

A Clean-Up, Not a Burial

The city can have the last word on sexually oriented businesses.

BY [STEVE MULROY](#) | SEPTEMBER 20, 2007

In an 11-0 vote, the Shelby County Commission recently passed an ordinance regulating "sexually oriented businesses" (the aptly named S.O.B.s). While most will say it's about time, civil libertarians might worry about a New Puritanism. Fear not: This is not some Moral Majority crusade to Disney-fy Memphis but a relatively moderate regulation to weed the industry of a few bad apples.

Secondary effects: Throughout the County Commission's discussion of this ordinance, I stressed that it is not our place to shut down all adult businesses based on our moral disapproval. Instead, we must regulate such businesses to narrowly target what the courts call their "secondary effects" — increasing crime and decreasing property values in surrounding areas.

We know such secondary effects are here in Memphis, as evidenced by the studies prepared and compiled by the national experts we hired.

Background checks: The new ordinance is provided under state law as a model for counties to adopt. It says adult-business owners and employees must get an operating license. The license will involve a background check to ensure that within recent years they haven't committed certain crimes associated with S.O.B.s — prostitution, public indecency, rape, exploitation of minors, etc. If an owner or employee commits such a crime, their license is revoked for five years.

County consultant Eric Kelly, an Austin, Texas-based national expert on these issues, has worked on similar ordinances throughout the country. He's told us that in cities with such laws, most S.O.B.s continue to operate but in compliance with the law. Businesses that base their profits on prostitution and other illegal activities fall by the wayside. The intent here is not to ban all S.O.B.s but to make them behave themselves.

That's not to say the ordinance is perfect. A few doubts nag.

Alcohol: First, the model ordinance bans alcohol at S.O.B.s. Not even "brown bagging" is allowed. Reasonable people can disagree about the wisdom of this provision, but my vote was influenced by some practical and legal realities.

All S.O.B.s in Shelby County are in the city of Memphis. Once the county adopted the state-supplied model S.O.B. ordinance, it applies, by default, inside Memphis, unless the city adopts its own new law. If the county removed the liquor ban or changed any other part of the model law, it could not apply inside Memphis, making our action almost meaningless.

At the same time, my consultations with City Council members made me think it likely the city would adopt its own ordinance, likely one without the liquor ban. In such a case, the county's ordinance could serve as a useful "backstop" to the city's. That is, S.O.B. operators mulling a court challenge to the city ordinance

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