

PART ELEVEN  
PUBLIC HEALTH CODE

TITLE FIVE - SOLID WASTES

- 1131 Refuse or Solid Waste Collection and Disposal
- 1137 Residential Recycling
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TITLE FIVE - MUNICIPAL WASTES

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1131.01 DEFINITIONS

The following words and phrases when used in the ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. **Applicant** means a person desirous of being authorized as a "Collector." (12703 §1 5/7/86)
2. **Bulk Item** is any specific municipal waste item that does not fit in a 32 gallon trash can or in a 30 gallon trash bag, which includes but is not limited to furniture, mattresses, etc. (14373 §1 3/16/06)
3. **Center City** means that section of Allentown that is bounded on the east by the Jordan Creek, on the north by Tilghman Street, on the west by 11th Street and on the south by the Little Lehigh Creek. (13219 §1 10/7/93)
4. **City Curbside Collection Program** is the authorized collection, removal, transportation and disposal of municipal waste and recycling generated from eligible single family dwellings, rooming units, group homes, multi-family dwellings and commercial and institutional establishments who pay the annual Municipal Waste and Recycling Fee to the City of Allentown for this service. (14271 §1 3/3/05)
5. **Collector** means any person, firm or corporation duly authorized to collect and transport municipal waste within or from the City of Allentown. (12703 §1 5/7/86; 13937 §1 11/21/01; 14373 §1 3/16/06)
6. **Construction material** is any material that is a result of new construction, renovation or remodel of a structure of dwelling such as but not limited to lumber, carpeting, paneling, plaster board, ceiling tiles, kitchen cabinets, etc., concrete, brick, stone, rock and similar material is not considered to be construction material. (14373 §1 3/16/06)
7. **Container** is a rigid, durable, water tight, lidded vessel in which municipal waste and recycling is stored until collection. (14373 §1 3/16/06)
8. **Contractor** means the person, firm or corporation that has been authorized by the City and by contract to collect, transport and dispose of municipal solid waste from within the City of Allentown. (12703 §1 5/7/86; 13937 §1 11/21/01)
9. **Commercial establishment** means any establishment engaged in a non- manufacturing or non-processing business, including, but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters. (12703 §1 5/7/86)

10. Disposal means the incineration, deposition, injection, dumping, spilling, leaking, or placing of municipal waste into or on the land or water in a manner that the waste or a constituent of the waste enters the environment, is emitted into the air, or is discharged to the waters of the Commonwealth of Pennsylvania. (12703 §1 5/7/86)

11. Disposal site means any site, facility, location, area, or premises to be used for the disposal of municipal wastes. (12703 §1 5/7/86)

12. Dwelling unit means a group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating for the exclusive use of the occupants thereof, including mobile homes or house trailers. (13409 §1 7/19/96; 14373 §1 3/16/06)

13. Eligible Entities means any single family dwelling, multi-family dwellings, rooming units, or commercial or institutional establishments that receive City Contractor service in accordance with the criteria contained herein. (13219 §1 10/7/93; 13937 §1 11/21/01)

14. Garbage means all animal and vegetable wastes attending or resulting from the handling, dealing, storing, preparation, cooking and consumption of foods. (12703 §1 5/7/86)

15. Group home means residential clients and attendant (24 hours or less) staff, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based upon an intentionally structured relationship providing organization and stability. (13289 §1 11/3/94)

16. Hazardous Waste means any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

a. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; and (12703 §1 5/7/86)

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. (12703 §1 5/7/86)

17. Household Hazardous Waste (HHW) is waste which would be chemically or physically classified as a hazardous waste but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: Toxic; Flammable; Reactive; or Corrosive. HHW consists of numerous products that are common to the average household such as: Pesticides and herbicides, cleaners, automotive supplies, paints, and acids. (13614 §1 11/20/97)

18. Hotel means an establishment having over twenty (20) permanent bedrooms for the use of transient guests. (13289 §1 11/3/94)

19. Industrial establishment means any establishment engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries, and the like. (12703 §1 5/7/86)

20. Institutional establishment means any establishment engaged in service to persons including, but not limited to hospitals, nursing homes, orphanages, schools, non-profit organizations, churches and universities. (12703 §1 5/7/86; 13289 §1 11/3/94)

21. Intended to be used. A building, structure, unit or part thereof is "intended to be used" for the purposes of this Code; in accordance with the use indicated in the Lehigh County Property Tax Assessment records; or the most recent records pertaining to the use on file in any department of the City; or in the absence of any such records; in accordance with the use determined by the City to be the most appropriate for the building, structure, unit or part thereof. (13289 §1 11/3/94)

22. Management means the entire process or any part thereof of storage, collection, transportation, processing, treatment, and disposal of municipal wastes by any person engaging in such process. (12703 §1 5/7/86)

23. Multi-family dwellings means any building under one roof which contains two (2) or more complete dwelling units. (12703 §1 5/7/86; 12903 4/5/94)

24. **Municipal waste** means any garbage, refuse, industrial lunchroom or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities and which are not classified as residual waste or hazardous waste as herein defined. The term does not include source separated recyclable materials or yard waste. (12703 §1 5/7/86; 13040 §1 4/3/91)

25. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (14271 §1 3/3/05)

26. **Person** means any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency, or any other legal entity whatsoever which is recognized by law as being subject to such rights and duties. (12703 §1 5/7/86)

27. **Processing** means any technology used for the purpose of reducing the volume or bulk of municipal waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities, incinerators, recycling facilities and resource recovery facilities. (12703 §1 5/7/86)

28. **Public Officer** means any police officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances. (14271 §1 3/3/05)

29. **Recyclable material** means a material in municipal waste, which can be collected, separated and/or processed into a commodity to replace virgin materials in the manufacturing of new materials or products. (13040 §1 4/3/91; 13937 §1 11/21/01)

30. **Regular** means at least three or more times per month. (12703 §1 5/7/86)

31. **Refuse** means the collective term applying to all garbage, ashes, leaves, and grass trimmings from residential, municipal, commercial or institutional premises. (12703 §1 5/7/86)

32. **Residual waste** means any discarded material or other waste including solid, semisolid or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations excluding municipal water and sewer operations. (12703 §1 5/7/86)

33. **Rooming unit** means any room or groups of rooms forming a single habitable unit used or intended to be used for living and sleeping only. (13289 §1 11/3/94)

34. **Solid waste** means any waste, including but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. (Pennsylvania Solid Waste Management Act 97, Section 103) (12703 §1 5/7/86)

35. **Source separate** means to separate recyclable materials from the municipal waste stream at the point of waste generation. (13040 §1 4/3/91)

36. **Storage** means the containment of any municipal waste on a temporary basis in such a manner as not to constitute disposal as such waste. (12703 §1 5/7/86; 14373 §1 3/16/06)

37. **Transportation** means the off-site removal of any municipal waste at any time after generation. (12703 §1 5/7/86; 14373 §1 3/16/06)

38. **Violation Ticket** is a form issued by a police officer or public officer to a person who violates a provision of this Article. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator. (14271 §1 3/3/05)

39. **Yard Waste** means leaves, garden residues, grass clippings, shrubbery and tree trimmings and similar materials. (13030 §1 4/3/91)

## 1131.02 AUTHORIZATION OF CITY CONTRACTOR(S); SCOPE OF WORK; FEE

### A. Contracts for Collection; Authority

The City is authorized to award a contract(s) for the collection, removal, transportation and disposal of municipal waste generated from single family dwellings, rooming units, group homes, multi-family dwellings and commercial and institutional establishments as described below and any other type of entity the City deems necessary or acceptable. The contract(s) shall contain a provision that the contract(s) is to be performed and carried out by the contractor(s) in compliance with all applicable City ordinances. The Bureau of Recycling and Solid Waste shall divide the City into districts and prescribe the days and hours for the collection and removal of municipal waste and recyclable materials from such districts. (13219 §1 10/7/93; 13289 §1 11/3/94; 14271 §1 3/3/05; 14373 §1 3/16/06)

B. Scope of City Contract Collection (13289 §1 11/3/94)

1. Municipal Waste Collection (13289 §1 11/3/94)

a. Single family and multi-family dwellings up to and including twenty-five (25) units. (13289 §1 11/3/94; 13614 §1 11/20/97)

Municipal waste generated by the occupants or owner of single family and multi-family dwellings, up to and including twenty-five (25) units within the City of Allentown, shall be included for collection by the authorized City Contractor in accordance with all applicable sections of this Ordinance except as set forth in 2, below. (13289 §1 11/3/94; 13614 §1 11/20/97; 13937 §1 11/21/01)

Moved to 1131.04 (A)(3)(a) (13937 §1 11/21/01; 14271 §1 3/3/05; 14373 §1 3/16/06)

Moved to 1131.02 (C) (1)(a) (13937 §1 11/21/01; 14271 §1 3/3/05; 14373 §1 3/16/06)

b. Commercial and Institutional Establishments

Municipal waste generated within the City of Allentown, by commercial or institutional establishment, shall be eligible for City Curbside Collection, except as set forth in 3, or 4 below. The eligible entity must apply and be approved by the Bureau of Recycling and Solid Waste to terminate City Curbside Collection to an entity for a violation of this Article and/or the Residential and Commercial Recycling Ordinances. (13219 §1 10/7/93; 13289 §1 11/3/94; 13614 §1 11/20/97; 13937 §1 11/21/01; 14373 §1 3/16/06)

c. Rooming Units

Municipal waste generated within the City of Allentown, by the occupants or owner of rooming units which are located in buildings other than hotels, shall be included for collection by the authorized City contractor in accordance with all applicable sections of this Ordinance except as set forth in 2, below. (13289 §1 11/3/94; 13614 §1 11/20/97)

(Deleted 13614 §1 11/20/97) (13289 §1 11/3/94)

d. Collection

1. It shall be a violation of this ordinance to mix or place any designated recyclable material or yard waste with municipal waste.

2. In Center City, all municipal waste generated by any entity included in City collection, and placed out for collection on their designated nights must be collected by the City Contractor by 8:00 AM the following day. (13289 §1 11/3/94; 14373 §1 3/16/06) (Moved from 1131.04 (C))

3. All municipal waste generated outside of the Center City zone by any entity included in City collection, and placed out for collection on their designated nights must be collected by the City Contractor by 12:00 PM the following day. 13836 §1 11/21/01; 14373 §1 3/16/06) (Moved from 1131.04 (C))

2. Exemption

A. The owners of multi-family dwellings with 25 or less units or rooming units may apply for exemption from inclusion in the City Curbside Collection Program by submitting a written application to the Bureau of Recycling and Solid Waste. For all exempted entities, there shall be a thirty-five (\$35) dollar per property annual inspection fee that shall be paid for all multi-unit rental properties approved for exemption from the City Curbside Collection Program. Multi-unit rental properties

exempted from the City Curbside Collection Program who place municipal waste or recycling out for City Curbside Collection will lose their exemption. (14271 §1 3/3/05; 14373 §1 3/16/06)

B. The owners of multi-family dwellings or rooming units may be exempted from municipal solid waste and/or recycling collection and payment of the applicable fee of the Municipal Waste and Recycling Fee provided that: (13614 §1 11/20/97; 13937 §1 11/21/01)

1. There is an area on the property not within the public right-of-way which is sufficient for the placement of bulk containers of adequate size to store all municipal waste and recyclables generated on the property in one (1) week. The bulk containers and location shall be subjected to approval by the Manager of Recycling and Solid Waste. (13937 §1 11/21/01; 14373 §1 3/16/06)

2. That such bulk containers are placed on the property for waste generated by the occupants of the dwelling units in the building. (13937 §1 11/21/01)

3. That the bulk container(s) are collected and emptied on a regular schedule by a licensed Collector and in no event less than one (1) time per week.

4. That there is no curbside storage or collection of municipal waste from the property.

5. That the owner of said multi-family dwellings or rooming units meet the requirements of this Article and the Commercial Recycling Ordinance 13219 or the Residential Recycling Ordinance 12959, respectively. (13289 §1 11/3/94; 13614 §1 11/20/97; 13937 §1 11/21/01)

6. That the owner provide all tenants with recycling bins, source separated recycling collection, and recycling education and must submit evidence of such upon request by the Bureau of Recycling and Solid Waste. (13937 §1 11/21/01; 14373 §1 3/16/06)

7. The owner of said multi-family dwellings or rooming units annually submits to the Bureau of Recycling and Solid Waste substantiating evidence of a current agreement/contract with a licensed Collector for trash and recycling collection as described in Section 1131.03 and in Article 1139 of the Commercial Recycling Ordinance by January 31 of the year for which an exemption is sought. (13289 §1 11/3/94; 13937 §1 11/21/01; 14271 §1 3/3/05)

8. Exemption is renewable on an annual basis pending City review and/or inspection. It shall be the prerogative of the Bureau of Recycling and Solid Waste to terminate exemption status to an entity for a violation of this Article and/or the Residential and Commercial Recycling Ordinances. (13937 §1 11/21/01; 14373 §1 3/16/06)

### 3. Large Complexes

For the purposes of Section 1131.02(B)(1) subsection (a) above where on a single, undivided tract of land under common ownership there is a building or buildings containing a total of twenty-six (26) or more dwelling units, such apartment complex shall not be included for municipal waste collection by the authorized City contractor. (13289 §1 11/3/94; 13614 §1 11/20/97)

### 4. Commercial and Institutional Establishments (13289 §1 11/3/94)

a. For the purposes of Section 1131.02(B)(1) subsection (b) above where the municipal waste generated weekly is greater than what can be contained in ten (10) thirty (30) gallon containers, the facility shall not be eligible for municipal waste collection by the authorized City contractor. (13614 §1 11/20/97)

b. By virtue of the type of business conducted and the type of waste generated, certain commercial or institutional facilities listed below shall not be eligible for municipal waste collection by the authorized City Contractor: (13937 §1 11/21/01)

1. Auto repair or service station
2. Dry cleaner
3. Manufacturing, wholesale or warehousing operations
4. Cleaning or construction contractor
5. Medical facilities (including physicians, dentists, laboratories, etc.)
6. Funeral homes
7. Retail facilities over 5,000 square feet

8. Licensed food service establishments
9. Commercial or institutional establishments located in strip shopping centers (13289 §1 11/3/94)
10. Any other entity deemed unsuitable by the Manager of the Bureau of Recycling and Solid Waste or a designee due to its location, the quantity or nature of the waste generated within the facility or any other factor. (13219 §1 10/7/93; 13289 §1 11/3/94; 14373 §1 3/16/06)

## 5. Appeals

An Appeals Committee shall be established consisting of the Director of the Department of Administration and Finance, the Director of the Department of Community Development and the Director of the Department of Public Works or their designees who shall review appeals from property owners of multi-unit dwellings requesting exemption from City Curbside Collection and to review appeals from commercial and institutional establishments for inclusion in the City Curbside Collection Program. (13937 §1 11/21/01; 14373 §1 3/16/06)

### C. Municipal Waste and Recycling Fee (13614 §1 11/20/97)

#### 1. Fee Imposed

a. There is hereby imposed upon the owner of each dwelling unit, as determined by the Bureau of Zoning, and all entities included in City collection, an annual Municipal Waste and Recycling Fee, in the amount approved by City Council in the annual budget process. It shall be a violation of this Ordinance for a person to place municipal waste or recycling out for the City Curbside Collection Program without paying the annual Municipal Waste and Recycling Fee. (The fee is \$340 per Ordinance 14033 §1 12/15/01; 13167 §1 12/10/92; 13232 §1 12/9/93; 13289 §1 11/3/94; 13374 §1 12/28/95; 13438 §1 12/12/96; 13614 §1 11/20/97; 13805 §1 1/1/00; 13937 §1 11/21/01; 13957 §1 12/15/01; 14033 §1 12/10/02; 14271 §1 3/3/05; 14373 §1 3/16/06; 14545 §1 12/7/07)

The City is authorized to pro-rate the annual Municipal Waste and Recycling Fee for entities included in City collection as applicable. (13937 §1 11/21/01)

#### b. Commercial and Institutional Establishments

There is hereby imposed upon the owner or operator of each approved commercial or institutional establishment, for inclusion in the City Curbside Collection Program, except those that provide private municipal waste and recycling services in accordance with Article 1131.03 herein, an annual Municipal Waste and Recycling Fee in an amount equal to the fee set for a single dwelling unit. Commercial or institutional establishments approved for inclusion on or between January 1 and June 30 of the current calendar year shall pay the annual fee. Commercial or institutional establishments approved for inclusion on or between July 1 and December 31 of the current calendar year shall be required to pay one half (1/2) the annual fee. (13219 §1 10/7/93; 13232 §1 12/9/93; 13289 §1 11/3/94; 13614 §1 11/20/97; 13937 §1 11/21/01; 14373 §1 3/16/06)

Eligible commercial or institutional establishments may apply to the Appeals Committee for approval for municipal waste collection only at a fee equal to 86% of the total annual Municipal Waste and Recycling Fee. Establishments approved for recycling collection only shall be required to pay an amount equal to 48% of the total annual Municipal Waste and Recycling Fee. Commercial or institutional establishments approved for inclusion for only municipal waste or recycling collection on or between January 1 and June 30 of the current calendar year shall pay the percentage fee (86% or 48%, respectively) for the requested service. Commercial or institutional establishments approved for inclusion for only municipal waste or recycling collection on or between July 1 and December 31 of the current calendar year shall pay one half (1/2) the percentage fee (43% or 24%, respectively) for the requested service. (13614 §1 11/20/97; 14373 §1 3/16/06)

c. There is hereby imposed upon the owner or operator of rooming units included in City collection an annual Municipal Waste and Recycling Fee in an amount equal to the fee for a single dwelling unit for every three (3) (or any portion thereof) rooming units. (13289 §1 11/3/94; 13614 §1 11/20/97)

d. Said annual fees shall be due and payable each year on or before the last day on which the gross amount of the real estate tax is payable without penalty, pursuant to billing, collection and exoneration procedures established by the Department of Administration and Finance. A penalty of ten (10%) percent shall be added to bills not paid within the period described above. In addition thereto, any costs or fees incurred in conjunction with the collection of any such delinquencies shall be the responsibility of, and paid by, the owner(s) or operator of the subject property. (13167 §1 12/10/92; 13232 §1 12/9/93; 13289 §1 11/3/94; 13614 §1 11/20/97)

2. Exoneration of Certain Senior Citizens from payment of the Municipal Waste and Recycling Fee. (13614 §1 11/20/97)

a. All bona fide residents of the City of Allentown who are sixty-five (65) years of age or over shall be entitled to exoneration from payment of this fee on their principal place of residence provided that:

1. Such residence is owned and occupied by the claimant.

2. A request for exoneration shall be filed with the Bureau of Finance on such form as prescribed by that Bureau for such purpose.

3. The total household income from all sources does not exceed \$15,000.00.

b. The Bureau of Finance may require such evidence or information as it deems necessary or appropriate in determining eligibility for exoneration in accordance with this section.

c. Any information gained by any official, agent or employee of the City, as a result of any claim, investigations, or hearings required or authorized by this ordinance shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this ordinance or as otherwise provided by law.

d. False or untrue statements shall be a violation of this Ordinance. (13219 §1 10/7/93) (12903 §1 4/5/89; 13289 §1 11/3/94; 13289 §1 11/3/94)

### 1131.03 AUTHORIZATION OF COLLECTORS

#### A. Authorization required

It shall be unlawful for any person, firm or corporation other than such persons as are duly authorized by the County of Lehigh, Pennsylvania, to collect and transport municipal waste of any nature as a regular hauling business within or from the City of Allentown. (13937 §1 11/21/02; 12903 §1 4/5/89; 13614 §1 11/20/97; 13937 §1 11/21/01; 14373 §1 3/16/06)

### 1131.04 STORAGE, PLACEMENT AND COLLECTION OF MUNICIPAL WASTE

#### A. General

1. It shall be the duty of every owner of property and every person occupying any dwelling unit, premises or place of business within the City of Allentown where municipal waste is produced and is accumulated, by his own expense and cost, to provide and keep at all times, a sufficient number of containers to hold all municipal wastes which may accumulate during the intervals between collection of such municipal waste by an authorized collector.

2. The containers shall be plainly and legibly marked with the participant's address and apartment number, if any, excluding plastic bags. (13915 11/21/01)

3. It shall be the duty of every owner of multi-family dwellings, rooming units, and any other residential units included in City collection except owner-occupied single family dwellings to permanently post and maintain in each unit the Trash and Recycling procedures issued by the Bureau of Recycling and Solid Waste. (13289 §1 11/3/94)

#### B. Storage and Placement by Entities Eligible for City Contract Collection (13289 §1 11/3/94; 13937 §1 1/21/01)

1. Containers: All municipal waste, except bulk items (e.g. furniture, mattresses, carpeting, cabinets, etc.), generated by owners and/or the occupants of eligible entities shall be placed in containers for collection by an authorized collector. (14373 §1 3/16/06)

a. The containers shall be durable, water tight, and made of metal or rigid plastic. The containers shall have tightly fitting covers that remain in use and shall be kept clean. Each container shall not weigh more than seventy (70) pounds when filled. (13937 §1 11/21/01)

b. Plastic bags may be used as municipal waste containers, at curbside for City Curbside collection, provided they are sealed to prevent scattering of their contents and do not contain any rips, tears or punctures. Plastic bags of municipal waste shall not weigh more than forty (40) pounds when filled. (13762 §1 7/22/99; 14373 §1 3/16/06)

c. Cardboard boxes may not be used as municipal waste containers. (14373 §1 3/16/06)

## 2. Storage of Containers:

a. No person shall store a container, as defined above, in front of the property's main structure (including on the front porch), except when it is placed at the curblin e or street for collection, as described below.

b. Furthermore, plastic bags are not to be stored anywhere on the exterior of the property except in approved containers prior to being placed at the curblin e or street for collection, as described below. (13762 §1 7/22/99; 14373 §1 3/16/06)

c. Property owners of multi-family dwellings included in City Curbside Collection must provide a location on their property for the storage of trash and recycling in between collections. Storage must be in compliance with all City of Allentown Ordinances and must not create a public nuisance or vector control issues. Exceptions and alternate storage locations may be subject to review and approval by the Bureau of Recycling and Solid Waste. (14373 §1 3/16/06)

## 3. Placement and Removal of Containers:

a. Only municipal waste generated at the entity included in the City Curbside Collection Program by the owner or occupants of said entity may be placed out for collection in front of that entity. It shall be a violation of this Ordinance to place, or cause to be placed, municipal waste generated at a different location at an entity included for City collection; this may constitute illegal dumping and a violation of the Anti-Litter Ordinance. (14373 §1 3/16/06)

b. All municipal waste containers shall be placed at the curblin e or street directly in front of the included residential entity where the municipal waste was generated not before 6:00 PM, and prior to 10:00 PM, only on their designated nights of collection. (13289 §1 11/3/94; 13614 §1 11/20/97; 13762 §1 7/22/99; 14373 §1 3/16/06)

c. All municipal waste containers shall be placed at the curblin e or street directly in front of the included commercial or institutional entity where the municipal waste was generated, not before 5:00 PM and prior to 10:00 PM, only on their designated nights. (14373 §1 3/16/06)

d. All containers shall be removed from the street or curblin e as soon as practicable, within 12 hours, after collection. (13289 §1 11/3/94; 13614 §1 11/20/97; 13762 §1 7/22/99; 14373 §1 3/16/06)

e. All material shall be placed at the curblin e in a manner as not to result in spilled or scattered trash or litter on public or private property. All material placed out for collection shall be the responsibility of the property owner, responsible agent or occupant until it is collected by the Contractor. (14373 §1 3/16/06)

f. No municipal waste may be set out at the curblin e or in the public right-of-way for collection by a privately contracted Collector without written approval by the Bureau of Recycling and Solid Waste. (14373 §1 3/16/06)

## 4. Municipal Waste Limits

The City of Allentown hereby establishes limits to the quantity and nature of municipal waste, bulk items and construction material placed out by entities included in the City Curbside Collection Program. It shall be a violation of this ordinance to exceed or violate the limits as set forth below:

### a. Per Collection Night Maximum

No more than five (5) thirty (30) gallon trash bags, each weighing no more than forty (40) pounds, or two (2) thirty-two (32) gallon trash container, each weighing no more than seventy (70) pounds per container may be placed out for City Curbside Collection by entities included in City Curbside Collection.

