



Legislation Text

File #: 981588, Version: 2

981588
SUBSTITUTE 2

THE CHAIR

A substitute ordinance relating to prohibited costumes on Class "B" premises.

90-22-0 am

90-22-1 rc

90-22-2 rc

- Analysis -

To bring the city into conformity with recent changes in the interpretation of constitutionally protected expressive conduct resulting from the case of Lounge Management, Ltd. v. Town of Trenton, this ordinance clarifies costume standards for female dancers, performers and entertainers on Class "B" premises. This ordinance also repeals code provisions relating to conduct of a sexual nature on Class "B" premises. Whereas, The Common Council has authority under s. 125.10(1) to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in ch. 125, Wis. Stats, and which are not in conflict with ch. 125; and

Whereas, The Common Council has authority under its general police powers as set forth in s. 4-10 of the city charter and s. 62.11(5), 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; and

Whereas, The Common Council pursuant to its police powers declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and

Whereas, The Common Council recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the First Amendment to the United States Constitution and therefore entitled to protection under the First Amendment; and

Whereas, Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tend to increase 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

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

Whereas, The Common Council desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the City of Milwaukee; 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; and

Whereas, The Common Council has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcoholic beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity; now, therefore,

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 90-22-0 of the code is amended to read:

90-22. Certain ~~[[Conduct]]~~ >>Costumes<< on Class "B" Premises Prohibited.

Part 2. Section 90-22-1 and 2 of the code is repealed and recreated to read:

1. CERTAIN COSTUMES PROHIBITED. No licensee, either personally or through his or her agent or employe, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are employed by the licensee or through his or her agent or not, and no entertainer or employe shall furnish any entertainment or perform any act, stunt or dance unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises.

a. That portion of every costume to be worn by dancers, performers or entertainers covered by this subsection and which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be of nontransparent material.

b. The top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola and the nipple of the breast completely covered at all times.

c. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this section.

d. The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organ and the cleavage of the buttocks at all times.

2. EXEMPTIONS. The provisions of sub. 1 do not apply to the following licensed establishments if these establishments offer live dance, ballet, music or dramatic performances of serious artistic merit on a regular basis and if the predominate 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 establishments are not distinguished by an emphasis on, or the advertising or promotion of, employes engaging in nude erotic dancing:

- a. Theaters.
- b. Performing arts centers.
- c. Civic centers.
- d. Dinner theaters.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

98365-2

lme

6/8/99