

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4692

AN ORDINANCE regulating cabarets and adult cabarets and providing time limits for issuance of licenses and appeals from licensing decisions; amending Ordinance No. 346, Sections 1, 3, 4, 5, 6, 7, 8, and 9; Ordinance No. 2070, Sections 3, 4, and 5; Ordinance No. 4602, Sections 1, 3, 4, 6, and 7; and Bellevue City Code Sections 5.08.010, .030, .040, .060., 070., .080, .090, and .100; adding new Bellevue City Code Sections 5.08.120, .130, and .140; repealing Section 1 of Ordinance No. 2094 and Bellevue City Code Section 5.08.110; and declaring an emergency which requires the ordinance be immediately effective.

WHEREAS, the City Council finds it necessary to modify the regulations for adult cabaret businesses to establish standards on the configuration and operation of such businesses, increase their enforceability, and eliminate certain portions of the existing regulations; and

WHEREAS, one of the purposes of the City Council in adopting this ordinance is to enable the City to take appropriate action in proper cases to enforce the state Moral Nuisance law; now, therefore,

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

Section 1. Ordinance No. 346, Section 1, Ordinance No. 4602, Section 1, and Bellevue City Code Section 5.08.010 are hereby amended to read as follows:

5.08.010 Definitions.

- A. "Adult cabaret" means any premises, including any cabaret premises, to which any member of the public is invited or admitted and where an entertainer provides adult entertainment to any member of the public.
- B. "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 wearing any device or covering

exposed to view which simulates the appearance of 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 human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Any exhibition, performance or dance conducted in a premises where such exhibition, performance or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public.
- C. "Cabaret" means any room, 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.
 - D. "Clerk" shall mean such city employees or agents as the city manager shall designate to administer this chapter, or any designee thereof.
 - E. "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 cabaret.
 - F. "Entertainer" means any person who provides adult entertainment within an adult cabaret as defined in this section, whether or not a fee is charged or accepted for such entertainment.
 - G. "Liquor" means all beverages defined in RCW 66.04.200.
 - H. "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.
 - I. "Operator" means any person operating, conducting or maintaining an adult cabaret.
 - J. "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.

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- K. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult cabaret.

Section 2. Ordinance No. 346, Section 3, Ordinance No. 4602, Section 3, and Bellevue City Code Section 5.08.030 are 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 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 or an adult cabaret, the manager has obtained a manager's license.
- C. A co-partnership, unless all the members thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or agent thereof.
- D. 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 3. Ordinance No. 346, Section 4, Ordinance No. 2070, Section 5, Ordinance No. 4602, Section 4, and Bellevue City Code Section 5.08.040 are hereby amended to read as follows:

5.08.040 Application.

- A. Cabaret License. Any person desiring a cabaret 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, and within fourteen days of the date of filing of the complete application, 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 meets the requirements of this code, then the clerk shall deny such license application.

B. Adult Cabaret License.

1. All applications for an adult cabaret license shall be submitted to the clerk in the name of the person or entity proposing to conduct an adult cabaret on the business premises and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the City, which shall require the following information:
 - a. Names, any aliases or previous names, driver's license number, if any, social security number if the applicant is an individual, and business, mailing, and residential address, telephone number, and social security numbers for each individual, partner, corporate officer, director, and other persons holding a significant interest based on responsibility for management of the business, specifying the interest or management responsibility of each, and for each partnership, corporation, and business.
 - b. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.
 - c. Whether the applicant or any partner, corporate officer, or director holds any other licenses under this chapter or any similar adult entertainment or sexually oriented business ordinance, including motion picture theaters and panorams from the City or another city, county or state, and if so, the names and addresses of each other licensed business.

- d. A description of the sexually oriented adult entertainment or similar business history of the applicant, whether such person or entity, in previously operating in this or another city, county or state, has had a business license or adult entertainment license revoked or suspended, the reason therefor, and the activity or occupation of the applicant subsequent to such action, suspension or revocation.
- e. Any and all criminal convictions or forfeitures within five (5) years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition for each owner, partner or corporation.
- f. A description of the business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application.
- g. Authorization for the City, its agents and employees to seek information to confirm any statements set forth in the application.
- h. The location of the proposed adult cabaret, including a legal description of the property, street address, and telephone number together with the name and address of each owner and lessee of the property.
- i. Two (2) two inch by two inch photographs of each applicant, including partners and operators, taken within six months of the date of application showing only the full face.
- j. A complete set of fingerprints for each individual, partner and corporate officer, on forms prescribed by the Police Chief.
- k. A scale drawing or diagram showing the configuration of the premises for the proposed adult cabaret, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult cabaret shall include building plans

which demonstrate conformance with Bellevue City Code Section 5.08.070.