### b. Second Collection Night Allowances

Only on the second collection night of a designated collection zone, i.e. Wednesday, Thursday or Friday, may an eligible entity place out for collection one bulk item (furniture, mattress, etc.) or forty (40) pounds maximum of construction material (carpeting, lumber, etc.). The construction material may not exceed four (4) feet in length and must be in an acceptable container or bundled. A fee of Fifteen Dollars (\$15) for each additional bulk item is hereby established and must be paid to the Bureau of Recycling and Solid Waste prior to collection. (14373 §1 3/16/06)

c. Tires, vehicle parts containing fluids, non-recyclable vehicle parts, liquid paint and hazardous wastes may not be placed at the curb for City Curbside Collection. Concrete, brick, stone, rock or any other material that may damage compacting vehicles, as determined by the Bureau of Recycling and Solid Waste, is prohibited from City Curbside Collection. (14271 §1 3/3/05; (14373 §1 3/16/06)

5. Collection of Source Separated Recyclable Materials and Yard Waste: The collection of source separated recyclable materials and yard waste is otherwise regulated by City ordinance. It shall be a violation of this ordinance for any person to place any designated recyclable material or yard waste in containers which also contain municipal waste. (13040 §2 4/3/9; 13038;13219 §1 10/7/93; 13937 §1 11/22/01; (14373 §1 3/16/06)

## 1131.05 REQUIREMENTS FOR NON-MUNICIPAL COLLECTION

### 1. Private Collection and Disposal Responsibility

#### A. General

It shall be the responsibility of the owners/operators of all commercial, industrial and institutional establishments, and multi-family dwellings not included in City Contractor service or exempted under Section 1131.02(B)(2) to provide, at their own expense, for the storage, collection and disposal of their own waste. Such storage, collection and disposal shall be carried out in such a manner as to avoid the creation of a public nuisance, including but not limited to, noise disturbances, sanitation, littering, and vector control issues.

#### B. Containers

1. Storage of municipal waste on all multi-family dwelling properties which are using private collection shall be in a bulk container, subject to approval by the Manager of the Bureau of Recycling and Solid Waste, and as specified in (2, 3, and 4) below. Storage of municipal waste on commercial, industrial and institutional properties shall be done in the same manner and kept in the same type of containers except where the accumulation for each commercial, industrial or institutional property precludes their use, in which case such owner or occupant shall make special arrangements with the authorized collector for the storing of such additional quantities. (13937 §1 11/21/01; (14373 §1 3/16/06)

### 2. Collection

a. The owners/operators contracting for private collection shall provide an area on the property not within the public right-of-way which is sufficient for the placement of bulk containers of adequate size to store all municipal waste and recyclables generated on the property in one (1) week. (13937 §1 11/21/01)

b. Such locations shall not interfere with public or private sidewalks, walkways, driveways, roads, streets, highways or entrances and exits of public or private buildings and be in compliance with all applicable laws. (13937 §1 11/21/01)

c. Municipal waste intended for collection by a private Collector may not be set out at the curblin for collection without written approval by the Bureau of Recycling and Solid Waste. (14373 §1 3/16/06)

3. The special bulk containers shall have lids which must remain closed except when municipal waste is being removed from the container. The containers shall be kept clean and in good repair.

### 4. The owners/operators contracting for private collection shall:

a. Provide bulk containers on the property for use for waste generated by employees of the commercial, industrial or institutional establishment and/or by the occupants of the dwelling units in the building. (14373 §1 3/16/06)

b. Provide collection for the bulk container(s) on a regular schedule by a licensed collector and in no event less than one (1) time per week.

c. Not allow the curbside storage or collection of municipal waste from the property.

d. Meet the requirements of this Article and the Commercial Recycling Ordinance 13219 or the Residential Recycling Ordinance 12959, respectively. (13289 §1 11/3/94; 13614 §1 11/20/97)

e. Provide all tenants with recycling bin, source separated recycling collection, and recycling education. (13937 §1 11/21/01)

### C. Reporting Responsibility

It shall be the responsibility of the owners/operators of all commercial, industrial or institutional establishments, and multi-family dwellings not included in City Contractor service or exempted under Section 1131.02(B)(2) to annually submit upon request to the Bureau of Recycling and Solid Waste evidence of a current agreement/ contract with a licensed collector including the collector's name, address, and telephone number. This information shall also include the days and times of collection. The Bureau of Recycling and Solid Waste must be notified in writing within ten (10) days of such changes, said licensed collectors shall notify the Bureau of Recycling and Solid Waste, on a form to be provided, when an agreement/ contract for the collection and disposal of municipal waste has been terminated. (12903 §1 4/5/89; 13289 §1 11/3/94; 13289 §1 11/3/94; 13937 §1 11/21/01; 14373 §1 3/16/06)

### 1131.06 HANDLING OF MUNICIPAL WASTE

#### A. Transportation

All Collectors transporting municipal waste within the City of Allentown shall prevent and remedy any spillage from their vehicles or containers used in the transport of such municipal waste. (13289 §1 11/3/94; 13937 §1 11/21/01; 14373 §1 3/16/06)

Such vehicles or containers shall not be overfilled, and shall be cleansed at sufficiently frequent intervals to prevent obnoxious odors or unhealthful conditions. They shall be so constructed, loaded and driven as to prevent any portion of the load from falling out upon the streets or highways. Open-truck bodies of such vehicles shall be covered and fastened with devices that will secure and contain the contents. (13937 § 1 11/21/01)

#### B. Removal by Collectors

All Collectors shall return the refuse receptacle or receptacles to the premises from which they have been removed. They shall also collect and remove all municipal waste which, by accident or otherwise, may have been put or fallen on the sidewalks, streets or highways immediately or within four (4) hours notification by the Bureau of Recycling and Solid Waste. (12903 §1 4/5/89; 13289 §1 11/3/94; 13937 §1 11/21/01; 4373 §1 3/16/06)

#### C. Mixing Recyclable Materials and Municipal Waste

It shall be a violation of this Ordinance for any Collector to mix or place any designated recyclable material or yard waste in with the collection of municipal waste. 14373 §1 3/16/06)

### 1131.07 DISPOSAL OF MUNICIPAL WASTE

#### Disposal at Approved Facilities

All municipal waste produced, collected, and transported from within the jurisdictional limits of the City of Allentown shall be disposed of at licensed and approved disposal facilities in accordance with the Lehigh County Solid Waste Plan, and in compliance with all Department of Environmental Protection regulations and with any other applicable local, state or federal statute. (13289 §1 11/3/94; 14373 §1 3/16/06)

### 1131.08 EXCLUSIONS

#### A. Disposal of Personal Wastes

Nothing contained herein shall be deemed to prohibit any person not regularly engaged in the business of collecting municipal waste from hauling his own municipal waste on an irregular and unscheduled basis, to a State permitted disposal facility.

#### B. Hazardous or Residual Wastes

The provisions of this ordinance do not apply to anything but the storage, collection, transportation and disposal of municipal waste and do not apply, therefore, to hazardous or residual wastes as defined by the Pennsylvania Solid Waste Management Act. (12903 §1 4/5/89)

It shall be a violation of this Ordinance for any entity included in City Curbside Collection to place any hazardous or household hazardous waste for collection by the authorized City Contractors. (13614 §1 11/20/97; 13937 §1 11/21/01; 14373 §1 3/16/06)

#### 1131.94 ENFORCEMENT

A. The provisions of this Article shall be enforced by police officers or any other public officer authorized to enforce ordinances.

B. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

C. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

D. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

E. A public officer is authorized and empowered to cause a violation to be corrected.

F. If the City has effected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Manager of Recycling and Solid Waste or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred. (14271 §1 3/3/05)

#### 1131.97 VIOLATION TICKET APPEALS PROCESS

A. A person in receipt of a violation ticket may appeal to the Bureau of Recycling & Solid Waste by filing a request within ten (10) days of receipt of the violation ticket.

B. A Hearing Officer, designated by the Manager of the Bureau of Recycling & Solid Waste, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts. (14271 §1 3/3/05)

#### 1131.98 SEVERABILITY

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect. (14271 §1 3/3/05)

#### 1131.99 FINES AND PENALTIES

(14271 §1 3/3/05)

##### A. Violation Ticket Fines

1. Violation tickets shall be issued in the amounts of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars. (14271 §1 3/3/05)

2. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction of twenty-five (\$25) dollars or one hundred (\$100) dollars, as indicated on the violation ticket. (14271 §1 3/3/05)

##### B. Violation Ticket Penalties

1. If the person in receipt of a twenty-five (\$25) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a ten (\$10) dollar penalty for days eleven (11) through twenty (20).

2. If the person in receipt of a one hundred (\$100) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a twenty-five (\$25) dollar penalty for days eleven (11) through twenty (20).

3. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation.

##### C. Citation Fines (14271 §1 3/3/05)

Whoever violates the provisions of this ordinance shall, upon conviction, be fined not more than One Thousand (\$1,000.00) Dollars or imprisoned not more than ninety (90) days, or both.

Whoever shall violate Article 1131.04, Storage of Municipal Waste, Section 3, Placement and Removal of Containers, shall be fined no less than Twenty-five (\$25) Dollars on the first offense. ( 13916 - 7/5/01)

Every violator of the provisions of this ordinance shall be deemed guilty of a separate offense for each and every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

**D. Removal of Accumulated Waste**

In addition to the foregoing penalty, the City of Allentown may require the owner or occupant of a property to remove any accumulation of municipal waste and should said person fail to remove such municipal waste following written notice, the City of Allentown may cause the municipal waste to be collected and disposed of with the costs for such actions to be charged to the owner or occupant of the property in a manner provided by law. (12903 §1 4/5/89; 14271 §1 3/3/05;14373 §1 3/16/06)

E. The City's Department of Public Works, Bureau of Recycling and Solid Waste, Health Bureau and other City enforcement bureaus are authorized and directed to enforce this Ordinance. The Manager of Recycling and Solid Waste is hereby authorized and directed to promulgate, establish reasonable rules and regulations for the collection, storage and disposal of municipal waste in accordance with the terms hereof and any other matters required to implement this Ordinance. The City may change, modify, repeal or amend any portion of said rules and regulations at any time. (13289 §1 11/3/94; 13937 §1 11/21/01;14373 §1 3/16/06)

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**ARTICLE 1137  
RESIDENTIAL RECYCLING**

- 1137.01 Definitions
- 1137.02 Establishment of a Residential Recycling Program
- 1137.03 Preparation of Designated Recyclable Materials and Placement for Collection
- 1137.04 Collection by Unauthorized Person(s) - Scavenging
- 1137.05 Damage or Misuse of Recycling Containers
- 1137.06 Non-interference with Existing Contracts
- 1137.07 Mandatory Source Separation of Leaf Waste
- 1137.08 Residential Dwelling Units not in the City Curbside Collection Program
- 1137.09 Enforcement and Administration
- 1137.10 Violation Ticket Appeals Process
- 1137.11 Severability
- 1137.12 Fines and Penalties
- 1137.13 Franchise or License (14263 §1 3/3/05)

**1137.01 DEFINITIONS**

The following words and phrases when used in the ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. **Aluminum Can** means an empty container consisting entirely of aluminum and used solely for packing of beverage or food.
2. **City Curbside Collection Program** is the authorized collection, removal, transportation and disposal of municipal waste and recycling generated from eligible single family dwellings, rooming units, group homes, multi-family dwellings and commercial and institutional establishments who pay the annual Municipal Waste and Recycling Fee to the City of Allentown for this service. (14263 §1 3/3/05)
3. **Collector** means a person authorized by the Department of Public Works to collect, transport, and dispose of municipal waste or recyclable materials.
4. **Commingled** means source separated, non-putrescible recyclable materials that have been mixed at the source of generation (i.e., placed in the same container).
5. **Corrugated Cardboard** means any structural paper material with an inner core shaped in rigid parallel furrows and ridges.

6. **Designated Recyclable Materials** means those recyclable materials specified by the City for separate collection in accordance with this ordinance. Such materials may include, but not be limited to, aluminum cans, ferrous and bi-metal cans, glass containers, newspapers, magazines and periodicals, plastic containers, and yard wastes.
7. **Dwelling unit** means a group of rooms located within a structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating for the exclusive use of the occupants thereof.
8. **Ferrous Can** means an empty steel or tin food or beverage containers.
9. **Freon Appliances** are refrigerators, freezers, air conditioners, dehumidifiers, coiled water coolers or other appliances which contain Freon gas or any other type of refrigerant that requires special handling for disposal and recycling according to the Environmental Protection Agency standards. (14370 §1 3/8/06)
10. **Glass Container** means an empty bottle or jar made of clear, green or brown glass. Expressly excluded are non-container glass, plate glass, blue glass and porcelain and ceramic product, drinking glasses and light bulbs.
11. **High Grade Office Paper** means any bond, copier, letterhead or mimeograph paper typically sold as "white ledger" paper; and computer paper. (14263 §1 3/3/05)
12. **Mixed office paper** means any combination of high grade office paper, colored paper, file stock, advertising mail, magazines and catalogs. (14263 §1 3/3/05)
13. **Multi-family Dwelling** means any building under one roof which contains two (2) or more complete dwelling units.
- 14 **Municipal Waste** means any garbage, refuse, industrial, lunchroom or office waste, and other material including solid, liquid, semi-solid, or container gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities and which are not classified as residual waste or hazardous waste. The term does not include source separated recyclable materials.
15. **Newspaper** means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest.
16. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (14263 §1 3/3/05)
17. **Person** means any individual, partnership, corporation association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency, or any other legal entity whatsoever which is recognized by law as being subject to such rights and duties.
18. **Public Officer** means any police officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances. (14263 §1 3/3/05)
19. **Recyclable material** means a material which would otherwise become municipal waste, which can be collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products.
20. **Recycling** means the separation, collection, processing, recovery, and sale or re-use of metals, glass, paper, plastics and other materials which would otherwise be disposed of as municipal waste.
21. **Source Separate** means to separate recyclable materials from the municipal waste stream at the point of waste generation.
22. **Solid Waste** means any waste, including but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials. (Pennsylvania Solid Waste Management Act 97, Section 103). (12959 §1 2/21/90)
23. **Steel Can** means an empty container made of steel.

24. **Violation Ticket** is a form issued by a police officer or public officer to a person who violates a provision of this Article. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator. (14263 §1 3/3/05)

25. **Yard Waste** means leaves, garden residues, grass clippings, shrubbery and tree trimmings and similar materials. (13040 §1 4/3/91)

#### 1137.02 ESTABLISHMENT OF A RESIDENTIAL RECYCLING PROGRAM

A. There is hereby established a recycling program for the mandatory source separation, separate collection and recycling of designated recyclable materials from all entities included in the City Curbside Collection Program. (14263 §1 3/3/05)

B. Collection of recyclable materials pursuant to this section shall be made once per week. The Department of Public Works shall divide the City into districts and prescribe the days and hours for collection and removal of recyclable materials from such districts.

C. All entities included in the City Curbside Collection Program shall source separate all designated recyclable materials and commingle them into a recycling container in the manner designated by Section 1137.03 of this ordinance and shall place said recyclables for collection at a place, in a manner and at such times as designated by the City of Allentown.

D. Designated recyclables for the recycling program established pursuant to this section shall be determined by regulation from the following list of materials:

1. Corrugated paper
2. Newspaper
3. High-grade office paper
4. All white and mixed colored paper
5. Clear glass containers
6. Brown glass containers
7. Green glass containers
8. Aluminum cans
9. Steel cans
10. Bi-metal cans
11. Plastics
12. Appliances
13. Other recyclable materials as designated by the Manager of the Bureau of Recycling and Solid Waste or designee, effective thirty (30) days after designation.

E. The City reserves the right to add or remove an item or items from its designated list at any time upon notification of the public. (12959 §1 2/21/90; (14263 §1 3/3/05)

#### F. Freon Appliance Collection Fee

1. There is hereby imposed upon the owner of the Freon Appliance a fee of Twenty Dollars (\$20) for the collection, transportation, proper handling and recycling for each Freon Appliance placed out at the curb line by an entity included in City Curbside Collection. The fee must be paid in full to the City of Allentown, Bureau of Recycling and Solid Waste, prior to its collection.

2. It shall be a violation of this Article to place Freon Appliances out for collection without prepayment of said fee and for Freon Appliances to remain out for collection without payment of the Freon Appliance collection fee. (14370 §1 3/8/06)

#### 1137.03 PREPARATION OF DESIGNATED RECYCLABLE MATERIALS AND PLACEMENT FOR COLLECTION

A. Designated recyclables shall be prepared, stored, and placed at the curbside separate from municipal waste for collection at such times and dates as may be established by regulation. Preparation and storage of recyclables shall consist of those procedures which are set forth in regulations established by the Director of Public Works. (13762 §2 7/22/99)

B. All recyclable materials placed out for collection shall be owned by, and be the responsibility of the occupants (residents) of the residential property from which the recyclable materials originated until such materials are collected. The recyclable materials become the property of the City of Allentown and the responsibility of the City's Contractor upon the collection of said materials. (12959 §1 2/21/90; 14263 §1 3/3/05)

#### 1137.04 COLLECTION BY UNAUTHORIZED PERSON(S) - SCAVENGING

A. It shall be a violation of this ordinance for any person(s), unauthorized by the City, to collect or pick up or cause to be collected or picked up any recyclable material placed at curbside for City collection. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

B. Notwithstanding any provision of this ordinance, any person having ownership of the same, may sell or donate recyclable materials to any person, partnership or corporation, whether operating for profit or not for profit; provided, however, that such sold or donated material was not placed for collection at, or collected from the curbside. (12959 §1 2/21/90)

#### 1137.05 DAMAGE OR MISUSE OF RECYCLING CONTAINERS

A. The City shall provide a recycling containers to each household participating in the residential recycling program. The recycling containers provided by the City, shall remain the property of the City and shall be used solely for the specific use of storage and collection of designated recyclable materials by participants and for no other purpose. The participant shall plainly and legibly mark the containers with their address and apartment number. (13915 §2 7/5/01; (14263 §1 3/3/05)

B. It shall be a violation of this ordinance for any person(s) to damage, misappropriate, or use for any purpose other than that set forth above said recycling containers. Each such action in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided. (12959 §1 2/21/90)

#### 1137.06 NON-INTERFERENCE WITH EXISTING CONTRACTS

A. Nothing contained in this ordinance shall be construed to interfere with or in any way modify the provisions of any existing contracts which are in force in the City on the effective date of this ordinance.

B. No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of recyclables shall be entered into after the effective date of this ordinance, unless such renewal or such contact shall conform to the requirements of this ordinance. (12959 §1 2/21/90)

#### 1137.07 MANDATORY SOURCE SEPARATION OF YARD WASTE

A. Each person shall separate yard waste from other municipal waste generated at their homes, apartments and other residential establishments until collection unless those persons have otherwise provided for the composting of yard waste.

B. Nothing herein shall require any person to gather yard waste or prevent any person from utilizing yard waste for compost, mulch, or other agricultural, horticultural, silvicultural, gardening or landscaping purposes. (12959 §1 2/21/90; 13039 §2 5/3/91)

C. Yard waste shall be prepared and placed at curbside, separate from municipal waste and recyclable materials, for collection at such times and dates as may be established by regulation. Yard waste preparation and other procedures are set forth in regulations established by the Director of Public Works. (13039 §2 4/3/91; 14263 §1 3/3/05)

#### 1137.08 RESIDENTIAL DWELLING UNITS NOT IN THE CITYCURBSIDE COLLECTION PROGRAM

The owner of multi-family rental housing properties not in the City Curbside Collection Program shall establish a collection system for recyclable materials in accordance with the Commercial Recycling Ordinance Article 1139 including suitable containers for each dwelling unit, for their storage and collection and provide written instructions to the occupants. Said owners who comply with this section shall not be liable for the non-compliance of occupants of their buildings. (12959 §1 2/21/90; 14263 §1 3/3/05)

#### 1137.09 ENFORCEMENT AND ADMINISTRATION

A. The City's Department of Public Works, the Bureaus of Recycling and Solid Waste and Health and other City enforcement bureaus are authorized and directed to enforce this ordinance. The Director of Public Works is hereby authorized to promulgate, establish reasonable rules and regulations in accordance with the terms hereof and any other matters required to implement this ordinance. The City may change, modify, repeal or amend any portion of said rules and regulations at any time. (12959 §1 2/21/90)

B. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

C. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

D. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

E. A public officer is authorized and empowered to cause a violation to be corrected.

F. If the City has effected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Manager of Recycling and Solid Waste or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred. (14263 §1 3/3/05)

#### 1137.10 VIOLATION TICKET APPEALS PROCESS

A. A person in receipt of a violation ticket may appeal to the Bureau of Recycling & Solid Waste by filing a request within ten (10) days of receipt of the violation ticket.

B. A Hearing Officer, designated by the Manager of the Bureau of Recycling & Solid Waste, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts. (14263 §1 3/3/05)

#### 1137.11 SEVERABILITY

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect. (14263 §1 3/3/05)

#### 1137.12 FINES AND PENALTIES

##### A. Violation Ticket Fines

1. Violation tickets shall be issued in the amounts of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars. (14263 §1 3/3/05)

2. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction of twenty-five (\$25) dollars or one hundred (\$100) dollars, as indicated on the violation ticket.

##### B. Violation Ticket Penalties

1. If the person in receipt of a twenty-five (\$25) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a ten (\$10) dollar penalty for days eleven (11) through twenty (20).

2. If the person in receipt of a one hundred (\$100) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a twenty-five (\$25) dollar penalty for days eleven (11) through twenty (20).

3. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation.

##### C. Citation Fines

Whoever violates, or does not comply with any provision of this ordinance or any regulation thereof, shall be punishable by a fine not less than Twenty-five (\$25) Dollars upon a first conviction; \$50.00 upon a second conviction; and \$100.00 upon a third or subsequent conviction. The above fines shall not be applicable to a conviction for Section 1137.04 and 1137.05 hereof which shall be punishable by a fine not to exceed \$1,000.00. (12959 §1 2/21/90; 13039 §3 4/3/91; 14263 §1 3/3/05; 14370 §1 3/8/06)

### 1137.13 FRANCHISE OR LICENSE

The City may enter into an agreement(s) with public or private agencies or firms to authorize them to operate or administer all or any part of the residential recycling program mandated by this ordinance. (12959 §1 2/21/90; 14263 §1 3/3/05)

ARTICLE 1139  
COMMERCIAL RECYCLING ORDINANCE

1139.01	Definitions
1139.02	Establishment of a Commercial Recycling Program
1139.04	Reporting Requirements
1139.05	Applicability of Regulations
1139.06	Storage and Placement of Designated Recyclable Materials
1139.07	Preparation of Designated Recyclable Materials and Placement for Collection
1139.08	Required Education Program
1139.09	Exemption from Program Requirements
1139.10	Collection and Transportation of Designated Recyclables
1139.11	Collection by Unauthorized Person(s)
1139.12	Enforcement and Administration
1139.13	Violation Ticket Appeals Process
1139.14	Severability
1139.15	Fines and Penalties

(14264 §1 3/3/05)

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**1139.01 DEFINITIONS**

The following words and phrases when used in the ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

1. **Aluminum Can** means an empty container consisting entirely of aluminum and used solely for packing of beverage or food.
2. **Bi-Metal Can** means an empty food or beverage container consisting of a combination of ferrous and aluminum metals.
3. **Center City** means that section of Allentown that is bounded on the east by the Jordan Creek, on the north by Tilghman Street, on the west by 11th Street and on the south by the Little Lehigh Creek. (13219 §1 10/7/93)
4. **City** means the City of Allentown.
5. **City Curbside Collection Program** is the authorized collection, removal, transportation and disposal of municipal waste and recycling generated from eligible single family dwellings, rooming units, group homes, multi-family dwellings and commercial and institutional establishments who pay the annual Municipal Waste and Recycling Fee to the City of Allentown for this service. (14264 §1 3/3/05)
6. **Collector** means a person authorized by the Department of Public Works to collect, transport and dispose of municipal waste or recyclable materials.
7. **Commercial Establishment** means an establishment engaged in non-manufacturing or non-processing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.
8. **Commingled** means source separated, non-putrescible recyclable materials that have been mixed at the source of generation (i.e., placed in the same container).
9. **Community Activity** means events that are sponsored in whole or in part by the City or conducted within the City and sponsored privately, which include but are not limited to fairs, bazaars, socials, picnics and organized sporting events that are open to the general public and will be attended by 200 or more individuals per day.
10. **Condominium** means an apartment building or housing area in which the dwelling units are owned individually.
11. **Corrugated Cardboard** means any structural paper material with an inner core shaped in rigid parallel furrows and ridges.
12. **Designated Recyclable Materials** means those recyclable materials specified by the City to be separated from municipal waste for the purpose of recycling in accordance with this ordinance. Such materials may include, but not be

limited to, aluminum cans, ferrous and bi-metal cans, glass containers, newspapers, magazines and periodicals, plastic containers, corrugated cardboard, office paper, white goods and leaf wastes.

