

Chapter 70
ADULT ENTERTAINMENT

ARTICLE I
Massage Parlors

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ARTICLE II
Pornography

- § 70-5. **Definitions.**

[HISTORY: Adopted by the Borough Council of the Borough of Dormont: Art. I, 7-18-1977 as Ord. No. 1235; Art. II, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I
Massage Parlors
[Adopted 7-18-1977 as Ord. No. 1235]

§ 70-1. Definitions.

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

PERSON — Includes the singular and the plural and shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

§ 70-2. Prohibited conduct.

- A. No person employed or engaged in the business of a masseur or masseuse shall massage, offer to massage or solicit to massage a person of the opposite sex. Each act of massage, each offer to massage and each solicitation to massage shall constitute a separate offense and shall be punishable as such hereunder.
- B. No person shall own, operate, manage or have any interest, direct or indirect, in a place of business where a masseur or masseuse massages, offers to massage or solicits to massage a person of the opposite sex. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

§ 70-3. Exemptions.

The provisions of this Article shall not apply to massage treatments given:

- A. In the office of a licensed physician, osteopath or chiropractor.
- B. In a regularly established medical center, hospital or sanitarium.
- C. In a residence of a person under doctor's care by the direction of the doctor.
- D. Upon the written order of a licensed physician, osteopath or chiropractor.

§ 70-4. Violations and penalties.¹

Any person who shall violate any provision of this Article shall be fined a sum not exceeding six hundred dollars (\$600.) and, in default of payment thereof, shall be subject to imprisonment for a period not exceeding thirty (30) days.

ARTICLE II
Pornography
 [Adopted at time of adoption of Code²]

§ 70-5. Definitions.

For the purpose of this Article, the words and phrases set forth below shall have the meanings respectively ascribed to them:

AUDIENCE — One (1) or more persons who are permitted to view a performance for valuable consideration or in or from a public place.

DISPLAY PUBLICLY — The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, of material or a performance in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public place or vehicle.

DISSEMINATE — To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material or to offer or agree to do the same or to have in one's possession with intent to do the same.

MATERIAL — Any printed matter, visual representation or sound recording, including but not limited to books, magazines, motion-picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensioned forms, sculptures and phonograph, tape or wire recordings, figures, images, instruments and devices.

MINOR — Any person under eighteen (18) years of age.

NUDITY — Uncovered or less than opaquely covered postpubertal human genitals or pubic area, the postpubertal human female breast below a point immediately above the top

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

² Editor's Note: See Ch. 1, General Provisions, Art. I.

of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

PANDER — Advertising or propagandizing in connection with the sale of material, the offering of a service or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE — Any live or reproduced exhibition, including but not limited to any play, motion-picture film, dance or appearance presented to or performed before an audience.

PERSON — Any natural person or persons, as well as any partnership, corporation or association.

PORNOGRAPHIC — Relating to pornography.

PORNOGRAPHY — Any material or performance if all of the following elements are present.

- A. Considered as a whole by the average person, applying the contemporary community standards of the Borough of Dormont, it appeals to the prurient interest.
- B. It depicts or represents in a patently offensive way sexual conduct or nudity, as herein defined.
- C. It lacks serious literary, artistic, political or scientific value.

PORNOGRAPHY FOR MINORS — Any material or performance if all of the following elements are present:

- A. Considered as a whole by the average person, applying the contemporary community standards of the Borough of Dormont with respect to what is suitable for minors, it is presented in such a manner as to appeal to a minor's prurient interest.
- B. It depicts, describes or represents in a patently offensive way nudity or sexual conduct, as hereinafter defined.
- C. It lacks serious literary, artistic, political or scientific value for minors.

PRURIENT INTEREST — Desire or craving for sexual stimulation or gratification. In determining "prurient interest," the material or performance shall be judged with references to average persons, unless it appears from the character of the material or performance that it is designed to appeal to the "prurient interest" of a particular group of persons, including but not limited to homosexuals or sadomasochists. In that case, it shall be judged with reference to the particular group for which it was designed.

PUBLIC PLACE OR VEHICLE — Any of the streets, alleys, parks, boulevards, schools or other public property in the township or any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation or other private property generally frequented by the public for the purposes of education, recreation, amusement, entertainment sport, shopping or travel; or any vehicle for public transportation owned or operated by the governing either directly or through a public

corporation or authority or owned or operated by a nongovernmental agency for the use, enjoyment or transportation of the general public.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.

