

VILLAGE OF BANCROFT

ORDINANCE NO. 216-98

THE VILLAGE OF BANCROFT, SHIAWASSEE COUNTY, MICHIGAN, ORDAINS:

Section 1: Title

This ordinance shall be known and cited as the Village of Bancroft Public Entertainment Ordinance.

Section 2: Purpose

The purpose of this ordinance is to regulate public commercial entertainment involving dancing, monologues, pantomimes, and other personal type of body exhibitions, contortions or display, and establishments within the village where such public entertainment is presented, promoted or permitted.

Section 3: License Required

No person, firm or corporation shall engage in the business within the Village of Bancroft of offering a public amusement, entertainment, exhibition or performance by live performers involving dancing, monologues, pantomimes, and other personal type of body exhibitions, contortions or display without first obtaining a license therefor from the Village of Bancroft.

Section 4: Owner to See License

No person, firm or corporation shall knowingly allow or permit any building or land owned or possessed by him or it to be used for such purpose unless a village license therefor has been shown to such owner or possessor.

Section 5: Conditions Precedent

No license shall be granted or delivered until the applicant therefor has complied with all of the required conditions precedent to its issuance.

Section 6: Procedure for Issuance

A. Applicant shall submit an application not less than 60 days prior to the proposed commencement of such business, under oath, on a form to be provided by the Bancroft Village Clerk, which application shall disclose such pertinent information about applicant, his proposed business location, facilities, maximum capacity to be admitted, business history, and responsibility, as the clerk may require and shall be accompanied by the following:

1. Evidence that applicant has obtained public liability insurance with a limit of not less than \$100,000/\$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan which

insurance shall insure applicant, his employees and agents, against liability for death or injury to persons or damages to property which may result from the conduct of such licensed business, which policy or policies shall remain in full force and effect in the specified amounts during the term of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Village Clerk, in writing, at least 10 days before the expiration or cancellation of said policy or policies.

2. A corporate surety bond in the amount of \$10,000 in a form to be approved by the village attorney, conditioned upon applicant's faithful compliance with all the terms and provisions of this licensing ordinance, and all applicable provisions of other village ordinances, county ordinances, and state ordinances.

3. A license fee of \$100.00 for a business, the approved capacity of which does not exceed 500 persons and an additional license fee of \$100.00 for each additional 500 ^{or} persons or fraction thereof to be admitted to licensee's place of business per day of operation.

B. The clerk may refer the application to the village zoning administrator, the Shiawassee County health department, the state fire marshal and other public officials as he/she may deem appropriate.

C. The application, supporting data, and reports of governmental officials shall then be presented to the village council of the Village of Bancroft. In passing on the application, the village council shall determine whether or not the proposed business meets the requirements of this ordinance, other applicable village ordinances, other applicable county ordinances and applicable state statutes and shall approve or deny the license accordingly. If the license is denied, the basis or bases for denial shall be specified in the resolution of denial.

D. Advertising of applicant's proposed business prior to the issuance of a license by the Village of Bancroft shall constitute a violation of this ordinance by applicant and shall constitute a basis for denial of such license.

E. Based upon the maximum number of persons to be admitted to licensee's place of business per day as disclosed in application, if such number exceeds 499 persons and if the village council in its discretion determines that the public safety and welfare make it desirable that police personnel be assigned to the vicinity of licensee's place of business, licensee shall be obligated to reimburse the village for the actual expense of providing such police service to the extent of two officers for the first 500 persons and one additional officer for each additional 200 persons.

Section 7: Requirements for operation

After ISSUANCE [←] of the license, licensee shall meet the following requirements:

- A. The insurance and bond required above shall continue in full force and effect until expiration or termination of the license.
- B. Licensee shall permit village, county and state officials to enter upon the licensed premises at all reasonable times to determine compliance with the requirements of this ordinance and other applicable village, county, and state ordinances and statutes.
- C. Licensee shall not knowingly permit violations of any village ordinance, county ordinances or state statute by any of his patrons.
- D. Licensee shall provide off-street parking facilities sufficient to accommodate all persons to be admitted to his place of business based on the maximum capacity specified in the application.
- E. Licensee shall not admit to his premises any person who is then under the influence of intoxicating beverages or of drugs, nor shall he knowingly permit the possession, sale or consumption of narcotics or hallucinogenic drugs on his business premises.
- F. Licensee shall provide sufficient fences or barriers or shall so patrol the boundaries of his business premises as to efficiently prevent his patrons from directly trespassing on neighboring premises.
- G. Licensee shall so conduct his business that it shall not give rise to a nuisance by reason of noise, vibration, smoke, odor or dust.
- H. Licensee shall limit his business activities to the hours specified in his license.
- I. Licensee shall post a copy of this ordinance and a copy of his license in his place of business in a location where they can be read easily by his patrons.
- J. Licensee shall not permit in his/her or its establishment any form of commercial public entertainment by live performers within Village of Bancroft involving any of the following:
 - 1. Patently offensive displays, representations, or descriptions of ultimate sexual acts, normal or perverted, actual or simulated:

a. Definition, simulated sexual conduct. "Simulated" means the explicit depiction or descriptions of any types of conduct set forth in the definition of sexual conduct under subsection (1), which creates the appearance of such conduct.

