

Article I
Nude Dancing in Licensed Establishments

[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 9-1 Findings.

- A. The Town Board of the Town of Cleveland has explicit authority under § 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.
- B. The Town Board was granted the authority to exercise village powers under § 60.22(3), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public, and may carry out its powers by regulation and suppression.
- C. The Town Board recognizes it lacks authority to regulate obscenity in light of § 66.0107(3), Wis. Stats., and does not intend by adopting this article to regulate obscenity. Since nudity in and of itself is not obscene, the Town Board declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars and taverns.
- D. Bars and taverns featuring live, totally nude, nonobscene, 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 of citizens.
- E. The Town Board recognizes that the U.S. Supreme Court has held the nude dancing is expressive conduct within the outer perimeters of the First Amendment of the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body 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.
- F. However, the governing body is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, nonobscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Town of Cleveland. Among these secondary effects are:
 - (1) The potential increase in prostitution and other sex-related offenses as well as other crimes and offenses;

- (2) The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
 - (3) Health risks associated with the spread of sexually transmitted diseases; and
 - (4) The potential for infiltration by organized crime for the purpose of unlawful conduct.
- G. The governing body 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 Cleveland, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread of urban blight.
- H. The governing body has determined that enactment of an ordinance prohibiting live, totally nude, nonobscene, 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.

§ 9-2 Prohibited acts.

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 on the premises of a licensed establishment which:

- A. Shows his or her genitals, pubic area, vulva or anus with less than a fully opaque covering;
or
- B. Shows the covered male genitals in a discernibly turgid state.

§ 9-3 Exemptions.

The provisions of this article 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 erotic dancing.

§ 9-4 Definitions.

For purposes of this article, the following terms shall have the meanings indicated:

LICENSED ESTABLISHMENT

Any establishment licensed by the Town Board of the Town of Cleveland to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

LICENSEE

The holder of a retail "Class A," "Class B," Class "B," Class "A" or "Class C" license granted by the Town Board of the Town of Cleveland pursuant to Ch. 125, Wis. Stats.

§ 9-5 Violations and penalties.

Any person, partnership, or corporation who or which violates any of the provisions of this article shall be subject to a penalty as provided in § 1-4 of this Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this article constitutes sufficient grounds for suspending, revoking or nonrenewing an alcohol beverage license under § 125.12, Wis. Stats.