13. **Dwelling unit** means a group of rooms located within a structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating for the exclusive use of the occupants thereof.

14. **Eligible Entities** means any residence or place of business that receives City contractor service in accordance with the criteria contained herein. (13219 §1 10/7/93)

15. **Ferrous can** means an empty steel or tin food or beverage container.

16. **Food Service Establishment** means any establishment licensed as such by the City.

17. **Glass Container** means an empty food or beverage bottle or jar made of clear, green or brown glass. Expressly excluded are non-container glass, plate glass, blue glass and porcelain and ceramic products, drinking glasses, light bulbs and the like.

18. **High Grade Office Paper** means any bond, copier, letterhead or mimeograph paper typically sold as "white ledger" paper; and computer paper.

19. **Industrial Establishment** means any establishment engaged in manufacturing or processing, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

20. **Institutional Establishment** means any establishment engaged in service, including, but not limited to, hospitals, nursing homes, orphanages, schools and universities.

21. **Litter** includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, damaged and deteriorated furniture or motor vehicle seats, vehicle parts, automotive products, recyclable material, dirt, mud and yard waste that has been abandoned or improperly discarded, deposited or disposed. (14264 §1 3/3/05)

22. **Mixed office paper** means any combination of high grade office paper, colored paper, file stock, advertising mail, magazines and catalogs. (13219 §1 10/7/93)

23. **Municipal Establishment** means any facility or building owned or operated by a local government or county government, local government or county government authority, State Government or agency or Federal Government or agency.

24. **Multi-family Dwelling** means any building under one roof which contains two (2) or more complete dwelling units.

25. **Municipal Waste** means any garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semisolid or contained gaseous material resulting from operation or residential, municipal, commercial or institutional establishments or from community activities and which is not classified as residual waste or hazardous waste. The term does not include source separated recyclable materials.

26. **Newspapers** means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded, however, are newspapers which have been soiled.

27. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (14264 §1 3/3/05)

28. **Person** means any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency or any other legal entity whatsoever which is recognized by law as being subject to such rights and duties.

29. **Plastic Containers** means empty and clean consumer product containers made of Polyethylene Terephthalate (PET), Polypropylene (PP), High Density Polyethylene (HDPE) and Low Density Polyethylene (LDPE) most

commonly, but not limited to, plastic bottles used as containers for soda, milk and other consumer food products or for household cleaning products or for personal care products.

30. **Public Officer** means any police officer, authorized inspector, or public official designated by the Mayor to enforce the City Ordinances. (14264 §1 3/3/05)

31. **Recyclable Material** means a material which would otherwise become municipal waste, which can be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

32. **Recycling** means the separation, collection, processing, recovery and sale or re-use of metals, glass, paper, plastics and other materials which would otherwise be disposed of as municipal waste.

33. **Recycling Facility** means any facility employing a technology that is a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term recycling facility shall not mean transfer stations or landfills for solid waste nor composting facilities or resource recovery facilities.

34. **Source Separate** means to separate recyclable materials from the municipal waste stream at the point of waste generation.

35. **Solid Waste** means any waste, including, but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials (Pennsylvania Solid Waste Management Act 97, Section 103). (12993 §1 8/15/90) (13219 §1 10/7/93)

36. **Violation Ticket** is a form issued by a police officer or public officer to a person who violates a provision of this Article. The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator. (14264 §1 3/3/05)

#### 1139.02 ESTABLISHMENT OF A COMMERCIAL RECYCLING PROGRAM

A. There is hereby established a commercial recycling program for the mandatory source separation, separate collection and recycling of designated recyclable materials generated from all commercial, institutional, municipal and industrial establishments within the City and by residents of institutions, multi-family dwellings greater than twenty-five (25) residential units, multi-family dwellings approved for exemption from the City Curbside Collection Program and dwelling units located on private roads which are not served by the City's residential recycling collection system. (14264 §1 3/3/05)

B. Collection of recyclable materials pursuant to this section shall be made once per month or more often, as necessary as determined by the Manager of the Bureau of Recycling and Solid Waste or designee. The storage of recyclable materials shall not result in litter or in the creation of a public nuisance. (14264 §1 3/3/05)

C. All commercial, institutional, municipal or industrial establishments, multi-family dwellings which are not part of the City's residential recycling collection system and sponsors of community activities serving over 200 people per day shall be required to source separate all specific designated recyclable materials generated on the premises and shall arrange for the collection for recycling of said materials. Recycling program development, implementation and operation shall be the responsibility of the same entity which contracts for the private collection and disposal of waste. (14264 §1 3/3/05)

D. Designated recyclable materials for commercial, industrial, institutional, municipal establishments, licensed food service establishments, community activities serving over 200 people per day and multi-family dwellings not included in the City Curbside Recycling Program and shall be determined by regulation from the following list: (14264 §1 3/3/05)

1. High grade office paper
  2. Mixed Office Paper
  3. Corrugated cardboard
  4. Aluminum cans
  5. Ferrous cans (tin or steel can)
  6. Glass food and beverage containers (clear, brown and green)
  7. Plastic containers (PET and HDPE)
  8. Newspaper
  9. Leaf waste
- (14264 §1 3/3/05)

E. Commercial and institutional establishments participating in the City Curbside Collection Program shall be responsible for the recycling of all corrugated cardboard generated by the establishments. (14264 §1 3/3/05)

F. The City reserves the right to add or remove recyclable materials as defined in Act 101, from its designated lists at any time. (12993 §1 8/15/90) (13219 §1 10/7/93)

#### 1139.04 REPORTING REQUIREMENTS

A. It shall be the responsibility of the owners/operators of all commercial, institutional, municipal, industrial and licensed food service establishments, sponsors of community activities serving over 200 people and multi-family dwelling units not included in the City Curbside Collection Program to annually submit to the City, evidence of a current agreement/contract with a licensed collector for trash and separate recycling collection. (14264 §1 3/3/05)

B. It shall be the responsibility of the above-named owners/operators to submit a recycling report to the City on an annual basis. Said report shall identify the total tonnages of municipal waste generated and recyclable materials recovered per establishment, and the type and weight of individual recyclable materials recovered, along with the identification of the markets and destinations of each recovered recyclable material. All such reports of the previous year shall be submitted to the Bureau of Recycling and Solid Waste by January 31st, on forms provided by the City. (14264 §1 3/3/05)

C. It shall be the responsibility of the licensed trash haulers collecting municipal waste in the City to submit a recycling report to the City on an annual basis. Said report shall identify the tonnages of municipal waste generated per establishment, and the type and weight of individual recyclable materials recovered, along with the identification of the markets and destinations of each recovered recyclable material. All such reports of the previous year shall be submitted to the Bureau of Recycling and Solid Waste by January 31st, on forms provided by the City. (14264 §1 3/3/05)

D. It shall be the responsibility of all commercial recycling haulers collecting designated recyclable materials generated in the City of Allentown to submit a recycling report to the City on an annual basis. Said report shall identify individual establishments being serviced and the total tonnages of recyclable materials by type and weight of material that was processed along with the identification of the markets and destinations of each recovered recyclable material. All such reports of the previous year shall be submitted to the Bureau of Recycling and Solid Waste by January 31st, on forms provided by the City. (14264 §1 3/3/05)

E. All documentation shall be retained by haulers of trash and recyclable materials. Said documentation shall be available for inspection by City officials for a period of not less than five (5) years. (13219 §1 10/7/93)

F. The City reserves the right to require any additional information as deemed necessary by the Bureau of Recycling and Solid Waste. (12993 §1 8/15/90; 14264 §1 3/3/05)

#### 1139.05 APPLICABILITY OF REGULATIONS

Any person or persons engaged in the collection, processing and marketing of designated recyclable materials and all householders, firms, corporations, co-partnerships and any and all persons who may or do produce designated recyclable materials shall at all times be subject to any and all legislation, which may from time to time be enacted by the City as needed to be consistent with the rules and regulations of Act 101. (12993 §1 8/15/90; 14264 §1 3/3/05)

#### 1139.06 STORAGE AND PLACEMENT OF DESIGNATED RECYCLABLE MATERIALS (14264 §1 3/3/05)

##### A. General

It shall be the duty of every owner of property, premises or place of business within the City of Allentown where designated recyclable materials are produced and accumulated, by his/her own expense and cost, to provide and keep at all times, a sufficient number of containers to hold all designated recyclable materials which may accumulate during the intervals between collection of such recyclable materials by an authorized collector.

##### B. Containers and Storage in Multi-Family Dwelling Units

1. Owners of multi-family dwelling units shall provide each dwelling unit with a container(s) sufficient to hold all designated recyclable materials accumulated by the occupants of the dwelling unit during the intervals between collections. Containers provided for storage of designated recyclable materials shall remain the property of the owner of the multi-family dwelling unit and shall remain with the individual unit should the occupant vacate. (14264 §1 3/3/05)

2. All designated recyclable materials accumulated by owners and/or the occupants of multi-family

dwelling units shall be placed in containers prior to transfer to bulk containers as specified in Section C for collection by an authorized collector. The containers shall be durable, water tight and made of metal or plastic and marked with the recycling symbol or other acceptable markings. The containers shall be kept clean. (14264 §1 3/3/05)

C. Bulk storage on multi-family dwelling, commercial industrial, municipal and institutional properties

1. Containers: Bulk storage of designated recyclable materials on all multi-family dwelling properties which are using private collection shall be in bulk container as specified in (a) below. Storage of designated recyclable materials on commercial, institutional, municipal and industrial properties shall be done in the same manner and keep in the same type of containers as are required for multi-family dwelling properties except where the accumulation for each said property precludes their use, in which case such owner or occupant shall make special arrangements with the authorized collector for the storing of such additional quantities. Bulk container arrangements shall include the following:

a. The type of bulk container to be furnished by the collector shall be acceptable to the Manager of the Bureau of Recycling and Solid Waste or designee. The bulk containers shall have lids to avert a public nuisance and litter problem and to protect the marketing quality of recyclable materials. Such lids must remain closed except when designated recyclable materials are being placed in or removed from the container. The containers shall be clearly marked with both the recycling symbol and with the type of material(s) to be deposited in the container. The containers shall be kept clean and in good repair. (14264 §1 3/3/05)

b. The number of such containers shall be agreed to between the collector and such owner or occupant of the multi-family dwelling, commercial, institutional, municipal or industrial property to be used in any collection period.

2. Location of Containers: Bulk storage containers for collection at multi-family dwellings, commercial, institutional, municipal or industrial properties using private collection shall be located on such premises at a place agreed upon by such owner or occupant of the property and the authorized collector and shall not be unsatisfactory to the Department of Public Works. Such locations shall not interfere with public or private sidewalks, walkways, driveways, roads, streets, highways or entrances and exits of public or private buildings and shall be in compliance with all applicable laws. Bulk storage containers which are on wheels to facilitate their movement shall remain blocked at all times while unattended to prevent unintentional movement.

3. In census tracts nine (9), ten (10) and that portion of eleven (11) bounded on the north by Turner Street, the west by Hall Street, the south by Linden Street and the east by Church Street and including those establishments on both sides of the boundary streets of the above-mentioned areas, all designated recyclable materials generated by multi-family dwelling properties not included in the residential curbside recycling collection program and by commercial, institutional, municipal and industrial establishments that is to be collected at curbside shall be placed at curbside no earlier than after dusk prior to collection and removed by the authorized collector by 8:00 A.M. the following day. (12993 §1 8/15/90)

**1139.07 PREPARATION OF DESIGNATED RECYCLABLE MATERIALS AND PLACEMENT FOR COLLECTION**

Designated recyclable materials shall be separated and prepared in a manner consistent with recycling market requirements and placed at a designated area separate from municipal waste for collection at such times and dates as may be hereinafter established by regulation. Commercial and institutional establishments participating in the City collection system shall separate, prepare and store designated recyclable materials in a manner consistent with the requirements of the City of Allentown. (12993 §1 8/15/90; 13219 §1 10/7/93)

**1139.08 REQUIRED EDUCATION PROGRAM**

Recycling education programs shall be developed for and instituted at all entities mandated to recycle by this ordinance as follows:

A. Multi-family Dwellings, Commercial, Institutional, Municipal Industrial and Food Service Establishments

It shall be the responsibility of all mandated establishments to adequately inform all employees, resident users and patrons of the recycling program. The required educational program, at a minimum, shall include written instructions to all parties identifying the materials to be recycled, how the materials are to be prepared, how to use the collection system and updates detailing any changes in the program.

B. Community Activities

It shall be the responsibility of sponsors of all community activities to inform all employees as well as users (patrons) of the recycling program. The required educational program shall describe the recycling program's features and requirements. The recycling program shall require that receptacles for recyclable materials be clearly marked with both the recycling symbol and the type of material to be deposited in the receptacle or other marking as approved by the Director of Public Works. Recycling signs shall be prominently displayed stating the requirements of the recycling program. (12993 §1 8/15/90)

#### 1139.09 EXEMPTION FROM PROGRAM REQUIREMENTS

Persons required to participate in the recycling program established herein may request an exemption to the requirements of this ordinance pursuant to Section 1501 of Act 101. All such requests must be made in writing to the Director of Public Works and will be evaluated on a case by case basis by the Solid Waste Appeals Board. (12993 §1 8/15/90)

#### 1139.10 COLLECTION AND TRANSPORTATION OF DESIGNATED RECYCLABLES

##### A. Collection

Collectors shall collect and remove all recyclable materials for which they are responsible to collect. Collectors shall return the recycling receptacle(s) to the premises from which they have been removed in a manner so as not to create litter or a public nuisance. (12993 §1 8/15/90; 14264 §1 3/3/05)

##### B. Transportation

Any person transporting designated recyclable materials within the City of Allentown shall prevent or remedy any spillage from vehicles or containers used in the transport of such designated recyclable materials. Such vehicles or containers shall not be overfilled and shall be cleansed at sufficiently frequent intervals to prevent obnoxious odors or unhealthful conditions. Such vehicles shall be so constructed, loaded and driven as to prevent any portion of the load from falling out upon the streets or highways.

#### 1139.11 COLLECTION BY UNAUTHORIZED PERSON(S)

A. It shall be a violation of this ordinance for any person(s) unauthorized by the City to collect or pick up or cause to be collected or picked up any recyclable material placed at curbside or designated location for storage and subsequent collection by authorized collectors. Each such collection in violation hereof shall constitute a separate and distinct offense punishable as hereinafter provided.

B. Notwithstanding any provision of this ordinance, any person having ownership of the same, may sell or donate recyclable materials for the purpose of recycling to any person, partnership or corporation, whether operating for profit or not for profit; provided, however, that such sold or donated material may not be placed for collection at or collected from the curbside. (12993 §1 8/15/90)

#### 1139.12 ENFORCEMENT AND ADMINISTRATION

A. The City's Department of Public Works, the Bureaus of Recycling and Solid Waste and Health and other City enforcement bureaus are authorized and directed to enforce this ordinance. The Director of Public Works is hereby authorized to promulgate, establish reasonable rules and regulations in accordance with the terms hereof and any other matters required to implement this ordinance. The City may change, modify, repeal or amend any portion of said rules and regulations at any time. (12993 §1 8/15/90; 14264 §1 3/3/05)

B. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

C. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

D. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

E. A public officer is authorized and empowered to cause a violation to be corrected.

F. If the City has effected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Manager of Recycling and Solid Waste or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred. (14264 §1 3/3/05)

#### 1139.13 VIOLATION TICKET APPEALS PROCESS

A. A person in receipt of a violation ticket may appeal to the Bureau of Recycling & Solid Waste by filing a request within ten (10) days receipt of the violation ticket.

B. A Hearing Officer, designated by the Manager of the Bureau of Recycling & Solid Waste, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts. (14264 §1 3/3/05)

#### 1139.14 SEVERABILITY

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect. (14264 §1 3/3/05)

#### 1139.15 FINES AND PENALTIES (14264 §1 3/3/05)

##### A. Violation Ticket Fines

1. Violation tickets shall be issued in the amounts of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars. (14264 §1 3/3/05)

2. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction of twenty-five (\$25) dollars or one hundred (\$100) dollars, as indicated on the violation ticket. (14264 §1 3/3/05)

##### B. Violation Ticket Penalties

1. If the person in receipt of a twenty-five (\$25) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a ten (\$10) dollar penalty for days eleven (11) through twenty (20). (14264 §1 3/3/05)

2. If the person in receipt of a one hundred (\$100) dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a twenty-five (\$25) dollar penalty for days eleven (11) through twenty (20). (14264 §1 3/3/05)

3. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation. (14264 §1 3/3/05)

##### C. Citation Fines (14264 §1 3/3/05)

That any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this article or of any regulation or requirement pursuant hereto and authorized hereby, shall upon conviction thereof be ordered to pay a fine of not less than Twenty-five (\$25.00) Dollars nor more than One Thousand (\$1,000) Dollars and in default of payment of fine and costs, imprisoned not more than ninety (90) days. Each occurrence shall constitute a separate offense. (12995 §1 8/15/90)

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### TITLE SEVEN CHILD CARE FACILITY ORDINANCE

- 1141 Child Care Facility Ordinance
- 1143 Child Care Centers
- 1145 Group Child Care Homes and Family Child Care Homes
- 1147 Special Child Care Programs
- 1149 Inspections and Compliance Procedures

Ordinance 13595 (8/7/97) eliminated the contradictions between the City's old ordinance and state standards, and is codified herein.

**ARTICLE 1141  
CHILD CARE FACILITY ORDINANCE**

- 1141.01 Adoption and Purpose
  - 1141.02 Type of Facilities
  - 1141.03 Definitions
- 

**1141.01 ADOPTION AND PURPOSE**

That a certain ordinance known as the Child Care Facility Ordinance is to provide standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child care centers hereby adopted as the Child Care Facility Ordinance of the City of Allentown. The Bureau of Health is hereby authorized to develop and implement a program of issuing operational certificates and inspecting child care facilities. Providers shall make available information such as immunization status health appraisals and history of reportable and non-reportable communicable diseases concerning care recipients or staff members to the Bureau of Health upon request. Representatives of the Bureau of Health may at any reasonable time interview or require to be examined any care recipient or staff member or inspect any facility. (12692 §1 1/15/86; 13595 §1 8/8/97)

**1141.02 TYPE OF FACILITIES**

**A. Child Care Center**

1. This term applies to facilities in which out-of-home care is provided, at any one time, for part of a 24-hour day to seven or more children, 15 years of age or younger, including:

- a. Care provided to a child at the parent's work site when the parent is not present in the child care space.
- b. Care provided in private or public, profit or nonprofit facilities.
- c. Care provided before or after the hours of instruction in public and non-public schools, private nursery schools and kindergartens.

2. This chapter does not apply to:

- a. Care provided by relatives.
- b. Care furnished in places of worship during religious services.
- c. Care provided in a facility where the parent is present at all times child care is being provided.
- d. Care provided during the hours of instruction in Head Start programs, non-public schools and in private nursery schools and kindergartens.
- e. Recreational, instructional or athletic activities provided to children.

3. These facilities shall be issued operational certificates and regulated in accordance with the provisions of Articles 1143 and 1149 of this ordinance.

**B. Family Child Care Home**

A home other than the child's own home, operated for profit or not-for-profit, in which child care is provided at any one time to four, five or six children. These facilities shall be issued operational certificates and regulated in accordance with the provisions of Articles 1145 and 1149 of this ordinance.

**C. Group Child Care Home**

The premises in which care is provided at one time for more than six but fewer than 16 older school-age level children or more than six but fewer than 13 children of another age level. The term includes a facility located in a residence or another premises. These facilities shall be issued operational certificates and regulated in accordance with the provisions of Articles 1145 and 1149 of this ordinance. (12692 §1 1/15/86; 13595 § 8/8/97)

## D. Special Child Care Programs

Special Child Care Programs are programs such as Night Care, Head Start, and School Age Child Care. These facilities shall be issued operational certificates and regulated in accordance with the provisions of Articles 147 and 1149 of this ordinance. (12692 §1 1/15/86; 13595 §1 8/8/97)

### 1141.03 DEFINITIONS

#### A. Age-Appropriate Child Health Assessment

A written report assessing a child's health status. The report is signed by a physician or a CRNP and includes the child's health history, the child's physical examination and a plan for treatment of health problems identified in the health assessment.

#### B. Age Level

The grouping category appropriate for the child's age.

1. **Infant.** A child from birth through 12 months of age.
2. **Young Toddler.** A child from 13 through 24 months of age.
3. **Older Toddler,** A child from 25 through 36 months of age.
4. **Preschool Child.** A child from 37 months of age through the date the child enters 1st grade of a public or private school system.
5. **Young School-Age Child.** A child from the 1st grade through the 3rd grade of a public or private school system.
6. **Older School-Age Child.** A child from the 4th grade of a public or private school system through 15 years of age.

#### C. Bureau of Health

Shall mean the Bureau of Health of the City of Allentown or any agent, employee, representative or officer thereof. (12692 §1 1/15/86; 13595 §1 8/8/95)

#### D. Child

A person 15 years of age or younger.

#### E. Child Abuse

Serious physical or mental injury which is not explained by the available medical history as being accidental; sexual abuse or sexual exploitation; or serious physical neglect of a child if the injury, abuse or neglect of a child has been caused by the acts or omissions of the child's parent, by a person responsible for the child's welfare, by an individual residing in the same home as the child or by a paramour of a child's parent. A child will not be deemed to be physically or mentally abused for the sole reason that the child is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof or is not provided specified medical treatment in the practice of religious beliefs or solely on the grounds of environmental factors which are beyond the control of the person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing and medical care.

#### F. Communicable Disease

An illness due to an infectious agent or its toxic products which is transmitted directly or indirectly by the infected agent to a susceptible host. Communicable diseases are specified in 28 Pa. Code Chapter 27 (relating to communicable and non-communicable diseases).

#### G. Facility

Shall mean a single-site child care provider. (12692 §1 1/15/86; 13595 §1 8/8/97)

#### H. Facility Person

A staff person, a substitute staff person, a volunteer, a food service person, a janitorial person or another adult who serves in or is employed by a facility.

**I. Group**

Children assigned to the care of one or two staff persons. A group occupies a space or a defined part of a space.

**J. Head Start Child Care Program**

Shall mean a Federally funded child development program operating for six (6) or more hours a day that provides a comprehensive program of parental involvement, nutritional, medical, dental, psychological, social and educational services.

**K. Imminent Health Hazard**

Shall mean a condition which exists within a facility that presents a clear and obvious threat to the welfare of the children and/or staff of that facility, including but not limited to sewage backup, heating system failure or critical violations of Building and Fire Codes. (12692 §1 1/15/86; 13595 §1 8/8/95)

**L. Inspection**

Shall mean an official examination of a facility that checks to assure all provisions of this ordinance and other applicable rules and regulations are met. (12692 §1 1/15/86; 13595 §1 8/8/97)

**M. Night Care Program**

Shall mean a child care center program providing care for any child between the hours of 7:00 P.M. and 7:00 A.M., in which the parent(s) desires the child to sleep.

**N. Operator**

The legal entity or a person designated by the legal entity to serve as the facility director.

**O. Parent**

The biological or adoptive mother or father or the guardian of the child.

**P. Potentially Hazardous Food**

A food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

**Q. Relative**

A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew. The term also includes a stepbrother, stepsister or first cousin.

**R. Sanitize**

Shall mean an acceptable method for effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level. (12692 §1 1/15/86; 13595 §1 8/8/97)

**S. School-Age Care**

Supervised child care during the hours when a child is not required to attend school.

**T. Space**

Indoor or outdoor area designed for child care is large enough to accommodate the maximum number of children allowed under this ordinance. A space may be used by more than one group of children.

**U. Staff Person**

A person included in the regulatory ratio who is responsible for child care activities.

**V. State Regulations**

Shall mean the regulations of the Pennsylvania Department of Public Welfare, 55 Pa. Code Chapters 3270, 3280, 3290 and 3300.

