

**PART ELEVEN
PUBLIC HEALTH CODE**

**TITLE NINE
OTHER REGULATIONS**

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**ARTICLE 1156
ADULT ARCADES**

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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)

ARTICLE 1157 MESSAGE ESTABLISHMENTS AND PRACTITIONERS

- 1157.01 Definitions
- 1157.02 Registration Required; Exemptions
- 1157.03 Registration Procedure
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- 1157.05 Advertisement
- 1157.06 Qualifications for Registration Certificates
- 1157.07 Prohibited Activities
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- 1157.09 Duty of Property Owners and Operators
- 1157.10 Violations
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CROSS REFERENCE

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

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 or 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.
