitate fair and equitable regulations while at the same time recognizing the rights of affected persons to receive reasonable and prompt processing of applications and to appeal administrative decisions; and,

WHEREAS, notice of a public hearing was published in the official county paper, The Atchison Daily Globe, on April 1, 2004 and a public hearing was held by the Board of County Commissioners on April 9, 2004; and,

WHEREAS, at the close of said public hearing, the Board of County Commissioners voted to approve the adoption of said code as presented.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Atchison County, Kansas, that the Atchison County Adult Entertainment Code dated April 14, 2004, after public hearing to consider the same, is hereby adopted by the Board of County Commissioners.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Atchison County, Kansas, that copies of said Code shall be available for public inspection at the Atchison County Clerk's Office.

BE IT FURTHER RESOLVED, that the fees to be charged in the administration of said code and for the filing of applications for permits and licenses shall be as follows:

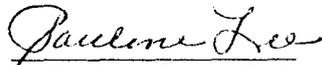
- A. The administrative processing fee for an adult entertainment establishment shall be five hundred dollars (\$500.00), which shall be paid at the time of application.
- B. On site inspection fees for a new or renewal license shall be fifty dollars (\$50.00) per departmental inspection. Such fees shall be paid directly to the reviewing department performing an inspection pursuant to the filing requirements set forth herein.

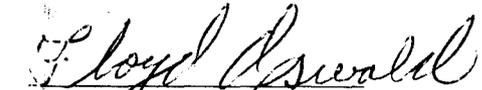
BE IT FURTHER RESOLVED that any violation of any provision of the Adult Entertainment Code shall be deemed to be a misdemeanor and punishable by a fine not to exceed \$500 for each offense, and each day's violation shall constitute a separate offense. It shall be the duty of the county attorney to prosecute any person who shall violate any provision as given forth in the Atchison County Adult Entertainment Code.

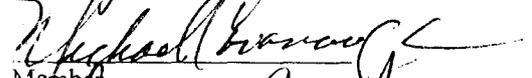
BE IT FURTHER RESOLVED that the Atchison County Adult Entertainment Code shall take effect April 14, 2004.

APPROVED April 14, 2004, by the Board of County Commissioners of Atchison County, Kansas.

ATTESTED:


Pauline Lee, County Clerk


Chairman


Member


Member

At Cty/Resolution no 1238

DALLAS, TEXAS

April 29, 1997

The City of Dallas, Texas commissioned a study to determine the impact of sexually oriented businesses upon property values in the surrounding neighborhoods. The study found both an actual and a perceived depression of property values and an increase in crime rates. This caused not only an absolute depression in property values, but created additional losses for the property owner due to longer times on the market before a sale could be consummated. The study found that the higher the concentration of these businesses in a given area, the greater the depressive effect.

The study found that for commercial properties, sexually oriented businesses created surrounding dead zones, due to other businesses wishing to be associated with the sexually oriented businesses, and adults desiring to stay away from the proximity of these businesses for routine commerce, and taking extra efforts to avoid these areas when accompanied by children. The public perception is that these are not only businesses, but also areas of commerce to avoid with women and children.

A second major factor adversely affecting the area in which sexually oriented businesses are located is the type of people attracted by these businesses and the late night/early morning hours of operation. The late parking lot disturbances and noise are an additional detractor to other business. A significant increase in both sex crimes and criminal activity generally was noted to be associated with sexually oriented businesses.

The market psychology effect described above was confirmed by sampling the opinion of real estate brokers and property appraisers. Investors and lenders indicated a lack of willingness to loan into an area containing sexually oriented businesses. The single-family homes in these areas lost their owner occupied status, and tended to become used as rental properties. This tended not to be the best use of the properties, but rather the economic reality of being unable to sell these properties.

ADAMS COUNTY, COLORADO

June 20, 1991

The Adams County Sheriff's department set out to evaluate the potential correlation between nude entertainment establishments and the attraction of transients to the area, the potential correlation between nude entertainment establishments and any increase in crime and noise incidents and the potential correlation between nude entertainment establishments and the increased safety hazard to neighborhood children and other residents. The method used for this evaluation was to compare the relevant statistics for the same area during times when nude entertainment establishments were not in operation in the county to later times when they were in operation.

A comparison of the historical records from incident reports in the sample area compared to the observations made contemporaneously indicated that for the sample period, 76% of the patrons of the nude entertainment establishments were transients. An analysis of the type of crimes committed, the times of commission compared to the business hours of the nude entertainment establishments and the location of crimes committed showed that the nude entertainment establishments were an attractant to a criminal element that did not seem to be a part of the population of the general citizenry of Adams County. Crimes of violence, alcohol related crimes, sex crimes and morals crimes predominated in the tabulations. Criminal history checks of the persons arrested showed a high frequency of arrestees with past records for sex and morals crimes.

The passage of an ordinance restricting nude entertainment establishments greatly reduced the number of nude entertainment establishments operating in the county. Several changed the type of business conducted on the premises, and others face regulatory action. At the time of the study it was not possible to definitively determine the impact the ordinance may have had on the incidence of crime in the county.

AMARILLO, TEXAS
September 12, 1977

This Planning Department report cited several sources including national news magazines, "adult business" ordinances from other cities, an American Society of Planning Officials report and pertinent Supreme Court decisions. Lengthy explanation of the Miller test with legal definitions, discussion of *Young v. American Mini Theatres*, and a comparison of the Boston and Detroit zoning models are included. The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. (At the time, Amarillo had three such theaters and four bookstores with space for such publications).

The police department provided an analysis showing that areas of concentrated "adult only" businesses had two and one-half times the street crime as the city average. The Planning Department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by: (1) noise, lighting and traffic during late night hours; (2) increased opportunity for street crimes; and (3) the tendency of citizens to avoid such business areas. The study noted that lack of zoning regulations would lead to concentrations of sexually oriented businesses (causing increased crime) or more such establishments locating near residential areas or family and juvenile oriented activity sites (churches, parks, etc.).

