

No. 2013 -01

Town of Wescott Ordinance Prohibiting Live Totally Nude Dancing in Establishments Licensed to Sell Alcohol Beverages

Whereas, The Town Board of the Town of Wescott has express authority under section 125.10(1) of the Wisconsin Statutes to adopt regulations governing the sale of alcohol beverages which are in addition to the regulations set forth in Chapter 125 of the Wisconsin Statutes; and

Whereas, the Town Board has authority under its general police powers to act for the good order of the Town and for the public health, safety and general welfare and may carry out its authority by regulation; and

Whereas, the Town Board does not intend by adopting this Ordinance to regulate obscenity, but declares its intent to enact this Ordinance to address the secondary effects of live, totally nude, non-obscene erotic dancing in bars and taverns; and

Whereas, bars and taverns featuring live totally nude erotic dancing have in other communities tended to further the increase of criminal and other offensive activity; to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities, and to negatively affect the quality of life of the communities, and such secondary effects are detrimental to the public health, safety and general welfare; and

Whereas, the Town Board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the Town Board further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and

Whereas, however, the Town Board is aware, based on studies and the experiences of other communities, that bars and taverns in which live, totally nude erotic dancing occurs may, and do, generate secondary effects which the Town Board believes are detrimental to the public health, safety and welfare of the citizens of the Town of Wescott; and

Whereas, among the secondary effects are: (a) the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses; (b) the potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist, (c) health risks associated with the spread of sexually transmitted diseases; and (d) the potential for infiltration by organized crime for the purpose of unlawful conduct; and

Whereas, the Town Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety, and general welfare of the citizens of the

Town of Wescott, protect the citizens from increased crime, preserve the quality of life; preserve the property values and character surrounding neighborhoods; and deter the spread of urban blight, and

Whereas, the Town Board has determined that enactment of an ordinance prohibiting live, totally nude, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity,

Now, therefore, The Town Board of the Town of Wescott does ordain as follows:

SECTION 1. NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED.

It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition in public view on the premises of a licensed establishment which:

- (a) Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or
- (b) Shows any portion of the female breast below any point immediately above the top or the areola; or
- (c) Shows the covered male genitals in a discernibly turgid state.

SECTION 2. EXEMPTIONS.

The provisions of this ordinance do not apply to live dance, ballet, music and dramatic performances of serious artistic merit and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the performance is not distinguished by an emphasis on, or the advertising or promotion of, nude erotic dancing.

SECTION 3. DEFINITIONS.

For purposes of this ordinance, the term "licensed establishment" means any establishment licensed by the Town Board of the Town of Wescott to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of retail "Class A" "Class B", Class "B", "Class "A", or "Class C" license granted by the Town Board of the Town of Wescott pursuant to Ch. 125, Wis. Stats.

SECTION 4. PENALTIES.

Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$200.00 and not more than \$1,000.00 per violation. A separate offense and violation shall be deemed committed on each day which a violation occurs or continues. In addition, violation of this ordinance constitutes grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

SECTION 5. SEVERABILITY.

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

SECTION 6. EFFECTIVE DATE.

This ordinance shall be effective upon publication or posting by the town clerk as required, pursuant to s. 60.80, Wis. Stat.

Adopted this 9th day of May 2013.

By the Town Board of the Town of Wescott, Shawano County, Wisconsin.

Michel Schuler, Chairman

Attest:

Angela Vreeke, Clerk

Posted on May 21, 2013
at: Town Hall
Town Office
Town Fire Station