2. The Clerk may request other information as is necessary to determine compliance with this chapter.
3. A non-refundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.
4. Each applicant shall verify, under penalty of perjury that the information contained in the application is true.
5. If any person or entity acquires, subsequent to the issuance of an adult cabaret license, an interest in the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the City Clerk, no later than twenty-one (21) days following such acquisition. The notice required shall include the information required for the original adult cabaret license application.
6. The adult cabaret license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the licensed adult cabaret. The permit shall be posted in a conspicuous place at or near the entrance to the adult cabaret so that it can be easily read at any time the business is open. Every person, corporation, partnership or association licensed under this chapter shall display such license in a prominent place.
7. No person granted an adult cabaret license pursuant to this chapter shall operate the adult cabaret business under a name not specified on the license, nor shall any person operate an adult cabaret under any designation or location not specified on the license.
8. Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire, and community development departments for their investigation and review to determine compliance of the proposed adult cabaret with the laws and regulations which each department administers. Each department shall, within thirty days, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued

unless each department reports that the application and premises comply with the relevant laws. A department shall recommend denial of a license under this subsection if it finds that the proposed adult cabaret is not in conformance with the requirements of any provision of any applicable statute, code, ordinance, regulation or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

9. An adult cabaret license shall be issued by the clerk within thirty days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection, or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license, or in any report or records required to be filed with the clerk. The clerk shall grant an extension of time in which to provide all information required for the license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of an adult cabaret license, the clerk shall deny the application in writing, and shall cite the specific reasons therefor, including applicable laws. If the clerk fails to issue or deny the application within thirty days of the date of filing of a complete application and fee, the applicant may, subject to all other applicable laws, operate the business for which the license was sought until notified by the clerk that the license has been denied.

C. Adult Cabaret Manager and Entertainer Licenses.

1. No person shall work as a manager, assistant manager or entertainer at an adult cabaret without an entertainer's or manager's license from the City. Each applicant for a manager's or entertainer's license shall complete an application on forms provided by the City containing the information identified below. A non-refundable application fee of \$100 shall accompany the application. A copy of the application shall be provided to the Police Department for its review, investigation and recommendation. All applications for a manager's or entertainer's license shall be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application shall require the following information:

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- a. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Bellevue Police Department employees, social security number, and any stage names or nicknames used in entertaining.
- b. The name and address of each business at which the applicant intends to work.
- c. Documentation that the applicant has attained the age of eighteen years. Any two of the following shall be accepted as documentation of age:
 - i. a motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
 - ii. a state issued identification card bearing the applicant's photograph and date of birth;
 - iii. an official passport issued by the United States of America;
 - iv. an immigration card issued by the United States of America; or
 - v. any other picture identification that the City determines to be acceptable.
- d. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five (5) years immediately preceding the date of the application, except parking violations or minor traffic infractions.
- e. A description of the applicant's principal activities or services to be rendered.
- f. Two (2) two inch by two inch photographs of applicant, taken within six months of the date of application showing only the full face.
- g. Authorization for the City, its agents and employees to investigate and confirm any statements set forth in the application.

- h. Every adult entertainer shall provide his or her license to the adult cabaret manager on duty on the premises prior to his or her performance. The manager shall retain the licenses of the adult entertainers readily available for inspection by the City at any time during business hours of the adult cabaret.
2. The Clerk may request other information as is necessary to determine compliance with this chapter.
3. An adult cabaret manager's or an adult entertainer's license shall be issued by the clerk within 14 days from the date the complete application and fee were received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, or that the applicant has made any false, misleading or fraudulent statement of material fact in the application for a license. The clerk may grant the applicant an extension of time in which to supply the required information. If the clerk determines that the applicant has failed to meet any of the requirements for issuance of a license under this subsection, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If a request for extension of time is not made, and the clerk has failed to approve or deny the license within fourteen days of filing of a complete application for an adult cabaret manager's license, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager in a duly licensed adult cabaret until notified by the clerk that the license has been denied. An applicant for an adult entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of a complete application and fee, unless the clerk has failed to approve or deny the license application in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the applicaton.