**W. Supervise**

To be physically present with a group of children or with the facility person under supervision. Critical oversight in which the supervisor can see, hear, direct and assess the activity of the supervisee.

**X. Volunteer**

A person 16 years of age or older who is not included in the regulatory ratio and who assists in implementing daily program activities under the supervision of a staff person.

Y. Waiver

The Bureau of Health's written exemption from the requirement of meeting a standard in this ordinance. (13595 §1 8/8/97)

**ARTICLE 1143  
CHILD CARE CENTERS**

- 1143.01 Staff-Child Ratios
- 1143.02 Facilities, Building and Physical Site
- 1143.03 Program
- 1143.04 Child Health
- 1143.05 Staff
- 1143.06 CPR and First Aid Certification
- 1143.07 Food Service
- 1143.08 Food and Nutrition
- 1143.09 Transportation
- 1143.10 Record

**1143.01 STAFF - CHILD RATIOS**

A. Child Care Centers shall meet each of the following requirements:

1. The following ratios of direct caregiving staff physically present with the children at any one time shall apply to child care centers.

a. **Similar Age Level** - When children are grouped in similar age levels, the following maximum child group sizes and ratios of staff persons apply:

<u>Similar Age Levels</u>	<u>Staff</u>	<u>Children</u>	<u>Max Group Size</u>	<u>Total # of Staff Required for Maximum Group</u>
Infant	1	4	8	2
Young Toddler	1	5	10	2
Older Toddler	1	6	12	2
Preschool	1	10	20	2
Young School Age	1	12	24	2
Older School Age	1	15	30	2

b. **Mixed Age Level** - When children are grouped in mixed age levels, the following child group sizes and ratios of staff persons apply:

<u>Mixed Age Levels</u>	<u>Staff</u>	<u>Children</u>	<u>Max Group Size*</u>	<u>Total # of Staff Required for Maximum Group Size</u>
Infant/Young or Older Toddler	1	4	8	2
Infant/Preschool	1	4	8	2
Young Toddler/Preschool	1	5	10	2
Older Toddler/Preschool	1	6	12	2
Preschool/Young or Older School Age	1	10	20	2

\* No more than 50% of each group may be of the older age level.

2. Children of an Operator or a Staff Person

a. The related or foster children of an operator and the related or foster children of a staff person shall be counted for the purpose of satisfying the staff/child ratio requirements (relating to similar age level; and mixed age level).

b. The related or foster children of an operator and the related or foster children of a staff person shall be counted for the purpose of satisfying the allocated space capacity requirements (relating to measurement and use of indoor child care space; and measurement and use of play space).

### 3. Minimum Number of Facility Persons in the Child Care Facility

a. At least two facility persons shall be present in the facility when two or more children are in care. At a minimum, one of the facility persons shall be a staff person.

b. At least two facility persons shall be present when children are on an excursion away from the facility. At a minimum, one of the facility persons shall be a staff person.

c. If the staff-child ratio warrants only one staff person, the second person may be another facility person.

### 4. Ratios While Children are Napping

a. While toddlers and preschoolers are napping, the following staff-child ratios apply:

<u>Similar Age Level</u>	<u>Staff</u>	<u>Children</u>
Young Toddler	1	10
Older Toddler	1	12
Preschool	1	20

b. Staff persons who are on duty but are not providing child care during nap time shall remain in the child care portion of the facility premises. (13595 §1 8/8/97)

## 1143.02 FACILITIES, BUILDING AND PHYSICAL SITE

### A. Submission of Plans

Whenever a child care center is constructed or extensively remodeled and whenever an existing structure is converted to use as a child care center, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Bureau of Health for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type and model of proposed fixed equipment and facilities. The Bureau of Health shall approve plans and specifications which meet the requirements of this ordinance. Such plans and specifications shall also be submitted to the Bureaus of Zoning and Code Enforcement and Rehabilitation to assure compliance with all applicable Zoning and Building Codes and to secure the permits required. Permits shall not be issued until the Bureau of Health has approved such plans and specifications and found them to be in compliance with the requirements of this ordinance. (12692 §2 1/15/86; 13595 §1 8/8/97)

### B. Plan Appeals

1. Plans for construction, remodeling or conversion of an existing facility to a child care center which are denied approval by the Bureau of Health may be appealed to the Board of Health in accordance with Act 315, Local Health Administration Law, as amended, and the Third Class City Code of Pennsylvania, as amended. (12692 §2 1/15/86; 13595 §1 8/8/97)

2. Zoning permits for child care centers which are denied as result of non-compliance with the City of Allentown's Zoning Ordinance may be appealed to the Zoning Board of Appeals in accordance with the provisions of that ordinance. (12692 §2 1/15/86; 13595 §1 8/8/97)

3. Building permits for child care centers which are denied as a result of non-compliance with the City of Allentown's Building Code Ordinance may be appealed to the Building Code Board of Appeals in accordance with the provisions of that ordinance. (12692 §2 1/15/86; 13595 §1 8/8/97)

### C. Pre-Operational Inspection

Whenever plans and specifications are required to be submitted, the Bureau of Health shall inspect the child care center prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this ordinance. (12692 §2 1/15/86; 13595 §1 8/8/97)

### D. Indoor Child Care Space

1. A facility shall provide indoor child care space for individual and group small muscle activity.

2. Indoor child care space may not be used simultaneously as play space.
3. Indoor space in which children are receiving care may not be used simultaneously for other business, commercial, social or another purpose unrelated to the child care being offered.
4. Preschool and school-age children may not be involved in small or large muscle activity in the same group space in which children are sleeping or resting.
5. The capacity established for an indoor space may not be exceeded except at nap time, when toddler or preschool children are resting on rest equipment.
  - a. At nap time, the capacity is determined by the requirement for placement of rest equipment.
  - b. At nap time, the capacity may be exceeded for a period not longer than 2½ consecutive hours, no more than twice in a program day.

#### E. Sleeping Areas

The same area shall not be used for sleeping/napping and play at the same time unless the children at rest are not being disturbed. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### F. Play Space

1. A facility shall provide outdoor or indoor play space to be used for large muscle activity which includes running, jumping, climbing and riding.
2. Outdoor or indoor play space shall be safe for large muscle activity.
3. Outdoor or indoor play space in which children are receiving care may not be used simultaneously for other business, commercial, social or another purpose unrelated to the child care being offered.

#### G. Unsafe Areas in Outdoor Space

If unsafe areas or conditions are in or near an outdoor play space, fencing or natural barriers are required to restrict children from those unsafe areas or conditions.

#### H. Outside Walkways

Outside walkways shall be free from ice, snow, leaves, equipment and other hazards.

#### I. Protective Electrical Covers

Protective receptacle covers shall be placed in electrical outlets accessible to children 5 years of age or younger.

#### J. Toxics

1. Cleaning materials and other toxic materials shall be kept in an area or container that is locked or made inaccessible to children.
2. Cleaning materials and other toxic materials shall be stored in an original labeled container or in a container that specifies the content. Toxics shall be stored away from food, food preparation areas and child care spaces.
3. Cleaning materials and other toxic materials shall be used in a way that does not contaminate play surfaces, food, food preparation areas and does not constitute a hazard to the children.
4. Toxic plants are not permitted in a child care space.
5. Arts and crafts materials shall be nontoxic.

#### K. Sanitation

1. Trash shall be removed from the facility at least once per day.
2. Trash shall be removed from the facility grounds at least once per week.
3. Evidence of infestation of insects or rodents in the facility is not permitted.

4. Trash that has been contaminated by human secretions or excrement shall be contained in closed, plastic-lined receptacles.

#### L. Smoking

1. Cigarettes, pipes or cigars may not be smoked in a child care space, a play space or a food preparation area when children are in care or when food is being prepared.

2. Ashes and cigarette or cigar butts are prohibited in a child care space, a play space or a food preparation area.

#### M. Water

1. A facility shall provide running water and a safe and adequate supply of drinking water that complies with the standards established under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1-721.17)

2. Hot water temperature, in areas accessible to children, may not exceed 110°F.

3. Safe drinking water shall be made available to children of all ages throughout the day.

4. Drinking water shall be provided to children who are out-of-doors for a period exceeding 1 hour.

#### N. Indoor Temperature

1. The indoor temperature shall be at 68°F.

2. If the indoor temperature exceeds 85°F in a child care space, a means of mechanical air circulation shall be operating.

#### O. Hot Water Pipes and Other Sources of Heat

Hot water pipes and other sources of heat exceeding 110°F that are accessible to children shall be equipped with protective guards or shall be insulated to prevent direct contact

#### P. Ventilation

1. Natural or mechanical ventilation shall be provided in child care spaces.

2. Windows or doors used for ventilation shall be screened when open.

3. Screens shall be in good repair.

4. Windows or doors above the ground floor that open directly to the outdoors and are accessible to children shall be constructed, modified or adapted to limit the opening to 6 or fewer inches.

#### Q. Telephone

A facility shall have an operable telephone and a published telephone number.

#### R. Emergency Telephone Numbers

The telephone number of the nearest hospital, police department, fire department, ambulance and poison control center shall be posted by each telephone in the facility.

#### S. First-Aid Kit

1. A first-aid kit shall be in a child care space.

2. A first-aid kit shall be inaccessible to children.

3. A first-aid kit shall contain the following: soap, an assortment of adhesive bandages, sterile gauze pads, tweezers, tape, scissors and Syrup of Ipecac. Instructions for use of the Syrup of Ipecac shall be included.

4. One first-aid kit per child care group shall accompany children and facility persons on excursions from the facility.

#### T. Building Surface Requirements

Floors, walls, ceilings and other surfaces, including the facility's outdoor play space surfaces shall be kept clean, in good repair and free from visible hazards.

#### U. Paint

1. Peeled or damaged paint or damaged plaster is not permitted on indoor or outdoor surfaces in the child care facility.

2. When indoor or outdoor surfaces are repaired or when new indoor or outdoor surfaces are painted, the paint may not contain more than .06% lead.
3. A child may not be present during removal of paint from the indoor or outdoor surfaces of a facility.
4. Removal, clean-up and disposal of leaded paint dust and debris shall be accomplished in a manner that avoids dispersal of dust and debris into the environment, as approved by the Bureau of Health.
5. Abrasive removal methods which include dry sanding, electrical sanding and sandblasting or open flame burning, or a removal process that permits the release of leaded particulate material into the environment are prohibited.
6. Dust and debris generated by removal shall be disposed of in accordance with applicable Federal, State and local regulations.
7. Child care may resume when the removal process is completed when all accompanying debris is removed and approval is granted by the Bureau of Health.

**V. Lighting**

Rooms, hallways, stairways, outside steps, porches and ramps shall be lighted by artificial or natural light.

**W. Firearms**

Weapons, firearms and ammunition are prohibited in a child day care center.

**X. Stairs**

1. Inside and outside stairs with three or more steps shall be equipped with a handrail.
2. Inside stairs shall be equipped with nonskid surfaces.
3. A ramp shall be equipped with a handrail.
4. A porch shall be equipped with a handrail.

**Y. Stairways**

Landings must be provided beyond each interior and exterior door which opens onto a stairway, if the stairway is accessible to children. Stair guards or gates shall be provided where necessary. (12692 §2 1/15/86; 13595 §1 8/8/97)

**Z. Glass**

A visual strip or other visual identification shall be placed on glass located in a traffic area, a child care space or a play space.

**AA. Toilet Areas**

1. The following ratio of flushing toilets to toilet-trained children applies:

**Similar Age**

<u>Similar Age Levels</u>	<u>Number of Toilet Trained Children</u>	<u>Toilets</u>
Young or Older Toddler and Preschool	15	1
School-Age	20	1

2. The following ratio of sinks to children applies:

<u>Similar Age Levels</u>	<u>Number of Toilet Trained Children</u>	<u>Sinks</u>
Young or Older Toddler and Preschool	25	1
School-Age	30	1

3. A sink shall be located in or near a toilet area.

4. A training chair is not a flushing toilet. A training chair shall be emptied and sanitized after each use. An acceptable sanitizing solution is ¼ cup of bleach combined with 1 gallon of water. A sanitizing solution shall be treated as a toxic. See 1143.02.J. (relating to toxics).

5. Toilets and sinks shall be at proper heights for children using them or shall be easily approached by means of platforms or steps.

6. Toilets and training chairs may not be located in an area used for cooking or eating. At all times an adult shall accompany toddler and preschool children going to and from the toilet area.

7. Toilet areas and fixtures shall be cleaned daily and be in good repair.

8. A facility person and an able child shall wash his hands after toileting and before eating. A sign on which this requirement is written shall be posted at each toilet, training chair, diapering area and sink in the facility.

9. A toilet area, training chair area, diapering area and sink area shall be equipped with a clean, lidded waste receptacle.

10. A properly plumbed sink with hot and cold running water for handwashing which is properly connected to an approved sewage system shall be present in infant and toddler diapering areas.

#### **BB. Diaper Changing Areas**

In all new child care centers, each toilet and diaper changing area shall have a handwashing sink, hand cleanser, paper towels or other approved hand drying devices and an approved waste receptacle. Existing child care centers shall have an acceptable handwashing and/or disposable glove procedure. A written handwashing procedure shall be posted at each diaper changing area. An approved handwashing sign shall be posted at each handwashing sink. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **CC. Toilet Room Doors**

All toilet rooms are to have doors, gates or barriers of such type to prevent unattended preschoolers or younger entry.

#### **DD. Electrical Devices**

No electrical device or apparatus shall be located in such a manner that it could be simultaneously plugged into an electrical outlet and in contact with a water source such as a sink, tub, shower area, swimming pool, etc. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **EE. Toys and Equipment Sanitation**

All toys and play objects to be used by infants and toddlers shall be cleaned and sanitized at a minimum of once a week or as needed.

#### **FF. Towels, Wash Cloths and Soap**

Each child shall have a separate clean towel and wash cloth. Paper towels are acceptable for use as both towels and wash cloths. Soap shall be available for use. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **GG. Cleaning Methods**

All floors, walls, ceilings, carpeting and other surfaces shall be maintained in reasonably clean condition and in good repair. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **HH. Cleaning and Sanitizing Objects**

Thermometers, pacifiers and other subject objects shall be cleaned and sanitized after each use when exchanged between children and at other times where necessary. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **II. Cleaning Schedule**

When a child care center is found to be in non-compliance with cleanliness and sanitary standards, a cleaning schedule shall be submitted upon request to the Bureau of Health for approval. This schedule shall include, but is not limited to, specific assignments for specific individuals. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### **JJ. Anti-Choking and CPR Posters**

Each child care center shall have signs posted demonstrating anti-choking and Cardiopulmonary Resuscitation (CPR) techniques. (12692 §2 1/15/86; 13595 §1 8/8/97)

### **FIRE SAFETY**

#### **KK. Exits**

1. Stairways, hallways, exits from rooms, exits from the facility and other means of egress serving as an exit shall be unobstructed.

2. Protective gates are permitted, if they open easily and are not disapproved by building codes or local ordinances.

3. If a door or doorway opens or exits directly into a stairwell and if there is no landing beyond the door or doorway, the door shall be restricted from opening or shall be removed and a secure barrier to prevent access to the stairwell shall be erected.

#### LL. Space Heaters

1. Portable space heaters are not permitted.

2. A fixed space heater shall be insulated or equipped with protective guards. A fixed space heater shall be approved for use by a local fire safety professional. Written approval of the installation and written approval for use shall be on file at the facility.

3. The manufacturer's instructions for use shall be kept in an accessible area in the facility.

#### MM. Fireplaces and Woodburning and Coalburning Stoves

Fireplaces, fireplace inserts or woodburning and coalburning stoves, if allowed by local ordinance, shall be securely screened or equipped with protective guards while in use.

#### NN. Fire Drills

1. Fire drills shall be held in a manner and frequency which is in accordance with the City Fire Code. Facility persons and children in attendance shall participate in the fire drill. Facility persons and children shall exit the building, weather permitting.

2. A written record shall be kept of the date, the time of day, the hypothetical location of the fire, the evacuation time, the names of facility persons and the number of children participating in the fire drill.

3. Fire drills shall be held at different times of the day or night, or both, if applicable.

4. Fire drills shall be held during various program activity times.

5. Hypothetical locations of the fire shall be changed for each drill.

6. Evacuation routes shall be posted.

7. Evacuation plans shall provide for removal of all persons from the facility in a single trip.

#### OO. Fire and Building Codes

All facilities shall conform to at least the minimum requirements of City of Allentown Fire and Building Codes. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### PP. Emergency Evacuation Plan

An emergency evacuation plan shall be posted in each room in use as a child care center. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### QQ. Smoke Detectors

Smoke detectors shall be present in accordance with City of Allentown Fire Codes. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### RR. Portable Fire Extinguisher

An operable fire extinguisher(s) shall be available in all child care centers. Such extinguisher(s) shall be of a size and number recommended by the Bureau of Fire and shall be inspected as required by the Bureau of Fire. All child care staff members shall be familiar with the use of such equipment. (12692 §2 1/15/86; 13595 §1 8/8/97)

### EQUIPMENT

#### SS. Type of Play Equipment

1. Play equipment and materials appropriate to the developmental needs, individual interests and ages of the children shall be provided in sufficient amount and variety to preclude long waits for use.
2. Play equipment shall facilitate the child's emotional, cognitive, communicative, perceptual-motor, physical and social development.
3. Play equipment and materials shall include items from the following categories:
  - a. Materials for dramatic role playing.
  - b. Toys and materials for cognitive development.
  - c. Toys and materials for visual development.
  - d. Toys and materials for auditory development.
  - e. Toys to handle and manipulate and art materials for tactile development.
  - f. Toys and equipment for large muscle development.

#### **TT. Condition of Play Equipment**

1. Toys, play equipment and other indoor and outdoor equipment used by the children shall be clean, in good repair and free from rough edges, sharp corners, pinch and crush points, splinters and exposed bolts.
2. Toys soiled by secretion or excretion shall be cleaned with soap and water, rinsed and sanitized before being used by a child.
3. Outdoor equipment that requires embedded mounting shall be mounted over at least 6 inches of loose- filled, impact-absorbing materials, or its equivalent, anchored firmly and be in good repair.
4. Slides that are over 4 feet high shall have guards along both sides of the ladder.
5. Pea gravel and other materials with a diameter of less than 1 inch may not be used in spaces where infants or toddlers receive care.
6. Indoor play equipment for climbing shall be installed or used over a protective surface covering which does not interfere with the stability of the equipment.

#### **UU. Small Toys and Objects**

Toys and objects with a diameter of less than 1 inch, objects with removable parts that have a diameter of less than 1 inch, plastic bags and styrofoam objects may not be accessible to children who are still placing objects in their mouths.

#### **VV. Furniture**

1. Furniture shall be durable, safe, easily cleaned and appropriate for the child's size, age and disability.
2. Study space, tables, chairs, paper and pencils shall be provided for school-age children in care, if necessary for the program offered by the facility.

#### **WW. High Chairs**

High chairs shall have a wide base and a T-shaped safety strap.

#### **XX. Rest Equipment**

1. Individual, clean, age-appropriate rest equipment shall be provided for preschool, toddler and infant children as agreed between the child's parent and the operator. The rest equipment shall be labeled for the use of a specific child and used only by the specified child.
2. Bed linens may not be used alone as age-appropriate rest equipment.
3. Stacked cribs may not be used.
4. Crib and playpen slats may be no more than 2 $\frac{3}{8}$  inches apart.
5. Seasonal, appropriate covering, such as sheets or blankets, shall be provided as agreed between the child's parent and the operator.

6. At least 2 feet of space is required on three sides of a bed, cot, crib or other rest equipment while the equipment is in use and children shall be placed in an alternating head to foot position on or in the rest equipment.

7. Linens, blankets and rest equipment shall be cleaned weekly, at a minimum. The operator shall arrange a cleaning schedule with the parent.

8. Soiled bedding shall be cleaned before it is reused.

9. The upper level of double-deck beds may not be used for children 8 years of age or younger.

#### YY. Refrigerator

A facility shall have an operable, clean refrigerator used to store potentially hazardous foods. The refrigerator shall be capable of maintaining food at 45°F or below. An operating thermometer shall be placed in the refrigerator.

#### ZZ. Utensils

1. Eating and drinking utensils shall be free from cracks and chips.
2. Disposable cups, plates and eating utensils may be used if discarded after each use.
3. Styrofoam cups and plates may not be used.

### 1143.03 PROGRAM

#### A. Supervision of Children

1. Children on the facility premises shall be supervised at all times. Outdoor play space used by the facility is considered part of the facility premises.

2. A facility person may not use any form of physical punishment, including spanking a child.

3. A facility person may not single out the child for ridicule, threaten harm to the child or the child's family and may not specifically aim to degrade the child or the child's family.

4. A facility person may not use harsh, demeaning or abusive language in the presence of children.

#### B. Outdoor Activity

Weather permitting, children shall be taken outdoors daily.

#### C. Water Activity

##### 1. Swimming

a. A swimming pool shall conform to 28 Pa. Code Chapter 18 (relating to public swimming and bathing places).

b. An in-ground swimming pool accessible to children shall be fenced with a locked gate.

c. An aboveground swimming pool which is not in use shall be made inaccessible to children.

d. An indoor swimming pool which is not in use shall be made inaccessible to children.

e. The following staff-child ratios apply while children are swimming:

<u>Similar Age Level</u>	<u>Staff</u>	<u>Children</u>
Infant	1	1
Young or Older Toddler	1	2
Preschool	1	5
Young School Age	1	6
Older School Age	1	8

f. When children are swimming, supervision shall include one person certified in lifeguard training.

g. The person certified in lifeguard training may not be included in the staff-child ratio.

h. A facility person who is counted in the staff-child swimming ratio shall annually complete water safety instruction.

i. All swimming pools must be provided with a recirculation and filtration system capable of providing a uniform circulation and uniform disinfectant residual throughout the entire pool.

j. The pH value of the water shall be not less than 7.2 and not more than 8.2.

k. All water in the pool shall be sufficiently clear to permit a clear view of the entire pool bottom.

l. Every pool shall be equipped with an approved device to provide continuous disinfection to the pool. Disinfectant levels must be provided at all times that are equivalent to the effectiveness of a chlorine or hypochlorite compound with a free chlorine residual not less than 0.4 mg/l and not greater than 6.0 mg/l.

2. **Wading Pools** - A wading pool must be emptied, cleaned and sanitized daily. Pools shall be filled with fresh water from an approved source and a sanitizing solution shall be added. An acceptable sanitizing solution is  $\frac{1}{4}$  teaspoon of bleach added to 50 gallons of water. A sanitizing solution shall be handled as a toxic.

3. **Water Play Table** - A water play table or a container used for water play that contains unfiltered water shall be emptied daily.

#### D. Pets

a. A pet or animal present at the facility, indoors or outdoors, shall be in good health, show no evidence of carrying disease and be known to be friendly to children.

b. Contact with pets by the children is permitted only when a staff person is physically present.

c. A veterinarian's certificate of current rabies immunization and any other immunizations is required for a cat or dog at the facility. The certificate shall be on file when the cat or dog is present. Current licenses are required for any animals that are required by the City's Animal Control ordinance or State statute to have licenses.

d. No animals shall be permitted which are prohibited by the City's Animal Control ordinance.

#### E. Emergency Contact Information

a. Emergency contact information is required for each enrolled child. Emergency contact information shall reference who shall be contacted in an emergency.

b. Emergency contact information shall include the following:

1. The name and birth date of the child.

2. The name, address and telephone number of the child's physician or source of medical care.

3. The home and work addresses and telephone numbers of the enrolling parent.

4. The written consent signed by a parent for emergency medical care.

5. Information of the disability of the child, as specified by the child's parent or physician, which is needed in an emergency situation.

6. Health insurance coverage and policy number for a child under a family policy or Medical Assistance benefits, if applicable.

7. The name, address and telephone number of the individual designated by the parent to whom the child may be released.

c. When children are in the facility, emergency contact information shall be present in a child care space for children receiving care in the space.

d. When children leave the facility on walking and riding excursions, emergency contact information specific to each child on the excursion shall accompany a staff person on the excursion.

e. A written plan identifying the means of transporting a child to emergency care and staffing provisions in the event of an emergency shall be displayed conspicuously in every child care space and shall accompany a staff person who leaves on an excursion with children.

f. The parent shall update in writing emergency contact information once in a 6-month period or as soon as there is a change in the information.

#### F. Emergency Telephone Numbers

Telephone number of the nearest hospital, police department, fire department, ambulance and poison control center shall be posted by each telephone. Stickers are provided upon request.