The report recommended: (1) adult businesses locate 1,000 feet from each other, (no distance was specified from residential zones or family/juvenile activities); (2) city development of an amortization schedule and permit/licensing mechanism; (3) city regulation of signs and similar forms of advertising; (4) vigorous enforcement of State Penal Code, especially relating to "Harmful to Minors"; (5) city amendments prohibiting minors from viewing or purchasing sexually oriented materials (enforced physical barriers).

PHOENIX, ARIZONA

May 25, 1979

The study examined crime statistics for 1978, comparing areas which have sexually oriented businesses with those that do not.

The results show a marked increase in sex offenses in neighborhoods with sexually oriented businesses, and increases in property and violent crimes as well.

Three study areas (near locations of sexually oriented businesses) and three control areas (with no sexually oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and non-residential purposes.

Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

On average, the number of sex offenses was 506 percent greater in neighborhoods where sexually oriented businesses were located. In one of the neighborhoods the number was 1,000 percent above the corresponding control area. Of the sex offenses, indecent exposure was the most common offense and the largest contributor to the increase of crimes in areas where sexually oriented businesses were located. Even without considering the crime of indecent exposure the number of other sex crimes, such as rape, lewd and lascivious behavior, and child molestation, was 132 percent greater than in control areas without sexually oriented businesses.

On average, the number of property crimes was 43 percent greater in neighborhoods where sexually oriented businesses were located, and the number of violent crimes was 4 percent higher in those areas.

The Phoenix ordinance requires sexually oriented businesses to locate at least 1,000 feet from other sexually oriented businesses and 500 feet from schools or residential zones. Approval by the City Council and area residents can waive the 500 foot requirement.

A petition signed by 51 percent of the residents in the 500 foot radius who do not object must be filed and be verified by the Planning Director.

AUSTIN, TEXAS

May 19, 1986

The report was the basis for developing an amendment to existing sexually oriented business ordinances. At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars. The study examined crime rates, property values and trade area characteristics. The study is also useful because it summarizes many other city studies.

The report focused on sexually related crimes in four study areas (with sexually oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or lending firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

Sexually related crime ranged from 177 to 482 percent higher in the four study areas than the city average. In the two study areas containing two sexually oriented businesses, the rate was 66 percent higher than in the study areas with one such business. All control areas had crime rates near the city average.

Eighty-eight percent said that a sexually oriented business within one block of a residential area decreases the value of the homes (33 percent said depreciation would be at least 20 percent). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90 to 95 percent financing most home buyers require. They said commercial property is also negatively affected by such businesses.

Of 81 license plates traced for owner addresses, only three lived within one mile of the sexually oriented business; 44 percent were from outside Austin.

The report recommended: (1) sexually oriented businesses should be limited to highway or regionally-oriented zone districts; (2) businesses should be dispersed to avoid concentration; and (3) conditional use permits should be required for these businesses.

GARDEN GROVE, CALIFORNIA

September 12, 1991

This report by independent consultants summarized statistics to determine whether adult businesses should be regulated because of their impact on crime, property values and quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents. Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results. The report included a brief legal history of adult business regulation and an extensive appendix with sample materials and a proposed statute.

Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses (termed "Part I" crimes: homicide, rape, robbery, assault, burglary, theft and auto theft). On Garden Grove Boulevard, the adult businesses accounted for 36 percent of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300 percent the next year.

Overwhelmingly, respondents said that an adult business within 200-500 feet of a residential and commercial property depreciates that property value. The greatest impact was on single family homes. The chief factor cited for the depreciation was the increased crime associated with adult businesses.

Phone calls were made in a random sample of households in the Garden Grove Boulevard vicinity. The public consensus was that adult businesses in that area were a serious problem. Nearly 25 percent of the surveyed individuals lived within 1,000 feet of an adult business. More than 21 percent cited specific personal experiences of problems relating to these businesses, including crime, noise, litter and general quality of life. Eighty percent said they would want to move if an adult business opened in their neighborhood, with 60 percent saying they "would move" or "probably would move." Eighty-five percent supported city regulation of the locations of adult businesses, with 78 percent strongly advocating the prohibition of adult businesses within 500 feet of a residential area, school or church. Women commonly expressed fear for themselves and their children because of adult businesses.

The report concluded that adult businesses have a "real impact" on everyday life through harmful secondary effects and made four recommendations: (1) keep current requirement of 1,000 feet separation between adult businesses; (2) prohibit adult establishments within 1,000 feet of residential areas; (3) enact a system of conditional use permits for adult businesses with police department involvement in every aspect of the process; and (4) prohibit bars or taverns within 1,000 feet of an adult business.

TUSCON, ARIZONA**May 1, 1990**

The Tucson police department used undercover investigative work to verify complaints concerning activities at sexually oriented businesses. The investigative officers found illegal sexual activity and unsanitary conditions hazardous to the public health. Open, public sex acts of wide variety were observed between customer and prostitutes, customer and entertainer, and between customers. Underage female dancers were found to be working in several of the businesses offering nude dancing, and these all were found to have falsified identification.

The county health department conducted its own independent investigations, and also found evidence of illegal and anonymous sex acts occurring in the booths of adult bookstores and viewing rooms of nude dancing businesses. The anonymity of these acts were noted as being of particular concern to the health officials, as the possibility of tracking disease carriers would be thwarted by this practice. Deposits of semen were noted in the booths and elsewhere in the buildings.

The Tucson City Council chose to address these problems by imposing regulations on the businesses that would increase the ability to observe the actions of the patrons and increase sanitation control.