

City of Scottsbluff, Nebraska

Monday, May 9, 2016

Regular Meeting

Item NewBiz5

Proposed Ordinance: Sexually Oriented Businesses

Applicant(s): N/A

Owner(s): N/A

Location: N/A

Staff Contact: Annie Folck

Background on sexually oriented business SOB

It is important to keep in mind possible creation of this ordinance is a proactive action. There are no proposals before us or rumor of any pending. However numerous proposals have been advanced in the eastern part of the State.

City Council members have suggested we look at developing a SOB ordinance and or licensing to regulate these types of business.

They take many forms:

1. adult arcade
2. book/video store
3. cabaret
4. adult motel
5. motion picture theater
6. live theater
7. model studio
8. encounter center
9. escort agency
10. others

There is a series of steps to follow when laying the groundwork for such ordinances or licensing in order to assure they stand up if challenged in court.

STEP ONE

The first step is to include the community to help determine the variety of impacts that may accompany these establishments. These impacts may include deleterious effect on adjacent business or residential neighborhoods, objectionable characteristics if similar establishments are located in proximity, contribution to urban blight or downgrading the quality of life in the adjacent area, increase crime in proximity to these establishments, health problems, distribution of obscene materials, downgrading the quality of life, transmittal of disease, urban blight, declining property values and others.

However it is critically important to protect First Amendment rights.

The purpose of this hearing is to listen to and compile a list of perceived impacts. The Planning Commission is welcome to contribute.

STEP TWO

Understanding the community's view as to what the potential impacts (secondary impacts) might be, research must be done in an effort to quantify or prove that such impacts really exist and exist in our community. From a legal perspective this may be accomplished by citing studies that other communities have completed. While we could do our own study there are numerous quality examples for similar size cities. We can use these to address our own unique list of possible impacts identified in step one. This information will be brought before the Planning Commission upon completion of step one.

STEP THREE

An ordinance is drafted to address findings in the studies where such things as separation of like establishments is defined, distance from institutional uses, appropriate zoning districts, building characteristics, setbacks and other standards are set. All based on our community standards.

Licensing may be added to zoning regulation in a different section where the interior characteristics of the building may be defined such as no private areas, distances between customer and employee as well as such things as background checks of all employees.

Both controls may be included in our regulatory compliment of control. My recommendation is to use both in tandem.