#### G. Emergency Medical Care

1. If emergency medical care is needed for a child, the parent or emergency contact person must be contacted as soon as practical to the best interests of the child. If the parent or the emergency contact person cannot be reached, the operator must record in writing the attempts made to inform the parent and the emergency contact person.

2. The staff person who accompanies the child to a source of emergency care must remain with the child until the parent or designated person assumes responsibility for the child's care.

### 1143.04 CHILD HEALTH

#### A. Admittance Criteria

1. To be admitted into any child care center in the City of Allentown, a child must have the following:

a. Proof of a current and complete physical exam (yearly for children 6 and under, every 2 years for children 6 and older) within the year of admission and no later than 60 days after admission.

b. Up-to-date immunization status for communicable diseases in accordance with the Recommended Childhood Immunization Schedule approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP) and the American Academy of Family Physicians no later than 60 days after admission.

c. A review of age appropriate screenings including a Tuberculosis test by Mantoux Method only or an acknowledgment of an assessment of Tuberculosis risk if testing is deferred by the Health Care Provider in accordance with the American Academy of Pediatrics guidelines no later than 60 days after admission.

d. An assessment of a disability or any health problems found and recommendations for treatment.

e. A statement of the child's medical information pertinent to diagnosis and treatment in case of emergency.

2. The child care provider will comply with the Department of Health regulation 28 PA Code 27.121a relating to measles immunization requirements for children in a group setting and implement immediate dismissal policies in accordance with that section.

3. Children who are not immunized because of physical contraindications or because of their parents religious or moral convictions may be allowed admittance to child care. A statement to this effect must be signed by the parent and kept with the record. These children will be excluded from the center during an outbreak situation at the discretion of the Bureau of Health.

4. Children with incomplete immunizations, with incomplete or non-current health appraisals and screenings may be excluded from the Child Care center at the discretion of the Bureau of Health.

#### B. Administration of Medications

Prescription medication and non prescription medications (over-the-counter medicines) shall only be dispensed to children under the direct supervision of the administrator, director, group supervisor or staff person.

1. No prescription medications may be given to a child without a physician's written administration instructions and written consent from the child's parent. Instructions for administration contained on a prescription label are acceptable.

2. Prescriptions shall only be used for the child for whom they are prescribed.

3. No non-prescription medications or health aids (ie., cough drops, vitamins, aspirin, ointments, ear drops, or cough syrup) may be administered to a child without written consent and written administration instructions from the child's parent.

4. Syrup of Ipecac shall be administered only upon instruction from the Poison Center, physician or other source of emergency medical care. The staff person should record date and time instruction was received and name of individual issuing instructions, content and amount of administration.

5. A medication log is required including the following information:

- a. name of medications
- b. name of child
- c. requirement for refrigeration
- d. amount to be administered
- e. date and time medicine was administered
- f. initials of care giver
- g. notes relevant to problems in administration

### C. Storage of Medications

1. All medications and health aids that do not require refrigeration must be kept in an area or container that is locked or inaccessible to children.

2. All prescription and non-prescription medications and health aids must be kept in their original, labeled containers. For prescription medications, the label must include the child's name, the date the prescription was issued and the prescribed dose.

3. All prescription and non-prescription medications and health aids must be stored under proper conditions of sanitation, temperature, light and moisture.

### D. Ill Children

The child care staff shall have the option to deny entrance to any child considered ill or to request that child be removed from the facility if the child is determined by the child care staff to be too ill to remain in their care. The parent(s) shall always be notified when a child becomes ill while in care. If the child care staff decides that a child is too ill to remain in the facility for the remaining period of the day, the child care staff shall notify the parent(s) immediately that the child must be picked up as soon as possible. If the child care staff decides a child is too ill to be cared for on any given day, the child care staff shall notify the parent(s) upon receiving the child that care will not be provided. When a facility allows admission of ill children, a plan of care of such children shall be arranged with the parent(s) to assure that the needs of the child for rest, attention and administration of prescribed medication, if applicable, are met. Contact with the parent(s) and the child's source of health care for purposes of consultation shall be readily available to the child care staff.

1. A child care center shall not accept for care, nor maintain in their care, children who have the following conditions:

- conjunctivitis
- ringworm
- lice
- diarrhea
- oral temperature above 101.0
- axillary temperature above 100.6
- rectal temperature above 101.6
- aural temperature above 101.0
- repeated or projectile vomiting
- upper respiratory infection with rash
- rash accompanied by elevated temperature or behavior change
- streptococcal infections
- mumps
- shingles
- pertussis (whooping cough)
- chicken pox
- impetigo
- persistent cough with fever

A facility shall, upon observing signs of one of the preceding illnesses in a care recipient, immediately notify the child's parent(s) to remove the child from the facility.

## 2. Children with Symptoms of Disease

An operator who observes an enrolled child with symptoms of a communicable disease or infection that can be transmitted directly or indirectly and which may threaten the health of children in care shall exclude the child from attendance until the operator receives notification from a physician or a CRNP that the child is no longer considered a threat to the health of others. The notification shall be retained in the child's file. Diseases and conditions which require exclusion are specified in 28 Pa. Code Chapter 27 (relating to communicable and non-communicable diseases).

### E. Discrimination Based on Illness

Before, during and after the admission process, an operator or facility person may not discriminate against serving a child who has an illness which is not transmitted by casual contact.

### F. Child Hygiene

a. A staff person shall ensure that a child's hands are washed before meals and snacks, after toileting and after being diapered.

b. Cloth towels and washcloths shall be labeled with the child's name, used by only the named child and laundered weekly. The director shall arrange a laundry schedule with the parent.

c. Paper towels may be used as towels and washcloths. Paper towels shall be discarded after each use.

d. Liquid or powdered soap shall be used for handwashing.

e. A child shall have a labeled toothbrush if brushing teeth is a program activity.

f. Toothbrushes shall be stored with the bristles up and exposed to circulating air.

g. Paper cups, discarded after one use, or water fountains shall be used for between-meal drinking by children who are not bottle-fed.

### G. Diapering Requirements

a. When children are diapered, the facility shall use disposable diapers, a diaper service or arrange with the parent to provide a daily diaper supply.

1. If non-disposable diapers are provided by a parent, a soiled diaper shall be placed in an individual, securely-tied plastic bag and returned to the parent at the end of the day.

2. If non-disposable diapers from a diaper service are provided by a facility, a soiled diaper shall be placed in the container provided by the service or in a securely-tied plastic bag.

3. If disposable diapers are provided by a parent or by a facility, a soiled diaper shall be discarded in one of the following ways. The diaper shall be:

a. Immediately placed into a lined outdoor trash container.

b. Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible.

4. A soiled diaper that is not in a tied bag may not be placed in an unlined outdoor trash container.

b. Diaper changing surfaces shall be cleaned after each use by wiping the surface with a sanitizing solution or by changing a pad or other surface covering.

c. The diapering area may not be used for food preparation or food service.

d. Cloth and paper materials used as diapering aids shall be stored in a manner that prevents cross-contamination from a soiled diaper, contaminated hands or other changing materials.

### H. Reporting Communicable Diseases

Reportable communicable diseases must be reported immediately to the Bureau of Health if they occur among either child care facility children or staff. The current list of reportable diseases, as published by the Pennsylvania Department of Health, shall be obtained from the Bureau of Health and shall be prominently displayed in all child care centers so that it is available for easy reference. The occurrence of any unusual disease or group expression of illness, which may be of public concern, whether or not it is known to be of a communicable nature, shall also be reported to the Bureau of Health immediately.

#### 1143.05 STAFF HEALTH

##### A. Staff Health Assessments

1. A facility person providing direct care who comes into contact with the children or who works with food preparation shall have a health assessment conducted within 3 months prior to providing initial service in a child care setting and every year thereafter. A health assessment is valid for 12 months following the date of signature, if the person does not contract a communicable disease or develop a medical problem.

2. A health assessment shall be conducted and a report shall be written and signed by a physician or CRNP. The signature shall include the individual's professional title.

3. The health assessment shall include the following:

- a. A physical examination.
- b. Tuberculosis screening by the Mantoux method at initial employment and subsequently at least once every 2 years.
  - i. If a person's medical record demonstrates a positive tuberculin skin test, that record shall be placed on file at the facility.
  - ii. A record of a person with a positive tuberculin skin test shall include the results of a chest x-ray and evaluation for chemoprophylaxis.
  - iii. A person with a positive tuberculin skin test and a negative x-ray is not required to have further tuberculosis testing, unless one of the following occurs:
    - a. The person is exposed to an active case of tuberculosis.
    - b. The person develops a productive cough which does not respond to medical treatment within 14 days.
    - c. Examination for communicable diseases and the results of that examination.
    - d. Information on medical problems that might threaten the health of the children or prohibit a staff person from providing adequate care to children.
    - e. The physician's or CRNP's assessment of the person's suitability to provide child care.
    - f. Proof of Rubella immunity for female staff of childbearing age (15-44 years old).

4. An adult individual who is employed by a facility and who provides children with social, medical, psychological or psychiatric services in addition to this chapter is required to have a current health assessment on file at the facility. An adult individual or an employee of an agency who provides those services by contract with the child's parent or the facility is not required to have a current health assessment on file at the facility.

##### B. Adult Hygiene

A facility person shall wash his hands before meals and snacks, and after toileting and after diapering a child.

##### C. Facility Persons with Symptoms of Disease

A facility person with symptoms of a communicable disease or infection that can be transmitted directly or indirectly and which may threaten the health of children in care shall be excluded from attendance until the facility operator receives notification from a physician or CRNP that the person is no longer considered a threat to the health of others. The notification shall be retained in the facility person's file. Exclusion from the facility is required for diseases and conditions

specified in 28 Pa. Code Chapter 27 (relating to communicable and non-communicable diseases). The Department of Health will provide, upon request, a list of communicable diseases.

#### D. Facility Persons with Skin Disorders

1. A facility person with a discharging or infected wound, sore or lesion on the hands, arms or an exposed portion of the body shall be excluded from child care and food preparation activities until the operator receives written notification from a physician or CRNP that the person may return to child care or food preparation. The notification shall be retained in the person's file.

2. A facility person with a herpes infection may not be present with infants younger than 3 months of age.

#### E. Discrimination Based on Illness

A facility person or an individual seeking employment or placement who has an illness that is not transmitted by casual contact shall be permitted the right to continued employment, placement, employment opportunity or placement opportunity to the extent of the person's ability to perform the stated job function.

### 1143.06 CPR AND FIRST AID CERTIFICATION

#### A. CPR and First Aid Certification

At least twenty-five percent (25%) of all child care staff present in the facility during hours of operation, but not less than one (1) staff member shall attend sessions and update training in Infant and Child Cardiopulmonary Resuscitation (including anti-choking techniques) and First Aid, at a minimum, every two (2) years and shall be currently certified in both. Proper certification shall be obtained through the American Red Cross, American Heart Association or any similar agencies approved by the Bureau of Health. (13595 §1 8/8/97)

### 1143.07 FOOD SERVICE

#### A. Inspection of Food Service Facilities

All food service facilities supplying food to the child care facility shall comply with the requirements of the Food Service Sanitation Ordinance of the City of Allentown. These facilities shall be open for inspection to the Bureau of Health upon request. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### B. Restricted Use

The diaper changing or toilet areas are not to be used as food preparation areas. (12692 §2 1/15/86; 13595 §1 8/8/97)

### 1143.08 FOOD AND NUTRITION

#### A. Food

1. Food stored, prepared or served shall be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption.

2. Food handling practices shall conform to the requirements of the Bureau of Health.

3. Food that has been previously served to a person or returned from a table shall be discarded.

4. Potentially hazardous food brought from the child's home or provided by the facility shall be refrigerated.

5. Prepared fresh fruits and vegetables that are not used on the day of purchase shall be refrigerated.

6. The only canned foods permitted for children's consumption are those commercially preserved in airtight jars or cans.

7. A facility shall provide a sufficient number of refrigerators to contain foods which require refrigeration.

#### B. Meals

1. If a child receives care for 4 or more consecutive hours, nutritional, appropriately-timed meals and snacks shall be served.

2. Meals and snacks may be provided by the parent, upon agreement between the parent and the operator.

3. Food may not be withheld from children for purposes of discipline.

4. Children may not be forced to eat food.

### C. Food Groups

1. A lunch or dinner prepared at the facility for children of toddler age or older shall have at least one item from each of the following food groups:

- a. Dairy products: Milk, milk products and cheese.
- b. Protein group: Meat, fish, poultry, eggs, cheese, peanut butter, dried beans, peas and nuts.
- c. Fruits and vegetables: A wide variety of green, white, yellow, red vegetables and fruits.
- d. Grain group: Whole grain and enriched products, such as breads, cereals, pastas, crackers and rice.

2. Breakfast prepared at the facility for children of toddler age or older shall have at least one item from three of the four food groups listed in subsection (a).

### D. Food Servings

Food servings shall be portioned suitably for the size and age of the children in care. Additional food in reasonable amounts shall be made available to children upon the request of the parent or child.

### E. Menus

An operator shall conspicuously post the menu at least 1 week in advance or provide a menu to each family.

### F. Meals for Infants

Meals for infants shall be provided in accordance with the following requirements:

1. A written statement giving formula and feeding schedule shall be obtained from the parent.
2. New foods shall be introduced only after consultation with the child's parent.
3. Disposable nursers shall be used unless bottles are provided by the parent or unless a commercial dishwasher is used by the facility.
4. Disposable nursers and bottles shall be labeled with the child's name.
5. An infant 6 months of age or younger shall be held while being bottle fed.
6. Neither an infant nor a toddler is permitted to sleep with a bottle in his mouth.
7. Bottle formula may not be heated in a microwave oven. (13595 §1 8/8/97)

## 1143.09 TRANSPORTATION

### A. Pick-Up and Drop-Off Points

1. An operator shall notify local traffic safety authorities annually in writing of the location of the facility and the program's use of pedestrian and vehicular routes around the day care facility.

2. Safe pedestrian crossways, pick-up and drop-off points and bike routes shall be appropriately determined in the vicinity of the facility and communicated to the children and parents in writing.

3. Written notification of safe routes shall be posted by the operator at a conspicuous location in the child care facility.

4. Children shall be picked up and discharged only at locations specified by the facility as safe locations.

### B. Consent

1. Transportation by the facility requires written parental consent, except for transportation of school-age children who are transported to or from a child care facility in vehicles owned or operated by the school district.

2. If a child has a problem or special need such as seizures or motion sickness that may require special care during transportation, written parental instructions regarding treatment of the problem or special need shall accompany the child being transported.

3. Written information required in subsections (a) and (b) shall be given to the operator or attendant of a vehicle transporting the child.

#### C. Transportation Ratios

1. The staff-child ratios specified in 1143.01 (relating to similar age level; and mixed age level) apply when infant, young or older toddler and preschool children are transported. The maximum group size requirements in 1143.01 do not apply during transportation.

2. The driver may not be considered part of the staff-child ratio when infant, young or older toddler or preschool children are transported.

3. When school-age children are transported, the driver may be considered part of the staff-child ratio required in 1143.01.

#### D. Age of Driver

The operator of the vehicle shall be 18 years of age or older and shall have a valid operator's license.

#### E. Safety Restraints

1. A child under 4 years of age shall be transported and restrained in a federally approved child safety seat used in accordance with the manufacturer instructions.

2. Safety restraints installed in the vehicle at the time of manufacturing shall be used by all occupants. Any child under the age of 12 years shall not be permitted to travel in the front seat of a vehicle equipped with passenger side air bags.

3. Manufacturers' instructions for use of safety restraints shall be kept in the vehicle at all times.

4. A school bus with a seating capacity of 16 or more children used in transporting preschool or school-age children is exempt from the requirements established by subsections 1 to 3 above.

#### F. Vehicles

1. A vehicle shall be insured in accordance with the requirements of current Pennsylvania state statutes.

2. The doors on a vehicle shall be locked whenever the vehicle is in motion.

3. No more than three persons may occupy the front seat of an automobile.

4. The back of a pick-up truck may not be used to transport children.

5. The cargo area of a station wagon may not be used to transport children.

#### G. Supervision

1. Children may not be left unattended in a vehicle.

2. Children shall be supervised during boarding and exiting vehicles by an adult who remains outside the vehicle.

#### H. Transportation First-Aid Kit

A first-aid kit, including the contents as specified in 1143.02.S (relating to first-aid kit) shall be in the vehicle when children are being transported. The kit may be the same kit described in 1143.02.S. (13595 §1 8/8/97)

### 1143.10 RECORDS

#### A. Child Records

There must be an individual record for each child enrolled in the child care center. Information in these records must be kept current and checked for accuracy every six (6) months. (12692 §2 1/15/86; 13595 §1 8/8/97)

#### B. Individual Records

1. An operator shall establish and maintain an individual record for each child enrolled in the facility.

2. Information in a child's record shall be kept current by the operator.

3. A parent is required to review and update the emergency contact information and the financial agreement at least once in a 6-month period or as soon as there is a change in the information.

4. Following review, a parent shall attest to the accuracy of information in subsection 3 above by affixing a dated signature to the record.

5. If emergency information is updated in a master file, it shall be updated accordingly in other facility records.

#### C. Content of Records

A child's record shall contain the following information:

1. Initial and subsequent health assessments.
2. The dates of application, admission and withdrawal of the child.
3. Signed parental consent for emergency medical care for the child. Written consent is required prior to admission.
4. Signed parental consent for administration of medications or special dietary needs.
5. Signed parental consent for administration of minor first-aid procedures by facility staff. Written consent is required prior to admission.
6. Signed parental consent for transportation, walking excursions, swimming and wading.
7. Reports of accidents, injuries and illnesses involving a child in care at the facility. The original report shall be given to the parent on the day of the incident. The second copy of the report shall be retained at the facility in an accident file. The third copy of the report shall be retained at the facility in the child's file.
8. A copy of the initial agreement and subsequent written agreements between the parent and the operator. The parent receives the original agreement.

#### D. Confidentiality of Records

1. Child records are confidential and shall be stored in a locked cabinet at the site where care is provided.
2. A facility person may not disclose information concerning a child or family, except in the course of inspections and investigations by agents of the Bureau of Health.

#### E. Release of Information

1. The parent shall have access to the child's complete child day care record.
2. Except as provided in 1143.10.D (relating to confidentiality of records), release or dissemination of information in a child's record may be made by the operator and only with written parental consent. When file material is released, the person who authorized the release shall record the following information in the child's file:
  - a. The name and position of the individual to whom the information was released.
  - b. The date the information was released.
  - c. The portions of the record that were released.
  - d. The purpose of the release.
  - e. The signature of the person who authorized the release.

#### F. Record Retention

A copy of the child's and staff person's record shall be retained at the facility where care is provided to the child for at least 1 year after termination of service, unless the entire record is transferred by the operator to the parent or guardian or to another agency at the request of the parent or guardian.

#### G. Adult Records

An individual record is required for each facility person.

#### H. Content of Records

A record shall include a copy of the following information:

1. The name, address and telephone number of the facility person.
2. Verification as follows:
  - a. Verification of age.
  - b. Verification of child care experience, education and training prior to service at the facility.
  - c. Verification of child care experience, education and training following the outset of service at the facility.
  - d. Acceptable verification of experience, education or training is a transcript or a diploma or a letter signed by a representative of the experiential, educational or training entity.
3. A written report of initial and subsequent health assessments, including the results of initial and subsequent tuberculin skin tests, x-rays or other medical documentation necessary to confirm freedom from communicable tuberculosis.
4. A copy of requests for the criminal history record and child abuse registry clearance information, a copy of the disclosure statement and a copy of the completed clearance information required under the Child Protective Services Law.
5. Two written, non-family references from individuals attesting to the person's suitability to serve as a facility person.

**I. Confidentiality of Records**

1. Facility person's records are confidential and shall be stored in a locked cabinet at the site where the person is working.
2. A facility person may not disclose information concerning another facility person or adult providing a service at the facility, except in the course of investigations or inspections by representatives of the Bureau of Health. (13595 §1 8/8/97)

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**ARTICLE 1145**  
**Group Child Care Homes and Family Child Care Homes**

- 1145.01 Staff-Child Ratios
  - 1145.02 Facilities, Building and Physical Site
  - 1145.03 Program
  - 1145.04 Child Health
  - 1145.05 Staff
  - 1145.06 CPR and First Aid Certification
  - 1145.07 Food Service
  - 1145.08 Food and Nutrition
  - 1145.09 Transportation
  - 1145.10 Records
- 

**1145.01 STAFF - CHILD RATIOS**

A. Group Child Care Homes shall meet the staff-child ratios in accordance with the following:

1. **Maximum Number of Children** - No more than 12 children unrelated to the operator may simultaneously receive care except in a facility serving older school-age children. In a facility serving only older school-age children, a certificate of compliance may be issued for up to 15 children.

2. **Ratio Requirements**

a. The minimum number of facility persons is as follows:

1. A primary staff person shall be present in a facility when six or fewer children are in care, unless the staff-child ratio specified in subsection (b) or (c) requires a second or third staff person.

2. At least two facility persons shall accompany any number of children on an excursion away from a facility.

b. When children are grouped in similar age levels, the following child group sizes and ratios of staff persons apply:

Staff	Children	Maximum Group Size		Total Number of Staff Required For the Maximum Group Size
Infant	1	4	12	3
Young Toddler	1	5	12	3
Older Toddler	1	6	12	2
Preschool	1	10	12	2
Young School Age	1	12	12	1
Older School Age	1	15	15	1

c. When children are grouped in mixed age levels, the following child group sizes and ratios of staff persons apply:

Staff	Children	Maximum Group Size		Total Number of Staff Required For the Maximum Group Size
Infant/Young/Older	1	4	12	3
Young/Older Toddler	1	5	12	3
Older Toddler/Preschool	1	6	12	2
Preschool/Young School Age	1	10	12	3
Young School Age	1	12	12	2
Older School Age				

### 3. Children of an Operator or a Staff Person

a. The related or foster children of an operator and the related or foster children of a staff person shall be counted for the purpose of satisfying the staff/child ratio requirements (relating to similar age level; and mixed age level).

b. The related or foster children of an operator and the related or foster children of a staff person shall be counted for the purpose of satisfying the allocated space capacity requirements (relating to measurement and use of indoor child care space; and measurement and use of play space).

### 4. Minimum Number of Facility Persons in the Child Care Facility

a. At least two facility persons shall be present in the facility when two or more children are in care. At a minimum, one of the facility persons shall be a staff person.

b. At least two facility persons shall be present when children are on an excursion away from the facility. At a minimum, one of the facility persons shall be a staff person.

c. If the staff-child ratio warrants only one staff person, the second person may be another facility person.

B. Family Child Care Homes shall meet the staff-child ratios in accordance with the following:

1. **Maximum Number of Children** - The number of children in care may not exceed six children at any one time.

2. **Ratio Requirements** - The operator may provide care to no more than five related and unrelated infants and toddlers at any one time. No more than two related and unrelated infants may receive care at any one time. The following number of infants and toddlers are permitted in a family day care home:

- If no infants are in care, five toddlers are permitted.
- If one infant is in care, four toddlers are permitted.
- If two infants are in care, three toddlers are permitted. (13595 §1 8/8/97)

## 1145.02 FACILITIES, BUILDING AND PHYSICAL SITE

### A. Use of Indoor Child Care Space

1. A facility shall provide indoor child care space for individual and group small muscle activity.

2. Indoor child care space may not be used simultaneously as play space.

3. Indoor space in which children are receiving care may not be used simultaneously for other business, commercial, social or another purpose unrelated to the child care being offered.

4. Preschool and school-age children may not be involved in small or large muscle activity in the same group space in which children are sleeping or resting.

#### B. Use of Play Space

1. A facility shall provide outdoor or indoor play space to be used for large muscle activity which includes running, jumping, climbing and riding.

2. Outdoor or indoor play space shall be safe for large muscle activity.

3. Outdoor or indoor play space in which children are receiving care may not be used simultaneously for other business, commercial, social or another purpose unrelated to the child care being offered.

