

TOWN OF ELBA

ORDINANCE NO. 2003-12-15

ORDINANCE RELATING TO NUDE DANCING AND OTHER NUDE ENTERTAINMENT

WHEREAS, towns have explicit authority under Sec. 125.10(1) Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.;

WHEREAS, the Town Board has authority under its general police powers set forth in Sec. 60.22, Wis. Stats., to act for the good order of the Town and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

WHEREAS, bars and taverns featuring live nude dancing or other nude entertainment 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 safety and general welfare of citizens; and

WHEREAS, the Town Board recognizes the U. S. Supreme Court has held that nude dancing is expressive conduct within outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the 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 the experiences of other communities, that bars and taverns in which live nude dancing or other nude entertainment occur may and do generate secondary effects which the Board believes are detrimental to the public health, safety and welfare of the citizens of the Town; and

WHEREAS, among these 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 live nude dancing or other nude entertainment 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; protect the citizens from increased crime; preserve the quality of life; preserve the property value and character of surrounding neighborhoods; and deter the spread of blight; and

WHEREAS, the Town Board has determined that enactment of an ordinance prohibiting live nude dancing or other nude entertainment 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 Elba, Dodge County, Wisconsin ordains as

follows:

Section 1. It is unlawful for any person to perform or engage in, or any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in live nude dancing or other nude entertainment on the premises of a licensed establishment.

Section 2. The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis 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 establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude dancing or other nude entertainment.

Section 3. For purposes of this ordinance:

a. Nude dancing or other nude entertainment means any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

1. Shows genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or

2. Shows any portion of the female breast below a point immediately above the top of the areola; or

3. Shows the covered male genitals in a discernibly turgid state.

b. For purposes of this ordinance licensed establishment means any establishment licensed by the Town to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

c. For purposes of this ordinance licensee means the holder of a retail "Class A", "Class B", or "Class C" license granted by the Town pursuant to Ch. 125, Wis. Stats.

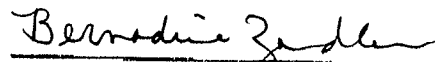
Section 4. Any person, partnership, limited liability company or corporation who violates any provision will be subject to a forfeiture in an amount that is determined from time to time by the Town Board. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

Section 5. This ordinance shall take effect and be in force from and after its passage and publication.

Adopted:


Daniel Groh, Town Chair

Attest:



Bernadine Zandler, Clerk

12-15-03