

TOWN OF HARMONY

CHAPTER 7 OF THE MUNICIPAL CODE OF THE TOWN OF HARMONY, WISCONSIN

NUDE DANCING

SECTION 1: AUTHORITY AND PURPOSE

The Town Board makes the following findings:

- (1) The Town Board has the following authority under the Wisconsin Statutes:
 - (A) To regulate the sale of alcohol beverages under Section 125.10(1);
 - (B) To exercise powers of a village board under Section 60.22(3);
 - (C) To exercise its general police powers set forth in Section 61.34(1); and
 - (D) Under Section 60.23(10), to regulate and license bowling centers, dance halls, road houses, other places of amusement, billiard and pool tables, and amusement devices maintained in commercial facilities.
- (2) In light of Section 66.051(3), the Town Board lacks authority to regulate obscenity and does not intend to do so in this Chapter, since nudity is not in and of itself obscene.
- (3) The Town Board recognizes that the United States Supreme Court has held that nude dancing is within the outer perimeters of the First Amendment to the United States Constitution and is therefore entitled to some limited protection under the First Amendment. Furthermore, the Town Board 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.
- (4) Nonetheless, the Town Board does desire and intend in this Chapter to address the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns. The Town Board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing is featured or otherwise occurs have tended to generate the following secondary effects, which are detrimental to the public health, safety, and general welfare of citizens:
 - (A) Furtherance of increases in criminal and other offensive activity;
 - (B) Disruption of the peace and order of communities;

- (C) Depreciation of the value of real property;
 - (D) Harm to the economic welfare of the communities; and
 - (E) Negative impacts on the quality of life of the communities.
- (5) Based on the experiences of other communities, the Town Board is further aware that bars and taverns in which live, totally nude, non-obscene, erotic dancing is featured and otherwise occurs may and do generate secondary effects which the Town Board believes are detrimental to the public health, safety, and general welfare of the citizens of the Town of Harmony. Such secondary effects include, but are not limited to, the following:
- (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 in which nude dancing is featured or otherwise occurs exist;
 - (C) Health risks associated with the spread of sexually transmitted disease; and
 - (D) The potential for infiltration by organized crime for the purpose of unlawful conduct.
- (6) The Town Board desires to minimize, prevent, and control these adverse effects and thereby protect the public health, safety, and general welfare of the citizens of the Town of Harmony; protect the citizens from increased crime; preserve the property values and character of surrounding neighborhoods; deter the spread of urban blight; and preserve the quality of life.
- (7) The Town Board has determined that enactment of this Chapter, prohibiting live, totally nude, non-obscene, 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, and has therefore enacted this Chapter.

SECTION 2: NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED

It shall be 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:

- (1) Shows his or her genitals, pubic area, vulva, anus, anal clef, 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.

SECTION 3: EXEMPTIONS

The provisions of this Chapter 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.

SECTION 4: DEFINITIONS

For purposes of this Chapter, the following terms are defined:

- (1) “Licensed establishment” means any establishment licensed by the Town of Harmony to sell alcohol beverages pursuant to Chapter 125 of the Wisconsin Statutes.
- (2) “Licensee” means the holder of a retail “Class A,” “Class B,” Class “A,” Class “B,” or “Class C” license granted by the Town Board of the Town of Harmony pursuant to Chapter 125 of the Wisconsin Statutes.

SECTION 5: PENALTIES

Any person, partnership, corporation, limited liability company, or other entity which violates any of the provisions of this Chapter shall be subject to a forfeiture of not less than \$100 nor more than \$5000 per violation. A separate offense and violation shall be deemed committed for each day on which a violation occurs or continues. In addition, violation of this Chapter constitutes sufficient grounds for suspending, revoking, or declining to renew an alcohol beverage license under Section 125.12 of the Wisconsin Statutes.

SECTION 6: SEVERABILITY

If any provision of this Chapter is found to be unconstitutional or otherwise invalid, the validity of the remaining provisions shall not be affected.

(Chapter Created by Ordinance 120400)