

ORDINANCE NO. 34-83

AN ORDINANCE REGARDING EROTIC DANCE STUDIOS

WHEREAS, the Mason County Board of County Commissioners finds that erotic dance studios, if unregulated, will likely lead to an increase in prostitution, venereal disease, drug and alcohol offenses and other criminal activity; and

WHEREAS, erotic dance studios sometimes are fronts for or operated by persons associated with organized criminal activities and the need to scrutinize such dance studios is thereby enhanced; and

WHEREAS, the law enforcement resources available for responding to problems associated with or created by erotic dance studios are limited and are best conserved by regulating and licensing erotic dance studios and those associated with them; and

WHEREAS, the public health, safety, welfare and convenience require that erotic dance studios and their employees be regulated and licensed in order to reduce the potential for harm;

NOW, THEREFORE, BE IT ORDAINED BY THE MASON COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Purpose. The purpose of this ordinance is to regulate erotic dance studios to the end that the many types of criminal activities frequently engendered by such studios will be curtailed. However it is recognized that such regulation cannot de facto approach prohibition. Otherwise a protected form of expression would vanish. This ordinance represents a balancing of competing interests: reduced criminal activity through the regulation of erotic dance studios versus the protected rights of erotic dancers and patrons.

Section 2. Definitions. In this ordinance the following definitions shall apply unless the context clearly requires otherwise:

- a. Auditor -- the Mason County Auditor;

- b. Board -- the Mason County Board of County Commissioners;
- c. Dancer -- a person who dances or otherwise performs for an erotic dance studio;
- d. Department -- the Mason County Department of General Services;
- e. Erotic dance studio -- a fixed place of business which emphasizes and seeks, through one or more dancers, to arouse or excite the patrons' sexual desires;
- f. Sheriff -- the Mason County Sheriff.

Section 3a. Prima Facie evidence of erotic dance studio.

It shall be prima facie evidence that a business is an erotic dance studio when one or more dancers displays or exposes, with less than a full opaque covering, that portion of the female breast lower than the upper edge of the areola.

Section 3b. Certain activities prohibited. No person, firm, partnership, corporation or other entity shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion of a person's genitals, pubic area.

Section 4. Erotic dance studio license -- application, issuance.

a. Application for erotic dance studio license shall be made to the Auditor.

b. An application for erotic dance studio license shall be verified and shall contain or set forth the following information:

(1) The name, home address, home telephone number, principal occupation, and age of the applicant;

(2) The business name, business address, and business telephone number of the establishment or proposed establishment;

(3) Whether the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation. If a sole proprietorship, the application shall set forth the name, home address, home telephone number, and principal occupation of the sole proprietor, If a partnership, the application shall set forth the names, home addresses, home telephone numbers,

principal occupations, and respective ownership shares of each partner, whether general, limited, or silent. If a corporation, the application shall set forth the corporate name, a copy of the articles of incorporation, and the names, home addresses, home telephone numbers and principal occupations of every officer, director and shareholder (having more than five percent (5%) of the outstanding shares) and the number of shares held by each.

(4) The names, home addresses, home telephone numbers and principal occupations of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business;

(5) Whether the applicant, anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized or to be utilized by the business or proposed business has ever been convicted of or forfeited bail for any crime, excluding minor traffic offenses and, if so, the application shall state the person involved, the charge, date, court, and disposition of the charge;

c. Applications shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

d. Within five (5) days of receipt of an application for erotic dance studio license, the Auditor shall transmit copies of such application to Sheriff, Department, Board and Prosecuting Attorney.

e. Within twenty (20) days of receipt of a copy of such license application the following shall occur:

(1) Sheriff shall conduct an investigation to determine whether the information contained in the application regarding convictions or bail forfeitures is true and accurate; Sheriff shall conduct criminal record checks to determine whether those individuals mentioned in Section 4b(5) have prior criminal convictions; Sheriff shall report his findings to the Board;

(2) Department shall visit the premises and shall determine if the buildings upon the premises meet the requirements of the building, fire, mechanical, and plumbing codes; Department shall thereafter report its findings to the Board.