Section 4. Ordinance No. 346, Sections 5 and 6, Ordinance No. 4602, Section 5, and Bellevue City Code Section 5.08.050 are hereby amended to read as follows:

5.08.050 Cabaret license fees.

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

Section 5. Ordinance No. 346, Section 4, Ordinance No. 2070, Section 3, and Bellevue City Code Section 5.08.060 are hereby amended to read as follows:

5.08.060 Appeal.

- A. Denial of Permit. Any person aggrieved by the action of the clerk in refusing to issue or renew any permit issued under this chapter shall have the right to appeal such action to the Hearing Examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of license appeals, by filing a notice of appeal with the clerk within ten days of notice of the refusal to issue or renew. The appeal shall be processed under Process VI, Bellevue City Code (Land Use Code) Section 20.35.600, *et seq.* The Hearing Examiner or other hearing body shall set a date for hearing such appeal, to take place within forty-five days of the date of receipt of the notice of appeal. At such hearing the appellant and other interested persons may appear and be heard, subject to rules and regulations of the Hearing Examiner or other hearing body.

Section 6. Ordinance No. 4602, Section 6, and Bellevue City Code Section 5.08.070 are hereby amended to read as follows:

5.08.070 Standards of conduct and operation - Adult cabarets.

- 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 eight feet from the nearest member of the public.

2. No employee or entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection, nor shall any male employee or entertainer appear at any time with his genitals in a discernibly turgid state, even if completely and opaquely covered.
3. No employee or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, buttocks, or any portion of the pubic region or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
4. No employee or entertainer shall encourage or permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person. No employee or entertainer shall touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
5. No employee or entertainer shall perform acts which constitute a violation of the provisions of Chapter 10A.88 of this code, or any other applicable chapter, ordinance, or statute.
6. No employee or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the non-stage area of the adult cabaret unless that dance, performance or exhibition is performed at a distance of no less than four feet from any member of the public.
7. No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the adult cabaret or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any

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performance, dance or exhibition in or about the non-stage area of the adult cabaret shall be placed into the hand of the entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

- B. At any adult cabaret, the following are required:
1. Admission must be restricted to persons of the age of eighteen 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 obscene 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. For the purposes of this sub-section, "obscene" is defined as in Bellevue City Code 10A.88.035.B.

No member of the public shall be permitted at any time to enter into any of the non-public portions of the adult cabaret, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas; EXCEPT that persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into non-public areas to the extent required to perform their job duties.

- C. The responsibilities of the manager of an adult cabaret shall include but are not limited to:
1. A licensed manager shall be on duty at an adult cabaret at all times adult entertainment is being provided or members of the public are present on the premises. The name and license 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.
 2. The licensed manager on duty shall not be an entertainer.

3. The manager or an assistant manager licensed under this Chapter shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance area of the adult cabaret. Where there is more than one performance area, or the performance area is of such size or configuration that one manager or assistant manager is unable to visually observe, at all times, each adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this Chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the adult cabaret.
4. The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with all requirements of this chapter.

D. Premises -- specifications.

1. Performance area. The performance area of the adult cabaret where adult entertainment is provided shall be a stage or platform at least eighteen inches in elevation above the level of the patron seat areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.
2. Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of 30 lux semi-cylindrical measured at 30 inches from the floor on 10 foot centers is hereby established for all areas of the adult cabaret where members of the public are admitted.
3. Signs. A sign at least two feet by two feet, with letters at least one inch height shall be conspicuously displayed in the public area(s) of the premises stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF BELLEVUE. ENTERTAINERS ARE:

- A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT**
- B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE**
- C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE**
- D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA**

4. Record keeping requirements.

- A. All licenses, papers, records, and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the licenses, papers, records, and things meet the requirements of this ordinance.**
- B. Each adult entertainment business shall maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and their employees, as an entertainer. This information shall be open to inspection by the clerk during hours of operation of the business upon twenty-four hours notice to the licensee.**

5. Inspections.

In order to insure compliance with this chapter all areas of licensed adult cabarets which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this ordinance. It is hereby expressly declared that

unannounced inspections are necessary to insure compliance with this ordinance.

- E. It is unlawful for any adult cabaret to be operated or otherwise open to the public between the hours of two a.m. and ten a.m.

Section 7. Ordinance No. 346, Section 7, Ordinance No. 2070, Section 1, and Bellevue City Code Section 5.08.080 are hereby amended to read as follows:

5.08.080 License term--Assignment--Renewals.

- A. There shall be no prorating of the license fees set out in Section 5.08.050, and such licenses shall expire on the thirty-first day of December of each year, except that in the event that the original application is made subsequent to June 30th, then one-half of the annual fee may be accepted for the remainder of said year. Licenses issued under this chapter shall not be assignable.
- B. Application for renewal of licenses issued hereunder shall be made to the clerk no later than thirty days prior to the expiration of adult cabaret licenses, and no later than fourteen days prior to the expiration of cabaret licenses and adult cabaret manager and entertainer licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this chapter. There shall be assessed and collected by the clerk, an additional charge, computed as a percentage of the license fee, on applications not made on or before said date, as follows:

Days Past Due	Percentage of License Fee
7--30	25%
31--60	50%
61 and over	75%

- C. The clerk shall renew a license upon application unless the clerk is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further provided that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended.

