

## Chapter 66

### NUDITY

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[HISTORY: Adopted by the Village Council of the Village of Bellaire 4-10-1997 by Ord. No. 47-1997. Amendments noted where applicable.]

#### GENERAL REFERENCES

Sexually oriented businesses — See Ch. 95.

#### § 66-1. Purpose.<sup>1</sup>

This chapter is intended to prohibit nudity in public places pursuant to the Village ordinance power conferred by MCL § 67.1, and to establish a definition of nudity. This chapter is not intended to exclude sexually oriented businesses, as defined by the Village of Bellaire Zoning Ordinance,<sup>2</sup> from opening and operating in the Village of Bellaire, to deny adults access to sexually oriented businesses and their products, to deny sexually oriented businesses access to their intended markets, to implicate ordinary public behavior, or to offend the guarantees afforded by the First Amendment to the United States Constitution. Neither is it the intent of this chapter to legitimize activities prohibited by Village of Bellaire ordinance, state or federal law.

#### § 66-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**PERSON** — An individual, sole proprietorship, partnership, corporation, limited liability company or association.

**PUBLIC NUDITY** — Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

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

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

- B. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

**PUBLIC PLACE** — Any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a "public place" shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

**§ 66-3. Prohibited conduct.**

No person shall engage in public nudity, nor shall any owner, officer, or person in charge of or in control of the premises of any business establishment permit persons to engage in public nudity.

**§ 66-4. Aiding and abetting prohibited.**

No person shall assist, aid, abet, or encourage any other person to engage in public nudity.

**§ 66-5. Exceptions.**

- A. Public nudity occurring within an enclosed area or structure in accordance with and on a premises benefited by a valid special use permit to operate a sexually oriented business issued pursuant to the Village of Bellaire Zoning Ordinance, and which premises is not licensed by the State of Michigan to sell or allow the consumption of alcoholic beverages, shall not be subject to the prohibitions of this chapter which prohibit exposure of a female individual's breasts, but shall be subject to the prohibitions of this chapter relating to exposure of an individual's genitals or anus.
- B. Public nudity pursuant to a regular curriculum at an educational institution in any way funded, chartered, or recognized by the State of Michigan shall not be subject to the prohibitions of this chapter.<sup>3</sup>

**§ 66-6. Penalties.**<sup>4</sup>

- 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 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 to 600.9939

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3. Editor's Note: Original Section 6, Nuisance per se, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 66-6C and D.

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

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.