

ORIGINAL

WPO270C-ORD
11/19/93

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4602

AN ORDINANCE relating to adult entertainment cabarets,
and amending Bellevue City Code Chapter 5.08.

WHEREAS, the City Council is committed to protecting the general welfare of the City through the enforcement of laws prohibiting obscenity, indecency, and sexual offenses while preserving constitutionally protected forms of expression, and based upon public testimony and other evidence and information before it, the City Council finds that:

- A. Regulation of adult cabarets is necessary because in the absence of such regulation, significant criminal activity has historically and regularly occurred;
- B. Important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place and manner under which adult cabarets operate;
- C. Licensing of adult cabarets is necessary to ensure compliance with locational, zoning, and regulatory requirements for such businesses;
- D. Licensing of entertainers performing in adult cabarets is necessary to prevent the exploitation of minors; to ensure that each such entertainer is an adult; and
- E. Licensing of managers and requiring their presence on the premises during all times when adult entertainment is offered is necessary so that an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers, and other employees, will be available at all necessary times;
- F. The licensing fees required herein are nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the City in regulating adult cabarets;
- G. The provisions of this Ordinance shall not be construed as permitting any use, activity or structure that is otherwise prohibited, illegal or made punishable by law, nor shall it be construed so as to prohibit conduct or expression that are subject to constitutional protection; Now, Therefore,

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THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.08.010 of the Bellevue City Code is hereby amended to read as follows:

- A. "Cabaret" means any room, place or place or space whatsoever in the city in which any music, singing, dancing, or other similar entertainment is permitted in connection with any hotel, restaurant, cafe, club, tavern, eating place, directly selling, serving, or providing the public, with or without charge, food or liquor. The words "music and entertainment" as used herein, shall not apply to radios or mechanical devices.
- B. "Adult Cabaret" means any premises, including any cabaret premises, to which the public, patrons, or members are invited or admitted and where an entertainer provides adult entertainment to any member of the public, a patron or a member.
- C. "Adult Entertainment" means:
 - 1. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals; or
 - 2. Any exhibition, performance or dance conducted in a premises where such exhibition, performance, or dance, is performed within six feet of one or more patrons, and is intended, or likely to, sexually stimulate any patron.
- D. "Employee" means any and all persons, including managers, entertainers, and independent contractors, who work in or at or render any services directly related to the operation of any adult entertainment cabaret.
- E. "Entertainer" means an person who provides adult entertainment within an adult cabaret as defined in this section, whether or not a fee is charged or accepted for entertainment.
- F. "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult cabaret.
- G. "Operator" means any person operating, conducting, or maintaining an adult cabaret.

- H. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.
- I. "Clerk" means such city employees or agents as the City Manager shall designate.
- J. "Liquor" means all beverages defined in RCW 66.04.200.

Section 2. Section 5.08.020 is hereby amended to read as follows:

- A. It is unlawful for any person to conduct, manage or operate a cabaret or for any entertainer to perform in an adult cabaret unless such person is the holder of a valid and subsisting license from the City to do so, obtained in the manner provided in this chapter.
- B. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult cabaret.

Section 3. Section 5.08.030 is hereby amended to read as follows:

5.08.030 License prohibited to certain classes.

No license shall be issued to:

- A. A natural person who has not attained the age of twenty-one years, except that licenses may be issued to persons who have attained the age of eighteen years with respect to cabarets where no intoxicating liquors are served or provided.
- B. A natural person who has been convicted of a crime involving prostitution or promoting prostitution within five years prior to filing his or her application.
- C. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee, or in the case of a manager of an adult cabaret, the manager has obtained a manager's license.
- D. A co-partnership, unless all the members thereof are qualified to obtain a license as provided in this chapter;

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- E. A corporation, unless all the officers and directors thereof are qualified to obtain a license as provided herein. Such license shall be issued to the manager or agent thereof.

Section 4. Section 5.08.040 is hereby amended to read as follows:

Any person desiring any license required under the provisions of this chapter shall file written application with the clerk on forms provided by the clerk for that purpose. All applications shall be signed by the applicant and notarized or certified as true under penalty of perjury. A failure to provide all information required on the form will constitute an incomplete application and will not be processed. The clerk upon presentation of a complete application and before acting upon the same shall refer such application to the police department for a full investigation as to the truth of the statements contained therein, and as to any or all other matters which might tend to aid the clerk in determining whether or not such application should be granted. After the police department has reported back to the clerk the result of such investigation, if the clerk is satisfied that the statements contained in such application are true and that the applicant meets all requirements of this chapter, the clerk shall issue the license applied for; provided, however, that if the clerk is not satisfied that the application should be granted, then the clerk shall deny such license application.

Section 5. Section 5.08.050 is hereby amended to read as follows:

5.08.050 Cabaret license fees.

- A. Any person desiring to obtain a cabaret license shall first pay a license fee of four hundred dollars per year.
- B. Any person desiring to obtain an adult cabaret license shall first pay a license fee of seven hundred fifty dollars per year.
- C. Any person desiring to obtain an adult cabaret manager's license shall first pay a license fee of seventy-five dollars per year.
- D. Any person desiring to obtain an adult cabaret entertainer's license shall first pay a license fee of seventy-five dollars per year.

Section 6. Section 5.08.070 is hereby amended as follows:

5.08.070 Standards of Conduct and Operation - Adult Cabarets

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- A. The following standards of conduct must be adhered to by employees of any adult cabaret.
1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume, or clothing so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.
 2. No employee or entertainer mingling with the patrons shall be unclothed or in less than opaque and complete attire, costume, or clothing as described in subdivision 1 of this subsection.
 3. No employee or entertainer shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus, or genitals of any other person.
 4. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, or genitals, anus, buttocks, or any portion of the pubic region.
 5. No employee or entertainer shall perform acts which constitute a violation of the provisions of Chapter 10A.88 or the Bellevue City Code.
- B. At any adult cabaret, the following are required:
1. Admission must be restricted to persons of the age of eighteen years or more; except that for adult cabarets where intoxicating liquors are served or provided, admission must be restricted to persons of the age of twenty-one years or more. It is unlawful for any owner, operator, manager, or other person in charge of an adult cabaret to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.
 2. Neither the performance nor any photograph, drawing, sketch, or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult cabaret.

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3. Sufficient lighting shall be provided in and about the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times.
- C. A licensed manager shall be on duty at an adult cabaret at all times adult entertainment is being provided. The name of the manager shall be prominently posted during business hours. The manager shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license.
- D. It is unlawful for any adult cabaret to be operated or otherwise open to the public between the hours of two-thirty a.m. and ten a.m.

Section 7. Section 5.08.090 is hereby amended to read as follows:

5.08.090 License revocation - Hearing.

The clerk may, upon the recommendation of the chief of police or his delegate, revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of any of, or failure to comply with the provisions of this chapter by the licensee or any of his servants, agents or employees; or the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in RCW Chapter 69.50) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in RCW Chapter 69.50) committed on the premises in which his cabaret is conducted; or in the event that it is determined that the further operation of said cabaret would be detrimental to the public peace, health or welfare of the city.

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Section 8. This Ordinance shall take force and be in effect thirty days after its passage and legal publication.

PASSED by the City Council this 22nd day of November, 1993, and signed in authentication of its passage this 22nd day of November, 1993.

(SEAL)



Cary Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan
Lori Riordan, Assistant City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

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