b. Definition, ultimate sexual acts. "Ultimate sexual acts" means sexual intercourse, fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object in to the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions; or

2. Patently offensive displays, representations, or descriptions of masturbation, excretory functions.

K. If Licensee's establishment is licensed or subject to licensing by the Michigan Liquor Control Commission, then licensee shall not permit in his/her or its establishment any form of commercial public entertainment by live performers within the Village of Bancroft containing nudity which shall be defined to be the exposure by view of persons, any of the following body parts, either directly or indirectly, including but not limited to exposure, see through clothing articles or body stockings:

- a. The whole or part of the pubic region;
- b. The whole or part of the anus;
- c. The whole or part of the buttocks;
- d. The whole or part of genitals;
- e. The breast area including nipple

L. Any establishment within the Village of Bancroft in which public commercial entertainment by live performers is permitted shall comply with the following regulations prior to the allowances or presentation of such entertainment:

1. No person under eighteen (18) years of age shall serve any liquor or entertain or work, either on a paid or voluntary basis, in that portion of the premises wherein liquor is being served or consumed.

2. If the establishment offers public entertainment wherein performers are required to change costumes or attire, the establishment shall provide and make use of separate dressing facilities set aside for separate use by male and female performers. The establishment shall not allow the use of restrooms, public rooms, kitchens, or other similar areas for the changing of clothing by entertainers.

3. The area utilized for performances shall be separated from the area occupied by patrons and customers by either a raised stage, railing or other permanent divider-type construction.

4. No performer shall be allowed to dance, mingle, eat, or drink with patrons or customers in the establishment during the period of their employment or between performances occurring in a continuous 12-hour period in the establishment.

Section 8: Termination

Each license granted under the provisions of this ordinance shall expire at the end of the term specified in the application, but if not so established, shall expire on the next succeeding March 31.

Section 9: Non-transferability

A license issued under this ordinance shall not be transferable to any other firm or person.

Section 10: Suspension and Revocation

A license required by this ordinance may be suspended or the renewal thereof refused by the village for misrepresentation of any material fact in the application for such license. Any license may be suspended or revoked by the village for good cause. The term "good cause" shall mean any act or omission or the permitting of a condition to exist with respect to the licensee in question which is contrary to the safety or welfare of the public, unlawful, or fraudulent in nature, a violation of any provision or provisions of this ordinance under which the license was granted, is beyond the scope of the license issued, or a fact, circumstance or condition which had it existed or been known to the village at the time the license was granted, would have been sufficient grounds for the refusal thereof. Revocation of a license may take place only after a hearing before the village board upon not less than seven days written notice to licensee at the address stated in the application of the licensee stating the time and place of such hearing and the reasons for revocation. A license issued under this ordinance may be suspended for not more than 20 days by the Village President or by a two-thirds vote of the Village Council for good cause.

Section 11: Nuisance

Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief or penalties provided by this ordinance, the village attorney may apply to a court of competent jurisdiction, upon direction of the village council, for an injunction to prohibit the seeking of a temporary restraining order, temporary injunction or permanent injunction, in the discretion of the court having jurisdiction.

Section 12: Severability

It is the legislative intent of the village council of the

GEORGE GEDDIS III
ATTORNEY AT LAW
2276 EAST MAIN STREET
OWOSSO, MICHIGAN 48867
517/725-9146

Village of Bancroft that each and every provision of this ordinance be liberally construed to protect and preserve the peace, safety and welfare of the inhabitants of said village and should any provision, section or portion thereof be held unconstitutional or invalid, such holding shall not affect the validity of the remaining provisions, it being the intent that the remainder of such ordinance shall stand notwithstanding the invalidity of any provision thereof.

Section 13: Effective Date

This Public Entertainment Ordinance shall be in full force and effect on the 2ND day of APRIL, 1998, and shall be published in its entirety in the Owosso Argus Press at least twenty (20) days prior thereto.

SANDRA CROWDER moved, seconded
by DAVE FIEBERNITZ, that the above ordinance
be adopted.

YEAS: SIX
NAYS: NONE

ADOPTED: MARCH 4, 1998

I hereby certify that the foregoing Ordinance was adopted by the Village of Bancroft Council, Shiawassee County, Michigan, at THE REGULAR meeting held on the 4TH day of MARCH, 1998.

Karen K. Cole
KAREN K. COLE
Village Clerk