

**ORDINANCE TO
AMEND SECTION 410-39 OF THE CITY OF WATERTOWN GENERAL
ORDINANCES**

**SPONSOR: NAME SPONSOR HERE (MUST BE MAYOR OR ALDER)
FROM: PUBLIC SAFETY AND WELFARE COMMITTEE**

THE COMMON COUNCIL OF THE CITY OF WATERTOWN DOES ORDAIN AS
FOLLOWS:

SECTION 1. § 410-39 of the Watertown Code of Ordinances is hereby amended to read as follows:

§ 410-39. Regulation of sexually-oriented conduct.

[Added by Ord. No. 00-31; amended by Ord. No. 03-32; amended by Ord. No. ___

]

A. Findings.

(1) The Common Council has authority under its general police powers set forth in § 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.

(2) The Common Council recognizes it lacks authority to regulate obscenity in light of § 66.0107(3), Wis. Stats., and does not intend by adopting this section to regulate obscenity, since nudity in and of itself is not obscene. It declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars and taverns.

(3) Exhibitions in public places featuring totally nude, nonobscene, erotic dancing or motion picture or video presentations thereof have in other communities tended to further the increase of criminal and other offensive activity, to be offensive to some members of the general public or to children, 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 such secondary effects are detrimental to the public health, safety and general welfare of citizens.

(4) The Common Council recognizes that the United States 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 protection under the First Amendment, and the Common Council 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.

(5) However, the Common Council is aware, based on the experiences of other communities, that exhibitions in public places in which live, totally nude, nonobscene, erotic dancing or video or motion picture presentation thereof occurs may and do generate secondary effects which the Common Council believes are detrimental to the public health, safety and welfare of the citizens of the City of Watertown.

(6) Among these secondary effects are: the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses; the potential depreciation of property values in neighborhoods where these exhibitions featuring nude dancing exist; health risks associated with the spread of sexually transmitted diseases; the probability that

(Type meeting date of the FIRST meeting the ordinance will be considered) Ord. #24-XX

children would be exposed to these exhibitions in a public place; and the potential for infiltration by organized crime for the purpose of unlawful conduct.

(7) 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 Watertown; 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.

(8) The Common Council has determined that enactment of an ordinance prohibiting live, totally nude, nonobscene, erotic dancing, or the video or motion picture presentation thereof, in public places promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.

B. No person shall knowingly or intentionally, in a public place, do any of the following:

(1) Perform or engage in the display or exposure of any specified anatomical areas.

(2) Engage in any specified sexual activity.

(3) Simulate, perform or depict, with or without artificial devices or inanimate objects, any specified sexual activity with any other person.

C. No person shall knowingly produce or distribute by electronic means an Impersonation Record.

ED. Definitions. As used in this section, the following terms shall have the meanings indicated:

(1) IMPERSONATION RECORD — Includes any deepfake, which:

a. A reasonable person, having considered the visual or audio qualities of the record would believe exhibits any Material Activity of a living or deceased person.

b. The living or deceased person did not in fact undertake the exhibited Material Activity.

c. Was produced without the consent of such living person, or in the case of a deceased person, such person or the heirs thereof; and

(2) DEEPPFAKE — Means any video recording, motion-picture film, sound recording, electronic image, photograph, technological representation of speech, or conduct substantially derivative thereof which:

a. Appears to authentically depict any speech or conduct of a person who did not in fact engage in such speech or conduct; and

b. The production of which is substantially dependent upon the use of an electronic device, software, application, or program, rather than the ability of another person to physically or verbally impersonate such person.

(3) MATERIAL ACTIVITY — Means:

a. any conduct or depiction of Specified Anatomical Areas or Specified Sexual Activities

(4) PUBLIC PLACE — Includes any street, alley, sidewalk, thoroughfare or parking lot; any lobby, corridor, elevator, stairway, recreation room or common room in a hotel, motel, office building, apartment building or condominium; any public or municipal building or premises; any vacant lot, park or public recreation facility; any church, school, library, theater, auditorium or other building frequented by members of the public; and any business or industrial premises, including buildings and grounds, except that the term "public place" shall not include any building or part of a building occupied as a temporary or permanent dwelling, hotel or motel room, or private office.

(5) SPECIFIED ANATOMICAL AREAS —

- ~~(1)~~ (a) Less than completely and opaquely covered human genitals, vulva, anus and cleavage of the buttocks.
- ~~(2)~~ (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- ~~(3)~~ (c) Less than completely and opaquely covered areola and nipple of the female breast.

(6) SPECIFIED SEXUAL ACTIVITIES — Simulated or actual:

- ~~(1)~~(a) Showing of human genitals in a state of sexual stimulation or arousal.
- ~~(2)~~(b) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus or excretory functions.
- ~~(3)~~(c) Fondling or erotic touching of human genitals, pubic region, anus, buttocks or female breasts.

~~DE.~~ Exemptions. The provisions of this section do not apply to the following activities conducted in a public place or in the following specific public places:

(1) Theaters, performing arts centers, civic centers, exhibition halls, restaurants and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered to the general public, with or without paid admission, or movie theaters and video arcades where video or motion picture presentations of dance, ballet, music and dramatic performances of serious artistic merit are offered to the general public, with or without paid admission. In order to fall within the application of this exemption, the predominant business or attraction in the licensed establishment may not consist of the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is distinguished by an emphasis on, or the advertising or promotion of, employees or independent contractors associated with the licensed establishment engaging in nude erotic dancing.

(2) Lavatories, restrooms and bathrooms on the licensed premises where there is unintentional exposure of genitals by individuals performing excretory functions.

(3) The private areas or guest rooms not accessible to the general public of those hotels, motels, rooming houses, or bed-and-breakfast businesses in the City.

(4) The rental or sale of videocassettes, DVD videodiscs, or other electronic media for private viewing by individuals not in a public place.

(5) Exposure of any portion of the female breast while a person is engaged in breast-feeding a child.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force the day after its passage and publication.

DATE:	<i>First meeting date</i>		<i>Second meeting date</i>	
READING:	1ST		2ND	
	YES	NO	YES	NO
DAVIS				
LAMPE				
BOARD				
BARTZ				
BLANKE				
SMITH				
SCHMID				
WETZEL				
MOLDENHAUER				
MAYOR MCFARLAND				
TOTAL				

ADOPTED Type second meeting date

CITY CLERK

APPROVED Type second meeting date

MAYOR