

Ordinance No. 01-2011
Ordinance Banning Nude Dancing in Bars

Town of Lincoln, Wood County, ordains as follows:

AN ORDINANCE PROHIBITING LIVE NUDE, EROTIC DANCING IN
ESTABLISHMENTS LICENSED TO SELL ALCOHOL BEVERAGES.

WHEREAS, the Town of Lincoln Board, County of Wood, has explicit authority under sec. 125.10(1), Stats. To adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in chap. 125 Stats. and

WHEREAS, the Town of Lincoln Board, has authority under its general police powers set forth in Stats. Sec. 62.34(1), 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

WHEREAS, the Town of Lincoln Board recognizes it lacks authority to regulate obscenity in light of sec. 66.05(3) Stats., and does not intend by adopting this ordinance to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing secondary efforts of live, nude, erotic dancing in bars and taverns; and

WHEREAS, the Town of Lincoln 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 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; and

WHEREAS, bars and tavern featuring live nude, erotic dancing have in other communities have been established 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 on the communities, and such secondary effects are detrimental to public health, safety and general welfare; and

WHEREAS, among these secondary effect; 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 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 Lincoln, Wood County; 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 governing body has determined that enactment of an ordinance prohibiting live, nude, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling negative secondary effects associated with such activity,

NOW THEREFORE, the Town of Lincoln Board of the County of Wood, Wisconsin do 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 nude live act, demonstration, dance or exhibition on the premises of licensed establishment which: exposes his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or exposes any portion of the female breast at or below the areola; or exposes the covered male genitals in a discernable turgid state; or exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, anal region or pubic hair region; or engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

SECTION 2. EXEMPTIONS. The provision 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 performance of serious artistic merit are offered on regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is tended 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 3. DEFINITIONS. For purposes of this ordinance: A. The term "licensed establishment" means any establishment licensed by the Town of Lincoln Board of the County of Wood, Wisconsin to sell alcohol beverages pursuant to chap. 125, Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Blass "A", or "Class C" license granted by the Town of Lincoln, Wood County, Wisconsin pursuant to Chap. 125, Stats. B. In the context of the ordinance, "nude".

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 \$100, and not more than \$500 per violation. 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, 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 take effect upon passage and publication as required by law.

Adopted on: 2-8-11 Dick Thomas
Chairperson

Posted on: Marshfield News Herald (list 3 posting places)
Town Hall
Telephone Pole - Town Hall

John A. Longeck
Attest: Clerk