C. The following sections of Article 1143.02, FACILITIES, BUILDINGS AND PHYSICAL SITES, are applicable to Group and Family Child Care Homes:

1. Relating to Physical Site - Sections G through V, inclusive, and sections CC through JJ, inclusive.

2. Relating to Fire safety - Sections KK through MM, inclusive, and sections OO through RR, inclusive.

3. Relating to Equipment - Sections SS through UU, inclusive, and sections VV through ZZ, inclusive.

#### D. Toilet Area

1. A facility shall have at least one indoor flushing toilet and one sink. Running water shall be available at the sink.

2. A training chair is not a flushing toilet. Training chairs may be used, if emptied and sanitized after each use. A sanitizing solution of ¼ cup bleach to 1 gallon of water may be used. A sanitizing solution shall be treated as a toxic.

3. Toilets and training chairs shall be located in rooms separate from rooms used for cooking or eating.

#### E. Toilet Room Fixture Condition

Toilet rooms and fixtures shall be kept clean and in good repair. Toilet rooms shall have easily cleanable waste receptacles. (12692 §3 1/15/86; 13595 §1 8/8/97)

#### F. Fire Drills

1. Fire evacuation plans shall be developed and posted.

2. Evacuation plans shall provide for removal of persons from the facility in a single trip.

3. Fire evacuation drills shall be conducted in a manner and frequency which is in accordance with the City Fire Code.

#### G. Firearms

1. If the facility is located in a building or a space which is not a residence, weapons, firearms and ammunition are prohibited.

2. If the facility is located in a residence, weapons and firearms shall be contained in a locked cabinet.

3. If the facility is located in a residence, ammunition shall be contained in a locked area separate from weapons and firearms.

4. If the facility is located in a residence, the operator shall notify the parent when weapons, firearms or ammunition are present at the facility. (13595 §1 8/8/97)

### 1145.03 PROGRAM

A. The following sections of Article 1143.03, PROGRAM, are applicable to Group and Family Child Care Homes:

1. Relating to Supervision of Children - Section A

2. Relating to Outdoor Activity - Section B

3. Relating to Pets - Section D

4. Relating to Emergencies - Sections E through G, inclusive

#### B. Water Activity

1. For group child care homes which are located in a building or space which is not a residence, the applicable water activity regulations is Article 1143.03.c. For group and family child care homes located in a residence the applicable regulation is 1145.03.B.2 below.

2. Swimming or wading.

- a. An in-ground swimming pool accessible to children shall be fenced with a locked gate.
- b. An aboveground swimming pool which is not in use shall be made inaccessible to children.
- c. An indoor swimming pool which is not in use shall be made inaccessible to children.
- d. Swimming and wading ratios shall be maintained as follows:

	Staff	Children
Infant	1	1
Young or Older Toddler	1	2
Preschool	1	5
Young School Age	1	6
Older School Age	1	6

e. When children are swimming, supervision shall include at least one person who has completed lifeguard training.

f. The person certified in lifeguard training may not be included in the staff-child ratio.

g. A facility person who is counted in the staff-child ratio shall annually complete water safety instruction.

h. A sanitizing solution shall be added to water in a wading pool. An acceptable sanitizing solution is  $\frac{3}{4}$  teaspoon of bleach added to 50 gallons of water. A sanitizing solution shall be handled as a toxic.

i. A wading pool shall be emptied daily.

2. Water play table. A water play table or a container used for water play that contains unfiltered water shall be emptied daily and sanitized before its next use. (13595 §1 8/8/97)

**1145.04 CHILD HEALTH**

A. Section 1143.04, CHILD HEALTH, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

**1145.05 STAFF**

A. Section 1143.05, STAFF, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

**1145.06 CPR AND FIRST AID CERTIFICATION**

A. Section 1143.06, CPR AND FIRST AID CERTIFICATION, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

**1145.07 FOOD SERVICE**

A. Article 1143.07, FOOD SERVICE, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

**1145.08 FOOD AND NUTRITION**

A. The following sections of Article 1143.08, FOOD AND NUTRITION, are applicable to Group and Family Child Care Homes:

- 1. Sections A through D, inclusive and F.

**B. Menus**

The operator shall discuss the general menu plan with the parent so that the daily nutritional needs of the child can be met. (13595 §1 8/8/97)

1145.09 TRANSPORTATION

A. Section 1143.09, TRANSPORTATION, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

1145.10 RECORDS

A. Article 1143.10, RECORDS, is applicable in its entirety to Group and Family Child Care Homes. (13595 §1 8/8/97)

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ARTICLE 1147  
SPECIAL CHILD CARE PROGRAMS

- 1147.01 School-Age Programs
  - 1147.02 Night Care
  - 1147.03 Head Start Programs
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ARTICLE 1147.01 SCHOOL-AGE PROGRAMS

A. Requirements Specific to School-Age Programs

1. If a child is required to be enrolled in public or private school under the Public School Code of 1949 (24 P.S. §§ 1-101-27-2702) and if the child is not enrolled and if the child is not exempted from enrollment under the Public School Code, a child day care facility may not admit the child for care during the hours when the child is required by law to attend public or private school.

2. A facility or a space in a facility in which care is provided exclusively to school-age children shall comply only with the following sections:

- a. General Provisions Sections 1141.01, 1141.02, 1141.03 (relating to general provisions).
- b. General Requirements Sections 1149 (relating to general requirements, inspections and compliance procedures).
- c. Staff-Child Ratio Sections 1143.01.A.1-3 (relating to similar age level; children of an operator or a staff person; and minimum number of facility persons in the child care facility).
- d. Physical Site
  - i. Physical site requirements do not apply for a school-age program located in a school building that is under section 776.1 of The Public School Code of 1949 (24 P.S. § 7-776.1); specifically, a program operated for school-age children in a public or private school building, a building used by an intermediate unit, or an area vocational-technical school building which meets the physical site requirements acceptable to the Department of Education.
  - ii. A school-age program not located in a school building referenced in subparagraph (i) shall comply with requirements of Article 1143.02. A - JJ.
- e. Fire safety Articles 1143.02. KK - RR (relating to fire safety).
- f. Equipment Articles 1143.02. SS - ZZ.
- g. Program Articles 1143.03. A - G.
- h. Child Health Article 1143.04. An equivalent age-appropriate health assessment completed by a school is acceptable as documentation of child health.
- i. Staff Health Article 1143.05
- j. CPR and First Aid Certification Article 1143.06
- k. Nutrition

i. In a facility operating a school-age program for fewer than 4 consecutive hours, none of the nutrition requirements applies.

ii. If a program operates for 4 or more consecutive hours or if a program provides meals or snacks, the facility director shall comply with Articles 1143.07 and 1143.08.

I. Transportation

i. A facility is exempt from transportation requirements when children attending care at the facility are transported in vehicles owned and operated by the school district in which the facility is located.

ii. A facility not operating under the provisions referenced in subparagraph (i) shall comply with requirements in Article 1143.09 (relating to transportation).

m. Child Records Article 1143.01. A - F (relating to child records).

n. Adult Records Article 1143.10. G - I (relating to adult records). (13595 §1 8/8/97)

**1147.02 NIGHT CARE**

**A. Additional Requirements for Night Care**

In addition to other requirements in this ordinance, this Article 1147.02 is applicable if night care is provided.

**B. Staff-Child Ratios**

While children are sleeping, the following staff-child ratios apply:

	<u>Staff</u>	<u>Children</u>
Infant	1	8
Young Toddler	1	10
Older Toddler	1	12
Preschool	1	20
Young School Age	1	24
Older School Age	1	30

**C. Supervision**

While children are napping or sleeping, at least one staff person shall be awake at all times and shall check on the children at least every 2 hours.

**D. Napping and Sleeping**

Napping and sleeping schedules shall be established for children in consultation with the child's parent.

**E. Evening Snacks**

Appropriately-timed nutritional snacks shall be provided to children in attendance for more than 2½ hours prior to bedtime.

**F. Restraints**

Children may not be confined by manmade restraints with the exception of approved vehicular restraints and safety straps in high chairs or other manufactured infant seats.

**G. Evening Activities**

Evening quiet time activity, such as story-time, games, art and craft activities, and reading shall be provided to a child arriving before bedtime.

**H. Storage Space**

Sleeping areas shall include space for storage of clothing and personal belongings. Clothing racks and shelves shall be within reach of the child using them.

**I. Rest Equipment**

a. The upper level of double-deck beds may be used for children 9 years of age or older. A bedrail and safety ladder shall be provided.

b. If school-age children are napping or sleeping, appropriate rest equipment shall be provided as specified under Article 1143.02.XX (relating to rest equipment).

#### J. Bathing

a. At least one bathtub or shower is required for each 15 children of toddler age or older. Bathtubs and showers shall be equipped to prevent slipping.

b. Bath and toilet rooms shall be located near the sleeping areas.

c. A child 5 years of age or younger may not be left unsupervised in the bathtub or shower.

d. Age-appropriate bathing provisions shall be available for an infant in a night care arrangement. (13595 §1 8/8/97)

### 1147.03 HEAD START PROGRAMS

#### A. Exemption

Head Start programs are exempted from regulation under this Article. The Bureau of Health will perform courtesy environmental and personal health assessments upon request. When child care services are operated before or after the Head Start Program, that portion of the extended day which meets the definitions of this Article shall receive an operational certificate. (13595 §1 8/8/97)

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## ARTICLE 1149

### GENERAL REQUIREMENTS, INSPECTIONS AND COMPLIANCE PROCEDURES

1149.01 General Requirements

1149.02 Inspections

1149.03 Compliance Procedures

1149.04 Operational Certificate Fees

1149.05 Effective Date

1149.99 Penalty

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### 1149.01 GENERAL REQUIREMENTS

#### A. Pertinent Laws and Regulations

A facility shall be operated in conformity with applicable Federal and State local laws and regulations. State agencies whose regulations may relate to the operation of a facility include the Department of Environmental Protection, the Department of Labor and Industry, the Department of Health, the Department of Education and the Department of Transportation.

#### B. Child Abuse Reporting

1. An operator or a staff person who has reason to believe that a child enrolled in the facility has been abused is required to report suspected child abuse to ChildLine as mandated by the Child Protective Services Law.

2. A staff person may be designated by the operator as the person responsible to notify ChildLine of suspected child abuse. The operator or designated staff person with this responsibility shall immediately notify ChildLine at 1 (800) 932-0313.

3. Within 48 hours, a written report regarding the suspected child abuse shall be submitted by the operator or designated staff person to the Child Protective Service unit which has responsibility for investigating the report.

#### C. Reporting Injury, Death or Fire

1. The operator shall immediately notify a child's parent and shall telephone notice to the Bureau of Health within 24 hours if one or more of the following occurs:

a. Inpatient hospitalization or emergency room treatment of a child receiving care at the facility.

b. A death of a child receiving care at the facility.

c. A facility fire that requires the service of the fire department.

2. The operator shall mail or deliver a written report to the Bureau of Health within 72 hours after the occurrence of an event listed in subsection (a).

3. The report shall include the following information.

a. The name, address and telephone number of the facility.

b. The name, address and birth date of the child.

c. The name and address of the child's parent or guardian.

d. A description of the incident, including the date, time and location of the incident and the equipment involved.

e. The name and telephone number of local authorities notified.

f. The nature of the treatment.

g. The name and address of the place where the treatment was received.

h. The required follow-up.

4. The staff person who prepared the report shall sign and date it.

5. Copies of reports shall be kept in a file at the facility.

#### D. General Health and Safety

Conditions at the facility may not pose a threat to the health or safety of the children.

#### E. Communication with Parents

The operator shall establish oral or written communication in the language or mode of communication which is understandable to the parent.

#### F. Parent Access and Participation

A parent of a child in care shall be permitted free access, without prior notice, throughout the center whenever children are in care, unless a court of competent jurisdiction has limited the parental right of access to the child and a copy of the order is on file at the facility. Opportunity shall be provided for parents to participate in the facility's program. The operator shall maintain a yearly file which documents general announcements to promote parent participation. The file shall be updated annually. (13595 §1 8/8/97)

### 1149.02 INSPECTIONS

#### A. Inspection Frequency

An inspection of a child care facility shall be conducted at least once a year. Additional inspections of the child care facility shall be conducted as often as deemed necessary.

#### B. Access

Representatives of the Bureau of Health, after proper identification, shall be permitted to enter any child care facility at any reasonable time for the purpose of making inspections to determine compliance with this ordinance. (12692 §5 1/15/86; 13595 §1 8/8/97)

#### C. Report of Inspections

Whenever an inspection of child care facility is made, the findings shall be recorded on the inspection report form. A copy of the completed inspection report form shall be furnished to the person-in-charge of the facility at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law. (12692 §5 1/15/86; 13595 §1 8/8/97)

#### D. Correction of Violations

The completed inspection report form shall specify a reasonable period of time for the correction of the violations found. The correction of the violations shall be accomplished within the period specified. If an imminent health hazard exists, the facility shall immediately cease operations. Operations shall not be resumed until authorized by the Bureau of Health. (12692 §5 1/15/86; 13595 §1 8/8/97)

## 1149.03 COMPLIANCE PROCEDURES

### A. Issuance of Operational Certificate

1. No person shall operate a child care facility who does not have a valid operational certificate issued by the Bureau of Health. Only a person who complies with the requirements of this ordinance, and all other applicable City Ordinances and regulations including, but not limited to Building, Zoning and Fire Prevention Codes, Business Privilege Tax, Earned Income Tax and Occupational Privilege Tax, shall be entitled to receive or retain such a certificate. Operational certificates are not transferable. A valid operational certificate shall be posted in every child care facility. (12692 §5 1/15/86; 13285; §1 11/3/94; 13595 §1 8/8/97)

2. Any person desiring to operate a child care facility shall make written application for an operational certificate annually on forms provided by the Bureau of Health. Such application shall include the name and address of each applicant, the location and type of the facility and the signature of each applicant. (12692 §5 1/15/86; 13595 §1 8/8/97)

3. Prior to approval of an application for an operational certificate, the Bureau of Health shall inspect the proposed facility to determine compliance with the requirements of this Ordinance. An inspection of City tax compliance shall also be made prior to approval of an application for an operational certificate to determine compliance with the requirements of the business privilege tax, earned income tax and occupational privilege tax Ordinances. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

4. The Bureau of Health shall issue an operational certificate to the applicant if the inspection reveals that the proposed facility complies with the requirements of this Ordinance and is currently licensed or registered by the Pennsylvania Department of Public Welfare. (13285 §1 11/3/94; 13595 §1 8/8/97)

### B. Suspension of Operational Certificate and Issuance of Conditional Operational Certificate (13285 §1 11/3/94; 13595 §1 8/8/97)

1. The Director of the Health Bureau, or in their absence, their designee, may suspend any certificate to operate a child care facility if the operation of the facility constitutes a substantial hazard to public health. Notice of intention to suspend shall be given in all cases except those where delay would result in the risk of substantial, immediate or imminent health hazard. Suspension is effective upon service of the notification of suspension. When an operational certificate is suspended due to a public health hazard, child care operations shall immediately cease. Whenever a certificate is suspended, the holder of the operational certificate shall be afforded an opportunity for a hearing before the Allentown Board of Health. The Bureau of Health may end the suspension at any time if reasons for the suspension no longer exist. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

2. The Bureau of Health may, in its discretion, issue a conditional operational certificate where operation of the proposed facility constitutes a possible hazard to public health, or where an applicant requires additional time to comply with other applicable City Ordinances or regulations. A conditional operational certificate shall be issued for a period not to exceed sixty (60) calendar days. (13285 §1 11/3/94; 13595 §1 8/8/97)

a. The Bureau of Health may issue an operational certificate at any time during the pendency of the conditional operational certificate, if the reasons for the conditional issuance no longer exist; namely, that the operator has brought the facility and its operation into compliance with all applicable City Ordinances and regulations. (13285 §1 11/3/94; 13595 §1 8/8/97)

b. Upon the expiration of the conditional operational certificate, the child care operation shall immediately cease operation until all issues of non-compliance with any applicable City Ordinance or regulation have been satisfied and the facility receives regulatory approval to resume operation. At that time, the Bureau of Health shall issue a license for the balance of the year for which a license was originally sought. (13285 §1 11/3/94; 13595 §1 8/8/97)

### C. Revocation of Operational Certificate

1. The Bureau of Health may, after providing opportunity for a hearing, revoke an operational certificate or a conditional operational certificate for serious or repeated violations of any of the requirements of this ordinance or for interference with the Bureau of Health in the performance of duty. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

2. Prior to revocation, the Bureau of Health shall notify the operator in writing as to the specific reason(s) for which the operational certificate or conditional operational certificate is to be revoked. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

3. Whenever a revocation of an operational certificate has become final, the holder of the revoked certificate may make written application for a new operational certificate. (12692 §5 1/15/86; 13595 §1 8/8/97)

#### D. Service of Notices

A notice provided for in this ordinance is properly served when it is personally delivered to the holder of the operational certificate or conditional operational certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the certificate, or is conspicuously posted at the child care facility. A copy of the notice shall be filed in the records of the Bureau of Health. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

#### E. Appeal Procedure

The operator of a child care facility shall be provided the opportunity for a hearing before the Board of Health to appeal a suspension or revocation of their operational certificate. The request for a hearing must be made in writing and filed with the Bureau of Health within ten (10) days of the service of any notice of suspension or revocation. If no written request for a hearing is filed within ten (10) days, the suspension or revocation is sustained. The Board of Health shall schedule any requested hearing within twenty (20) days receipt of a request for a hearing. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

#### F. Waivers

1. A waiver excuses an operator from meeting a regulatory standard and substitutes another standard which the operator shall meet. The substituted standard has the same legal effect as the regulatory standard.

2. The operator shall submit the request for waiver to the Bureau of Health before the facility is inspected for issuance or renewal of an operational certificate.

3. An operator may request a waiver of only the regulatory standards in the following sections:

- a. Physical site requirements.
- b. Equipment requirements.
- c. Program requirements.

4. The Bureau of Health will grant a waiver only if the following conditions are met:

- a. The waiver is not requested as a substitute for correcting a Bureau of Health citation of noncompliance.
- b. The request for waiver does not alter the applicability or purpose of a regulation.
- c. The request shows evidence that the operator has a plan to achieve the objective of the regulation.
- d. The request certifies that the operator will meet regulatory standards related to the health, safety and rights of children.
- e. The request for waiver does not violate or condone noncompliance with another Federal or State statute or regulation.
- f. The request for waiver may not jeopardize Federal or State funding.

5. A waiver previously granted for staff person qualifications remains in effect for the staff person at the location specified. (13595 §1 8/8/97)

### 1149.04 OPERATIONAL CERTIFICATE FEES

A. An annual operational fee shall be charged to defray the cost of inspections, consultations and any other services provided. The fee for child care facilities shall be based upon the type of facility and the number of children, in accordance with the requirements of the Administrative Information Manual (AIM). The issuance of an annual operational certificate is dependent upon payment of the annual operational fee and compliance with all of the health, safety, sanitation and other provisions detailed in this ordinance. This operational certificate is a necessary prerequisite to operate a child care facility in the City of Allentown. (12692 §5 1/15/86; 13285 §1 11/3/94; 13595 §1 8/8/97)

B. Where the Bureau of Health, in its discretion, issues a conditional operational certificate, a fee as established in accordance with the requirements of the Administrative Information Manual (AIM) shall be charged to defray the costs of inspections, consultations and any other administrative service provided which shall be in addition to the annual operational fee. The issuance of a conditional operational certificate is dependent upon payment of the conditional operational fee and compliance with all of the health, safety, sanitation and other provisions detailed in this Ordinance. This conditional operational certificate is a necessary prerequisite to conditional operation of a child care facility in the City of Allentown. Additional conditional operational certificates may be issued as determined by the Bureau of Health. (13285 §1 11/3/94; 13595 §1 8/8/97)

(Editor's Note: This section does not conflict with Section 1149.02 (B)(2), herein, as said section grants a discretionary power to issue a conditional certificate and this section describes under what conditions such discretionary issuance may be made.) (13285 §1 11/3/94; 13595 §1 8/8/97)

#### 1149.05 EFFECTIVE DATE

The provisions of this ordinance become effective immediately upon passage. (13595 §1 8/8/97)

#### 1149.99 PENALTY

Any person violating the provisions of this ordinance or sections of this ordinance shall upon conviction be fined not less than Thirty (\$30.00) Dollars nor more than One Thousand (\$1000.00) Dollars and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than ninety (90) days. In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation. (12692 §5 1/15/86; 13595 §1 8/8/97)

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### TITLE NINE OTHER REGULATIONS

1151 Weeds  
1155 Cockroach and Vermin Control  
1157 Massage Establishments and Schools  
1159 Lead Poison Control  
1160 Licensing and Regulation of Cigarette Vending Machines  
1161 Regulating the Keeping of Domestic Bees  
1162 Automated External Defibrillator Notification Program  
1170 School Sanitation Ordinance

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#### ARTICLE 1151 WEEDS

1151.01 Definitions  
1151.02 Nuisance Declared  
1151.03 Violation Notification and Remedy  
1151.04 Cost of Remedy  
1151.99 Penalty

#### CROSS REFERENCES

Public Nuisances Defined; Abatement  
See 3rd Class §2320 et seq. (53 P.S. §37320 et seq.)

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#### 1151.01 DEFINITIONS

For the purpose of this article, the following terms shall have the meaning respectively ascribed to them in this section:

1. Weeds includes all rank vegetable growth including but not limited to grass, ragweed, dandelion and miscellaneous other vegetation commonly referred to as weeds or brush which exhale unpleasant noxious odors or pollen, or which may conceal filthy deposits or serve as breeding places for mosquitoes, other insects or vermin.

2. Person means an individual, partnership, firm or corporation and the singular includes the plural who is the owner, is holding, or is in possession of any real estate on which weeds are growing. (11818 §1 8/18/70)

#### 1151.02 NUISANCE DECLARED

No person owning, holding or in possession of any real estate shall allow or maintain on any lot or tract of land, within the boundary of the City any growth of weeds to a height of over one (1') foot and such growth of weeds is hereby declared to be a nuisance, injurious to the health, cleanliness, comfort, and safety of the residents of the City. (11818 §2 8/18/70)

#### 1151.03 VIOLATION NOTIFICATION AND REMEDY

The City shall notify a person in writing of the violation of this article. In the event of the failure of the person so notified to cut and destroy or remove such weeds within five (5) days after having been so notified, the City may cut, destroy or remove or have such weeds cut, destroyed or removed, and bill such person for the cost thereof in accordance with Section 1151.04. In the event of subsequent violations in the same calendar year the City shall be authorized to cut, destroy or remove or to have such weeds cut, destroyed or removed without further notification to the person and bill such person for the cost thereof in accordance with Section 1151.04. In case of neglect or refusal by the person to pay such bill within thirty (30) days, the bill shall be subject in all respects to the general law provided for the filing and recovery of municipal liens. (11818 §3 8/18/70)

#### 1151.04 COST OF REMEDY

The cost for weed violation remedy service of the City as mentioned in Section 1151.03 shall be as follows:

The person shall be billed for the cost thereof, at the rate to be established by the Business Administrator, which would compensate the City for both direct and indirect costs and expense incurred in cleaning such property. (11818 §4 8/18/70)

#### 1151.99 PENALTY

Any person violating the provisions of this article shall, upon each and every conviction be fined not more than Three Hundred (\$300.00) Dollars or imprisoned not more than ninety (90) days or both. (11995 §1 2/21/73)

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### ARTICLE 1155 COCKROACH AND VERMIN CONTROL

- 1155.01 Definitions
- 1155.02 Prohibiting Conditions Conducive Cockroach and Vermin Life
- 1155.03 Investigation of Premises Believed to Harbor Cockroach and Vermin Life
- 1155.04 Right of Entry
- 1155.05 Determination of Cockroach or other Vermin Infestation
- 1155.06 Notice to Exterminate
- 1155.07 Liability for the Spread of Cockroaches and Vermin
- 1155.08 Methods of Extermination
- 1155.09 Period of Time Required for Proper Extermination
- 1155.10 Right of Inspection
- 1155.99 Penalty

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#### 1155.01 DEFINITIONS

As used in this article certain terms are defined as follows:

1. **Cockroach (roach)** means any or all of the many types of cockroaches including but not limited to the German cockroach, the Oriental cockroach (frequently referred to as a "waterbug"), the American cockroach, the brown-banded cockroach and any other less common varieties.
2. **Vermin** means any harmful or disease-bearing insects which constitute a present or potential danger to the public health and which tend to entrench themselves within dwelling units and other buildings to reproduce their kind therein.
3. **Infestation** means cockroaches or other disease bearing insects in sufficient numbers within a given area so as to present a danger to the public health or to human inhabitants residing nearby. (12196 §1 7/7/76)

#### 1155.02 PROHIBITING CONDITIONS CONDUCIVE TO COCKROACH AND VERMIN LIFE

A. No owner, tenant or other responsible person shall create or maintain any condition within an apartment, house or other building, commercial or otherwise, yard or lot, which would tend to encourage cockroach or other vermin life.