f. Once the Board has received the reports mentioned in Section 4e(1) and (2) it shall conduct a public hearing within thirty (30) days. Board shall provide notice of such public hearing, at the expense of the applicant, by publishing notice of such hearing no more than ten (10) but no less than five (5) days prior to the hearing. At such public hearing the Board shall determine the following:

(1) Whether the applicant, anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized by the business or proposed business is/are of good moral character; conviction of a crime involving moral turpitude shall create a rebuttable presumption that such person is not of good moral character;

(2) Whether the buildings upon the premises meet the requirements of the building, fire, plumbing, and mechanical codes.

g. If, as a result of the public hearing, the Board finds in the affirmative to those inquiries mentioned in Section 4f(1), and (2) it shall issue an erotic dance studio license which shall be valid, unless sooner revoked, until the first-occurring December 31.

Section 5. Erotic dance studio license -- renewal, revocation.

a. An erotic dance studio license may be renewed by following the application procedure set forth in Section 4; Provided, a renewal application shall specifically state whether those persons mentioned in Section 4b and whether any presently or previously-employed dancers have been convicted of, or charged with any violation of this ordinance, RCW 69.50 or RCW 9A.88 and; Provided further, Board shall not renew an erotic dance studio license if those persons mentioned in Section 4b or presently or previously-employed dancers have been convicted of any violation of this ordinance, RCW 69.50 or RCW 9A.88 in connection with the erotic dance studio.

b. Any person may file with Board a petition to revoke an erotic dance studio license. Such petition shall state the grounds for which revocation is sought. Upon receipt of such a petition Board shall hold a public hearing to determine the merits of the petition. Board shall give the erotic dance studio licensee written notice of such hearing by mailing such notice to the licensee's address as contained in the most recent application; such notice shall be given no less than five (5) days prior to the hearing.

Board shall revoke an erotic dance studio license if it finds any of the following:

(1) That one or more of the conditions specified in Section 4f(1), (2), or (3) would now be answered in the negative;

(2) That one or more of those persons mentioned in Section 4f(5) or presently or previously-employed dancers have been convicted of or forfeited bail to any violation of this ordinance, RCW 69.50 or RCW 9A.88 in connection with the erotic dance studio.

Section 6. Dancer's license. No person shall dance at an erotic dance studio without a valid dancer's license issued by Board.

Section 7. Dancer's license -- application, issuance.

a. Applications for dancers' licenses shall be made to the Auditor.

b. An application for dancer's license shall be verified and shall contain or set forth the following information:

(1) The applicant's name, home addresses (current and former), home telephone number, date of birth, and aliases (past or present);

(2) The business name and address where the applicant intends to dance;

(3) Prior convictions and bail forfeitures of the applicant, excluding minor traffic offenses; the application shall state the charge, date, court, and disposition of charge;

(4) Fingerprint card prepared by Sheriff and current photograph.

c. Applications shall be accompanied by a non-refundable fee of fifty dollars (\$50.00).

d. Within five (5) days of receipt of an application for dancer's license, the Auditor shall transmit copies of such application to the Sheriff, Board and Prosecuting Attorney.

e. Within twenty (20) days of receipt of a copy of such license application Sheriff shall conduct an investigation to determine whether the information contained in the application is true and accurate; Sheriff shall conduct a criminal records check to determine if the applicant has prior criminal convictions; Sheriff shall report his findings to Board.

f. Once the Board has received the report mentioned in Section 7e, it shall conduct a public hearing within thirty (30) days. Board shall provide notice of such public hearing, at the expense of the applicant, by publishing notice of such hearing no more than ten (10) but no less than five (5) days prior to the hearing. At such hearing Board shall determine the following whether the applicant is of good moral character; conviction of a crime involving moral turpitude shall create a rebuttable presumption that such person is not of good moral character.

g. If, as a result of the public hearing, Board finds in the affirmative to the inquiry mentioned in Section 7f it shall issue a dancer's license which shall be valid, unless sooner revoked, until the first-occurring December 31.