SEXUAL CONDUCT:

- A. Masturbation.
- B. Sexual intercourse, either heterosexual or homosexual, whether genital-genital, oral-genital or anal-genital.
- C. Any erotic fondling or touching of the covered or uncovered genitals, buttocks, pubic area or any part thereof or the breasts of a female, whether the conduct described in Subsection A through C is engaged in along or between members of the same or opposite sex or between humans and animals or humans and inanimate objects.
- D. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof.
- E. Sexual excitement, as hereinafter defined.
- F. Sadomasochistic abuse, as hereinabove defined.

SEXUAL EXCITEMENT — The facial expressions, movements, utterances or other responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal or is experiencing the physical or sensual reactions of humans engaging in or witnessing sexual conduct.

§ 70-6. Promotion of pornography unlawful.

- A. It shall be unlawful for any person to promote pornography. A person commits the offense of promoting pornography if, knowing its content and character, he or she:
 - (1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicle or for valuable consideration or has in his or her possession any pornographic material with intent to so disseminate or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for such dissemination of pornographic material.
 - (2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
 - (3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
 - (4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her to be used for a pornographic performance before an audience.

- (5) Participates in that portion of a live performance before an audience which makes it pornographic.
 - (6) Panders, displays publicly or disseminates door-to-door any pornographic material or performance or causes such pandering, public display or door-to-door dissemination.
- B. For the purpose of this section, possession of two (2) or more identical copies of any pornographic materials by any person engaged in the business of disseminating material, as defined above, shall be prima facie evidence of possession with intent to disseminate for valuable consideration.

§ 70-7. Promotion of pornography for minors unlawful.

- A. It shall be unlawful for any person to promote pornography for minors. A person commits the offense of promoting pornography for minors if, knowing its content and character, he or she:
- (1) Disseminates or causes to be disseminated to a minor material which is pornography for minors or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for the dissemination to a minor of material which is pornography for minors.
 - (2) Exhibits to a minor a motion-picture film or other performance which is pornography for minors.
 - (3) Sells to a minor an admission ticket or pass to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors.
 - (4) Admits a minor to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion-picture film or other performance which is pornography for minors.
 - (5) Knowingly produces, presents, directs or allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for the presentation of a performance which is pornography for minors, before an audience which includes a minor.
 - (6) Displays publicly or disseminates door-to-door any material or performance which is pornography for minors or causes such display or door-to-door dissemination.
- B. Subsection A(1) through (5) does not apply to a parent, guardian or other persons in loco parentis to the minor.

§ 70-8. Defenses to prosecution.

It shall be an affirmative defense to a prosecution under § 70-6 or § 70-7 of this Article if the pornographic material was disseminated by a person who was acting in his or her capacity as:

- A. A teacher of an accredited course of study related to pornography at a state-approved educational institution.

- B. A licensed medical practitioner or psychologist in the treatment of a patient.
- C. A participant in the criminal justice system, such as a Legislator, Judge, prosecutor, law enforcement official or other similar related position.
- D. A supplier to any person described in Subsections A through C above.

§ 70-9. Violations and penalties.

Any person who shall violate this Article shall be liable, upon conviction for a first offense and upon conviction for each subsequent offense, to a fine of not less than one hundred dollars (\$100.) nor more than six hundred dollars (\$600.), together with costs of prosecution in each. Each day that a violation shall continue shall be deemed to be a separate offense and shall be punishable as such. Fines and costs imposed under the provisions of this Article shall be enforceable and recoverable in the manner and at the time provided by applicable law. Upon refusal of any person convicted of a violation of this Article to pay such fine and costs, such person shall be subject to imprisonment for a period not exceeding thirty (30) days.

§ 70-10. Injunction.

The Borough of Dormont may institute proceedings in equity in the Court of Common Pleas of Allegheny County, Pennsylvania, for the purpose of enjoining the sale, resale, distribution, exhibit, gift or show of such pornographic literature, book, magazine, pamphlet, newspaper, storypaper, comic book, drawing, photograph, figure or image or any written or printed matter of an obscene nature or any article or instrument of a pornographic nature contrary to the provisions of this Article; and for such purposes, jurisdiction is hereby conferred upon said Court. A preliminary injunction may issue and a hearing thereafter be held thereon in conformity with the Rules and Civil Procedure upon the averment of the Borough of Dormont that the sale, resale, lending, distribution, exhibit, gift or show of such publication constitutes a danger to the welfare or peace of the community.