

Chapter 95

SEXUALLY ORIENTED BUSINESSES

- | | |
|---|---------------------------------|
| § 95-1. Purpose & intent. | § 95-4. Operating requirements. |
| § 95-2. Definitions. | § 95-5. Inspection. |
| § 95-3. Noncompliant businesses prohibited. | § 95-6. Separate court actions. |
| | § 95-7. Penalties. |

[HISTORY: Adopted by the Village Council of the Village of Bellaire 4-10-1997 by Ord. No. 48-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Nudity — See Ch. 66.

§ 95-1. Purpose and intent.

It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to legitimize activities prohibited by Village of Bellaire ordinance and/or state or federal law.

§ 95-2. Definitions.

The terms in this chapter have the same definitions as those contained in the Village of Bellaire Zoning Ordinance.¹

§ 95-3. Noncompliant businesses prohibited.

It shall be a violation of this chapter for any person to own or operate a sexually oriented business in the Village of Bellaire unless that sexually oriented business is in full compliance with the provisions of this chapter.

1. Editor's Note: The Zoning Ordinance is on file in the Village offices.

§ 95-4. Operating requirements.

- A. No person younger than 18 years of age shall enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.
- B. Any sexually oriented business offering live entertainment shall provide:
 - (1) A dressing area for performers with direct access to and from said dressing area and the performance area or stage such that the performer may enter the performance area or stage without entering the area from which patrons will view the performance.
 - (2) That the access, performance area, or stage and dressing room is handicapped-accessible to the extent required by the Americans With Disabilities Act.
 - (3) That the performance area or stage is elevated at least 12 inches above the area from which patrons will view the performance.
 - (4) That the dressing area for performers be separate and not freely accessible from areas of the business accessible to patrons, and that said dressing area contain hot and cold running water and toilet facilities.
 - (5) That an employee, owner, independent contractor, or performer of any type whose employment is characterized by the display of specified anatomical areas or specified sexual activities not be allowed to receive tips or gratuities from patrons for said performances or employment.

§ 95-5. Inspection.

An applicant or permittee shall allow the Village Ordinance Enforcement Officer and his or her agent or agents, including any law enforcement official, to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

§ 95-6. Separate court actions.²

Nothing in this chapter shall prohibit the Village or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance.

§ 95-7. Penalties.³

- A. Municipal civil infractions; penalties. Any person who violates any provision of this chapter shall be responsible for a municipal civil infraction as defined in Public Act

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 to 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than \$500. Each day this chapter is violated shall be considered as a separate violation.

- B. Enforcement officials. Officers of the Bellaire Police Department, and other Village officials designated by resolution of the Village Council, are hereby authorized to issue municipal civil infractions under this chapter directing offenders to appear in court.
- C. Nuisance per se. A violation of this chapter is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.
- D. Civil remedies. In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this chapter.