This prohibition includes all those unsanitary housekeeping practices which provide ready access to any vermin of a food supply and harborage beyond any reasonable standards set forth in existing health and housing codes. It shall be the responsibility of the Bureaus of Health or Housing to make any determination as to what constitutes unsanitary housekeeping practices which might encourage and perpetrate cockroach and vermin life.

B. A judgment that conditions conducive to cockroach and vermin life exists within an apartment, house or other building, commercial or otherwise, may be made by the City regardless of whether the specific conditions found are explicitly covered by existing City ordinances. (12196 §1 7/7/76)

#### **1155.03 INVESTIGATION OF PREMISES BELIEVED TO HARBOR COCKROACH AND VERMIN LIFE**

It shall be the responsibility of either the Bureaus of Health or Housing or both to investigate any property, whether apartment, house or other building, occupied or vacant or any other area which is believed to harbor cockroach or other vermin life. Such investigation shall be warranted when either a formal complaint is lodged with the City or the City has reason to believe, based on personal observation, information received or evident conditions that cockroach or vermin life exists at a given location. (12196 §1 7/7/76)

#### **1155.04 RIGHT OF ENTRY**

The City shall have the right of entry into or onto any property for the purpose of conducting an investigation to determine the possible existence of cockroaches and other vermin at any reasonable time. The owner or occupant of any property shall be asked for verbal permission for such entry for this purpose. Consideration shall be afforded any owner or occupant so that if the time is not convenient, a future appointment may be set for the inspection of the property. If it becomes apparent, however, that entry is being unduly postponed or if entry is refused, the City shall have the right to secure any and all remedies available to it including the application for a search warrant to any appropriate judicial officer which would permit the City to enter the property without the permission of the owner or occupant. The City shall not be liable if the actual presence of cockroaches or other vermin is not found. The City shall have the right upon such inspection to require the responsible party to comply with eliminating any conditions found that would tend to promote cockroach and vermin life. (12196 §1 7/7/76)

#### **1155.05 DETERMINATION OF COCKROACH OR OTHER VERMIN INFESTATION**

A. The Bureaus of Health or Housing shall have the authority to determine whether an infestation exists in a given property. Such a determination shall be based on first observation of cockroach or other vermin or observing signs of their concealed presence.

B. One cockroach or other vermin shall not in and of itself constitute an infestation nor shall it be labeled as an infestation by the City. The presence of one cockroach or other vermin may be viewed as a threat of future infestation, and shall be deemed justification for the issuance of an order by the City to exterminate. (12196 §1 7/7/76)

#### **1155.06 NOTICE TO EXTERMINATE**

A. The City through its Bureaus of Health or Housing may order extermination of cockroaches or other vermin at a specific property or location. Notice shall be served on the responsible party to comply within a specified time.

B. The responsibility for extermination shall be that of the property owner unless the prohibited conditions exist in a tenant occupied single-family dwelling unit or unless only one unit is affected in a multi-unit building. The responsibility then lies with the tenant of this single unit. (12196 § 7/7/76)

#### **1155.07 LIABILITY FOR THE SPREAD OF COCKROACHES AND VERMIN**

No person shall knowingly move household furnishing from a cockroach or other vermin-infested dwelling unit into another dwelling unit within the City unless such furnishings are free from infestation. No person shall transport cockroaches or other vermin in this manner or allow an infestation to develop within a residential or commercial unity without taking corrective action, which results in the elimination of the prohibited condition. It shall constitute a violation of this article if a person when required to do so fails to undertake corrective action to eliminate a cockroach or vermin infestation and that failure results in such infestation being spread to neighboring property. (12196 §1 7/7/76)

#### **1155.08 METHODS OF EXTERMINATION**

A. If an infestation has been determined by the Bureaus of Health or Housing to exist at a given location or property and notice has been served to correct this prohibited condition, the responsible party shall take whatever action is deemed necessary by the City to effect compliance. This may include utilization and implementation of the expert services of a trained professional exterminator. Liability for damages or human injury shall lie with the responsible party or his agent.

B. The City reserves the right to exterminate, utilizing qualified City personnel, or to have exterminated under agreement with a professional exterminator, any property not in compliance with this article whose owner cannot be located

or who does not comply with any order to exterminate. The City shall bill the property owner and place a lien against the property for any expense incurred and unpaid. (12196 §1 7/7/76)

#### 1155.09 PERIOD OF TIME REQUIRED FOR PROPER EXTERMINATION

A. The period of time required for proper extermination shall depend upon the type of cockroach or vermin subject to extermination and the residuals (life) of the pesticides used. Such determination may be made by the Bureau of Health or by any qualified professional exterminator.

B. It shall be borne in mind that egg sacs of cockroaches are not affected by most pesticides and that the incubation period for some cockroaches could exceed two (2) months during colder temperature periods. The term "extermination" includes both the destruction of live cockroaches and vermin and their offspring. (12196 §1 7/7/76)

#### 1155.10 RIGHT OF INSPECTION

The Bureaus of Health or Housing shall have the right to inspect any property to insure compliance with the conditions of this article. (12196 §1 7/7/76)

#### 1155.99 PENALTY

Any person violating any provision of this article shall be fined not more than Three Hundred (\$300) Dollars or imprisoned not more than ninety (90) days, or both. (12196 §1 7/7/76)

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### ARTICLE 1156 ADULT ARCADES

- 1156.01 Purpose
- 1156.02 Definition of Terms
- 1156.03 Arcade Device Booths
- 1156.04 Warning Signs
- 1156.99 Penalty

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#### 1156.01 PURPOSE

There exists a threat to the public health, safety and welfare to the citizens of the City of Allentown from sexually transmissible diseases. Certain conditions can exist in adult arcades which would foster the transmission of these diseases and, therefore, regulations are necessary to reduce this threat to the public health.

#### 1156.02 DEFINITION OF TERMS

As used in this ordinance, unless:

1. **Adult arcade** shall mean any premises to which members of the public or members of any club, group or association are admitted and permitted to use one or more "arcade devices." (12732 §1 11/5/86; 13595 §1 8/8/97)
2. **Arcade device** shall mean any coin or slug operated or electronically or mechanically controlled machine or device that dispenses or effects the dispensing or "entertainment" that is intended for the viewing in exchange for any payment of any consideration. (12732 §1 11/5/86; 13595 §1 8/8/97)
3. **Arcade device booth** shall mean any enclosure containing an "arcade device" and constructed so as to permit exclusive and/or private viewing of the entertainment produced by said arcade device for less than all patrons entering the adult arcade at any point in time. (12732 §1 11/5/86)
4. **Entertainment** shall mean any live entertainment, display or performance, or any still pictures or motion pictures whether mechanically, electronically or electrically displayed, or any combination of the foregoing in which "specified sexual activities" as defined in Article 1355 of the Codified Ordinances of the City of Allentown are depicted. (12732 §1 11/5/86)
5. **Manager** shall mean any person who manages or is in charge of an adult arcade for any length of time. For the purposes of this ordinance, a Manager shall be the person in charge in the event two (2) or more employees of an adult arcade are present at a given time. If only one (1) employee is present in an adult arcade, that person shall be considered a Manager for the purposes of this ordinance. (12865 §1 9/7/88)

6. **Owner/Operator** shall mean any person, partnership, corporation or entity which owns, operates or has a financial interest in an adult arcade. (12865 §1 9/7/88)

#### 1156.03 ARCADE DEVICE BOOTHS

A. Each arcade device booth in an adult arcade shall be separated from all other arcade device booths by solid, stationary, uninterrupted partitions. All partitions, walls and doors of each arcade device booth shall not contain any hole, gap or opening. (12732 §1 11/5/86; 12865 §2 9/7/88)

B. No more than one person shall occupy an arcade device booth at any one time, and neither the owner/operator or manager of said adult arcade shall permit no more than one (1) occupant per arcade device booth at any one time. The owner/operator of an adult arcade shall properly staff the adult arcade and position adult arcade device booths to insure this occupancy limit is met. In the event two (2) or more persons occupy an arcade device booth, all such occupants shall have violated this ordinance. (12732 §1 11/5/86; 12865 §2 9/7/88)

#### 1156.04 WARNING SIGNS

The owner of any adult arcade shall post at the entrance of each arcade device booth the following warning: "Occupancy limit of this booth not to exceed one person. All sexual acts are forbidden within the premises to reduce the risk of communicable disease transmission." (12732 §1 11/5/86)

#### 1156.99 PENALTY

Any person, firm or corporation violating any of the provisions of this article shall be liable to a fine or penalty of not more than Three Hundred (\$300.00) Dollars and/or imprisonment of not more than ninety (90) days for each offense. (12732 §1 11/5/86)

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### ARTICLE 1157 MESSAGE ESTABLISHMENTS AND PRACTITIONERS

- 1157.01 Definitions
- 1157.02 Registration Required; Exemptions
- 1157.03 Registration Procedure
- 1157.04 Registration Fee
- 1157.05 Advertisement
- 1157.06 Qualifications for Registration Certificates
- 1157.07 Prohibited Activities
- 1157.08 Inspections
- 1157.09 Duty of Property Owners and Operators
- 1157.10 Violations
- 1157.11 Validity
- 1157.99 Penalty

#### CROSS REFERENCE

Adult Stores and Theaters - Zoning - Article 1355  
Adult Arcades - Health - Article 1156

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#### 1157.01 DEFINITIONS

For the purposes of this article, the following definitions shall apply:

1. **Apprentice or student** means any person who, under the direct guidance of an instructor in a massage school or in a massage establishment, is trained or instructed in the theory, method of practice of massage.
2. **Massage** means the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking or tapping with the hand or hands or with any mechanical or bathing device with or without supplementary aids.
3. **Massage establishment** means any place or establishment where a massage is made available.
4. **Massage school** means any place or establishment or facility which provides instructions in the theory, method and practice of massage.

5. Practitioner means any person who engages in the practice of or performs a massage.

#### 1157.02 REGISTRATION REQUIRED; EXEMPTIONS

A. No person, either by himself or with others, shall own, establish or maintain a massage establishment unless the massage establishment is duly registered with the City of Allentown.

B. No person shall act as a practitioner in any massage establishment unless such person is duly registered with the City of Allentown to act in such capacity, and the place or establishment in which he/she performs a massage is duly registered as a massage establishment.

C. The provisions of this article shall not apply to:

1. A duly licensed medical doctor, osteopath, chiropractor, nurse of physical therapist; or
2. A person engaging in the practice of massage on his/her spouse or relative within the first degree of consanguinity in either of their residences; or
3. A place or establishment which is a duly licensed hospital, dispensary or convalescent home, or is a place or establishment where a massage, upon the face and neck only, is performed for beautifying or cosmetic purposes; or
4. A duly licensed long-term care facility or personal care home; or
5. Athletic trainers in public and private schools and colleges; or
6. An apprentice or student.

#### 1157.03 REGISTRATION PROCEDURE

A. Massage Establishment Registration

The Allentown Health Bureau is authorized to register massage establishments.

B. Individual Massage Practitioner Registration

The applicant for registration required under the provisions of this article shall file, with the Allentown Health Bureau, a written application, on a form prescribed and supplied by the City, and shall submit satisfactory proof of the required age and educational qualifications as provided in this article. The applicant shall comply with all applicable City and State rules, regulations, laws and ordinances before registration.

C. Massage Establishment Registration and Inspection

Prior to accepting an application for a registration of a massage establishment, a representative of the Health Bureau or other public official may inspect the proposed facility to determine compliance with the requirements of this article. If the applicant for registration, under this article is a Corporation, the City may examine the background and qualifications of each officer, director and employee having managerial responsibilities, in the same manner as if such persons were individual applicants.

D. Annual Registration Renewal

All registrations under this article shall be renewed annually by January 31. Upon the application for the renewal of the registration, the applicant shall meet the terms and conditions of this article.

#### 1157.04 REGISTRATION FEES

The registration and other fees shall be established in accordance with the requirements of the Administrative Information Manual of the City of Allentown.

#### 1157.05 ADVERTISEMENT

No person shall advertise the offering of massage services in the City of Allentown unless the advertised establishment and/or massage practitioner is duly registered.

#### 1157.06 QUALIFICATIONS FOR REGISTRATION CERTIFICATES

Applicants for registration under this Article shall meet the following qualifications:

A. Practitioners shall be at least eighteen (18) years of age.

B. A practitioner shall present evidence of the ability to practice massage, including, but not limited to graduation or certification from a massage school or participation in an apprenticeship under the direct supervision of another practitioner or instructor.

#### 1157.07 PROHIBITED ACTIVITIES

A. The Chief of Police or his designee shall report to the Health Bureau all convictions for violations of this article, and the Health Bureau shall maintain a record for each registration issued and record the reports of violation herein.

B. Registrations issued under the provisions of this article may be revoked by the City, after notice and hearing by the Chief of Police or his designee for any of the following reasons:

1. Fraud, misrepresentation or false statement contained in the application for registration;
2. Fraud, misrepresentation or false statement in the course of carrying on the business of the massage establishment;
3. Any violation of the provisions of this article;
4. Conviction of any crime or misdemeanor involving the sale or use of alcoholic beverages or narcotics, health or sanitation, prostitution or other acts of sexual misconduct, or moral turpitude;
5. Conducting the business of the massage establishment in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

C. Notice of the hearing for revocation of the registration shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. The notice shall be mailed via certified mail to the registrant at his last known address at least five (5) days prior to the date set for hearing.

#### 1157.08 INSPECTIONS

A. Every establishment being operated as a massage establishment shall be opened for inspection by duly authorized representatives of any City department concerned with the operation of such establishment during operating hours for the purpose of enforcing any of the provisions of this article or other ordinances or regulations of the City relating to the public health, safety and welfare.

B. Every establishment being operated as a massage establishment shall be required to maintain any books, records or documents as may be deemed necessary by the City which shall be open for inspection by duly authorized City representatives.

#### 1157.09 DUTY OF PROPERTY OWNERS AND OPERATORS

No person shall knowingly allow the use of any place, business, establishment or premises owned, operated, leased or managed by him/her to be used as a massage establishment in violation of any provisions of these Codified Ordinances of the City of Allentown or any State or Federal statute or regulations.

#### 1157.10 VIOLATIONS

No person shall violate any provision of this article or any of the rules or regulations which may be promulgated by the City of Allentown, hereunder, or aid, assist or abet another to violate any such provision, rule or regulation.

The City's Police Department, Bureau of Health, Bureau of Code Enforcement and Rehabilitation, and any other City enforcement bureaus are authorized and directed to enforce this article. The Community Development Director is hereby authorized to promulgate and establish reasonable rules and regulations required to implement this article. The City may change, modify, repeal or amend any portion of said rules and regulations at any time.

#### 1157.11 VALIDITY

In the event any part of this article shall be held to be illegal or void by a court of competent jurisdiction, this shall not have the effect of making void or illegal any of the other parts or provisions thereof. Any invalid part of this article shall

be segregated from the remainder of the article by the court holding such part invalid, and the remainder of the article shall remain in full force and effect.

#### 1157.99 PENALTY

Any person violating any provisions of this article shall upon conviction be fined not more than One Thousand (\$1,000) Dollars or imprisoned not more than ninety (90) days or both. Each day that a violation is continued shall constitute a separate offense.

The imposition of the penalty herein prescribed shall not preclude the City from instituting appropriate action by injunction or otherwise to prevent any violations of this article.

### ARTICLE 1159 LEAD POISONING PREVENTION AND CONTROL ACT

- 1159.01 Definitions
- 1159.02 Inspections
- 1159.03 Testing Procedures
- 1159.04 Determination of Health Hazard
- 1159.05 Notice to Health Hazard
- 1159.06 Examination of Children and Others
- 1159.07 Mandatory Reporting of Cases of Lead Poisoning
- 1159.08 Required Compliance
- 1159.09 Presumption of Lead Source Health Hazard
- 1159.10 Protection of Occupants
- 1159.95 Variances
- 1159.96 Severability
- 1159.97 Remedy
- 1159.98 Enforcement and Administration
- 1159.99 Penalty

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#### 1159.01 DEFINITIONS

The following words, terms and phrases when used in this Ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Bureau" means the Allentown Bureau of Health or any successor department or agency, or any authorized representative thereof.
2. "City" means the City of Allentown.
3. "Dwelling" means a building or structure or any part thereof occupied or designed or intended to be occupied as a place for human habitation or use, including any accessory building or structure belonging thereto or usually enjoyed therewith or any institutional structure used for the care of or frequented by children, such as a child care facility.
4. "Dwelling Unit" means any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for living, or any part thereof.
5. "Elevated Blood Lead Level" means a serum blood lead level confirmed by venous sample which is equal to or greater than ten micrograms lead per deciliter of blood ( $\geq 10 \mu\text{g/dL}$ ) as specified by the Centers for Disease Control and Prevention.
6. "Emergency" means any care where the physician examining the child deems the blood lead level of the child is high enough to require hospitalization and treatment of the child. Hospitalization of the child signals that the lead hazard in the child's home environment must be addressed with immediacy so that the child may be discharged from the hospital to a lead-safe environment.
7. "Exposed Surface" means all interior and exterior surfaces of a dwelling or dwelling unit which are readily accessible to children under six (6) years of age, or other persons who have demonstrated an evidence of lead poisoning. Exposed surfaces may be found on, but are not limited to windows, doors, floors, walls, ceilings, ornamental woodwork, stairs, decks, porches, railings, and siding. Any area in the vicinity of a dwelling or dwelling unit subject to contamination from flaking or peeling of lead based materials may also be considered an exposed surface.

8. "Interim Controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead paint hazards, such as specialized cleaning, repairs, maintenance, temporary containment and temporary relocation of the inhabitants.

9. "Lead Source Health Hazard" means an item or condition where exposure to that item or condition could have the potential to create a case of lead poisoning, such as exposure to lead-based paint, lead contaminated soil, water or ceramics, etc., as determined by the Bureau of Health.

10. "Lead-Based Coatings" means any paint, varnish, glaze or other applied liquid surface coating and putty or plaster which contains a quantity of lead more than one-half of one (0.5%) percent by weight of its non-volatile content when measured chemically or by atomic absorption; or a quantity of lead equal to or greater than one milligram per square centimeter (1.0 mg/cm<sup>2</sup>) when measured by an x-ray fluorescence analyzer.

11. "Lead Hazard Reduction" means any action or actions designed to reduce exposure to lead in a dwelling, dwelling unit or any other structure.

12. "Lead-Safe" means that a dwelling, dwelling unit or premises either contains no lead, or contains lead in such condition and location that does not result in a lead source health hazard, as determined by the Bureau of Health.

13. "Occupant" means any person living, sleeping, cooking, eating in or having actual possession of a dwelling unit.

14. "Operator" means any person who has charge, care or control of a building or part thereof.

15. "Owner" means a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

16. "Premises" means a lot, plot or parcel of land, including all facilities and improvements thereon.

17. "Structural Material" means the component substrate materials, such as wood, plaster, drywall, aluminum, etc., of which the dwelling or dwelling unit is constructed. (13595 §1 8/8/97)

#### 1159.02 INSPECTIONS

A. The Bureau of Health shall have the authority to enter and inspect any dwelling, dwelling unit or premises in order to protect the health, safety and welfare of the public under the provisions of this article whenever it has probable cause to conduct such an inspection. For the purpose of this article, probable cause to gain access and to inspect and to issue orders for lead hazard reduction of a dwelling, dwelling unit or premises shall include, but not be limited to, the following:

1. That the Bureau receives a report of a blood lead level equal to or greater than twenty micrograms per deciliter ( $\geq 20\mu\text{g}/\text{dL}$ ) of any child under six (6) years of age who resides or has recently resided or frequently visits the dwelling or dwelling unit to be inspected; or

2. That such entry is for the purpose of reinspecting a dwelling or dwelling unit previously determined to be in violation of this article; or

3. That the inspection of the dwelling is part of a planned, systematic inspection program in that area of the City; or

4. That this Bureau has received a complaint concerning a violation of this article on the premises.

B. The Bureau shall notify either the occupant, operator, owner or other person in charge of the dwelling, dwelling unit or other premises of the purpose of inspection, shall display proper identification; and shall attempt to enter and inspect the premises at reasonable times.

C. If any owner, operator, occupant or other person in charge of the dwelling refuses, restricts or obstructs entry and inspection of a dwelling or dwelling unit which is authorized by this article, the Bureau shall promptly apply for a search and inspection warrant to a court of competent jurisdiction and shall supply all necessary and reasonable affidavits and testimony to indicate that there is reasonable or probable cause to conduct the inspection. (13595 §1 8/8/97)

### 1159.03 TESTING PROCEDURES

A. Where there is found the presence of flaking, peeling, chipping, loose, chalking or otherwise deteriorating paint, plaster or exposed surface coating or structural material in or around any building used as a dwelling, specimens of the flaking, chipped or loose paint, plaster or exposed surface coatings or structural material may be collected to determine whether or not the materials contain lead. In lieu of taking samples, the surface may be tested with an x-ray fluorescence analyzer.

B. The chemical determination of the lead content in exposed surface coatings or structural materials may be made by the quantitative measurements of samples of materials collected for analysis. Any surface material which is analyzed and found to be a lead based coating shall be considered a violation of this article, as determined by the Bureau of Health.

C. The physical determination of the lead content of surface material may be made by using an x-ray fluorescence analyzer or other instruments approved by the Bureau. Any exposed surface which has a lead based coating which exceeds 1.0 mg/cm<sup>2</sup> when tested by x-ray fluorescence or 0.5% by weight shall be considered a violation of this article, as determined by the Bureau of Health. (13595 §1 8/8/97)

### 1159.04 DETERMINATION OF HEALTH HAZARD

Any lead source shall be considered a lead source health hazard, as determined by the Bureau of Health, to children under six (6) years of age and pregnant women, or any other persons who have demonstrated an evidence of lead poisoning. (13595 §1 8/8/97)

### 1159.05 NOTICE TO HEALTH HAZARD

The Bureau shall report the findings of a lead source health hazard immediately to all occupants of the affected dwelling unit(s) and to the owner and/or operator of the building as soon as possible. The Bureau shall cause to have prominently posted on all entrances to the said dwelling unit(s) a notice as follows:

**THIS DWELLING UNIT CONTAINS DANGEROUS AMOUNTS OF LEAD PAINT AND IS UNFIT FOR HABITATION BY PREGNANT WOMEN AND CHILDREN UNDER SIX (6) YEARS OF AGE. SUCH NOTICE SHALL NOT BE REMOVED WITHOUT THE APPROVAL OF THE BUREAU. A REPORT OF THE FINDINGS SHALL BE GIVEN TO OTHER PERSONS OR AGENCIES AS REQUIRED BY LAW. (13595 §1 8/8/97)**

### 1159.06 EXAMINATION OF CHILDREN AND OTHERS

When a lead source health hazard is found in a dwelling or dwelling unit, the Bureau may cause to have examined all children under six (6) years of age, and such other persons as it may find advisable to examine, residing or who recently resided in said dwelling. The results of such examination shall be reported to the Bureau. (13595 §1 8/8/97)

### 1159.07 MANDATORY REPORTING OF CASES OF LEAD POISONING

Physicians, other health care providers, and private laboratories shall report to the Bureau, in writing, all confirmed test results equal to or greater than fifteen micrograms per deciliter (15 µg/dL) of elevated blood lead levels known to them within seven (7) calendar days, 3 working days of identification, unless previously reported. Should a child suffer multiple episodes of lead poisoning, each episode shall be reported. (13595 §1 8/8/97)

### 1159.08 REQUIRED COMPLIANCE

A. When the Bureau determines that any lead source in or about a dwelling, dwelling unit or premises creates a health hazard to children under six (6) years of age, or other persons who have demonstrated an evidence of lead poisoning:

1. The parent(s), guardian(s) or head of the household of any children under six (6) years of age who reside at or frequent the affected dwelling unit shall initiate interim controls in order to reduce the potential exposure of the child to the lead source. In the event of an emergency, the owner of the property shall provide the necessary assistance and materials to the occupants to assure the implementation of the interim controls prior to the child's return to the dwelling.

2. A written notice of violation shall be issued to the owner of the property found to have a lead source health hazard. The order shall be sent by certified mail, unrestricted delivery, return receipt requested to the last known address of the owner. A copy of the notice shall also be posted on a conspicuous place on the premises described in the notice.

