

Chapter 47
ADULT ENTERTAINMENT

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[HISTORY: Adopted by the Borough Council of the Borough of Montoursville 11-17-1986 as Ord. No. 311. Amendments noted where applicable.]

§ 47-1. Purpose.

The Borough Council of the Borough of Montoursville finds that buildings and establishments operated as adult bookstores, adult movie houses, adult minitheaters and massage parlors are detrimental and harmful to the health, safety, morals and general welfare of a community in that they engender adverse effects which contribute to the blighting or downgrading of the surrounding neighborhood. In order to promote the health, safety, morals and general welfare of the residents of the Borough of Montoursville, this section is intended to regulate adult bookstores, adult movie houses, adult minitheaters and massage parlors by restricting such establishments to nonresidential areas of the borough and otherwise regulate their operation.

§ 47-2. Definitions.

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

ADULT BOOKSTORE — An establishment which has a substantial or significant portion of its stock in trade, books, magazines or other periodicals and which excludes minors by virtue of age.

ADULT MINITHEATER — An establishment with a capacity of less than fifty (50) persons used for presenting motion pictures, films, movies, videotapes, slides or similar photographic reproductions for observation by persons therein, and which excludes minors by virtue of age.

ADULT MOVIE HOUSE — An establishment with a capacity of fifty (50) or more persons used for presenting motion pictures, films, movies, videotapes, slides or similar photographic reproductions for observation by persons therein, and which excludes minors by virtue of age.

MASSAGE PARLOR — An establishment in which is conducted any method of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, oil or other such items, by a member of the opposite sex.

§ 47-3. Location.

The structure of any adult bookstore, adult movie house, adult minitheater or massage parlor shall be at least five hundred (500) yards from the nearest property line of any public, private or parochial school, church, synagogue or similar place of worship, library, park, playground or other recreational facility or areas where large numbers of minors regularly travel or congregate.

§ 47-4. Compliance with existing ordinances.

Any adult bookstore, adult movie house, adult minitheater or massage parlor to be located within the Borough of Montoursville shall comply with all existing borough codes, ordinances and requirements.

§ 47-5. License required.

Anyone seeking to operate an adult bookstore, adult movie house, adult minitheater or massage parlor prior to the establishment of such business shall apply to the Codes Enforcement Officer of the Borough of Montoursville for a license.

§ 47-6. License term, renewal and fee.

- A. Any license issued hereunder shall be issued for a twelve (12) month period beginning from the date of application.
- B. Any license issued hereunder may be renewed annually upon the submission of an application.
- C. The license fee shall be as set forth from time to time by resolution of the Borough Council.¹

§ 47-7. Contents of application.

An application for a license hereunder shall be submitted to the Codes Enforcement Officer of the Borough of Montoursville, setting forth the following:

- A. The name and address of the applicant, applicant's employees, applicant's employer, principals, agents, officers and shareholders.

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

- B. The name and address of each officer and shareholder of the applicant if the applicant is a corporation.
- C. The premises from which the licensed business, operation or activity is to be conducted.
- D. The nature of the proposed business, operation or activity.
- E. Any previous criminal record of the applicant, applicant's employees, applicant's employer, principals, agents, officers and shareholders.
- F. If applicable, names and addresses of persons by whom applicant is employed, organization on whose behalf applicant is engaging in business, operation or activity of principals or agents of applicant.
- G. Written proof that applicant, applicant's employees, applicant's employer, principals, agents, officers and shareholders are at least eighteen (18) years of age.
- H. All residential addresses for the past three (3) years for the applicant and applicant's employees, applicant's employer, principals, agents, officers or shareholders.
- I. The business, occupation or employment of the applicant and applicant's employees, applicant's employer, principals, agents, officers and shareholders for three (3) years immediately preceding the date of application.

§ 47-8. Investigation by borough.

- A. Upon receipt of a license application form and payment of the required license fee, the borough may cause an investigation to be made, which investigation may include, but is not limited to the nature of the proposed business operation or activity, the condition of the premises, the character and reputation of the applicant, applicant's employer, applicant's employees, principals, agents, shareholders and officers of applicant and any other factors which may be deemed necessary for ascertaining whether the same can be conducted lawfully and without endangering the health and safety of prospective patrons.
- B. When, upon such investigation, the borough determines that the proposed business, operation or activity may be conducted lawfully and without endangering the health or safety of prospective patrons, and if it is found that the information set forth on the application is true and correct, that the applicant, applicant's employees, applicant's employers, principals, agents, shareholders or officers are of good character and reputation, and provided that no adverse findings or comments have been made, the borough may issue a license within forty-five (45) days of the date of application.

§ 47-9. Display of license.

Every license issued hereunder shall be conspicuously posted upon the premises so licensed.

§ 47-10. Transfer of license.

No license issued hereunder shall be transferable from one (1) person or entity to another. When the ownership of the licensed premises shall change, the new owner shall apply for a new license and pay the license fee.

§ 47-11. Violations and penalties.²

- A. Any person, firm, corporation or association violating any of the provisions of this chapter shall, upon summary conviction before a District Justice, be sentenced to the penalty as provided in Chapter 1, General Penalty, Art. II.
- B. The borough may revoke any license issued hereunder for any violation of this chapter.

§ 47-12. Additional actions and civil remedies.

In addition to the other penalties for violation as above provided, should the Council determine that a violation of this chapter exists, or that a public nuisance exists in the municipality, the Council may provide for the following by resolution:

- A. Declare the fact that such nuisance or violation exists.
- B. Set forth the description or legal description and street address of the place which constitutes the nuisance or the notice of said violation.
- C. Institute proceedings in any court of equity for the purpose of enjoining the continued operation of the particular establishment.
- D. In any such proceeding, the borough shall be entitled to collect all costs associated with any court proceedings, including the following:
 - (1) Investigative costs.
 - (2) Court costs.
 - (3) Reasonable attorney's fees arising out of the preparation for and trial of the cause and appeals therefrom, and other costs allowed on appeal.
 - (4) Printing costs of trial and appellate briefs and all other papers filed in such proceeding.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.