

Chapter 163

ADULT ENTERTAINMENT

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[HISTORY: Adopted by the Village Board of the Village of Endeavor at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Intoxicating liquor and fermented malt beverages — See Ch. 273.
Nuisances — See Ch. 312.

Peace and good order — See Ch. 325.
Zoning — See Ch. 480.

§ 163-1. Definitions.

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

ADULT-ORIENTED ENTERTAINMENT BUSINESS — An adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse as defined herein.

LICENSED ESTABLISHMENT — Any establishment licensed by the Village to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

LICENSEE — The holder of a retail "Class A," "Class B," Class "A," Class "B" or "Class C" license granted by the Village pursuant to Ch. 125, Wis. Stats.

NUDITY — The showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus or female breast.

SEXUAL CONDUCT — Acts of masturbation, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person is a female, her breast.

SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SPECIAL CABARET — Any bar, dance hall, restaurant, or other places of business, whether or not licensed under Chapter 273, Intoxicating Liquor and Fermented Malt Beverages, of this

Code, which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses, any of whom engage in sexual conduct as that term is defined in § 944.21(2)(e), Wis. Stats., as may be amended from time to time, or the simulation of such activities by any such individual, or any such business establishment the advertising for which, or a sign or signs identifying which, uses the words "adult," "topless," "nude," "bottomless" or other words of similar import.

§ 163-2. Location restricted.

A. Distance limitations.

- (1) No adults-only bookstore, adult theater, adult message parlor, adult cabaret, adult health/sport club, adult steam room/bathhouse facility allowing nudity, or other adult-oriented entertainment businesses as defined under this chapter shall:
 - (a) Be operated or maintained within 1,000 feet of the boundary of any residentially zoned (R) district.
 - (b) Be operated or maintained so that there are more than two such businesses within 1,000 feet as measured by the radius from each business.
- (2) No person, partnership, corporation or other entity shall own, operate, manage, rent, lease, occupy or exercise control of any building, structure, premises or portion or part thereof within which occurs the activities specified in this chapter if otherwise allowed or housing a special cabaret, as of the effective date of this chapter, that is located closer than 1,000 feet to the nearest lot line, that is the legal boundaries of a parcel of property, of a similar establishment or any school (whether preschool, elementary, middle or high school, whether public or private) or any residentially zoned property, library, church or chapel, park or playground, or licensed day-care facility.
- (3) Distance limitations set forth herein shall be measured in a straight line from the main public entrances of said premises to the lot lines of the properties described in Subsection A(1) or (2) regarding residentially zoned (R) districts.

B. Same use restrictions. No adult-oriented business shall be located in the same building or upon the same property as another such use.

§ 163-3. Signs.

Notwithstanding any other provision of this Code, an adult-oriented entertainment business shall not be permitted more than one sign advertising its business, which shall be an on-premises or building sign only.

A. All such signs shall meet the following criteria:

- (1) No other merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

- (2) No sign shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.
 - (3) No sign shall contain any flashing lights, moving elements, or mechanically changing messages.
 - (4) No sign shall contain any depiction of the human form or any part thereof nor shall it contain sexually explicit language such as "Nude Dancing" or "Girls, Girls, Girls," etc.
 - (5) No adult-oriented entertainment business may have any off-premises sign.
- B. In order to allow currently operating adult-oriented entertainment businesses to recover their financial investment in current signage, any currently operating adult-oriented entertainment business shall bring its signage into conformity with the provisions of this section within one year from the date of passage of this chapter.

§ 163-4. Operating standards.

All such adult-oriented entertainment businesses shall operate in accordance with the following:

- A. No employee shall solicit business outside the building in which the business is located.
- B. No male or female person, while on the premises, shall expose to public view his or her genitals, pubic area, anus, or anal cleft. Full nudity is prohibited.
- C. No person on the premises shall engage in sexual conduct or sadomasochistic abuse or in any way fondle their genitals.
- D. Nudity is prohibited for any employee of an adult-oriented business where such person is in direct personal contact with another person.
- E. No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance, except for the taking of tips, which must be taken on the hip or the side of the entertainer's G-string, T-bar or costume, or in a garter. All performances shall only occur on a stage, or on a table that is in a designated area within full and unrestricted view of the bar area, either of which is elevated at least 18 inches above the immediate floor level and removed a distance sufficient to prevent actual physical contact between the entertainer and another entertainer or any other person, employee or patron.
- F. No person under the age of 18 years of age may be admitted to, may enter or remain on, may purchase goods or services at, or may work or be permitted to work as an employee in any capacity at an establishment subject to the provisions of this chapter.
- G. No person shall cause another to commit a violation of this chapter, nor shall any person permit such violation to occur on any premises under his/her control, tenancy, management or ownership.

§ 163-5. Exterior appearance.

The building's exterior shall meet the following criteria:

- A. Colors shall be earth or neutral tones with primary accent colors to be within the same color family.
- B. Stripe and geometric patterns are prohibited.
- C. A color scheme which is directly inherent to a unique, recognized architectural style but not otherwise compliant with this section may be reviewed and approved by the Village Board.
- D. The exterior shall be adequately maintained in good condition.

§ 163-6. Exemptions.

The provisions of this chapter do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

§ 163-7. Violations and penalties.

Any person, partnership, or corporation which violates any of the provisions of this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this chapter constitutes sufficient grounds for suspending, revoking or not renewing an alcohol beverage license under § 125.12, Wis. Stats.

§ 163-8. Applicability; existing businesses.

The provisions of this chapter shall apply to all existing and future adult-oriented entertainment businesses. However, any such existing business that does not meet the zoning district restrictions or the distance limitations may continue its existence as a nonconforming use; provided, however, that no such business may be enlarged or increased in size or be discontinued for a period of more than 180 days.