3. The property owner shall complete any and all work necessary, as determined by the Bureau of Health, to restore the affected dwelling, dwelling unit or premises to a lead safe condition in accordance with the means,

methods and time frames specified in lead hazard reduction regulations established by the Director of Health in addition to those herein set forth.

B. Any person who fails to adhere to the lead hazard reduction regulations established hereunder by the Director of Health shall be found in violation of this article and any such work shall be subject to a stop work order issued by the Bureau of Health. Any person who shall continue to work in or about the affected premises after having been served with a stop work order shall also be in violation of this article. (13595 §1 8/8/97)

#### **1159.09 PRESUMPTION OF LEAD SOURCE HEALTH HAZARD**

Whenever a child under six (6) years of age or a pregnant woman resides in any residential premises in which any paint, plaster, soil or other accessible material contains dangerous levels of lead, there shall exist a presumption of a lead source health hazard. (13595 §1 8/8/97)

#### **1159.10 PROTECTION OF OCCUPANTS**

A. No owner or landlord may evict, or cause to be evicted, occupants, including children, of any dwelling or dwelling unit found to be in violation of this article, for the purpose of avoiding corrective measures which may have been ordered by the Health Bureau, the Court or any other appropriate authority.

B. In the event the dwelling, dwelling unit or premises in which a lead source health hazard exists is vacated by the occupant who occupied same at the time of the issuance of the notice of violation to the owner, such dwelling, dwelling unit or premises shall not be let to or occupied by any other person until such is determined by the Bureau of Health as being lead-safe. (13595 §1 8/8/97)

#### **1159.95 VARIANCES**

Where a lead source health hazard has been identified in a dwelling unit or other building and no evidence of lead poisoning has been found in any occupant or regular user of that dwelling unit or building, the owner or operator or occupant may request a variance through a hearing before the Allentown Board of Health within seven (7) days of the written order or posting of the property. Said Board of Health, upon finding that compliance with the provisions of this Ordinance would inflict unnecessary hardship, and that failure to make such corrections will not impose a danger of the health and welfare of occupants or regular users, may grant a variance from the provisions of this Ordinance. (13595 §1 8/8/97)

#### **1159.96 SEVERABILITY**

In the event any part or provision of this article shall be held to be illegal or void by a court of competent jurisdiction, this shall not have the effect of making void or illegal any of the other parts or provisions thereof. Any invalid part of this article shall be segregated from the remainder of the article by the court holding such part invalid, and the remainder of the article shall remain in full force and effect. (13595 §1 8/8/97)

#### **1159.97 REMEDY**

The imposition of a penalty herein prescribed shall not preclude the City from instituting appropriate action by injunction or any other legal remedy to prevent or correct any violation of this article including but not limited to the right to make corrections utilizing qualified City personnel, or to have corrections made under agreement with an independent contractor, for any property not in compliance with this article whose owner cannot be located or who does not comply with any order to make corrections. The City shall bill the property owner and place a lien against the property for any expense incurred and unpaid. (13595 §1 8/8/97)

#### **1159.98 ENFORCEMENT AND ADMINISTRATION**

The Bureau of Health is hereby authorized and directed to administer and enforce this article. The Director of Health is also hereby authorized and directed to establish, promulgate, administer and enforce reasonable regulations hereunder. (13595 §1 8/8/97)

#### **1159.99 PENALTY**

Any person who shall violate any provision of this article or shall fail to comply with any requirements therein shall, upon conviction thereof, be fined not more than One Thousand (\$1,000) Dollars or imprisoned not more than ninety (90) days or both. Each day that a violation is continued shall constitute a separate offense. (12384 §1 10/17/79; 12753 §1 2/4/87; 13256 §1 5/5/94; 13595 §1 8/8/97)

**ARTICLE 1160**  
**Licensing and Regulation of Cigarette Vending Machines**

1160.02 Purpose  
1160.04 Definition of Terms  
1160.06 License Required  
1160.08 Licensing Procedures  
1160.10 License Fees  
1160.12 Display of License  
1160.14 Prohibitions and Restrictions  
1160.90 Revocation of License  
1160.98 Severability  
1160.99 Penalty

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**1160.02 PURPOSE**

The evidence is irrefutable - the use of tobacco products poses a significant danger to the public's health. Because of the special dangers tobacco poses to children's health, the Commonwealth of Pennsylvania prohibits the sale of all tobacco products to anyone under the age of eighteen (18). The following rules and regulations are necessary to enforce the Commonwealth Law and thereby reduce threats to the health of minors by preventing easy access to cigarette vending machines. (12984 §1 6/20/90; 13595 §1 8/8/97)

**1160.04 DEFINITION OF TERMS**

As used in this ordinance, unless the context otherwise indicates:

A. The term cigarette vending machine shall mean any automatic vending machine used for the sale of cigarettes and matches, and controlled by the insertion of a legal tender. It shall not include machines or devices used solely for the vending of service, food or confections;

B. The terms person, firm, corporation, or association as used herein shall include the following: Any person, firm, corporation or association which owns any such machine; the person, firm, corporation or association in whose place of business any such machine is placed for use by the public; and the person, firm, corporation or association having control over such machine; provided, however, that the payment of enumerated herein shall be deemed in compliance with this article. (12984 §1 6/20/90; 13595 §1 8/8/97)

**1160.06 LICENSE REQUIRED**

Any person, firm, corporation or association displaying for public patronage or keeping for operation any cigarette vending machine as herein defined by Section 1160.04 shall be required to obtain a license from the City of Allentown, upon payment of a license fee. Application for such license shall be made to the Bureau of Health upon a form to be supplied by the Bureau of Health for that purpose. Only one machine shall be operated under one license. The applicant or licensee shall be required to secure a license for each and every machine displayed or operated. (12984 §1 6/20/90; 13595 §1 8/8/97)

**1160.08 LICENSING PROCEDURES**

The application for such license shall contain the following information:

- A. Name and address of the applicant, age, date and place of birth.
- B. Place where machine or device is to be displayed or operated and the business conducted at that place.
- C. Description of machine to be covered by the license, mechanical features, name of manufacturer and serial number.

No license shall be issued to any applicant unless the applicant is over twenty-one (21) years of age and a citizen of the United States. (12984 §1 6/20/90; 13595 §1 8/8/97)

**1160.10 LICENSE FEES**

Every applicant, before being granted a license shall pay an annual license fee determined by the City of Allentown for the privilege of operating or maintaining for operation each cigarette vending machine. The fees, as required herein, are to be established in accordance with the requirements of the Charter. (14225 §2 10/21/04)

Each license shall expire July 1<sup>st</sup> of each year. (12984 §1 6/20/90; 13595 §1 8/8/97)

#### 1160.12 DISPLAY OF LICENSE

A. The license or licenses herein provided for shall be posted permanently and conspicuously at the location of the machine in the premises wherein the device is to be operated or maintained to be operated.

B. Such license may be transferred from one machine or device to another similar machine only upon application to the Bureau of Health by giving a description and serial number of the new machine or device to the bureau.

C. If the licensee shall move his place of business to another location within the City of Allentown, the license may be transferred to such new location upon application to the Bureau of Health, giving the street and number of the new location. The new location shall be approved by the Bureau of Health in the same manner as provided in Sections 1160.06 and 1160.08 of this ordinance.

D. A license shall not be transferrable from person to person nor place to place, and shall be usable only at the place and by the person designated in the license. (12984 §1 6/20/90)

#### 1160.14 PROHIBITIONS AND RESTRICTIONS

A. No person, firm, corporation or association holding a license under this ordinance shall permit persons under eighteen (18) years of age to operate any cigarette vending machine as defined in Section 1160.04 of this ordinance.

B. No cigarette vending machine shall be located, displayed or operated at any location or establishment unless said establishment prohibits minors from its premises, permits minors only with adult supervision or by virtue of other characteristics excludes minors as expected personnel, i.e., industry. Said establishments will include bars, restaurants with liquor licenses, beer distributors, and those noted in the exclusionary section above.

C. Cigarette vending machines shall only be placed in locations wherein the licensee or designee of licensee can in the normal course of their employment view any person using said machine. Industrial/work locations noted in Section (b) will be exempted from this rule.

D. Cigarette vending machines shall not be placed in patron restrooms or restroom areas, foyers or vestibules, pantry or waiting rooms, or any other inconspicuous areas. Industrial/work locations noted in Section (b) will be exempted from this rule. (12984 §1 6/20/90)

#### 1160.90 REVOCATION OF LICENSE

Every license issued under this ordinance is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any cigarette vending machine contrary to the provisions of this ordinance, the ordinances of the City of Allentown, or the law of the State of Pennsylvania. Said license may be revoked by the Bureau of Health after written notice to the licensee, which notice shall specify the ordinance or law violations with which the licensee is charged, if after a hearing, the licensee is found to be guilty of such violations. Ten days' notice of the hearing shall be given the licensee. At such hearing the licensee and his attorney may present and submit evidence of witnesses in his defense.

#### 1160.98 SEVERABILITY

It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable. (12984 §3 6/20/90)

#### 1160.99 PENALTY

Any person, firm, corporation or association violating any of the provisions of this ordinance, in addition to the revocation of his or its license, shall be liable to a fine or penalty of not more than Six Hundred (\$600.00) Dollars or imprisonment of not more than ninety (90) days, or both for each offense. (12984 §1 6/20/90)

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### ARTICLE 1161 REGULATING THE KEEPING OF DOMESTIC BEES

1161.01 Definitions

1161.02 Registration Certificate Required; Compliance with Provisions

1161.03 Application for Registration Certificate

1161.04 Issuance of Registration Certificate

1161.05 Expiration and Renewal of Registration Certificate  
1161.06 Registration Certificate Terms and Conditions  
1161.07 Compliance Required; Inspections  
1161.08 Feral Bees  
1161.98 Severability  
1161.99 Penalty  
(12863 8/17/1988)

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#### 1161.01 DEFINITIONS

As used in this ordinance certain terms are defined as follows:

- A. **Apiary** means any place where one or more colonies of bees are kept.
- B. **Colony** means the aggregate of worker bees, drones, queen and developing young living together as a family unit in a hive or other dwelling.
- C. **Hive** means frame hive, box hive, box, barrel, log, gum, skep or any part thereof, which may be used or employed as a domicile for bees.
- D. **Domestic Bees** means any stage of the common hive or honey bee (*Apis mellifera*) or other species of the genus *Apis* kept and managed in artificial domiciles furnished by man specifically to serve as hives.
- E. **Feral Bees** means any stage of the common hive or honey bee (*Apis mellifera*) or other species of the genus *Apis* living in natural domiciles.

#### 1161.02 REGISTRATION CERTIFICATE REQUIRED; COMPLIANCE WITH PROVISIONS

No person, firm, corporation, association, society or partnership shall engage, for profit or otherwise, in the propagation, keeping or sale of domestic bees unless he/she has first obtained a registration certificate for that purpose, and every person so engaged shall comply with all of the provisions of this ordinance.

#### 1161.03 APPLICATION FOR REGISTRATION CERTIFICATE

Application for the registration certificate under this section shall be made in writing to the Bureau of Health of the City of Allentown and shall state the name of the applicant, description of the premises to be used by the registrant for beekeeping, the name of the owner of the premises, and such other information as shall be determined to be necessary by the Bureau of Health for the purpose of enforcing the provisions of the ordinance.

#### 1161.04 ISSUANCE OF REGISTRATION CERTIFICATE

The Bureau of Health shall issue a no-fee registration certificate upon application made pursuant to applicable sections of this ordinance. Said registration certificate shall bear the date of issuance, the name of the person so registered, description of the premises covered by the registration, number of hives to be permitted on the premises and shall be prominently displayed in and about the area of the said place where the bees are kept and maintained. Every registration certificate shall be non-transferable and shall cover only the premises and the named registrant.

#### 1161.05 EXPIRATION AND RENEWAL OF REGISTRATION CERTIFICATE

All registration certificates under this ordinance shall automatically expire on the 31st day of December in the year in which they are issued. Thereafter, upon the application for the renewal of a registration certificate, the applicant shall meet the terms and conditions of this ordinance. In the event that any other governmental entity has jurisdiction over the keeping and maintenance of bees, then and in that event each registrant shall be required to demonstrate and provide to the Bureau of Health evidence and compliance with all regulations and requirements of said governmental agency.

#### 1161.06 REGISTRATION CERTIFICATE TERMS AND CONDITIONS

A registration certificate shall be issued annually and shall remain valid only upon the following terms and conditions:

- A. Only the keeping of domestic honey bees shall be permitted.
- B. The density of colonies on any lot may not exceed one (1) colony of domestic bees for each two thousand five hundred (2,500) square feet of lot area. No lot shall have more than five (5) colonies located thereon.

C. Hives shall not be located within twenty-five (25) feet of any property line, public street, sidewalk, or alley except:

1. When situated behind a solid fence or hedge at least six (6') feet in height, parallel to the property line, and extending at least fifteen (15') feet beyond the hive in both directions; or

2. When located at least eight (8') feet or more above adjacent ground level.

D. A water source shall be maintained on the lot for bees during all times that bees fly from the hive.

E. All colonies shall be maintained in movable frame hives and the use of standard beekeeping equipment shall be required. All apiaries shall be operated in accordance with established beekeeping guidelines and practices.

F. Hives shall be properly shaded from adjacent night lighting on adjoining properties.

#### **1161.07 COMPLIANCE REQUIRED; INSPECTIONS**

All beekeepers, registered as aforesaid, shall comply strictly with all applicable laws, ordinances, and rules and regulations, insofar as they affect the keeping of honeybees and shall permit the inspection of the hives by any authorized representatives of the City of Allentown and the Pennsylvania Department of Agriculture.

#### **1161.08 FERAL BEES**

In the event of receipt by the Bureau of Health of a complaint arising out of feral bees, the City of Allentown may order extermination of a feral bee colony(s) at a specific property or location. The responsibility for extermination shall be that of the property owner. The City of Allentown reserves the right to exterminate, utilizing qualified City personnel or to have exterminated under agreement with a professional exterminator, any feral bee colony located on a property whose owner does not comply with any order to exterminate in accordance with the provisions of the Third Class City Code regarding the abatement of public nuisances by the Board of Health. The City shall bill the property owner and upon nonpayment of such charges, the City shall file a lien against the property any expense incurred and unpaid as a result of the abatement of a public nuisance.

#### **1161.99 PENALTY**

Any person violating any provisions of this ordinance shall upon conviction thereof be fined not more than Three Hundred (\$300.00) Dollars or imprisoned not more than ninety (90) days or both.

Each violator of the provisions of this ordinance shall be deemed guilty of a separate offense for each and every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

(12863 8/17/1988)

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### **ARTICLE 1162**

#### **AUTOMATED EXTERNAL DEFIBRILLATOR NOTIFICATION PROGRAM**

1162.01 Purpose

1162.02 Notification Procedures

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#### **1162.01 Purpose**

The purpose of this legislation is to facilitate the development of a database on automated external defibrillators. The American Heart Association has determined that a key to improving survival rates from sudden cardiac arrests is to reduce the delivery time of defibrillation therapy. The availability of automated external defibrillators can make sudden cardiac arrest a treatable disease. The collection and maintenance of AED data can help improve survival rates. (14153 §1 2/20/04)

#### **1162.02 Notification Procedures**

Any and all parties should report in writing to the Communications Center the location of an automated external defibrillator. The written notification should contain the person or business name, street location, location of the automated external defibrillator, and the telephone numbers associated with the location. (14153 §1 2/20/04)

The Communications Center shall maintain a database of the automated external defibrillators in the City of Allentown. (14153 §1 2/20/04)

ARTICLE 1170  
SCHOOL SANITATION ORDINANCE

1170.01 Adoption and Purpose  
1170.02 Definitions  
1170.03 Plan Review  
1170.04 Water Supply  
1170.05 Plumbing  
1170.06 Sewage  
1170.07 Food Service  
1170.08 Toilet Facilities  
1170.09 Locker Rooms  
1170.10 Floors  
1170.11 Walls and Ceilings  
1170.12 Insect and Rodent Control  
1170.13 Lighting  
1170.14 Safety  
1170.15 Heating and Ventilation  
1170.16 Municipal Waste and Recyclable Materials Storage, Collection and Disposal  
1170.17 Bathing Places  
1170.18 Inspections  
1170.19 Enforcement  
1170.98 Severability  
1170.99 Penalty

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**1170.01 ADOPTION AND PURPOSE**

That a certain ordinance known as the School Sanitation Ordinance is hereby adopted by the City of Allentown. The Bureau of Health is hereby authorized to develop and implement a program of inspecting school facilities. Representatives of the Bureau of Health may at any reasonable time inspect any facility.

**1170.02 DEFINITIONS**

The following words and terms, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

1. **Approved** shall mean procedures, construction and products acceptable to the Bureau of Health.
2. **Bureau of Health** shall mean the Bureau of Health of the City of Allentown or any agent, employee, representative or officer thereof.
3. **Imminent Health Hazard** shall mean a condition which exists within a facility that presents a clear, obvious and immediate threat to the welfare of the children and/or staff of that facility, including but not limited to sewage backup, heating system failure or critical violations of Building and Fire Codes.
4. **Inspection** shall mean an official examination of a facility that checks to assure all provisions of this ordinance and other applicable rules and regulations are met.
5. **Municipal Waste** shall mean any garbage, refuse, industrial lunchroom or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation or residential, municipal, commercial, or institutional establishments or from community activities and which are not classified as residual waste or hazardous waste as herein defined. The term does not include source separated recyclable materials or yard waste.
6. **Person** shall mean any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, federal government or agency, state institution and agency, or any other legal entity whatsoever which is recognized by law as being subject to such rights and duties.
7. **Recyclable Material** shall mean a material which would otherwise become municipal waste, which can be collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products.

8. Schools shall mean school buildings, including grounds, where there are training facilities for teaching children, or offering instruction in any branch of knowledge, including public, private, parochial, vocational, or any institution intended for teaching from kindergarten to grade 12 on a classroom or organized basis.

#### **1170.03 PLAN REVIEW**

Before work is begun in the construction, remodeling or alteration of a school or in the conversion of an existing establishment or facility to a school, properly prepared plans and specifications shall be submitted to and approved by the Bureau of Health. The plans and specifications shall include, where applicable, data relating to the grounds, buildings, equipment, sewage disposal, water supply including plumbing, refuse disposal and any other information that may be required by the Bureau of Health.

#### **1170.04 WATER SUPPLY**

All water used in the operation of a school shall be provided from a supply approved by the Pennsylvania Department of Environmental Protection. Approval of a water supply shall be based upon satisfactory compliance with the construction standards for water supplies. The water supply shall be adequate in quantity and shall meet the bacteriological and chemical water standards of the Commonwealth of Pennsylvania.

#### **1170.05 PLUMBING**

Plumbing shall be sized, installed, and maintained according to law. There shall be no cross connection between the potable water supply and any nonpotable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

#### **1170.06 SEWAGE**

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system designed, constructed and operated according to law. Non-water-carried sewage disposal facilities are prohibited.

#### **1170.07 FOOD SERVICE**

All food service facilities and operations shall comply with the provisions of the City's Food Service Sanitation Ordinance.

#### **1170.08 TOILET FACILITIES**

a. Separate toilet facilities for each sex shall be provided on the premises in accordance with all applicable laws. Toilet fixtures shall be of sanitary design and easily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self-closing, and toilet rooms shall be adequately vented to the outside. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered.

b. Handwashing facilities shall be located in the classroom or adjacent thereto in all grades from kindergarten through grade two, and in other rooms where the activities require frequent handwashing.

c. Each lavatory on the premises having running water under pressure shall be supplied with hot and cold water. Soap and individual towels or a satisfactory equivalent shall be available at all times.

#### **1170.09 LOCKER ROOMS**

Whenever a school is provided with a locker room and necessary appurtenances, they shall be designed, constructed and maintained in a sanitary manner.

#### **1170.10 FLOORS**

Floors of the school rooms shall be smooth and in good repair and shall be of such construction as to be easily cleaned. Dust-suppressing methods of floor cleaning shall be used. All floors shall be kept clean and free from litter. Each room shall have a least one metal container for paper and trash.

#### **1170.11 WALLS AND CEILINGS**

Walls and ceilings shall be clean, smooth, tight and in good repair. Walls and ceilings shall have surfaces of light color and flat finish.

#### **1170.12 INSECT AND RODENT CONTROL**

Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material for flying insect control shall not be less than sixteen (16) mesh to the inch. Hardware cloth with openings no larger than ¼ inch shall be utilized for rodent control where necessary.

#### 1170.13 LIGHTING

Natural lighting, if provided, shall be uniformly distributed with a minimum of glare in classrooms. The levels of illumination within the school building shall at least meet minimum illumination standards.

#### 1170.14 SAFETY

The buildings, grounds, play area equipment and appurtenances shall be constructed and maintained to minimize health and accident hazards. All spaces, including cellars, shall be maintained in a clean, dry condition without the presence of unnecessary material in storage.

#### 1170.15 HEATING AND VENTILATION

All rooms of the school shall be adequately and uniformly heated. In those schools where room heaters are used, they shall be located and protected to prevent direct contact by the students.

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

#### 1170.16 MUNICIPAL WASTE AND RECYCLABLE MATERIALS STORAGE, COLLECTION AND DISPOSAL

a. All municipal waste and recyclable materials containing food wastes shall, prior to disposal, be kept in leak-proof, nonabsorbent, rust and corrosion resistant containers of adequate number, which shall be kept covered with tight fitting lids when filled or stored or not in continuous use. However, other means of storage may be used if approved by the Bureau of Health. All other municipal waste shall be stored in containers of sufficient number and size in a manner so as to prevent insect and rodent problems and other nuisances. Adequate container cleaning facilities shall be provided, and each container shall be thoroughly cleaned as often as necessary in order to prevent a nuisance.

b. Recyclable materials shall be handled in accordance with the City of Allentown's Recycling Ordinance.

c. The collection of municipal waste and recyclable materials shall be scheduled as often as required so as to prevent a nuisance or violation of any other applicable laws or codes.

#### 1170.17 BATHING PLACES

The design, construction, modification, maintenance and operation of any bathing place in a school shall be subject to the provisions of the current Commonwealth of Pennsylvania Public Bathing Law and the provisions of the rules and regulations promulgated there under.

#### 1170.18 INSPECTIONS

a. **Inspection Frequency** - An inspection of all public schools shall be conducted at least once a year. Additional inspections of a school shall be conducted as often as necessary. Private, parochial, vocational or other institutions intended for teaching from kindergarten to grade 12 shall be inspected upon receipt of a request from the Pennsylvania Department of Education or other agency authorized to make such a request.

b. **Access** - Representatives of the Bureau of Health, after proper identification, shall be permitted to enter any school at any reasonable time for the purpose of making inspections to determine compliance with this ordinance.

c. **Report of Inspections** - Whenever an inspection of a school is made, the findings shall be recorded on the inspection report form. A copy of the completed inspection report form shall be furnished to the person-in-charge of the facility at the conclusion of the inspection or may be sent by registered or certified mail, return receipt requested, to the last known address of the school administration. A copy of the inspection report shall be retained by the Bureau of Health. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

**1170.19 ENFORCEMENT**

a. **Correction of Violations** - The completed inspection report form shall specify a reasonable period of time for the correction of the violations found. The correction of the violations shall be accomplished within the period specified. If an imminent health hazard exists, the facility shall immediately cease operations. Operations shall not be resumed until authorized by the Bureau of Health.

b. **Appeal Procedure** - The operator of any school shall be provided the opportunity to appeal any inspectional findings or any order to cease operations due to violations of this code to the Board of Health. Such requests for appeal shall be made in writing to the Director of Health within ten (10) days receipt of the inspection report or order to cease operations. Further appeal may be taken under the provisions of current state statutes.

c. **Injunctions** - The Bureau of Health may seek to enjoin violations of this Article.

**1170.98 SEVERABILITY**

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall mean remain in full force and effect.

**1170.99 PENALTY**

That any person, firm, school district or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Article or of any regulation or requirement pursuant hereto and authorized hereby, shall upon conviction thereof be ordered to pay a fine of not less than Twenty-Five (\$25.00) Dollars nor more than One Thousand (\$1000.00) Dollars and, in default of payment of fines and costs, imprisoned not more than ninety (90) days. Each day's violation shall constitute a separate offense. (13593 §1 8/7/97)

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