Section 8. Ordinance No. 346, Section 8, Ordinance No. 2070, Section 4, Ordinance No. 4602, Section 7, and Bellevue City Code Section 5.08.090 are hereby amended to read as follows:

5.08.090 License suspension and revocation--Hearing.

- A. The clerk may, upon the recommendation of the chief of police or his designee, suspend or 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, or failure to comply with the provisions of this chapter or any of the provisions of Chapter 10A.88 of this code or any other similar local or state law 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.
- B. The clerk shall provide at least ten days prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the Hearing Examiner or other designated hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. Such appeals shall be processed under Process VI, Bellevue City Code (Land Use Code) Section 20.35.600 *et seq.* The decision of the clerk shall be stayed during the pendency of any appeal except as provided in subsection C below.
- C. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of thirty days upon the first such violation, ninety days upon the second violation within a 24 month period, and revoked for third and subsequent violations within a 24 month period, not including periods of suspension; EXCEPT that where the Bellevue Building Official or Fire Marshall or their designees or the King County Health Department find that any condition exists upon the premises of a cabaret or adult cabaret which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter pending a hearing in accordance with Section 5.08.060. The official shall issue notice setting forth the basis for the action and the facts that

constitute a threat of immediate serious injury or damage to persons or property.

Section 9. Ordinance No. 346, Section 9, and Bellevue City Code Section 5.08.100 are hereby amended to read as follows:

5.08.100 Liquor regulations.

Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. In the event of a conflict between the provisions of this chapter and the applicable rules and regulations of the Washington State Liquor Control Board, the rules and regulations of the Washington State Liquor Control Board shall control.

Section 10. Ordinance No. 2094, Section 1, and Bellevue City Code Section 5.08.110 are hereby repealed.

Section 11. A new section shall be added to Bellevue City Code Chapter 5.08, which shall provide as follows:

5.08.130 Nuisance declared.

- A. **Public nuisance.** Any adult cabaret operated, conducted, or maintained in violation of this chapter or any law of the City of Bellevue or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The City Attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult cabaret contrary to the provisions of this chapter.
- B. **Moral Nuisance.** Any adult cabaret operated, conducted or maintained contrary to the provisions of RCW Chapter 7.48A, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the City Attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions, to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by RCW Chapter 7.48A.

Section 12. A new section shall be added to Bellevue City Code Chapter 5.08. That section shall read as follows:

5.08.140 Additional enforcement.

The remedies found in this chapter are not exclusive, and, the City may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

Section 13. A new section shall be added to Bellevue City Code Chapter 5.08. That section shall read as follows:

5.08.150 Severability.

If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity of the ordinance as a whole, or any other portion thereof, and its application to other persons or circumstances, shall not be affected.

Section 14. The City Council finds that a public emergency exists, and that this ordinance is a public emergency ordinance necessary for the protection of the public health, safety and peace, and should therefore take effect upon adoption. The facts upon which such determination of emergency is based are:

1. The existing provision of Bellevue City Code 5.08.030 which provides that no license may be issued to a person convicted of a crime involving prostitution or promoting prostitution within five years prior to filing an application is unconstitutional under the holding of the Washington Supreme Court in Seattle v. Bittner, 81 Wn.2d 747 (1973) as an impermissible prior restraint on expression..
2. The existing provisions of Bellevue City Code 5.08.040 regarding the issuance of licenses which do not establish a time limit during which the City must act to issue a license is unconstitutional under the United States Supreme Court decision in FW/PBS, Inc. v. Dallas, 495 U.S. 215 (1990), which held that an ordinance licensing protected expression must place a time limit during which a decision whether to issue a license must be made.

The Council further finds that it is essential to the public interest that these constitutional defects be cured immediately.

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Section 15. In accordance with RCW 35A.11.090 this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption.

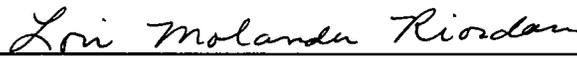
PASSED by a unanimous vote the entire membership of the City Council this 6th day of Sept., 1994, and signed in authentication of its passage this 6th day of Sept., 1994.

(SEAL)


Donald S. Davidson, DDS, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Lori Molander Riordan, Assistant City Attorney

Attest:


Myrna L. Basich, City Clerk

Published September 10, 1994