

ORDINANCE NO. 19-02

AN ORDINANCE OF THE CITY OF WAVERLY, NEBRASKA, AMENDING ARTICLE 10, SECTIONS 10-1006 AND 10-1008 OF THE WAVERLY MUNICIPAL CODE RELATING TO BUSINESS REGULATIONS AND SEXUALLY ORIENTED BUSINESSES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE IN CONFLICT THEREWITH; TO PROVIDE FOR THE EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAVERLY, LANCASTER COUNTY, NEBRASKA:

Section 1. That Section 10-1006 of the Waverly Municipal Code be amended to read as follows:

§ 10-1006 ADDITIONAL REGULATIONS CONCERNING NUDITY AND SEMI-NUDITY

A. It shall be unlawful for any person to knowingly or intentionally, or for any person to knowingly or intentionally authorize, permit, or suffer any person to, appear live in a state of nudity, or engage in or simulate specified sexual activities, in any public place or place open to the public, including a sexually oriented business; provided, however, that this subsection (A) shall not apply to:

- (i) Any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;
- (ii) Any dressing/changing room or restroom facility open to the public;
- (iii) Any person under the age of 12;
- (iv) Mothers who are breast feeding; or
- (v) Any sexually oriented business that was operating and in existence within the municipal corporate limits on January 1, 2016.

B. There shall be no physical contact or other specified sexual activities between employees or performers and patrons for gratuity, pay, or other remuneration, direct or indirect, or in conjunction with or as part of any performance or entertainment in any sexually oriented business where alcohol is served or otherwise consumed on the premises. It shall further be unlawful for any owner, lessee, proprietor, or manager of any sexually oriented business to knowingly allow any employee or performer on the premises of such sexually oriented business where alcohol is served or otherwise consumed to engage in any act or acts prohibited under this subsection (B); provided, however, this subsection (B) shall not apply to:

- (i) Any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;
- (ii) Any dressing/changing room or restroom facility open to the public;
- (iii) Any person under the age of 12;

- (iv) Mothers who are breast feeding; or
- (v) Any sexually oriented business that was operating and in existence within the municipal corporate limits on January 1, 2016.

Section 2. That Section 10-1008 of the Waverly Municipal Code be amended to read as follows:


§ 10-1008 ADDITIONAL REGULATIONS CONCERNING ALCOHOL

In the event the licensee, manager, or agent of a sexually oriented business shall authorize, permit, or suffer any live person, including employees, to appear in the licensed premises in a state of nudity, or has any reason to believe that any live person shall appear in the licensed premises in a state of nudity, then the City Council may cause the sexually oriented business's license to sell or permit the consumption of alcohol, including a bottle club license, to be cancelled, revoked, suspended, or recommended for non-renewal after providing notice and a hearing as provided by Nebraska law, where the license holder is found to have violated this Section 10-908, any provision of the Nebraska Liquor Control, any provision of this chapter, any rule or regulation of the state liquor control commission, or any other applicable statutory provision of the state or ordinance of the City now existing or hereafter passed. This section shall not apply to any sexually oriented business that: (a) was operating and in existence within the municipal corporate limits on January 1, 2016; and (b) obtained a valid retail license or bottle club license from the Nebraska Liquor Control Commission to sell alcoholic beverages within the municipal corporate limits on or before May 31, 2019.

Section 3. That all ordinances, resolutions and Code sections or portions thereof in conflict herewith are hereby repealed.

Section 4. That this Ordinance shall be in full force and effect from and after publication as provided by law.

PASSED AND APPROVED THIS 9th DAY OF April, 2019.


Michael J. Werner, Mayor

ATTEST:


Stephanie A. Fisher, City Administrator

(SEAL)