Section 8. Dancer's license -- renewal, revocation.

a. A dancer's license may be renewed by following the application procedure set forth in Section 7; Provided, a renewal application shall specifically state if the applicant has been charged with or convicted of any violation of this ordinance, RCW 69.50 or RCW 9A.88 and; Provided further, the Board shall not renew a dancer's license if the applicant has been convicted of a violation of this ordinance, RCW 69.50 or RCW 9A.88 in connection with the erotic dance studio.

b. Any person may file with Board a petition to revoke a dancer's license. Such petition shall state the grounds for which revocation is sought. Upon receipt of such a petition Board shall hold a public hearing to determine the merits of such

petition. Board shall give the licensee written notice of such hearing by mailing such notice to the licensee's address as contained in the most recent application; such notice shall be given no less than five (5) days prior to the hearing.

Board shall revoke a dancer's license if it finds either of the following:

(1) That the condition specified in Section 7f would now be answered in the negative;

(2) That the licensee has been convicted of a violation of this ordinance, RCW 69.50 or RCW 9A.88 in connection with the erotic dance studio.

Section 9. Erotic dance studio regulations.

a. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an erotic dance studio without a valid erotic dance studio license issued pursuant to this ordinance.

b. No later than March 1 of each year an erotic dance studio licensee shall file a verified report with the Auditor showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

c. An erotic dance studio licensee shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons employed as dancers by the licensee.

d. No erotic dance studio licensee shall employ as a dancer a person under the age of eighteen (18) years or a person not licensed pursuant to this ordinance.

e. No person under the age of eighteen (18) years shall be admitted to an erotic dance studio.

f. An erotic dance studio shall be closed between 10:00 p.m. and 8:00 a.m.

g. No erotic dance studio licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

h. An erotic dance studio licensee shall conspicuously display all licenses required by this ordinance.

i. All dancing shall occur on a platform intended for that purpose which is raised at least two feet (2') from the level of the floor.

j. No dancing shall occur closer than ten feet (10') to any patron.

k. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer.

l. No patron shall directly pay or give any gratuity to any dancer.

m. No dancer shall solicit any pay or gratuity from any patron.

Section 10. Inspections. All books and records required to be kept pursuant to this ordinance shall be open to inspection by the Sheriff, Prosecuting Attorney, or agents thereof during the hours when the erotic dance studio is open for business upon two (2) days written notice to the licensee. The purpose of such inspection shall be to determine if the books and records meet the requirements of this ordinance.

The premises and facilities of an erotic dance studio shall be (as an implied condition of receiving an erotic dance studio license) open to inspection by the Sheriff, Prosecuting Attorney, or agents thereof during the hours when the dance studio is open for business. The purpose of such inspection shall be to determine if the dance studio is 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 but that no erotic dance studio shall be inspected unannounced by Sheriff, Prosecuting Attorney, or agents thereof more frequently than twice in any calendar month.

For the purpose of this section, no visit to an erotic dance studio by any undercover operative of Sheriff or Prosecuting Attorney shall be deemed to be an inspection.

Section 11. Nuisance declared. Any activity, act, or conduct contrary to the provisions of this ordinance is hereby declared to be unlawful and a public nuisance and such activity, act, or conduct may be enjoined by an action brought by the Prosecuting Attorney or other interested person.



Section 12. Penalty. Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any violation is committed, continued, or permitted and upon conviction of any such violation such person, firm, or corporation shall be punished by a fine or not more than two hundred and fifty dollars (\$250.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment; Provided, no person shall be deemed guilty of any violation of this ordinance if acting in an investigative capacity pursuant to the request or order of the Sheriff or Prosecuting Attorney or duly-appointed agent thereof.

Section 13. Severability. If any portion of this ordinance, or its application to any person or circumstance, is held invalid, the remainder or application to other persons or circumstance shall not be affected.

Section 14. Effective date. This ordinance shall be of full force and effect immediately upon passage.

PASSED this 25th day of April, 1983.

BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON

Ed Johnston  
Chairman

William O. Hunter  
Commissioner

Annette S. McGee  
Commissioner

ATTEST:

Rebecca A. Joche  
Clerk of the Board