

ARTICLE XXXIX¹
ADULT BUSINESSES
ADULT BUSINESSES AND GENERAL AMUSMENT ARCADES
[Added 7-16-97 Ord. No. 871; renumbered 7-16-08
Ord. No. 1011]
[Amended 12-15-21 Ordinance No. 1145]

§ 180.142. Adult Businesses, as defined herein, shall be permitted in the Borough of Whitehall as conditional uses, subject to the following express standards and criteria.

180.142.1. Adult businesses may be established only in C-4S Zoning District.

180.142.2. Persons or owners who intend to open an Adult Business must obtain from the Borough of Whitehall a license to operate such enterprise and must pay to the Borough of Whitehall an investigation fee as may be set from time to time by the resolution of the Council of the Borough of Whitehall. In addition, such persons or owners must supply to the Borough of Whitehall detailed information as to the ownership and financing as required on the licensing application form. The application must be accompanied by a sketch or diagram showing the floor plan and plot plan configuration of the premises, including a statement of the total floor space occupied by the adult business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Parking facilities must be specifically identified and meet the requirements of **§ 180.104.1.9** of the Code of the Borough of Whitehall. The license application shall be signed by every person having a ten percent (10%) or greater interest in the partnership or corporation intending to operate the adult business. The premises must be inspected and found to be in compliance with all applicable laws by the Code Enforcement Officer and the Fire Chief.

180.142.3. No adult business shall operate if the establishment would be within one thousand feet (1,000') of a preexisting school, nursing home, group care facility, park or church, or would be within three hundred feet (300') of an establishment which is licensed to and does sell alcoholic beverages or other adult businesses. ***[Amended 10-20-99 by Ord. No. 904.]***

180.142.4. No adult business shall be located within one hundred feet (100') of an area zoned residential. ***[Amended 10-20-99 by Ord. No. 904.]***

180.142.5. There shall be no exterior evidence of the adult business conducted on the premises, other than a simple business identification sign conforming to Article XXIV, **§ 180.75** of the Code of the Borough of Whitehall. No music, entertainment of any type or nature, excessive sound, loud speaker or disturbance shall be allowed or permitted

¹ This Article XXXIX was previously numbered Article XXXVIII; renumbered 7/16/08 by Ordinance No. 1011.

outside of the premises.

180.142.6. The owner or operator of an adult business which has a maximum permitted occupancy of more than seventy-five (75) persons shall provide security licensed under the laws of the Commonwealth of Pennsylvania.

180.142.7. Any adult business utilizing a viewing room, a separate compartment or cubicle of less than one hundred square feet (100') of space for viewing a film, videotape or live performance which would constitute adult entertainment as defined in this Code shall comply with the following:

180.142.7.1. No viewing room shall be occupied by more than one (1) person at any time. No connections or openings to any adjoining viewing rooms shall be permitted.

180.142.7.2. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a Manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms shall not contain film or video viewing equipment.

180.142.7.3. At least one (1) employee shall be on duty and shall be situated at a Manager's station at all times when any patron is present inside the premises.

180.142.7.4. It shall be the duty of the owners and operators, any agents and employees present on the premises, to insure that the viewing area remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to insure that no patron is permitted access to any area of the premises which has been designated in the application submitted to the Borough as an area which patrons will not be permitted.

180.142.7.5. The premises shall be equipped with lighting fixtures of sufficient intensity to illuminate every place in which patrons are permitted access at the illumination of not less than one foot candle as measured at floor level.

180.142.7.6. If live performances are to be given, the premises in which such live performances are to be offered shall contain a stage separated from the viewing area, and the viewing area shall not be accessible to the performers, and the performers shall not have access to the viewers present.

180.142.8. An adult business shall be initially licensed, where it has met the requirements set forth in this Article and a conditional use has been granted by Council, through December 31 of the year in which the license is issued. For each year thereafter that the adult business intends to continue its business as an adult commercial enterprise, it must seek from the office of the Secretary or Code Enforcement Officer of the Borough of Whitehall a renewal of the license. The application for renewal, which will meet all of the requirements of §180.142.2 of the Article, is due in the Borough office no later than

November 1 of the year preceding the year in which the license renewal is sought. The lack of a license or the failure to seek license renewal on a timely basis shall be a proper basis for the Borough to deny or revoke an occupancy permit to an adult business.

180.142.9. Any adult business found to be in violation of this Article, as amended, shall be subject to civil enforcement penalties as set out in this Code or in the Municipalities Planning Code.

§ 180.142.a. GENERAL AMUSEMENT ARCADES, as defined herein, shall be permitted in the Borough of Whitehall, subject to the following express standards and criteria.

180.142a.1 GENERAL AMUSEMENT ARCADES may be established only in C-4S Zoning District. Each AMUSEMENT DEVICE within a GENERAL AMUSEMENT ARCADE shall be considered to take up twenty-five (25) square feet of floor area and shall be provided with such area within the establishment.

180.142a.2 AMUSEMENT DEVICES installed as part of a GENERAL AMUSEMENT ARCADE shall be legally designed and will be operated according to state law.

180.142a.3 AMUSEMENT DEVICES in a GENERAL AMUSEMENT ARCADE shall be kept and maintained in good repair and operating condition at all times in accordance with manufacturer's instruction. In the event of a malfunction of an AMUSEMENT DEVICE, the operator of the premises, or his/her agents or employees on the premises shall return to the user the moneys inserted therein.

180.142a.4 AMUSEMENT DEVICES shall not be located to obstruct ingress or egress or interfere with the health or safety of the public using the premises.

180.142a.5 Between AMUSEMENT DEVICES and between the side of the AMUSEMENT DEVICE and any fixture or wall there shall be an amount of space equal to the width of the AMUSEMENT DEVICE. Furthermore, between the front of an AMUSEMENT DEVICE and the side or front of any other AMUSEMENT DEVICE or wall or fixture there shall be a distance equal to the depth of the AMUSEMENT DEVICE.

180.142a.6 It is unlawful to permit gambling or games of chance on the premises of a GENERAL AMUSEMENT ARCADE. Further, nothing in this Section shall be construed to authorize, license or permit any gambling device or game of chance whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Pennsylvania.

180.142a.7 No GENERAL AMUSEMENT ARCADE use shall be located within one hundred feet (100') of the zoning district boundary line of an area zoned as residential.

180.142a.8 There shall be no exterior evidence of the GENERAL AMUSEMENT conducted on the premises, other than a simple business identification sign conforming the Article XXIV, § 180.75 of the Code of the Borough of Whitehall. No music, entertainment of any type or nature, excessive sound, loud speaker or disturbance shall be allowed or permitted outside of the premises.