

CITY USING NEW RULES TO INSPECT STRIP CLUBS - Columbus Dispatch, The (OH) - September 4, 2001 - page 01A

September 4, 2001 | Columbus Dispatch, The (OH) | Mark Ferenchik and Jim Weiker Dispatch Staff Reporters | Page 01A

Spurred by complaints from residents, Columbus plans to investigate strip clubs for violations of its new restrictions on adult entertainment.

The city is working on "kind of a one-time sweep" of the city's clubs within the next month or so, although a sweep wouldn't be done in a day, said a City Hall source.

And city officials plan to use the new regulations against existing strip clubs, despite the objections of club owners and their attorneys, who argue that the new law -- approved July 30 by the City Council -- should apply only to new clubs.

"We've been getting increased complaints," said Development Director Mark Barbash, who has received about six phone calls and a dozen letters since the new legislation was approved.

"Now that we have the new law, we need to use (it) effectively."

Assistant City Attorney Deborah Hoffman said that of the more than a dozen clubs inside city limits, she knows of only one -- Pure Platinum at 2880 Bethel Rd. -- that was zoned properly for adult entertainment under the previous law.

City officials reason that clubs that were in violation of the old law are subject to citations under the new law.

The new code requires clubs to be within areas zoned for manufacturing and at least one-half mile from any church, home, hospital, library, park, playground, school or other adult business.

The old law said strip clubs couldn't be within 500 feet of a residential area without the approval of at least 50 percent of those living or owning property within that area.

Jeffrey M. Lewis, a lawyer who has represented people on constitutional issues involving zoning, said the city could run into problems if it tries to use the new law against the older clubs.

The clubs, Lewis said, could argue that the city's inaction allowed them to offer adult entertainment for years, but now the city wants to change the rules in an effort to shut them down. And Lewis said some of the old codes were not clear.

"You have to have a clear delineation between what is legal and not legal," he said.

Assistant City Attorney Daniel W. Drake said that, in general, new zoning restrictions cannot be

imposed on properties that have been existing legally.

However, "If they are operating illegally, they are not a conforming use and would be subject to the new ordinance," he said.

One reason the city changed the code is because a number of businesses have been zoned as bars or restaurants, then added adult entertainment. If city inspectors deem such a business to be offering adult entertainment, they could try to use all of the provisions of the new code against them.

"You would have to look at each individual site," Drake said.

He said local zoning attorneys have not challenged the city on how the new ordinance will be applied.

City code-enforcement manager John Rosenberry said the city wants to provide "consistent and fair enforcement."

Some neighborhood groups just want the clubs out.

Northland Community Council President Jeff Murray said seven adult clubs are within his group's boundaries.

"When Sirens (on Cleveland Ave.) came in, adult entertainment became a big issue in Northland again," said Murray, a real-estate agent.

But he said there's no avalanche of complaints against them.

"I don't know if people get used to them being there," Murray said.

Residents on the East Side have begun lobbying the city to get rid of adult businesses along E. Main Street, such as Mirage and the Bare Facts strip clubs.

"I'm definitely pleased the city is starting to crack down on these places," said Gale Worthington, who lives near the clubs and has asked the city to look at the condition of businesses along E. Main.

"I'm hoping they will upgrade the standards of the businesses along there. This isn't to put people out of business, but to improve the area."

Lewis, the lawyer who sees problems ahead for the new law, said that if he were pursuing the case for the city he'd go after the weaker clubs first.

"The ones not able to withstand a six-figure legal fee and three years in the court system," Lewis said.

"I think they will shut some down."

Barbash acknowledged that he anticipates a fight down the road.

"Obviously, these issues tend to be very litigious," Barbash said.

Lewis believes that strip clubs would best be able to win cases in federal court, which they've done in U.S. District Court in northern Ohio.

One reason is federal judges, with their lifetime appointments, would feel less political pressure to rule against clubs.

Some club owners are gearing for a fight.

"It's unconstitutional, and they'll get . . . whipped in court," said Wayne Dennis, who owns Dock Side Girls on Rt. 161.

But Dennis, like other club operators, isn't interested in doing battle with the city. He's trying another approach: cleaning up the club.

He built a privacy fence in the back yard, separating his club from an apartment complex. He has ordered a metal detector and plans to bring drug dogs into the club for random searches.

"We're trying to be optimistic," he said. "We'd like to think the city would take a reasonable look at this."

mferenchik@dispatch.com

jweiker@dispatch.com

CITATION (APA STYLE)

Ferenchik and Jim Weiker, M. (2001, September 4). CITY USING NEW RULES TO INSPECT STRIP CLUBS. *Columbus Dispatch, The (OH)*, p. 01A. Available from NewsBank: America's News: <https://infoweb-newsbank-com.ref.ualibrary.org/apps/news/document-view?p=NewsBank&docref=news/10DD3C6679ACB1B8>.

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